

Amendments Vide Finance Bill 2016

➤ ***Kerala Surcharge on Taxes Act, 1957***

- As per Finance Bill, 2016 tax payable under KVAT Act 2003 with respect to the sale of water, soda, soft drinks, fruit juices and other beverages, whether aerated or not, intended for human consumption and sold in containers of plastic (excluding those sold in such containers of and above 20 liters) has been increased by a surcharge of five per cent.

➤ ***Kerala Value Added Tax Act, 2003***

- Proviso to Section 6 has been inserted to exempt the turnover relating to sale of 'Copyright' under clause (a) and transfer of right to use under clause (c) with respect of cinematographic films.
- An explanation has been added under Section 6(7) (b) of the KVAT Act providing an exemption with respect to sale of building materials to a developer or unit situated in a special economic zone. Further an explanation has been added under the said Section to provide that building materials referred to in the said Section shall henceforth include basic building materials and other goods essentially required to make the building effectively functional and capable of being used by the unit, depending on the activity carried out by the said unit.
- The following changes have been brought under Section 8
As per the existing provisions, payment of tax at compounded tax rates was not available to a works contractor who undertakes interior decoration and furnishing contracts, electrical, refrigeration or air conditioning contracts or contracts relating to supply and installation of plant, machinery, rolling shutters, cranes, hoists, elevators or lifts, escalators, generators, generating sets, transformers, weighing machines, air conditioners and air coolers, deep freezers, laying of all kinds of tiles other than brick tiles, slabs and stones including marble. The said provisions have now been amended to extend the compounding option to such works contractors also with respect to other works contracts undertaken by them other than the above mentioned works. Further the provisions also provide that a work once compounded shall remain compounded till the completion of such work.
- As per the newly inserted sub section (2) under Section 9 of the KVAT Act, the burden of proving the denial of any transaction or the correctness in the returns, applications, payments, declarations, delivery notes and other records furnished by the dealer under this Act, through the website or portal of the Commercial Taxes Department, by using the user identification name and password allotted to him by the assessing authority or the Commissioner, shall be on such dealer.
- The newly inserted Sec 25D provides that a dealer in bakery products, sweets, confectionary and other food products sold under brand name registered under the Trade Marks Act, 1999, who had not remitted the tax as per the prescribed rate, for the period up to the financial year 2013-14, and have opted for remitting the differential amount of tax up to 30th June, 2016 and those who opt

for payment of tax under this Scheme shall be exempted from payment of interest and penalty due thereon subject to such conditions and restrictions, as may be Prescribed.

- Special provisions have been provided through newly inserted Section 25E with respect to assessment and payment of tax for presumptive dealers. Dealers who have opted to pay tax on presumptive basis with regard to whom unaccounted purchases have been detected by the assessing authority for the period up to 31st March, 2016, may opt to settle their cases by paying tax at the scheduled rates on such unaccounted purchases with an addition of five percent gross profit and on payment of such tax, all penalties and interest including penalty under subsection (7) of section 22, shall stand waived. Section 25E of the KVAT Act shall be subject to the following conditions
 1. Any dealer who opt for this scheme shall obtain Tax payers Identification Number (TIN) under this Act with effect from 1st April, 2016;
 2. All pending cases in any Forum shall be withdrawn and evidence to that effect shall be produced before the assessing authority;
 3. Such option and settlement shall cover all the financial years, in which unaccounted purchases have been detected; and
 4. Such further condition, if any, as may be specified.

No further action shall be initiated against dealers with regard to whom unaccounted purchases have not been detected by the assessing authority for the period up to 31st March, 2016, and has voluntarily declared their unaccounted purchases.

For settling such cases the assessee shall file option before the assessing authority within three months from the date of declaring the scheme. Where no notice or orders has been issued by the assessing authority, regarding the unaccounted purchases detected by such authority, the assessing authority shall intimate the dealer regarding the cases pending against him, to enable him to file option under the scheme. On receipt of the option, the assessing authority shall intimate by order, the details of the evidence before him and the amount of tax to be paid.

Thirty per cent of the amount shall be paid within fourteen days from the receipt of the order under) and the balance in twelve equal monthly installments or in lump sum at his option, and the last date for fulfillment of payment under this section shall be the date of payment of the twelfth installment.

No further action under any of the provisions of this Act shall be invoked by the assessing authority with regard to the unaccounted purchases settled by the dealer under the said section or other irregularities in accounts, which resulted from such unaccounted purchases, and no appeal or revision shall lie against the amount so settled under this section.

- Every dealer whose total turnover for the previous year had exceeded rupees five crores is required to get the bill or invoice or cash memorandum in respect of every sale, uploaded on a real time basis through the portal of the dealer in the Kerala Value Added Tax Information

System in the manner and subject to such restrictions and conditions as may be prescribed under second proviso to Section 40 of the KVAT Act.

- As per the amended provisions of Section 46(f) of the KVAT Act, a declaration is required to be furnished when goods are transported out of the State through coastal cargo, air or railways, by such dealer or person or his agents to such authority in such manner as may be prescribed.
- The fee for issuing transit pass has been increased to Two hundred and fifty rupees.
- A proviso has been added to Section 55 of the KVAT Act by virtue of which, where an appellant remits 20% of the disputed amount of tax along with collected tax, further proceedings against recovery shall stand stayed till disposal of the appeal.
- By virtue of Section 88(E) notice can be now served by sending it through the portal of the registered dealer in the Kerala Value Added Tax Information System (KVATIS) along with an alert through short message service (SMS) in the phone number declared by the dealer with the department.
- The exemption provided with respect to Coconut Oil and rice bran oil has been done away with and is now covered under Third Schedule to the KVAT Act and accordingly taxable at the rate of 5%.
- The following goods shall be liable to tax @ 5% as per the third schedule
 1. Atta, maida, sooji and rava sold in packages with MRP printed on such packages, under Standards of Weights and Measures (Packaged Commodities) Rules, 1977
 2. Basmati Rice sold in packages with MRP printed on such packages, under Standards of Weights and Measures (Packaged Commodities) Rules, 1977
 3. Cooked Food, other than,
 - (i) those served to any airline service company or institution or shipping company for serving in air craft, ship or steamer or served in air craft, ship, steamer and five star hotels, and
 - (ii) burgers, pizza, tacos, doughnuts, sandwiches, burger-patty's, pasta, bread-filling and other cooked food items sold by restaurants having a brand name or trade mark registered under the Trade Marks Act, 1999.
 4. Mobile phone charger sold along with mobile phone in sealed Pack.
(This entry shall be deemed to have come into force on and from the 1st day of April, 2005)

➤ ***The Kerala Taxes on Luxuries Act, 1976***

- No tax shall be levied on hostels run directly by the educational institutions and working woman's hostels run by religious or charitable institutions, registered under The Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955
- The rate of tax in respect of hotel accommodation and other amenities excluding food and liquor shall be :
 1. Six per cent per room for hotels, in respect of rooms where the gross charges of accommodation for residence and other amenities and services provided is above rupees four hundred and up to one thousand rupees per day.
 2. Ten per cent for hotels in respect of rooms where the gross charges of accommodation for residence and other amenities and services provided is above rupees One thousand per day
- The provision with respect to reduced rate of tax for off season has been removed.
- Where any tax or other amount recoverable under this Act from any proprietor being a private company, whether existing or wound up or under liquidation, cannot be recovered for any reason whatsoever, every person who was a director of such company at any time during the period for which the tax or other amount is due under this Act shall be jointly and severally liable for the payment of such tax or other amount unless he proves that the non-recovery cannot be attributed to any negligence, misfeasance or breach of duty on his part in relation to the affairs of the company.