

Fifteenth Kerala Legislative Assembly  
Bill No. 171

---

---

**THE KERALA TAXATION LAWS (AMENDMENT)  
BILL, 2023**

---

---

©  
Kerala Legislature Secretariat  
2023

KERALA NIYAMASABHA PRINTING PRESS.

**Fifteenth Kerala Legislative Assembly**  
**Bill No. 171**

**THE KERALA TAXATION LAWS (AMENDMENT)**  
**BILL, 2023**

**THE KERALA TAXATION LAWS (AMENDMENT)**

**BILL, 2023**

**A**

***BILL***

*further to amend the Kerala State Goods and Services Tax Act, 2017 and the Kerala Finance Act, 2023.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala State Goods and Services Tax Act, 2017 and the Kerala Finance Act, 2023 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 Taxation Laws (Amendment) Act, 2023.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. *Amendment of Act 20 of 2017.*—In the Kerala State Goods and Services Tax Act, 2017 (20 of 2017),—

(1) in section 30, in sub-section (1),—

(a) for the words “the prescribed manner within thirty days from the date of service of the cancellation order.”, the words “such manner, within such time and subject to such conditions and restrictions, as may be prescribed.” shall be substituted;

(b) the proviso shall be omitted;

(2) in section 62,—

(a) in sub-section (2), for the words “thirty days”, the words “sixty days” shall be substituted;

(b) the following proviso shall be inserted, namely:—

“Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of section 50 or to pay late fee under section 47 shall continue”.

(3) for section 109, the following section shall be substituted, namely:—

“109. *Constitution of Appellate Tribunal and Benches thereof.*—Subject to the provisions of this Chapter, the Goods and Services Tax Appellate Tribunal constituted under the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017) shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.”;

(4) section 110 shall be omitted;

(5) section 114 shall be omitted;

(6) in section 117,—

(a) in sub-section (1), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;

(b) in sub-section (5), in clause (a) and (b) for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;

(7) in section 118, in sub-section (1), in clause (a), for the words “National Bench or Regional Benches”, the words “Principal Bench” shall be substituted;

(8) in section 119,—

(a) for the words “National Bench or Regional Benches”, the words “Principal Bench” shall be substituted;

(b) for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted.

3. *Amendment of Act 17 of 2023.*—In the Kerala Finance Act, 2023 (17 of 2023), in section 11, in sub-section (4), for the words “section 22 and section 24”, the words “section 22 or section 24” shall be substituted.

4. *Repeal and saving.*—(1) The Kerala Taxation Laws (Amendment) Ordinance, 2023 ( 2 of 2023) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the above said Acts as amended by the said Ordinance shall be deemed to have been done or taken under the above said Acts as amended by this Act.

### STATEMENT OF OBJECTS AND REASONS

The Kerala State Goods and Services Tax Act, 2017 (20 of 2017) was enacted with a view to make a provision for levy and collection of tax on *intra-State* supply of goods or services or both by the State of Kerala.

2. Consequent to the recommendation made in the 49<sup>th</sup> meeting of GST Council, necessary amendments for establishment of the Goods and Services Tax Appellate Tribunal (GSTAT) have been made in the Central Goods and Services Tax Act vide the Central Finance Act, 2023. Hence, to make the Benches of GSTAT functional as early as possible, it is requested to make necessary amendments in the Kerala State Goods and Services Tax Act also.

3. The proposed Kerala Taxation Laws (Amendment) Bill, 2023, *inter alia*, provides for the following, namely:—

(i) to amend sections 30, 62, 109, 117, 118, 119 and to omit sections 110 and 114 of the Kerala State Goods and Services Tax Act, 2017 (20 of 2017);

(ii) to amend section 11 of the Kerala Finance Act, 2023 (17 of 2023).

4. As the Legislative Assembly of the State of Kerala was not in session and the above proposal had to be given effect to immediately, the Kerala Taxation Laws (Amendment) Ordinance, 2023 was promulgated by the Governor of Kerala on the 21<sup>st</sup> day of July, 2023 and the same was published as Ordinance No. 2 of 2023 in the Kerala Gazette Extraordinary No. 2438 dated 22<sup>nd</sup> July, 2023.

5. The Bill seeks to replace Ordinance No. 2 of 2023 by an Act of the State legislature.

### FINANCIAL MEMORANDUM

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

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (1) of section 30 of the Kerala State Goods and Services Tax Act, 2017 proposed to be amended by clause 2 of the Bill, seeks to empower the Government to prescribe time, conditions and restrictions for revocation of cancellation of registration.

2. The matters in respect of which rules may be made or notification may be issued are matters of procedure and are of routine or administrative in nature. Further, the rules, after they are made, are subject to scrutiny by the Legislative Assembly. The delegation of legislative powers is, thus, of a normal character.

K. N. BALAGOPAL

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA  
STATE GOODS AND SERVICES TAX ACT, 2017  
(ACT 20 OF 2017)

\*\*

\*\*

\*\*

\*\*

30. *Revocation of cancellation of registration.*—(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

"Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;

(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a)."

\*\*

\*\*

\*\*

\*\*

62. *Assessment of non-filers of returns.*—(1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgment taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.

\*\*

\*\*

\*\*

\*\*

109 . *Appellate Tribunal and Benches thereof.*—(1) Subject to the provisions of this Chapter, the Goods and Services Tax Tribunal constituted under the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017) shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.

(2) The constitution and jurisdiction of the State Bench and the Area Benches located in the State shall be in accordance with the provisions of section 109 of the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017) or the rules made thereunder.

110. *President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.*—The qualifications, appointment, salary and allowances, terms of office, resignation and removal of the President and Members of the State Bench and Area Benches shall be in accordance with the provisions of section 110 of the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017).

\*\*

\*\*

\*\*

\*\*

114. *Financial and administrative powers of State President.*—The State President shall exercise such financial and administrative powers over the State Bench and Area Benches of the Appellate Tribunal in a State, as may be prescribed:



Provided that the State President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the State Bench or Area Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the State President.

\*\*

\*\*

\*\*

\*\*

117. *Appeal to High Court.*—(1) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.

\*\*

\*\*

\*\*

\*\*

(5) The High Court may determine any issue which,—

(a) has not been determined by the State Bench or Area Benches; or

(b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in sub-section (3).

\*\*

\*\*

\*\*

\*\*

118. *Appeal to Supreme Court.*—( 1) An appeal shall lie to the Supreme Court,—

(a) from any order passed by the National Bench or Regional benches of the Appellate Tribunal; or

\*\*

\*\*

\*\*

\*\*

119. *Sums due to be paid notwithstanding appeal etc.*—Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National Bench or Regional Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

\*\*

\*\*

\*\*

\*\*

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA  
FINANCE ACT, 2023 (ACT 17 OF 2023)

\*\*

\*\*

\*\*

\*\*

11. *Amendment of Act 20 of 2017.*—In the Kerala State Goods and Services Tax Act, 2017, (20 of 2017),—

(1) in section 10,—

(a) in sub-section (2), in clause (d), the words "goods or" shall be omitted;

(b) in sub-section (2A), in clause (c), the words "goods or" shall be omitted;

\*\*

\*\*

\*\*

\*\*

(4) for section 23, the following section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

"23. *Persons not liable for registration.*—(1) The following persons shall not be liable to registration, namely:—

(i) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act, 2017;

(ii) an agriculturist, to the extent of supply of produce out of cultivation of land;

(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 and section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.";

\*\*

\*\*

\*\*

\*\*