

*THE KERALA REVENUE RECOVERY RULES, 1968

SRO. No. 421/68.— In exercise of the powers conferred by Section 86 of the Kerala Revenue Recovery Act, 1968, (15 of 1968), the Government of Kerala hereby make the following rules; namely:—

1. These rules may be called the Kerala Revenue Recovery Rules, 1968.
2. In these rules, unless the context otherwise requires,—
 - (a) “Act” means the Kerala Revenue Recovery Act, 1968;
 - (b) “Section” means the section of the Act;
 - (c) “Form” means the form appended to these rules.
3. The forms given in the Appendix with such variations (not affecting the substance thereof) as the circumstances of each case may require, shall be used for the purposes therein mentioned.
4. Batta and other charges at the rates specified in Column (2) of the Table below; shall be levied in respect of the item specified against them in column (1) of the said Table. These charges shall be recovered from the defaulters along with the arrears due.

TABLE

| <i>Item</i> | <i>Rate</i> |
|---|--|
| (1) | (2) |
| (i) Demand notice fee (either under Section 7 or under Section 34). | Rs. P ¹ [50.00 per demand notice] |
| (ii) Fee for the distraint and sale of movables | ^{1A} [50.00 per case] |
| (iii) Fee for the attachment and sale of immovable to meet the cost of labour | ^{1B} [50.00 per case]. |
| (iv) Tom tom charges. | 1.00 do. |
| (v) Publication charges | Actual expenses incurred. |
| (vi) Transport charges or other charges | At the rates prescribed in the Financial Code. |
| (vii) For arrest and detention in civil jail | Subsistence allowance at such rates as may be specified by the State Govt. for judgment debtors under Section 57 of the Code of Civil Procedure, 1908. |

* Published under Notification No. 36542/B3/68/RD. in K. G. Ext. No. 263 dt. 07/12/1968.

1. Substituted by Notification G.O. (P) No. 85/2012/RD. dt. 25/02/2012, published as S.R.O.No. 149/2012 in K.G. Ext. No. 442 dt. 06/03/2012, for “Rs.2 per demand notice”.

1A. Substituted by Notification G.O. (P) No. 85/2012/RD. dt. 25/02/2012, published as S.R.O.No. 149/2012 in K.G. Ext. No. 442 dt. 06/03/2012, for “1.00 (per case)”.

1B. Substituted by Notification G.O. (P) No. 85/2012/RD. dt. 25/02/2012, published as S.R.O.No. 149/2012 in K.G. Ext. No. 442 dt. 06/03/2012, for “1.00 do.”

²[(viii) Collection charges

³[5% of the arrears to be collected, when the arrears does not exceed Rupees Five lakhs and 7.5% of the arrears to be collected, when the arrears exceed Rupees Five Lakhs.]

⁴[5. (1) ⁵[Collection charges at the rate of 5 percent of the arrears to be collected under the provisions of the Act on behalf of any institution notified under Section 71 or collected on behalf of any institution under Section 68 ⁶[when the arrears does not exceed Rupees Five Lakhs and at the rate of 7.5% when the arrears exceed Rupees Five Lakhs] shall be realised from the defaulters and accounted as arrears to such institutions.]

(2) The collection charges shall be deducted from the amount recovered and the balance alone shall be payable to the institution.]

⁷(3) Institutions except Government Departments accepting defaulted payments directly from the defaulter after initiating Revenue Recovery Proceedings under the Kerala Revenue Recovery Act, 1968 (15 of 1968) and filing the certificate by the District Collector under sub-section (3) of Section 69 of the said Act shall be liable to pay 1% of the amount so collected towards service charge for the initiation of Revenue Recovery Proceedings against the defaulter ⁸[and to intimate the fact] of such acceptance to the District Collector concerned at once.]

Case Law

Collection of charge of 5%: Division Bench of High Court in Shibukumar's case declared it as unreasonable, discriminatory and *ultra vires*. Said judgment stayed by Supreme Court. Hence, learned Single Judge was not correct in directing lifting of attachment in property by allowing payment of 1% of the amount recovered towards payment as collection charges. *Special Deputy Tahsildar (RR), KSFE Ltd. and Another v. K. P. Rajan and Another* — 2013 (3) KHC 232 (DB).

Collection charges : Recovery of additional tax under Motor Vehicles Taxation Act: Held, collection charges should be limited to the amount recovered by sale of the vehicle and no collection charges should be demanded from the defaulter for the voluntary payment made based on interim orders issued by the Court. *Vijayan N. P. v. Tahsildar (Revenue Recovery), Thalassery and Others* — 2012 (4) KHC 151 : 2012 (4) KLJ 273 : 2012 (4) KLT 318 (DB).

Proper levy of collection charges: For recovery under the Revenue Recovery Act by taking recourse to coercive steps, only 1% of the amount in addition to the cost of process and other charges as permitted under R.4, is permissible as collection charges. *Usha Mary v. Kerala Financial Corporation and Others* — 2009 (4) KHC 254 : 2009 (4) KLT 328 : ILR 2009 (4) Ker. 320 (DB).

Collection charges: Levy of. Levy of collection charges proportionate to the amount collected is unreasonable

2. Amended by Notification G. O. (P) No. 508/97/RD dt. 07/07/1997, published as SRO. No. 565/97 in K. G. No. 29 dt. 22/07/1997. Later corrected by Notification G.O. (P) No. 202/2002/RD. dt. 13/06/2002, published in K.G.Ext. No. 866 dt. 18/06/2002.

3. Substituted by Notification G.O. (P) No. 239/2004/RD. dt. 15/07/2004, published as SRO. No. 930/2004 in K.G.Ext. No. 34 dt. 24/08/2004, for "5% of the arrears to be collected".

4. Inserted by SRO. No. 460/80 dt. 27/02/1980, published in K. G. No. 21 dt. 20/05/1980.

5. Substituted by Notification G.O. (P) No. 508/97/RD dt. 07/07/1997, published as SRO. No. 565/97 in K. G. No. 29 dt. 22/07/1997. Prior to substitution it read as:

"Collection charges at the rate of 5 percent of the arrears collected under the provisions of the Act on behalf of any institution notified under Section 71 shall be realised from such institution."

6. Inserted by Notification G.O. (P) No. 239/2004/RD. dt. 15/07/2004, published as SRO. No. 930/2004 in K. G. Ext. No. 34 dt. 24/08/2004.

7. Inserted by Notification G.O. (P) No. 107/2008/RD. dt. 24/04/2008, published as SRO. No. 459/2008 in K. G. Ext. No. 899 dt. 06/05/2008.

8. Corrected by Notification G.O. (P) No. 285/2008/RD. dt. 29/08/2008, published in K. G. Ext. No. 1938 dt. 03/09/2008. Prior to correction it read as "and to initiate the fact".

and unconstitutional. Item (viii) under R.4 and R.5(1) are *ultra vires* of the parent Act. *Usha Mary v. Kerala Financial Corporation and Others*—2009 (4) KHC 254 : 2009 (4) KLT 328 : ILR 2009 (4) Ker. 320 (DB).

The levy of collection charges contemplated by R.5 of the Rules is available only in cases where amounts are sought to be recovered by recourse to the provisions of the RR Act, on behalf of institutions either notified under S.71 of the RR Act or which are otherwise enabled or empowered: S.68 of the Act would not be confined to amounts due to the Government on account of the quit rent or revenue other than the public revenue due on land and all monies due from any person to the Government which under a written agreement executed by such person are recoverable as arrears of public revenue due on land or land revenue under the Act. But it also will extend to cases where amounts are due to institutions other than the Government, provided such amounts can be recovered as arrears of public revenue due under the Act. *Pullangode Rubber and Produce Co. Ltd. v. Inspecting Assistant Commissioner (Special)*—2008 KHC 6072 : ILR 2008 (1) Ker. 718 : 2008 (1) KLT 752.

Amount due to Toddy Workers Welfare Fund deposited before initiation of proceedings: Not liable to pay collection charges. *Balan v. Tahsildar*—2000 (1) KLT 746 : 2000 (1) KLJ 452.

Payment of commission of 5% or collection charges: Amount paid straight to requisitioning authority. Applicability of R.5 arises only in a case where amount has been recovered though proceedings initiated under the RR Act. S.7 is intended only to give an opportunity to the defaulter to remit the amount demanded. In other words, coercive steps will be taken under the Act only if the amount is not paid, after receipt of the demand notice under S.7. *Village I. D. Centre v. Khadi and Village I. Board*—1996 (2) KLT SN 49 : 1996 (2) KLJ 253 : ILR 1997 (1) Ker. 392.

Charges payable under R.5 constitute part of the amount due to the creditor as cost of recovery and hence recoverable by it from defaulter. *Mohan Roy v. State Bank of Travancore*—1990 (2) KLT 120.

Amounts due to Kerala Financial Corporation: Debtor paying amounts direct to Corporation. The question of Revenue Recovery commission or collection charges could and would arise only where there is collection of arrears under the provisions of the Act on behalf of any institution notified under S.71 of the Act. Inasmuch as the admitted case is that no such collection has been made, a stage has not been reached where the Government would be entitled to claim collection charges by virtue of the provisions contained in R.5(1) of the Rules. *Kadeeja Beevi v. Kerala Financial Corporation*—11985 KHC 163 : 1985 KLT 741 : 1985 KLN SN 35.

APPENDIX

FORM 1

[See Section 7]

DEMAND NOTICE UNDER SECTION 7

..... of.....village of.....taluk is authorised to distraint the movable property of the undermentioned defaulter for arrears of public revenue due on land from him:—

| Number and name of the village | Name of defaulter | For what period arrears are due | Amount of arrears due | Date on which arrears fell due | Demand notice fee | Interest, rate and amount | Date of distress and delivery of copy to defaulter or, if no distress is made, date of payment of sum due |
|--------------------------------|-------------------|---------------------------------|-----------------------|--------------------------------|-------------------|---------------------------|---|
| | | Rs. Ps. | | | | | |
| | | | | | | | |

The defaulter is hereby informed that if the amount due together with notice fee and all expenses of distress be not immediately paid, the distrainted property will be immediately brought to public sale.

Station:
Dated:

(Signed)
Collector/Authorised Officer
19...

Note.— 1. The defaulter is informed that on presentation of this distraint order, he should pay the arrear together with the notice fee to the person employed to make the attachment and obtain a receipt from him.

2. The distrainer should produce this demand and if the sum due be not at once paid he may make distress and on the day on which the property is distrained, he should deliver to the defaulter a copy of the demand endorsing thereon a list of the property distrained and the name of the place where it is kept.

(Here enter the inventory of the distrained property)

Details.

Value.

FORM 2

[See Section 12]

NOTICE OF SALE OF MOVABLE PROPERTIES ATTACHED

Whereas Shri.....ofvillage has defaulted the payment of the dues, and whereas the following articles as per the list below have been attached on.....for the realisation of the arrears, the said articles will be sold in public auction on.....at.....(Place and time). The articles so sold shall be taken delivery of by the purchaser on payment of the entire bid amount.

List of articles.

Place:

Date:

Collector/Authorised Officer.

FORM 3

[See Section 19]

PROHIBITORY ORDER

Office of the.....
.....

To

.....
.....

Whereas.....has failed to pay the arrears due
(defaulter)

from him on account of.....amounting to Rs.....and the interest payable;

It is ordered that the said.....be, and is hereby prohibited and restrained, until the further order of the undersigned, from receiving from you a certain debt alleged now to be due from you to the said defaulter, namely...../ from making any transfer of the shares in.....

And that you, the said.....be, and you are hereby prohibited and restrained, until the further order of the undersigned from making payment of the said debt or any part thereof/from permitting any such transfer to any person whomsoever or otherwise than to the undersigned.

Given under my hand and seal at.....this.....day of.....
(Seal).

Collector/Authorised Officer.

Note.—

FORM 4

[See Section 20]

NOTICE OF ATTACHMENT OF A DECREE OF A CIVIL COURT

Office of the.....
.....
Dated.....

