

**THE GOA VALUE ADDED TAX (SECOND AMENDMENT) BILL,
2023**

(Bill No. 30 of 2023)

A

BILL

further to amend the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005).

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows: -

1. Short title and commencement. - (1) This Act may be called the Goa Value Added Tax (Second Amendment) Act, 2023.

(2) It shall come into force at once.

2. Amendment of section 3. – In section 3 of the Goa Value Added Tax Act, 2005 (Goa Act No. 9 of 2005) (hereinafter referred to as the “principal Act”), –

(i) for sub-section (1), the following sub-section shall be substituted, namely: –

“(1) Every dealer who is engaged in business of sale of goods shall be liable to pay tax under this Act on his turnover of sales, until such liability ceases under sub-section (3):

Provided that a dealer who was engaged in business of sale of goods before commencement of the Goa Value Added Tax (Second Amendment) Act, 2023 but was not liable to pay tax under section 3 and who has not obtained certificate of registration under Sub-section (3) of section 18, before such

commencement, shall be liable to pay tax from the date of commencement of the Goa Value Added Tax (Second Amendment) Act, 2023 and he shall obtain a certificate of registration under section 18 within a period of 90 days from the date of commencement of the Goa Value Added Tax (Second Amendment) Act, 2023.”;

(ii) for sub-section (2), the following sub-section shall be substituted, namely: –

“(2) Every dealer who engages in a business of sale of goods after commencement of the Goa Value Added Tax (Second Amendment) Act, 2023 shall be liable to pay tax under this Act with effect from the date of his engagement in such business till his liability ceases under sub-section (3);

(iii) proviso to sub-section (3) shall be omitted;

(iv) sub-sections (4) and (5) shall be omitted.

3. Amendment of section 18. — In section 18 of the principal Act, —

(i) in sub-section (3), —

(a) for the expression “but is not liable to pay tax under the provisions of this Act may, if he so desires,”, the word “shall” shall be substituted;

(b) proviso shall be omitted;

(ii) for sub-section (8), the following sub-section shall be substituted, namely:-

“(8) Where, any business, in respect of which a certificate of registration has been issued under this section, has been

discontinued, or has been transferred or otherwise disposed of, the dealer shall apply in the prescribed manner and within the prescribed time for cancellation of his registration to the Commissioner, and thereupon the Commissioner may, after such inquiry as he deems fit and subject to the rules framed, cancel the registration with effect from such date including any date earlier to the date of the order of cancellation as he considers fit having regard to the circumstances of the case.”.

4. **Insertion of new section 31B.** – After section 31A of the principal Act, the following new section shall be inserted, namely: —

“31B. Fresh Assessment on request of Taxpayer.—(1)

Notwithstanding anything contrary contained in the provisions of this Act, a dealer who is assessed or re-assessed by disallowing input tax credit for reason of non-renewal of registration for any period starting from the 1st day of April, 2017 till the date of commencement of the Goa Value Added Tax (Second Amendment) Act, 2023, may apply to the Commissioner for getting him assessed afresh in pursuance of deemed renewal of his registration under sub-section (10A) of section 18 inserted by the Goa Value Added Tax (Amendment) Act, 2023 (Goa Act 9 of 2023).

- (2) The application for the purposes of sub-section (1) shall be made on a plain paper, setting out therein all the relevant facts and shall be accompanied by proof of payment of non-refundable processing fees of Rs. 10,000/-. Separate applications shall be made for each assessment year / assessment period.
- (3) The Commissioner after affording an opportunity of being heard to the applicant, shall pass an order either allowing the fresh assessment or rejecting the application for reasons to be recorded in writing.

(4) In case where the Commissioner by an Order passed under this section allows the fresh assessment, notwithstanding anything to the contrary contained in this Act or in any other law for time being in force, the bar of limitation shall not be applicable for re-opening of any assessment of such dealer in respect of any period from the date of registration of the dealer till the date of passing of Order by the Commissioner.”.

Statement of Objects and Reasons

Clause 2 of the Bill seeks to amend section 3 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) (hereinafter referred to as the “said Act”) so as to make registration compulsory for dealers engaged in selling of five petroleum products and alcohol for human consumption within a period of 90 days of commencement of the Goa Value Added Tax (Second Amendment) Act, 2023. This clause also seeks to omit the threshold limit specified in sub-section (4) and (5) of section 3 of the said Act to make the registration compulsory.

Clause 3 of the Bill seeks to amend section 18 of the said Act so as to make registration compulsory for dealers engaged in selling of five petroleum products and alcohol for human consumption.

Clause 4 of the Bill seeks to insert new section 31B so as to allow fresh assessment of a dealers who has been disallowed input tax credit for reason of non-renewal of registration for any period starting from 01st April, 2017 till the date of commencement of the Goa Value Added Tax (Second Amendment) Act, 2023 by making an application on plain paper and after payment of fees.

This Bill seeks to achieve the above objects.

Financial Memorandum

The proposed Goa Value Added Tax (Second Amendment) Bill, 2023 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the State.

Memorandum Regarding Delegated Legislation

Clause 3 of the Bill empowers the Government to frame rules for specifying the time and manner for cancellation of registration of a dealer where the business has been discontinued, transferred or disposed of.

This delegation is of normal character.

Assembly Hall,
Porvorim, Goa.
25th July, 2023

Hon. Chief Minister/Finance Minister

Assembly Hall,
Porvorim, Goa.
25th July, 2023

Secretary to the Legislative Assembly of Goa

**Governor's Recommendation under article 207 of the
Constitution of India**

In pursuance of article 207 of the Constitution of India, I, P.S. Sreedharan Pillai, the Governor of Goa hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Value Added Tax (Second Amendment) Bill, 2023.

RAJ BHAVAN
Date: 25/07/2023.

P.S. Sreedharan Pillai
His Excellency, Governor of Goa

ANNEXURE
EXTRACTS FROM THE GOA VALUE ADDED TAX ACT, 2005
(GOA ACT 9 OF 2005)

Section: 3. Incidence of Tax.-

- (1) Every dealer, whose turnover of all sales made during-
- (i) the year ending on the 31st day of March of the year preceding the year in which this Act is enforced; or
 - (ii) the year commencing on the 1st day of April of the year during which this Act is enforced;

has exceeded or exceeds the relevant limit specified in sub-section (4), of this section shall until such liability ceases under sub-section (3), be liable to pay tax under this Act on his turnover of sales, made, on or after the appointed day:

Provided that, a dealer to whom clause (i) of sub-section (1) does not apply but clause (ii) applies and whose turnover of all sales first exceeds the relevant limit specified in sub-section (4) of this section after the appointed day shall not be liable to pay tax in respect of sales which take place upto the time when his turnover of sales, as computed from the first day of the year during which this Act is enforced, does not exceed the relevant limit applicable to him under sub-section (4).

- (2) Every dealer whose turnover, of all sales made, during any year commencing on the first day of the year, being a year subsequent to the years mentioned in sub-section (1), first exceeds the relevant limit specified in sub-section (4), shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the said date:

Provided that, a dealer shall not be liable to pay tax in respect of such sales as take place during the period commencing on the first day of the said year upto the time when his turnover of sales does not exceed the relevant limit applicable to him under sub-section (4).

- (3) Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until his registration is duly cancelled; and upon

such cancellation his liability to pay tax, shall cease other than tax, already levied or leviable.

Provided that, if the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of such sales as take place during the period commencing on the date of the cessation of liability to tax and upto the time when his turnover of sales does not exceed the relevant limit applicable to him under sub-section (4), no tax shall be payable by him.

(4) For the purposes of this section, the limits of turnover shall be as follows-

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| (i) Limit of turnover of Rs. 10000/- | In case of Non-resident dealer and casual trader |
| (ii) Limit of turnover of Rs. 5,00,000/- | In case of importer/manufacturer. |
| (iii) Limit of turnover of Rs. 10,00,000/- | In any other case. |

(5) For the purpose of calculating the limit of turnover for liability to tax,-

- (a) except as otherwise expressly provided, the turnover of all sales shall be taken, whether such sales are taxable or not or of taxable goods or not;
- (b) the turnover shall include all sales made by the dealer on his own account, and also on behalf of his principals whether disclosed or not;
- (c) in the case of an auctioneer, in addition to the turnover, if any, referred to in clauses (a) and (b), the turnover shall also include the price of the goods auctioned by him for his principal, whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal, if the price of such goods is received by him on behalf of his principal;
- (d) in the case of a manager or agent of a non-resident dealer, in addition to the turnover, if any, referred to in clauses (a), (b) or (c), the turnover shall also include the sales of the non-resident dealer effected in the State.

- (6) Notwithstanding anything contained in any contract or any law for the time being in force, but subject to the provisions of this Act, any person covered by sub-clauses (a), (b) and (c) of clause (k) of section 2 shall be liable to pay tax under this Act, whether or not the principal is a dealer and whether or not such principal is liable to pay tax under this section and whether or not the principals are disclosed.
- (7) Liability of dealers registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956).-

Every dealer shall, notwithstanding that he is not liable to pay tax under any of sub-sections (1) to (3) of section 3, be liable to pay tax under this Act so long as he is registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), on all sales effected by him or on his behalf within Goa, on or after the date of his liability or the date of his registration, whichever is earlier, under the Central Sales Tax Act, 1956 (Central Act 74 of 1956):

Provided that no tax shall be payable in respect of sales in any period prior to commencement of liability under this Act.

- (8) Liability of exporters and dealers effecting stock transfers outside the State:-

Every dealer exporting any goods outside India or effecting stock transfers to any States and Union Territories within India, shall, notwithstanding that he is not liable to pay tax under any of sub-sections (1) to (3) of section 3, be liable to pay tax under this Act on all taxable sales effected within the State.

- (9) Special liability of person organizing or conducting exhibition or event or programme.-

Any person organizing or conducting exhibition or event or programme either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name or otherwise or under a common roof or otherwise shall be liable to pay tax on all taxable sales effected by all such persons or dealers participating in such exhibition or event or programme other than the dealers who are already registered under this Act and self help groups participating in such exhibition or event or programme:

Provided that no person shall be allowed to carry on such exhibition or event or programme without obtaining prior written permission of the

Commissioner as per the procedure prescribed and payment in advance of estimated tax. The advance estimated tax shall be adjusted towards the output tax liability payable by the person organizing or conducting exhibition or event or programme so conducted:

Provided further that the owner of the property where the exhibition or event or programme is to be held, shall be jointly and severally liable to pay tax that may become due on sale of goods made in such exhibition or event or programme if he fails to inform the Commissioner about renting/leasing/letting out of his property, whether residential or commercial, or any open space, alongwith the details of dealer or person conducting the exhibition or event or programme as well as the conditions subject to which the said property is rented/leased/let out and any other relevant information.

Explanation:-

(1) Self Help Groups means Self Help Groups registered with the Rural Development Agency or with the Registrar of Co-operative Society or any other Government Department as Self Help Groups within the State of Goa and are selling goods manufactured by themselves.

(2) For the purpose of calculation of tax to be paid in advance, the stalls occupied by dealers holding valid registration under this Act, and the self help groups shall not be included while making such calculation, provided prior permission of the Commissioner is obtained by them for their participation in such exhibitions, event, or programme in a prescribed manner”

Section: 18. Registration.-

(1) No dealer shall, while being liable to pay tax under section 3 or under sub-section (6) of section 19, be engaged in business as a dealer, unless he possesses a valid certificate of registration as provided by this Act:

Provided that, the provisions of this sub-section shall not be deemed to have been contravened, if the dealer having applied for such registration as

in this section provided, within the prescribed time or, as the case may be, within the period specified in sub-section (6) of section 19, while he is engaged in such business.

- (2) Every dealer, required by sub-section (1) to possess a certificate of registration, shall apply in the prescribed manner, to the Commissioner.
- (3) A person or a dealer who intends to be engaged in business of dealing in goods, but is not liable to pay tax under the provisions of this Act may, if he so desires, apply in the prescribed manner under this sub-section for the grant of certificate of registration to the Commissioner and if the certificate is granted, then so long as it is not duly cancelled, the person or dealer shall remain liable to pay tax.

Provided that if the person or dealer to whom such certificate of registration is granted becomes liable to pay tax under any other provisions of the Act, then the certificate of registration so granted shall cease to be valid unless amended after payment of prescribed fee.

- (4) Certificate of registration shall not be granted to a dealer unless,
 - (a) he has declared his Permanent Account Number, mobile number, e-mail address in the application for registration and validated the same in the manner as may be prescribed; and
 - (b) he has deposited in the Government treasury prescribed fee in the prescribed manner and within the prescribed time.
- (5) The Commissioner may conduct such inquiry as he deems fit and may call for such evidence and information as he may deem necessary and after the inquiry, if any, and after considering the evidence and information, if any, he is satisfied that the application for registration made under this section is in order, he shall register the applicant and issue to him a certificate of registration in the prescribed form:

Provided that if the Commissioner is satisfied that the particulars contained in the application are not correct or complete or that any evidence or information prescribed for registering the applicant is not furnished, the Commissioner may, after giving the applicant a reasonable opportunity of being heard, reject the application for reasons to be recorded in writing.

- (6) The Commissioner may, after considering any information furnished under any provisions of this Act or otherwise received, amend from time to time, any certificate of registration.

(7) If a person or a dealer upon an application made by him has been registered under this section and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax during the period from the date on which his registration certificate took effect until it is cancelled, notwithstanding that he may not be liable to pay tax under this Act.

(8) Where,-

(a) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued, or has been transferred or otherwise disposed of; or

(b) the turnover of sales of a registered dealer has during any year not exceeded the relevant limit specified in sub-section (4) of section 3,-

then, in the case covered by clause (a), the dealer shall apply in the prescribed manner and within the prescribed time for cancellation of his registration to the Commissioner, and in the case covered by clause (b), the dealer may apply in the prescribed manner for cancellation of his registration to the Commissioner ; and thereupon the Commissioner may, after such inquiry as he deems fit and subject to rules framed, cancel the registration with effect from such date including any date earlier to the date of the order of cancellation as he considers fit having regard to the circumstances of the case.

(9) Any person intending to organize or conduct exhibition or any event or programme either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name or otherwise or under a common roof or otherwise, shall obtain a registration under this Act and shall apply in the prescribed manner, to the Commissioner requesting permission, indicating therein the details of the persons and/or dealers participating in, and the period of such exhibition alongwith payment of estimated tax in advance. The Commissioner may issue such permission in such form and subject to such conditions as may be prescribed. The dealer to whom the permission is issued shall exhibit the same at a conspicuous place where the exhibition or event or programme is conducted. The provisions of sub-sections (4), (5), (6), (7), (8), (10), (11), (12), (13), (14) and (15) of this section shall, mutatis mutandis, apply to this sub-section.

(10) Any registration granted under the provisions of this Act shall remain valid until it is cancelled:

Provided that, before passing the order of cancellation, the dealer shall be given a reasonable opportunity of being heard.

(10A) Notwithstanding anything contained in any Order, judgement or decision of any Authority, Administrative Tribunal or Court, any dealer who has failed to renew the registration after the expiry of validity of registration from 01st day of April, 2017, shall be deemed to have valid registration for all the purposes under this Act.”

Provided that no refund or adjustment of any sum of amount already paid towards renewal fee, tax, penalty or late fee due to non-renewal of registration shall be made due to amendment to section 18 and its effect thereof.

(11) If a dealer,-

- (a) fails to file three consecutive returns under this Act;
- (b) fails to pay the dues demanded in assessment/reassessment or otherwise within the period specified except where such demand has been stayed by the appellate authority or tribunal or any other court;
- (c) fails to pay the tax due from him for three consecutive tax periods under the provisions of this Act;
- (d) having issued tax invoice or retail invoices, fails to account for the said invoices in his books of account;
- (e) holds or accepts or furnishes or causes to be furnished a declaration, which he knows or has reason to believe to be false;
- (f) has been convicted of an offence under this Act, or under the earlier law;
- (g) discontinues his business without complying with the provisions contained in sub-section (8) of section 18 of the Act;
- (h) without entering into a transaction of sale, issues to another dealer tax invoice, retail invoice, bill or cash memorandum, with intention to defraud the Government of revenue;
- (i) is found evading tax on account of variation in physical stock compared with his regular books of accounts;

then the Commissioner may, at any time after giving the dealer an opportunity of being heard and for the reasons to be recorded in writing, by order cancel his certificate of registration from such date as may be specified by him in such order and the dealer shall not be entitled to any benefits available to a registered dealer under this Act from date specified in this order.

(12) (a) If a dealer,-

- (i) fails to inform changes in business as required by sub-section (1) of section 22;
- (ii) fails to file declaration and/or furnish the documents as required by section 23;
- (iii) fails to furnish return as required by section 24;
- (iv) fails to pay tax as required by section 25;
- (v) fails to produce the books of accounts as required by the Commissioner under sub-section (1) of section 73;

then the Commissioner may, at any time, after giving the dealer an opportunity of being heard and for the reasons to be recorded in writing, by order suspend his certificate of registration from date not earlier than the date of such order, as may be specified by him in such order.

- (b) Where a dealer, whose certificate of registration is suspended for the failure of any of the requirements specified in clause (a), fulfils the requirements, the Commissioner shall, by an order in writing, withdraw the suspension order from such date as may be specified therein.
- (c) The dealer whose certificate of registration is suspended under clause (a) shall not be entitled to claim input tax credit during the period of suspension of registration.

(13) Every person whose registration is cancelled under sub-section (11) shall pay in respect of every taxable goods held as stock on the date of cancellation an amount equal to the tax that would be payable in respect of the goods if the goods were sold at fair market price on that date or the total tax credit previously claimed in respect of such goods, whichever is higher.

(14) If an order of suspension or cancellation passed under this section is set aside in an appeal or other proceedings under this Act, the certificate of registration of the dealer shall stand restored with effect from the date of such suspension or cancellation, as the case may be.

(15) Suspension or cancellation of a certificate of registration shall not affect the liability of any dealer to pay tax, penalty or interest due for any period till the date of such suspension or cancellation and which has remained unpaid or is assessed thereafter.

(16) The Commissioner shall notify in Official Gazette the details of dealers whose certificate of registration has been suspended or cancelled under the provisions of this Act.
