

KERALA MOTOR VEHICLES (TAXATION OF PASSENGERS AND GOODS) ACT, 1963 (NO.25 OF 1963)

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2. Definitions.—In this Act, unless the context otherwise requires,— (a) "notification means a notification published in the Gazette; (b) "operator" means any person whose name is entered in the permit as the holder thereof, (c) "permit" means a permit granted or countersigned under the Motor Vehicles Act, 1939 (Central Act 4 of 1939), authorising the use of a vehicle as a stage carriage or as a public carrier vehicle in any part of the State, prescribed" means prescribed by rules made under this Act, (e) "public carrier vehicle" means a motor vehicle carrying or adapted to carry goods for hire or reward; (f) "stage carriage" means a motor vehicle, carrying or adapted to carry more than six persons excluding the driver, which carries passengers for hire or reward, at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey, and includes such a carriage when used as a contract carriage within the meaning of the Motor Vehicles Act, 1939, (g) "State" means the State of Kerala; (h) "tax" means the tax referred to in section 3, "taxable vehicle" means a stage carriage, or a public carrier vehicle, which is referred to in section 3. * Received the assent of the President on 11th Apr 11, 1963 and published in the Gazette Extraordinary dated 15th April, 1963, 158 3. Levy of tax on passengers and goods.—On and from the date of commencement of this Act, there shall be levied and paid to the Government, a tax on all passengers, luggage and goods carried by stage carriages, and on all goods transported by public carrier vehicles, at the rate of 10 naye paise the rupee on the fares and freights, payable to the operators of such stage carriages and at the rate of 5 naye paise in the rupee on the freights payable to the operators of such public carrier vehicles: Provided that in the case of all goods transported by public carrier vehicles for export out of the territory of India, no tax under this section shall be payable: Provided further that no tax

shall be levied on any passenger, luggage or goods carried in a stage carriage, If the total distance permitted to be covered by such stage carriage in a day, does not exceed eighty kilometres. Explanation 1.—For the purposes of this proviso, "export" shall not include movements of goods from one port in the territory of India to another port in the said territory. Explanation 2.—For the removal of doubts it is hereby declared that— (z) in respect of passengers, luggage or goods booked through over the railways and any road transport service, the tax payable under this Act shall be calculated only on the fares and freights payable on such passengers, luggage or goods for the distance on the road covered by the taxable vehicle, (u) no tax shall be payable under this Act on goods carried by any vehicle owned by any department of the Central Government or by the Railways

4. Compounding of tax.—The prescribed officer may, on application by the operator, permit him in the circumstances and under the conditions specified in the Schedule, to compound the tax assessable on him under this Act, by paying in lieu thereof, a fee fixed in the manner specified in the Schedule. (2) The Schedule may, from time to time be amended by notification made by the Government and approved by the Legislative Assembly of the State

5. Submission of returns.—In respect of every taxable vehicle the operator shall deliver or cause to be delivered to the officer in charge of any police station which lies on or in the neighbourhood of the route on which such vehicle is used and which is specified by the prescribed officer in consultation with the operator, a return in the prescribed form, either daily or at such other intervals as may be prescribed: Provided that an operator may, after intimation to the prescribed officer, or if two or more officers are prescribed in respect of the same area, to any of them chosen by the operator, deliver his return or cause it to be delivered to the officer to whom such intimation is given, in which case the operator shall have no right, except with the permission of such officer, to deliver the return or cause it to be delivered at any police station or to any other officer

6. Tax to be paid month into Government Treasury.—The tax payable during any month in accordance with the returns submitted under section 5 shall be paid into a Government treasury by the operator and the receipt evidencing such payment forwarded to the prescribed officer, on or before the fifteenth day of the month immediately succeeding

7. Procedure when returns made, etc.—In the following cases, that is to say,— (a) where no returns have been submitted by the operator in respect of any taxable vehicle for any month or portion thereof, or (b) where the returns submitted by the operator in respect of any taxable vehicle for any month or portion thereof, appear to the prescribed officer to be incorrect or incomplete, the prescribed officer shall, after giving the operator a reasonable opportunity, in case (a) of making his representation, if any, and in case (b) of establishing the correctness and completeness of the returns submitted by him, determine the sum payable to the Government by the operator by way of tax during such month or portion thereof: Provided that the sum so determined shall not exceed the maximum tax which would have been payable to the Government if the vehicle had carried its full complement of passengers, luggage and goods or of goods only, as the case may be, during such month or portion thereof

8. Fares and freights escaping assessment.—If, for any reason, the whole or any portion of the tax leviable under this Act in respect of any month has escaped assessment, the prescribed officer may, at any time within, but not beyond, three years from the expiry of that month, assess the tax which has escaped assessment, after issuing a notice to the operator and making such inquiry as the officer may consider necessary

9. Penalty for non-payment of tax.—Where the whole or any portion of the tax payable to the Government for any taxable vehicle in respect of any month in pursuance of section 6, 7 or 8 has not been paid to them in time, the prescribed officer may, after giving the defaulter an opportunity of being heard, in his discretion, levy, in addition to the tax so payable, a penalty not exceeding 25 per cent of the tax which payable to the Government for the period or portion thereof under section 6, 7 or 8 as the case may be. Recovery of tax, In the cases referred to in sections 6, 7, 8 and 9, the prescribed officer shall serve on the operator a notice of demand for the sums payable to the Government and the sums specified in such notice may be recovered from the operator as if they were arrears of land revenue. (2) Where the sums specified in the notice of demand are not paid within thirty days from the date on which the notice was served on the operator, the taxable vehicle and its accessories may be distrained and sold under the

appropriate Act relating to the recovery of land revenue, whether or not such vehicle or accessories are in the possession or control of the operator: Provided that no distraint shall be made in pursuance of this section except at the instance or with the consent of such officer as may be authorised by the Government in this behalf. I I. Liability to Payment of tax by Person succeeding to the ownership, possession or control of motor vehicle.—If the tax leviable in respect of any motor vehicle remains unpaid by any person liable for the payment thereof and such person before having paid the tax has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle the person to whom the ownership of the vehicle has been transferred or the person who has possession or control of such vehicle shall be liable to pay the said tax to the prescribed officer. (2) Nothing contained in this section shall be deemed to affect the liability to pay the said tax of the person who has transferred the ownership or has ceased to be in possession or control of such vehicle.

12. Restrictions on the use of taxable vehicles in certain cases.—No taxable vehicle shall be used on any public road in the State— (a) in case any tax or penalty payable in respect thereof remains unpaid for more than thirty days after the notice of demand referred to in section 10 has been served on the operator, until such tax or penalty is paid, or (b) in case the returns required by section 5 have not been submitted, if daily returns are required, for more than seven days, and if returns at less frequent intervals have been prescribed, for such number of times and during such period as may be prescribed, until the returns are submitted: Provided that the prescribed officer may, if the operator proves to his satisfaction that the failure to submit the returns referred to in clause (b) was not deliberate, exempt the vehicle from the operation of that clause.

13. Appeal against Any operator objecting to a notice of demand set out on him under section 10 may, within thirty days of the service thereof, appeal to the District Collector: Provided that no appeal shall be entertained unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due. (2) The District Collector may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as he thinks fit. 14. Power to Order production of accounts.—Any officer of the Government prescribed by them in this behalf may, by order, require any operator to produce such accounts, registers and documents, and to furnish such information relating to the taxable vehicle or the fares and 161 freights collected in respect of passengers travelling or luggage or goods transported, therein, as may be specified in the order.

15. Offences and penalties.—Any person who— (a) being an operator, submits or allows to be submitted an incorrect or incomplete return under section 5, or fails to submit a return as required under that section; or (b) being an operator, fraudulently evades or allows to be evaded, the payment of any tax due from him; or (c) being an operator, fraudulently makes or allows to be made any wrong entry in, or fraudulently omits or allows to be omitted any entry from, any statement submitted, or any account or register maintained by him; or (d) wilfully acts in contravention of any of the provisions of this Act or any rules made thereunder or any lawful order passed in accordance therewith, shall be punishable with fine which may extend to one thousand rupees, and if the Magistrate concerned so directs in his order, the person convicted shall pay in addition, as if it were a fine, such specified amount as the Magistrate may determine to be the amount which the person convicted has evaded to pay.

16. Offences by Companies.—Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, 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 sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he 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 by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.—For the purposes of this section,— (a)

company 'i' means a body corporate, and includes a firm or other association of individuals ; and (b) director " in relation to a firm means a partner in the firm

17. Composition of The prescribed officer may accept from any person who has committed, or IS reasonably suspected of 3/5—11 162 having committed, any offence against this Act, consisting of the evasion of any tax leviable under this Act, a sum of money not exceeding two hundred and fifty rupees or double the amount of the tax recoverable whichever is greater, in addition to the amount of tax so recoverable. (2) No offence punishable under this Act shall be inquired into or tried by any Court inferior to that of a Magistrate of the Second Class

18. Reduction of tax in cases of certain motor vehicles.—Where the operator of a motor vehicle is a co-operative society registered or deemed to be registered under any law relating to co-operative societies for the time being in force, the tax payable in respect of that motor vehicle shall be one half of the rates payable under this Act, if the prescribed officer is satisfied, after such enquiry as he deems fit, that, — (i) the co-operative society is solely engaged in the business of transport of goods or passengers or both from one place to another in motor vehicles • (u) at least seventy five per cent Of the members of the co-operative society are its employees ; (iii) at least fifty per cent of the members Of the co-operative society are not related to each other ; (w) at least ninety per cent of the employees of the society are its members ; and (v) the motor vehicle is used exclusively by the co-operative society. the purposes of this section a member shall be deemed to be related to any other member if that member is the husband, wife, brother or sister or any lineal ascendant or descendant of that other member

19. Power of Government to notify exemptions and The Government may, by notification, make an exemption or reduction in rate, in respect of the tax on any specified class Of passengers, luggage or goods having regard to all or any of the following matters, namely :—(a) in the case of passengers and luggage, the purpose for which the journey is performed ; (b) in the case of goods, the commercial importance of such goods ; and (c) such other matters as may be prescribed. (2) Any exemption from tax or reduction in the rate of tax notified under sub-section (1) may be subject to such restrictions and conditions as may be specified in the notification. (3) The Government may, by notification, cancel or vary any notification Issued under sub-section (1)

20. Power to make The Government may, by notification, make rules to carry out the purposes of this Act, 163 (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—(a) all matters expressly required or allowed by this Act to be prescribed ; (b) the intervals, if any, at which returns under section 5 shall be submitted ; (c) the maintenance of accounts and registers and the submission of returns and statements by operators ; (d) the manner of serving notices of demand under this Act ; (e) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act ; (f) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act ; (g) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act. (3) The power to make rules conferred by this section, shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than one month. (4) Every rule made under this section and every notification issued under section 19 shall be laid as soon as possible 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 make any modification in the rule or notification or decide that the rule or notification should not be issued, the rule or notification 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 or notification

21. Bar of certain No prosecution or other proceeding shall be instituted in a Criminal Court without the previous sanction of the Government, against any officer or servant of the Government, for any act done or purported to be done under this Act.(2) No officer or servant Of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act

22. Limitation for suits and prosecutions.—No suit or other proceeding shall be instituted against the State and no suit, prosecution or other proceeding shall be Instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this act, unless the suit, prosecution or other proceeding is instituted within one year from the date of the act complained of. 164 23. Repeal—The Madras Motor Vehicles (Taxation of Passengers and Goods) Act, 1952 as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) is hereby repealed. THE SCHEDULE (See section 4) (I) The composition fee referred to in section 4, shall, in relation to any period before the commencement of this Act be calculated for the entire unexpired period of the currency of the permit or for a period of three months, whichever is less, at the rate,— (a) in the case of a stage carriage, of 24 naye paise per seat per year per kilometre, of the total distance permitted to be covered by such stage carriage in a day or at the option of the operator of twelve rupees and fifty naye paise per seat per quarter ; and (b) in the case of a public carrier vehicle, of twenty-two rupees and fifty naye paise per month. Explanation.—Where a stage carriage is permitted to carry standing passengers, one-third of the fee per seat referred to in clause (a) shall also be payable in respect of each of the standing passengers aforesaid as if seating accommodation had been provided for them. (2) The provisions of this rule shall apply only to the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956). 2. (I) The composition fee referred to in section 4, shall, in relation to any period after the commencement of this Act, be calculated for the entire unexpired period of the currency of the permit or for a period of three months, whichever is less, at the rate— (a) in the case of a stage carriage, of 48 (Forty-eight) naye paise per seat per year per kilometre of the total distance permitted to be covered by such stage carriage in a day or at the option of the operator, of 25 (Twenty-five) rupees per seat per quarter, and (b) in the case of a public carrier vehicle, of Rs. 112.50 (Rupees one hundred and twelve and naye Paise fifty) per quarter. Explanation I.—Where a stage carriage is permitted to carry standing passengers, one third of the fee per seat referred to in clause (a) of sub-rule (I) shall also be payable in respect of each of the standing passengers aforesaid as if seating accommodation had been provided for them. Explanation II.—Where in pursuance of any agreement between the Government of Kerala and the Government of any other State, composition fee in respect of any stage carriage plying on a route lying partly in the State of Kerala and partly in the other State is payable to the Government of Kerala, composition fee in respect of such vehicle shall be calculated on the total distance covered by the stage carriage in such route, 165 (2) The amount of the composition fee calculated with reference to clause (a) or clause (b) of sub-rule (I) shall be payable at the option of the operator either quarterly or in three equal monthly instalments

3. Any application for the grant or renewal of permission to pay the composition fee mentioned above, shall be made, not less than fifteen days before the commencement of the period for which the tax is intended to be compounded, provided that the prescribed officer may in any case, for reasons to be recorded by him in writing, permit the application to be made not later than fifteen days from such commencement ; and the application shall be accompanied by a receipt evidencing the payment into a Government treasury of the composition fee.