

THE GOA GOODS AND SERVICES TAX (AMENDMENT)

Bill, 2020

(Bill No.1 of 2020)

to amend the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

Be it enacted by the Legislative Assembly of Goa in the seventy-first Year of the Republic of India as follows: —

1. Short title and commencement. — (1) This Act may be called the Goa Goods and Services Tax (Amendment) Act, 2020.

(2) Save as otherwise provided in this Act, the provisions of sections 2 to 21 of this Act, except section 7, section 10 and sections 13 to 20 shall be deemed to come into force from 01/01/2020 and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Amendment of section 2.— In section 2 of the Goa Goods and Services Tax Act, 2017 (hereinafter referred as the “principal Act”) in clause (4), after the words “the Appellate Authority for Advance Ruling,”, the words “the National Appellate Authority for Advance Ruling,” shall be inserted.

3. Amendment of section 10.—In section 10 of the principal Act,—

(a) in sub-section (1), after the second proviso, the following Explanation shall be inserted, namely:—

“*Explanation.*— For the purposes of second proviso, the

value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State.”;

(b) in sub-section (2),—

(i) in clause (d), the word “and” occurring at the end shall be omitted;

(ii) in clause (e), for the word “Council”, the words “Council; and” shall be substituted;

(iii) after clause (e), the following clause shall be inserted, namely:—

“(f) he is neither a casual taxable person nor a non-resident taxable person.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent. of the turnover in State, if he is not—

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;

(b) engaged in making any inter-State outward supplies of goods or services;

(c) engaged in making any supply of goods or

services through an electronic commerce operator who is required to collect tax at source under section 52;

(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered persons are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.”;

(d) in sub-section (3), after the words, brackets and figure “under sub-section (1)” at both the places where they occur, the words, brackets, figure and letter “or sub-section (2A), as the case may be,” shall be inserted.

(e) in sub-section (4), after the words, brackets and figure “of sub-section (1)”, the words, brackets, figure and letter “or, as the case may be, sub-section (2A)” shall be inserted.

(f) in sub-section (5), after the words, brackets and figure “under sub-section (1)”, the words, brackets, figure and letter “or sub-section (2A), as the case may be,” shall be inserted.

(g) after sub-section (5), the following Explanations shall be inserted, namely:—

Explanation 1.— For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year upto the date when he becomes liable for

registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.— For the purposes of determining the tax payable by a person under this section, the expression “turnover in State” shall not include the value of following supplies, namely:—

(i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and

(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.’.

4. Amendment of section 22.—In section 22 of the principal Act, in sub-section (1), after the second proviso, the following shall be inserted, namely:—

“Provided also that the Government may, on the recommendations of the Council, by notification, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”.

5. Amendment of section 25.—In section 25 of the principal Act, after sub-section (6), the following sub-sections shall be inserted, namely:—

“(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorized signatory and such other class of persons, in such manner, as the Government may, on the recommendation of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or part of the State, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.”.

6. Insertion of new section 31A.— After section 31 of the principal Act, the following section shall be inserted, namely:—

“31A. Facility of digital payment to recipient— The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.”.

7. Amendment of section 39.— In section 39 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax

under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.”;

(b) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government the tax due taking into account turnover in the State, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.”.

8. Amendment of section 44.—In section 44 of the principal Act, in sub-section (1), the following provisos shall be inserted, namely:—

“Provided that the commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.”.

9. Amendment of section 49.—In section 49 of the principal Act, after sub-section (9), the following sub-sections shall be inserted, namely:—

“(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).”.

10. Amendment of section 50.—In section 50 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”.

11. Amendment of section 52. — In section 52 of the Principal Act,—

(i) In sub-section (4), the following provisos shall be inserted, namely:—

“Provided that the Commissioner may, for the reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.”;

(ii) In sub-section (5), the following provisos shall be inserted, namely:—

“Provided that the Commissioner may, on the recommendation of the Council and for the reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by

the Commissioner of Central tax shall be deemed to be notified by the Commissioner.”.

12. Insertion of new section 53A.— After section 53 of the principal Act, the following section shall be inserted, namely:—

“**53A. Transfer of certain amounts.**— Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the Central Goods and Services Tax Act or under the Integrated Goods and Services Tax Act or under the Goods and Services Tax (Compensation to States) Act, the Government shall, transfer to the central tax account or integrated tax account or cess account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.”.

13. Amendment of section 54.—In section 54 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

“(8A) Where the Central Government has disbursed the refund of State tax, the Government shall transfer an amount equal to the amount so refunded, to the Central Government.”.

14. Amendment of section 95.—In section 95 of the principal Act,—

(i) in clause (a),—

(a) after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted;

(b) after the words and figures “of section 100”, the words, figures and letter “or of section 101C of the Central Goods and Services Tax Act” shall be inserted;

(ii) after clause (e), the following clause shall be inserted, namely:—

“(f) “National Appellate Authority” means the National Appellate Authority for Advance Ruling referred to in section 101A.”.

15. Insertion of new sections 101A.— After section 101 of the principal Act, the following section shall be inserted, namely:—

“101A. National Appellate Authority for Advance Ruling under Central Goods and Services Tax Act, shall be Appellate Authority under this Act.—Subject to the provisions of this chapter, for the purposes of this Act, the National Appellate Authority for Advance Ruling constituted under section 101A of the Central Goods and Services Tax Act shall be deemed to be the National Appellate Authority for Advance Ruling under this Act.”.

16. Amendment of section 102.— In section 102 of the principal Act, in the opening portion,—

(a) after the words “Appellate Authority”, at both the places where they occur, the words “or the National Appellate Authority” shall be inserted;

(b) after the words and figures “or section 101”, the words, figures and letter “or section 101C of the Central Goods and Services Tax Act, respectively,” shall be inserted;

(c) for the words “or the appellant”, the words, “appellant, the Authority or the Appellate Authority” shall be substituted.

17. Amendment of section 103.— In section 103 of the principal Act with effect from 1st day of September 2019,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—

(a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B of Central Goods and Services Tax Act and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961;

(b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.”;

(ii) in sub-section (2), after the words, brackets and figure “in sub-section (1)”, the words, brackets, figure and letter “and sub-section (1A)” shall be inserted.

18. Amendment of section 104.— In section 104 of the principal Act, in sub-section (1),

(a) after the words “Authority or the Appellate Authority”, the words “or the National Appellate Authority” shall be inserted;

(b) after the words and figures “of section 101”, the words, figures and letter “or under section 101C of the Central Goods and Services Tax Act” shall be inserted.

19. Amendment of section 105.— In section 105 of the principal Act,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Powers of Authority, Appellate Authority and National Appellate Authority”;

(b) in sub-section (1), after the words “Appellate Authority”, the

words “or the National Appellate Authority” shall be inserted;

(c) in sub-section (2), after the words “Appellate Authority at both the places where they occur”, the words “or the National Appellate Authority” shall be inserted.

20. Amendment of section 106.— In section 106 of the principal Act,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Procedure of Authority, Appellate Authority and National Appellate Authority”;

(b) after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted.

21. Amendment of section 171.—In section 171 of the principal Act, after sub-section (3), the following Amendment shall be inserted, namely:—

“(3A) Where the Authority referred to in sub-section (2) after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.— For the purposes of this section, the expression “profiteered” shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.”.

NOTES ON CLAUSES (for Goa GST (Amendment) Act, 2020)

Clause 1 of the Bill provides for the Short title and commencement.

Clause 2 of the Bill seeks to amend clause (4) of section 2 of the principal Act to insert the words "the National Appellate Authority for Advance Ruling" in the definition of "adjudicating authority" so as to exclude that authority from the definition of adjudicating authority.

Clause 3 of the Bill seeks to amend section 10 of the principal Act so as to provide alternative composition scheme for supplier of services or mixed suppliers (not eligible for the earlier composition scheme) having an annual turnover in preceding financial year upto rupees fifty lakhs.

Clause 4 of the Bill seeks to amend section 22 of the principal Act so as to provide for higher threshold exemption limit from rupees twenty lakhs to such amount not exceeding rupees forty lakhs in case of supplier who is engaged exclusively in the supply of goods.

Clause 5 of the Bill seeks to amend section 25 of the principal Act so as to provide for mandatory Aadhaar submission or authentication for persons who intend to take or have taken registration under the said Act in such manner as may be notified by the Government on the recommendations of the Council.

Clause 6 of the Bill seeks to insert a new section 31A in the Principal Act to provide that supplier shall mandatorily offer facility for digital payments to his recipient.

Clause 7 of the Bill seeks to amend section 39 of the principal Act so as to provide for furnishing of annual returns and for quarterly payment of tax by taxpayer who opts for composition levy and to provide for certain other category of tax payers, an option for quarterly and monthly payments under the proposed new return filing system.

Clause 8 of the Bill seeks to amend section 44 of the principal Act so as to empower the Commissioner to extend the due date for furnishing Annual

return and reconciliation statement.

Clause 9 of the Bill seeks to amend section 49 of the principal Act so as to provide facility to the taxpayer to transfer an amount from one head to another in the electronic cash ledger.

Clause 10 of the Bill seeks to amend section 50 of the principal Act so as to provide for charging interest only on the net cash tax liability, except in those cases where tax is paid subsequent to initiation of any proceedings under section 73 or 74 of the Act.

Clause 11 of the Bill seeks to amend section 52 of the principal Act so as to empower the Commissioner to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

Clause 12 of the Bill seeks to insert a new section 53A in the principal Act so as to provide for transfer of amount in the electronic cash ledger between the Centre and States as a consequence of the new facility given to the tax payer under section 49.

Clause 13 of the Bill seeks to amend section 54 of the principal Act so as to empower the State Government to transfer the refund amount disbursed to the taxpayers by Central Government in respect of refund of State taxes.

Clause 14 of the Bill seeks to amend section 95 so as to insert National Appellate Authority in the definition of Advance Ruling.

Clause 15 of the Bill seeks to insert New section 101A so as to provide that National Appellate Authority for Advance Ruling constituted under section 101A of Central Goods and Services Tax Act is deemed to be the National Appellate Authority for Advance Ruling under principal Act, wherein it is provided for constitution, qualification, appointment, tenure, conditions of services and manner of removal of the President and Members of the National Appellate Authority for Advance Ruling.

Clause 16 of the Bill seeks to amend section 102 of the principal Act so as to bring the National Appellate Authority within the ambit of that section to

empower it to rectify its advance ruling.

Clause 17 of the Bill seeks to amend section 103 of the principal Act so as to provide that the advance ruling pronounced by the National Appellate Authority shall be binding on the applicants, being distinct persons and all registered persons having the same Permanent Account Number and on the concerned officers or the jurisdictional officers in respect of the said applicants and the registered persons having the same Permanent Account Number. It also provides that the ruling shall be binding unless there is a change in law or facts.

Clause 18 of the Bill seeks to amend section 104 of the principal Act to provide that advance ruling pronounced by the National Appellate Authority shall be void where the ruling has been obtained by fraud or suppression of material facts or misrepresentation of facts.

Clause 19 of the Bill seeks to amend section 105 of the principal Act so as to provide that the National Appellate Authority shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of exercising its powers under the Act.

Clause 20 of the Bill seeks to amend section 106 of the principal Act to provide that the National Appellate Authority shall have power to regulate its own procedure.

Clause 21 of the Bill seeks to amend section 171 of the principal Act to insert new sub-section (3A) therein so as to empower the Authority specified under sub-section (2) thereof to impose penalty equivalent to ten per cent. of the profiteered amount.

FINANCIAL MEMORANDUM

The proposed Goa Goods and Services Tax (Amendment) Bill, 2020 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 issue notifications, notifying the manufacturer of goods and services to provide alternative composition scheme for supplier of services or mixed suppliers (not eligible for the earlier composition scheme) having an annual turnover in preceding financial year upto rupees fifty lakhs.

Clause 4 of the Bill empowers the Government to issue notifications, Enhancing the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods.

Clause 5 of the Bill empowers the Government to prescribe the alternate and viable means of identification if Aadhaar Number is not assigned to a registered person and also the form, manner and time for authentication of Aadhaar number.

Clause 6 of the Bill empowers the Government to prescribe class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both.

Clause 7 of the Bill empowers the Government to prescribe the form, manner, time and conditions for filing a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid.

Clause 8 of the Bill empowers the commissioner to issue notification to extend the time limit for furnishing the annual return for

such class of registered persons

Clause 9 of the Bill empowers the Government to prescribe the form and manner and subject to such conditions and restrictions for transfer of any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Goa Goods and Services Tax Act,2017, to the electronic cash ledger for integrated tax, central tax, State tax, or cess.

Clause 11 of the Bill empowers the Commissioner to issue notification to extend the time limit for furnishing the statement for such class of registered persons.

Clause 12 of the Bill empowers the Government to prescribe the date and time for transfer of amount of refund of State tax disbursed by Central Government.

The delegations are of normal character.

Assembly Hall,
Porvorim, Goa.
_____, 2020

SHRI PRAMOD P. SAWANT
Hon. Chief Minister/Finance Minister

Assembly Hall,
Porvorim, Goa.

Namrata Ulman
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, Satya Pal Malik, the Governor of Goa hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Goods and Services Tax (Amendment) Bill, 2020.

RAJ BHAVAN

Date: /01/2020.

SATYA PAL MALIK

Governor of Goa

ANNEXURE
EXTRACTS FROM THE GOA GOODS AND SERVICES TAX ACT,
2017
(Goa Act 4 OF 2017)

CHAPTER I
PRELIMINARY

2. Definitions. —In this Act, unless the context otherwise requires,—

(4)“adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171.

CHAPTER III
LEVY AND COLLECTION OF TAX

10. Composition levy.—

(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding, —

- (a) one per cent. of the turnover in State in case of a manufacturer,
- (b) two and a half per cent. of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of

Schedule II, and

(c) half per cent. of the turnover in State in case of other suppliers, subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore and fifty lakh rupees, as may be recommended by the Council.

Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten percent of turnover in the State in the preceding financial year or five lakh rupees, whichever is higher.

(2) The registered person shall be eligible to opt under sub-section (1), if—

(a) save as provided in sub-section (1), he is not engaged in the supply of services;

(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;

(c) he is not engaged in making any inter-State outward supplies of goods;

(d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and

(e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act 1961(Central Act 43 of 1961)), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to

pay tax under that sub-section.

(3) The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).

(4) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

(5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

CHAPTER - VI

REGISTRATION

22. Persons liable for registration.—

(1) Every supplier making a taxable supply of goods or services or both in the State shall be liable to be registered under this Act if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

Provided further that where such person makes taxable supplies of goods or services or both from a special category State in respect of which the Central Government has enhanced the aggregate turnover referred to in the first proviso, he shall be liable to be registered if his aggregate turnover in a financial year exceeds the amount equivalent to such enhanced turnover.

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

(4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Explanation.—For the purposes of this section,—

(i) the expression “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;

(ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;

(iii) the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.

25. Procedure for registration.—

(1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration within thirty days from the date on which he

becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005 (Central Act 28 of 2005), in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the State.

Explanation.- Every person who makes a supply from the territorial waters of India shall obtain registration in the State where the nearest point of the appropriate baseline is located in the State.

(2) A person seeking registration under this Act shall be granted a single registration:

Provided that a person having multiple places of business in the State may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.

(3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

(6) Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 (Central Act 43 of 1961) in order to be eligible for grant of registration:

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

(7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.

(8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.

(9) Notwithstanding anything contained in sub-section (1),—

(a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (Central Act 46 of 1947), Consulate or Embassy of foreign countries; and

(b) any other person or class of persons, as may be notified by the Commissioner,

shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

(10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.

(11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.

(12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

CHAPTER- IX

RETURNS

39. Furnishing of returns.—

(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed on or before the twentieth day of the month succeeding such calendar month or part thereof.

(2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.

(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.

(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.

(5) Every registered non-resident taxable person shall, for every calendar

month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner.

(7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.

(8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

(9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

44. Annual return.—

(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

CHAPTER-X

PAYMENT OF TAX

49. Payment of tax, interest, penalty and other amounts.—

(1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with

section 41, to be maintained in such manner as may be prescribed.

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

(5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of —

(a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;

(b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

(c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

Provided that the input tax credit on account of State tax shall be utilized towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;

(d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

Provided that the input tax credit on account of Union territory tax shall

be utilized towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;

(e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and

(f) the State tax or Union territory tax shall not be utilised towards payment of central tax.

(6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.

(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—

(a) self-assessed tax, and other dues related to returns of previous tax periods;

(b) self-assessed tax, and other dues related to the return of the current tax period;

(c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.

(9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Explanation.—For the purposes of this section,

(a) the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;

(b) the expression,-

(i) “tax dues” means the tax payable under this Act and does not include interest, fee and penalty; and

(ii) “other dues” means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

50. Interest on delayed payment of tax.—

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

52. Collection of tax at source.

(1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made

through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.

(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.

(5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.

(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall

rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.

(8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.

(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37 or section 39, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

(10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.

(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such

supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

(a) supplies of goods or services or both effected through such operator during any period; or

(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,

as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

CHAPTER XI

REFUNDS

54. Refund of tax.—

(1) Any person claiming refund of any tax and interest, if any, paid on

such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.

(2) A specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 (Central Act 46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than-

(i) zero-rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both claims refund of the integrated tax paid

on such supplies.

(4) The application shall be accompanied by—

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

(b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to –

(a) refund of tax paid on exports of goods or services or both or on inputs or input services used in making such exports;

(b) refund of unutilised input tax credit under sub-section (3);

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of section 77;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Explanation.—For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.

(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(12) Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

(14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

Explanation.—For the purposes of this section,—

(1) “refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-

rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under subsection (3).

(2) “relevant date” means –

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—

- (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
- (ii) if the goods are exported by land, the date on which such goods pass the frontier; or
- (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—

- (i) receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India, where the supply of services had been completed prior to the receipt of such payment; or
- (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;

(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(h) in any other case, the date of payment of tax.

CHAPTER XVII

ADVANCE RULING

95. Definitions.—

(a) “advance ruling” means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

(b) "Appellate Authority" means the Appellate Authority for Advance Ruling constituted under section 99;

(c) “applicant” means any person registered or desirous of obtaining registration under this Act;

(d) “application” means an application made to the Authority under sub-section (1) of section 97;

(e) “Authority” means the Authority for Advance Ruling, constituted under section 96.

102. Rectification of advance ruling.—

The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, or the applicant or the appellant within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

103. Applicability of advance ruling.—

(1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only-

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

104. Advance ruling to be void in certain circumstances.

(1) Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void *ab-initio* and thereupon all the provisions of this

Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:

Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

Explanation.—The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned officer and the jurisdictional officer.

105. Powers of Authority and Appellate Authority. —

(1) The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding —

- (a) discovery and inspection;
- (b) enforcing the attendance of any person and examining him on oath;
- (c) issuing commissions and compelling production of books of account and other records,

have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(2) The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code (Central Act 45 of 1860).

106. Procedure of Authority and Appellate Authority.—

The Authority or the Appellate Authority shall, subject to the provisions

of this Chapter, have power to regulate its own procedure.

CHAPTER XXI
MISCELLANEOUS

171. Anti-profiteering Measure.—

(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

* * * *