

KERALA TAXATION LAWS(CONTINUATION AND VALIDATION OF RECOVERY PROCEEDINGS)ACT

102 THE KERALA TAXATION LAWS (CONTINUATION AND VALIDATION OF RECOVERY PROCEEDINGS) ACT, 1967 (Act 23 of 1967) CONTENTS Preamble. Sections 2. 3. 4. 5. 6

7. Short title. Definitions. Continuation and validation of certain proceedings. Power to amend the Schedule. Act to have retrospective effect. Power to remove difficulties. Power to make rules. THE KERALA TAXATION LAWS (CONTINUATION AND VALIDATION OF RECOVERY PROCEEDINGS) ACT, 1967* (Act 23 of 1967) An Act to provide for the continuation and validation of Proceedings in relation to Government dues and for matters connected therewith. Preamble.—WHEREAS it is expedient to provide for the continuation and validation of proceedings in relation to Government dues and for matters connected therewith; BE it enacted in the Eighteenth Year of the Republic of India as follows 1. Short title.—This Act may be called the Kerala Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1967

2. Definitions.—In this Act, unless the context otherwise requires,— in relation to any scheduled Act, means an (a) "assessee" assessee as defined in that Act or a person who is liable to pay any Government dues under that Act; (b) "Government dues", In relation to any scheduled Act, means any tax, penalty, fine, interest, or any other sum payable to the Government by an assessee under that Act and shall include the surcharge on profession tax levied under section 4 of the Kerala Surcharge on Taxes Act, 1957 (11 of 1957); (c) "scheduled Act" means an Act specified in the Schedule; * Published in the Kerala Gazette Extraordinary No. 179, dated 5th September, 1967 (d) "taxing authority", in relation to any scheduled Act, means an officer (by whatever name called) empowered to serve upon an assessee a notice of demand in respect of any Government dues under that Act

3. Continuation and validation of certain Where any notice of demand in respect of any Government dues is set upon an assessee by a taxing authority under any scheduled Act, and any appeal or other proceeding is filed or taken in respect of such Government dues, then—(a) where such Government dues are enhanced in such appeal or proceeding, the taxing authority shall serve upon the assessee another notice of demand only in respect of the amount by which such Government dues are enhanced, and any proceedings in relation to such Government dues as are covered by the notice or notices of demand served upon him before the disposal of such appeal or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal; (b) where such Government dues are reduced in such appeal or proceeding,— (i) it shall not be necessary for the taxing authority to serve upon the assessee a fresh notice of demand; (ii) the taxing authority shall give intimation of the fact of such reduction to the assessee, and where a certificate has been issued or an application or requisition has been made to any officer or authority for the recovery of such Government dues, also to such officer or authority; (iii) any proceedings initiated on the basis of the notice or notices of demand served upon the assessee before the disposal of such appeal or proceeding may be continued in relation to the amount so reduced from the stage at which such proceeding stood immediately before such disposal; (c) no proceedings in relation to such Government dues (including the imposition of penalty or charging of interest) shall be invalid by reason only that no fresh notice of demand was served upon the assessee after the disposal of such appeal or proceeding or that such Government dues have been enhanced or reduced in such appeal or proceeding : Provided that if such Government dues have been reduced as a result of any final order and the penalty imposed on the assessee for default in payment thereof exceeds the amount so reduced, the excess shall not be recovered and if it has already been recovered, it shall be refunded to the assessee in accordance with the provisions of such scheduled Act: Provided further that where any Government dues are reduced in such appeal or proceeding and the assessee is entitled to any refund thereof, such refund shall be made in accordance with the provisions of such scheduled Act. (2) For the removal of doubts, it is hereby declared that no fresh notice of demand shall be necessary in any case where the amount of Government dues is not varied as a result of any order passed in any appeal or other proceeding under any scheduled Act. (3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority

4. Power to amend the Schedule.—The Government may, by notification in the Gazette, add the name of any Act providing for the imposition or levy of any tax or duty in the Schedule, and on the issue of any such notification, the Act so added shall be deemed to be an Act specified in the Schedule within the meaning Of clause (c) Of section 2

5. Act to have retrospective effect.—The provisions of this Act shall apply and shall be deemed always to have applied, in relation to every notice of demand served upon any assessee by any taxing authority under any scheduled Act, whether such notice was or is served before or after the commencement of this Act

6. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing the difficulty

7. Power to make rules.—(1) The Government may make rules for carrying out the purposes of this Act. (2) 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 agrees in making any modification in the rule or the Legislative Assembly agrees 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, 1. 2. 3, 4. 5. 6. 105 THE SCHEDULE [See section 2 (c)] The Madras General Sales Tax Act, 1939 (IX of 1939). The General Sales Tax Act, 1 125 (XI of 1125). The Agricultural Income-tax Act, 1950 (XXII of 1950) . The Kerala Surcharge on Taxes Act, 1957 (11 of 1957). The Kerala Plantations (Additional Tax) Act, 1960 (17 of 1960). The Kaala General Sales Tax Act, 1963 (15 of 1963).