

Fifteenth Kerala Legislative Assembly
Bill No. 168

THE KERALA BUILDING TAX (AMENDMENT) BILL, 2023

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BILL

further to amend the Kerala Building Tax Act, 1975.

Preamble.— WHEREAS, it is expedient further to amend the Kerala Building Tax Act, 1975 (7 of 1975) for the purposes hereinafter appearing;

BE it enacted in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Building Tax (Amendment) Act, 2023.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Substitution of certain expression by certain other expression.*—In the Kerala Building Tax Act, 1975 (7 of 1975) (hereinafter referred to as the principal Act) for the words “luxury tax”, wherever they occur the words “additional tax” shall be substituted.

3. *Amendment of section 2.*—In section 2 of the principal Act, for explanation 2 to clause (e), the following explanation shall be substituted, namely:—

“*Explanation 2.*—(i) Where a building consists of different apartments or flats, as the case may be, owned by different persons, each such apartment or flat, as the case may be, shall be deemed to be a separate building and the assessment shall be on the basis of ownership and the plinth area shall be, as may be, specified in the software/occupancy certificate/tax assessment details, as the case may be, approved by Local Self Government Institutions.

(ii) If a builder remains the owner of the whole or part of the building then he will be liable to pay building tax or additional tax, as the case may be, for the aggregate plinth area in respect of the flats or apartments, as the case may be, that are retained by him and if the owner sells away the whole or part of the building retained by him after the assessment, each part shall be assessed separately on the basis of ownership for the purpose of additional tax only.

(iii) If a person purchases more than one flat and the buildings that comprise the flats or apartments, as the case may be, are interconnected with each other, it shall be considered as single unit and liable to pay onetime tax or additional tax, on the basis of aggregate plinth area and if the buildings that comprise the flats or apartments, as the case may be, are not interconnected with each other, each flat or apartment, as the case may be, shall be assessed separately.”.

4. *Amendment of section 5A.*— In section 5A of the principal Act,—

(i) for marginal heading the following shall be substituted, namely:—

“*Certain category of residential buildings*”;

(ii) for sub-section (1), the following sub-section shall be substituted namely:—

“(1) Notwithstanding anything contained in this Act, there shall be charged an additional tax annually at the rate specified in the Schedule II on all residential buildings having the plinth area of above 278.7 square metres completed on or after the 1st day of April, 1999.”.

5. *Substitution of new section for section 6.*— In the principal Act, for section 6, the following section shall be substituted, namely:—

“6. *Determination of plinth area for the purpose of assessment of onetime building tax or additional tax.*—The plinth area of a building for the purpose of assessment of onetime building tax or additional tax, as the case may be, under this Act shall be the plinth area of such building as may be specified in the software/occupancy certificate/tax assessment details, as the case may be, approved by Local Self Government Institutions.”.

6. *Amendment of section 13.*—For sub-section (2) of section 13 of the principal Act, the following sub-section shall be substituted, namely:—

“(2) The District Collector shall not, *suo motu*, revise an order under sub-section (1) if that order has been passed more than one year previously.”.

7. *Substitution of new section for section 21.*— In the principal Act, for section 21, the following section shall be substituted, namely:—

“21. *Furnishing false statements for assessment.*—On further verification, if it is found that the information provided by the owner in the return under section 7 or amended return under section 8 filed before the assessing authority for assessment is false, fifty per cent of the building tax shall be levied as fine.”.

STATEMENT OF OBJECTS AND REASONS

The onetime building tax and luxury tax under the Kerala Building Tax Act, 1975 (7 of 1975) are charged based on the plinth area of the building levied and is collected by the Revenue Department. But due to the lack of man power in that Department, thousands of residential and non-residential buildings in the State remain unassessed which sustain heavy revenue loss to the Government. To avoid revenue loss and improve the collection of revenue, the Government have decided to collect the said tax based on the assessment details of Local Self Government Department which was proposed in the Budget speech 2019-20, an amendment is required for section 6 to that effect.

The State Government is levying luxury tax annually on residential building having plinth area more than 278.7 M² under this Act as per entry 49 of the State List in the 7th Schedule to the Constitution of India. But in view of 101st amendment to the Constitution which omitted tax on luxuries from entry 62 of the State List, many writ petitions were filed before the Hon'ble High Court alleging that the State Government is not empowered to collect luxury tax. The Hon'ble Advocate General has also opined that it is better to amend the Act suitably so as to enable the Government to collect the tax in future and from the liability of refunding the collected tax since the Constitutional amendment.

Sub-section (2) of section 13 of the Act provides that the District Collector shall not *suo motu* revise an order under sub-section (1) if that order has been passed more than three months previously. As the stipulated time is not sufficient to revise the order the Government have decided to extend the period to one year. Section 21 of the Act provides punishment under section 177 of the Indian Penal Code for furnishing false statements in declarations. The Government have decided to impose fine instead of proceeding under section 177 of the Indian Penal Code. For the above purposes, the Government have decided to amend the Kerala Building Tax Act, 1975 suitably.

The Bill seeks to achieve above objects.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

K. RAJAN.

