

KERALA COIR WORKERS' WELFARE CESS ACT, 2008(20 OF 2008)

51) 11 GOVERNMENT OF KERALA Law (Legislation-C) Dep-artment NOTIFICATION 19th July, 2008 No. 19790/Leg.C2/08fLaw. ' Dated, Thiruvananthapuram, 28th Astadha, 1930. In pursuance of clause (3) of Article 348 of the Constitution of India; the Governor is pleased to authorise the publication in the Gazette of the following translation in the English language of the Kerala Coir Workers' Welfare Cess Act, 2008 (20 of 2008). By order of the Governor, V. G. KUMARI, Special Secretary (Law). E 51) 4.2 12 [Translation] in English of the Act published under the authority of the Governor.] ACT 20 OF 2008 'KERALA COIR WORKERS' WELFARE CESS ACT, 2008 An Act to provide for the levy and collection of cess on the sale proceeds of coconut husk, coconut husk fibres, coir and coir products with a view to augmenting the resources of the Kerala Coir Workers' Welfare Fund Board constituted under section 6 of the Kerala Coir Workers' Welfare Fund Act, 1987. It is expedient to provide for the levy and collection of cess on the sale proceeds of coconut husk, coconut husk fibre, coir and coir products with a view to augmenting the resources of the Kerala Coir Workers' Welfare Fund Board constituted under the Kerala Coir Workers' Welfare Fund Act, 1987; BE it enacted in the Fifty-ninth Year of the Republic of India as follows:— I Short title— and may be called the Kerala Coir Workers' Welfare Cess Act, 2008. (2) It shall come into force on such date as the Government may, by notification appoint. 2. In this Act, unless the context otherwise requires,— (a) "Assessing Officer" means : an officer appointed by the Government under section 4; (b) "Board" means the Kerala Coir Workers' Welfare Fund Board constituted under section 6 of the Kerala Coir Workers' Welfare Fund Act, 1987; (34 of 1987); (c) "coir" means the coir obtained by the spinning of coconut husk from the husk of the coconut; (d) "coir products" means mats and mattings, rugs and carpets, coconut husk fibre, coir products manufactured from coconut husk fibre, coir or wholly or partly and it includes products manufactured from coconut husk fibre, coir or wholly or partly and it includes products manufactured in traditional looms and mechanised looms, other products and allied products with the backing of P.V.C., rubber or any similar backing of like materials; "dealer" means any person engaged in the business of buying, selling or storing for sale of coconut husk, coconut husk fibre, coir or any coir within the State of Kerala but it does not include a cultivator who stores his own coconut-husk for sale; (f) "Fund" means Kerala Coir Workers' Welfare Fund established under section 3 of the Kerala Coir Workers' Welfare Fund Act, 1987; (g) means the Government of Kerala; (h) "prescribed" means prescribed by rules made under this Act; (i) "sale proceeds" means the value of the sale of coconut husk, coconut husk fibre, coir or coir products made in the State of Kerala for sale or to process otherwise. Words and expressions used, herein but not defined in the Kerala Coir Workers' Welfare Fund Act, 1987, shall have the meaning respectively therein that they have in that Act.

3. Levy and collection of cess shall be levied and collected at such rate as may be determined by the Government: (1) The cess levied under sub-section (1) shall be collected from every dealer, in such manner and in such time as may be prescribed. (2) The cess levied under sub-section (1) shall, in addition to any cess, duty or tax leviable on coconut husk, coconut husk fibre, coir or coir products under any other law for the time being in force. (3) The proceeds of cess collected under sub-section (2) shall be credited initially to the Consolidated Fund of the State of Kerala, in such manner as may be prescribed. (4) The amount of cess collected shall be paid to the Fund of the Board by the Government after deducting the cost of collection of such cess, not exceeding one per cent of the amount collected every year. (5) On the 30th June, such manner as may be prescribed, 14 4! Appointment of Assessing Officer.—The Government may, by notification in the Gazette, appoint any officer of Coir Development Department, not below the rank of Deputy Registrar/Project Officer (Coir) or an Officer in the equivalent rank as Assessing Officer, and may fix their local limits of jurisdiction for the purposes of this Act. 5. Maintenance of Registers and Records.—(1) Every dealer shall maintain such registers and records in such manner as may be prescribed in the commercial establishment. (2) They shall be produced on demand by any Officer or authority authorised by this Act for verification. 6. Filing of Returns by the Dealer.—Every dealer shall furnish return showing the sale proceeds of the previous financial year to the Assessing Officer in such manner and at such time as may be prescribed. (2) If any dealer liable to pay the cess under section 3 fails to furnish the return under sub-section (1), the Assessing

Officer. shall give a notice requiring such dealer furnish such return before such date as may; specified in the notice. 7. Assessment of The Assessing Officer who received return under section 6 shall, after making or causing to be made such enquiry as he thinks fit and being satisfied himself that the particulars stated in the return are correct, by order, assess the amount of cess payable by the dealer. (2) If the return has not been furnished to the Assessing Officer under sub-section (2) of section 6, he shall, after making or causing to be made such enquiry as he thinks fit, by order, the amount of cess payable by the dealer. (3) An order of assessment made under sub-section (1) or sub-section (2) shall specify the amount of cess and the date within which the cess shall be paid by the dealer. (4) The Officer conducting the enquiry under sub-section (1) or sub-section (2), shall for the purpose of such enquiry, have the same powers as are vested in a Civil Court while, trying a suit under the Code of Civil Procedure, 1908. (Central Act 5 of 1908), in respect of the following matters, namely:— (a) enforcing the attendance of any person or examining him on oath or affirmation; (b) requiring the disclosure and production of documents; (c) receiving evidence on affidavits; issuing commissions for the examination of witnesses. (5) under this be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (Central Act 45. of 1860) and for the purpose of section 196 of the Said Code. Provisional. Collection of Every dealer liable to pay cess under section 3 "Shall; pay by way of advance cess on or before the 10th of every month an amount equivalent to one-twelfth of the amount payable annually by him according to the latest assessment under section 7. (2) Where the amount is not paid under sub-section (1) on or before the due date, the Assessing Officer may issue notice to the defaulter showing the amount in arrears and directing to pay the said amount within such period not exceeding seven days of the receipt of the notice, (3) The amount paid under sub-section (1) by the dealer for a year shall be adjusted against the amount assessed under section 7. for that year

79. Interest, payable on delay; in payment of Cess.—If any dealer fails to pay any amount of cess payable under section 3 within the time specified in the order of assessment, such dealer shall be liable to pay interest on the amount to be paid at the rate of two per. cent for every month part of a month comprised in the period from the date on which such payment is due till such amount is actually paid. 103 Penalty for non-payment of Cess' within the specified time—If any amount of cess payable by any dealer under section 3 is not paid within the date specified in the order of assessment under section 7 it shall be deemed to be in arrears and the Assessing Officer may, after making such enquiry as he deems fit, impose on such dealer a penalty not exceeding the amount of cess; Provided that before imposing any such penalty, such dealer shall be given a reasonable opportunity of being heard and if after such hearing the Assessing Officer is satisfied that the default was for any good and sufficient reason no penalty shall be imposed under this section

11. Recovery of amount due under this Act (including interest and penalty) from the dealer: may be recovered in same manner as an arrear of land revenue. Any dealer aggrieved by an order of assessment made under section 7 or by an order imposing a penalty under section 10 may, within sixty days of the receipt of the order, prefer an appeal to the Director of Coir Development in such manner as may be prescribed: Provided that the Director of Coir Development may condone the delay in filing the appeal; if he is satisfied that the delay was on reasonable ground. (2) Every Appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed. (3) On receipt of the appeal under sub-section (1); the Director of Coir Development shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible. (4) Every order passed in an appeal under this section shall be final and shall not be called in question in any court of law. 13. Revision.—The Government may, either suo motu or on an application of the aggrieved person, call for the records of any proceedings taken by the Appellate Authority under section 12 and make such enquiry and pass such orders, as they deem fit. Provided application for revision under this section shall be made within thirty days from the date of receipt of the order by the applicant and no order under this section shall be made without giving the aggrieved person an opportunity of being heard: Provided further that no order by the Government shall be passed by the Government suo motu, after the expiry of three years from the date of the order passed in an appeal. 14. Power Officer or any other Officer specially empowered in this behalf by the Government may, with such assistance; if any, as he thinks fit; enter at any reasonable time, any place where he considers it necessary to enter for carrying out the purposes

of this Act; including verification of the correctness of the particulars by dealers under section (b) requires the production of any registers and any other document, relating to the sale of coir or coir products; and (c) "exercise" such other powers as prescribed. 51) 17 15. Return of Every Assessing Officer shall furnish to the Board and such other specified authority as may be directed, every month a return showing the amount of cess collected by him during the previous month, in such form and within such period as may be prescribed. (2) The Chief Executive, Officer of the Board the authority specified in sub-section (1) shall furnish to the Government every year a return showing the total amount of cess collected during the previous financial year, within such period and in such form as may be prescribed. 16. Penalty.—(1) Any dealer, being under an obligation to furnish a return under this Act, furnishes any return knowing, or having reason to believe, the same to be false shall be punishable with imprisonment which may extend to six months, or with fine which may extend, to five thousand rupees or with both. (2) Whoever, being liable to pay cess under this Act, wilfully or intentionally evades or attempts to evade the payment of such cess, shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both. (3) Whoever, contravenes any of the provisions of this Act or the rules shall, if no other penalty is elsewhere provided by this Act for such contravention, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two thousand five hundred rupees or with both, (4) No Court shall take cognizance of an offence punishable under this section save on a complaint made by or under the authority of the Government. 17. Offence by Companies* 1) Where an offence under this Act has been committed by a company, every who, at the time of offence was connected, was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this section shall render any such person liable to any punishment if he proves that the offence was committed without his connivance or that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any negligence on the part of— any director, manager, secretary or other officer of the company; such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be proceeded against and punished accordingly. Explanation.—For the purposes of this section, "company" means any body corporate (and includes a firm or other association of individuals; and in relation to a partnership firm, the firm). 18. Jurisdiction. Civil Courts shall not deal with any question or determine any matter which is by or under this Act, or the rules required, to be settled, decided or dealt with to be determined by the any authority or officer appointed under this Act. 19. Power. The Government, may make rules for carrying out the provisions of this Act: Without prejudice to the generality thereof the foregoing rules, such rules may provide for all or any of the following matters:— (a) the manner in which and the time, within which, cess is levied and collected under, 'Section 3; of the registers and records to be maintained a dealer under section 5; (c) the manner and time within which a return shall be furnished by a dealer to the Assessing Officer under section 6; (d) the manner in which an appeal may be preferred; and the fees to be paid under section 12; (e) - the power which may be exercised by an assessing officer or other Officer under clause (c) of section 14; (f) the period within which return of collection of cess (g) any other matter which may be prescribed. (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days, which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be: so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.