



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ५५

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Goods and Services Tax (Second Amendment) Bill, 2020 (L.A. Bill No. XXXIV of 2020), introduced in the Maharashtra Legislative Assembly on the 7th September 2020, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,
Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XXXIV OF 2020.

A BILL

further to amend the Maharashtra Goods and Services Tax Act, 2017.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Goods and Services Tax Act, 2017, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Goods and Services Tax (Second Amendment) Ordinance, 2020 on the 10th July 2020;

Mah.
XLIII of
2017.
Mah.
Ord. XI
of 2020.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Seventy-first Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Maharashtra Goods and Services Tax (Second Amendment) Act, 2020.

(2) Section 1 shall be deemed to have come into force on the 10th July 2020.

(3) Save as otherwise provided, remaining sections shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 2 of Mah. XLIII of 2017.

2. In section 2 of the Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as the "principal Act"), in clause (114), for sub-clauses (c) and (d), the following sub-clauses shall be substituted, namely:—

Mah. XLIII of 2017.

"(c) Dadra and Nagar Haveli and Daman and Diu ;

(d) Ladakh ;".

Amendment of section 10 of Mah. XLIII of 2017.

3. In section 10 of the principal Act, in sub-section (2),—

(a) in clause (b), after the words "of goods", the words "or services" shall be inserted;

(b) in clause (c), after the words "of goods", the words "or services" shall be inserted;

(c) in clause (d), after the words "of goods", the words "or services" shall be inserted.

Amendment of section 16 of Mah. XLIII of 2017.

4. In section 16 of the principal Act, in sub-section (4), the words "invoice relating to such" shall be deleted.

Amendment of section 29 of Mah. XLIII of 2017.

5. In section 29 of the principal Act, in sub-section (1), for clause (c), the following clause shall be substituted, namely:—

"(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to optout of the registration voluntarily made under sub-section (3) of section 25 .".

Amendment of section 30 of Mah. XLIII of 2017.

6. In section 30 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely :—

"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 of state tax or the Joint Commissioner of state tax, as the case may be, for a period not exceeding thirty days ;

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

Amendment of section 31 of Mah. XLIII of 2017.

7. In section 31 of the principal Act, in sub-section (2), for the proviso, the following proviso shall be substituted, namely :—

"Provided that the Government may, on the recommendations of the Council, by notification,—

(a) specify the categories of services or supplies, in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed ;

(b) subject to the condition mentioned therein, specify the categories of services in respect of which,—

(i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(ii) tax invoice may not be issued.”.

8. In section 51 of the principal Act,—

Amendment of section 51 of Mah. XLIII of 2017.

(a) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”;

(b) sub-section (4) shall be deleted.

9. In section 122 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 122 of Mah. XLIII of 2017.

“(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.”.

10. In section 132 of the principal Act, in sub-section (1),—

Amendment of section 132 of Mah. XLIII of 2017.

(i) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;

(ii) for clause (c), the following clause shall be substituted, namely :—

“(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;”;

(iii) in clause (e), the words “, fraudulently avails input tax credit” shall be deleted.

11. In section 140 of the principal Act,—

Amendment of section 140 of Mah. XLIII of 2017.

(a) in sub-section (1), after the words “existing law”, the words “ within such time and ” shall be inserted and shall be deemed to have been inserted with effect from the 1st July 2017;

(b) in sub-section (2), after the words “appointed day”, the words “within such time and” shall be inserted and shall be deemed to have been inserted with effect from the 1st July 2017;

(c) in sub-section (3), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted with effect from the 1st July 2017;

(d) in sub-section (5), for the words “existing law”, the words “existing law, within such time and in such manner as may be prescribed” shall be substituted and shall be deemed to have been substituted with effect from the 1st July 2017;

(e) in sub-section (6), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted with effect from the 1st July 2017.

Amendment of
section 172 of
Mah. XLIII of
2017.

12. In section 172 of the principal Act, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted.

Amendment to
Schedule II of
Mah. XLIII of
2017.

13. In Schedule II to the principal Act, in paragraph 4, the words “whether or not for a consideration,” at both the places where they occur, shall be deleted and shall be deemed to have been deleted with effect from the 1st July 2017.

Retrospective
exemption
from, or levy or
collection of,
state tax in
certain cases.

14. (1) Notwithstanding anything contained in the Government Notification, Finance Department, No.MGST-1017/C.R. 104/Taxation-1, dated the 29th June 2017, issued by the Government of Maharashtra, on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the principal Act,—

(i) no state tax shall be levied or collected in respect of supply of fishmeal (falling under heading 2301), during the period commencing from the 1st July 2017 and ending with the 30th September 2019 (both days inclusive);

(ii) state tax at the rate of six per cent. shall be levied or collected in respect of supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436), during the period commencing from the 1st July 2017 and ending with the 31st December 2018 (both days inclusive).

(2) No refund shall be made of all such tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

Repeal of
Mah. Ord. XI of
2020 and
saving.

15. (1) The Maharashtra Goods and Services Tax (Second Amendment) Ordinance, 2020, is hereby repealed.

Mah.
Ord. XI
of 2020.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done taken or, as the case may be, issued under the corresponding provisions of the principal Act, as amended by this Act,

STATEMENT OF OBJECTS AND REASONS

Various decisions have been taken by the Goods and Service Tax Council requiring amendments in the Goods and Services Tax Laws. Accordingly, the Central Goods and Services Tax Act, 2017(12 of 2017) and the Integrated Goods and Services Tax Act, 2017(13 of 2017) have been amended by the Parliament by the Finance Act, 2020 (12 of 2020). In order to maintain the uniformity and applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Act, 2017 (Mah. XLIII of 2017), it was expedient to amend the Maharashtra Goods and Services Tax Act, 2017.

2. The salient features of the amendments are as follows :—

(i) *Amendment of clause (114) of section 2.*—This clause was being amended so as to align the definition of “Union territory” in line with the Jammu and Kashmir Reorganization Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019.

(ii) *Amendment of clauses (b), (c) and (d) of sub-section (2) of section 10.*—These clauses were being amended to harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub-section (2A) of the said section.

(iii) *Amendment of sub-section (4) of section 16.*—Sub-section (4) was being amended so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.

(iv) *Amendment of clause (c) of sub-section (1) of section 29.*—This clause was being amended so as to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25.

(v) *Amendment of sub-section (1) of section 30.*—A proviso to sub-section (1) was being substituted so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.

(vi) *Amendment of section 31.*—Section 31 was being amended so as to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.

(vii) *Amendment of section 51.*—Section 51 was being amended so as to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.

(viii) *Insertion of new sub-section (1A) in section 122.*—A new sub-section (1A) was being inserted in section 122, so as to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.

(ix) *Amendment of section 132.*—Section 132 was being amended so as to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable under sub-section (1) of section 69 and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.

(x) *Amendment of section 140.*—Section 140 providing for transitional arrangements for input tax credit, was being amended so as to prescribe the time limit and the manner for availing input tax credit against certain unavailed

credit under the existing law. This amendment shall take effect retrospectively from the 1st day of July 2017.

(xi) *Amendment of section 172.*—Section 172 was being amended so as to extend the time limit provided for removal of difficulties thereunder from three years to five years, with effect from the date of commencement of the said Act.

(xii) *Amendment of Paragraph 4 of Schedule II.*—This paragraph was being amended so as to give clarity to the meaning of the entries (a) and (b) of said paragraph with effect from the 1st July 2017.

(xiii) *Clause 14.*—This clause seeks to provide retrospective exemption from state tax on supply of fishmeal, during the period from the 1st day of July 2017 up to 30th day of September 2019 (both days inclusive). It further seeks to retrospectively levy state tax at the reduced rate of six per cent. On supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of headings 8432, 8433 and 8436, during the period from the 1st day of July 2017 up to 31st day of December 2018 (both days inclusive). It also seeks to provide that no refund shall be made of the tax which has already been collected.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Goods and Services Tax Act, 2017, for the purposes aforesaid, the Maharashtra Goods and Services Tax (Second Amendment) Ordinance, 2020 (Mah. Ord. XI of 2020), was promulgated by the Governor of Maharashtra on the 10th July 2020.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 13th August 2020.

AJIT PAWAR,
Deputy Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bil involves the following proposals for delegation of legislative power, namely :—

Clause 1.—Under this clause, power is taken to the State Government to bring into force the remaining sections of the Act on such date as the State Government, may, by notification in the *Official Gazette* appoint.

Clause 7.—Under this clause, which seeks to amend sub-section (2) of section 31 of the Maharashtra Goods and Services Tax Act, 2017, power is taken to the State Government to specify the categories of the services or supplies and prescribe the time and manner, in respect of which tax invoice shall be issued.

Clause 8.—Under this clause, which seeks to substitute sub-section (3) of section 51 of the said Act, power is taken to the State Government to prescribe the form and manner in which a certificate of tax deduction at source shall be issued.

Clause 11.—Under this clause, which seeks to amend section 140 of the said Act,—

(a) in clause (a) power is taken to the State Government to prescribe the time to take credit of the amount of value added tax and entry tax;

(b) in clause (b) power is taken to the State Government to prescribe the time to take credit of the unavailed input tax credit in respect of capital goods;

(c) in clause (c) power is taken to the State Government to prescribe the time and manner to take credit of value added tax and entry tax in respect of inputs held in stock;

(d) in clause (d) power is taken to the State Government to prescribe the time and manner to take credit of value added tax and entry tax in respect of inputs received;

(e) in clause (e) power is taken to the State Government to prescribe the time and manner to take credit of value added tax and entry tax in respect of inputs held in stock.

2. The above mentioned proposals for delegation of legislative power are of normal character.