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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT VALUE ADDED TAX (AMENDMENT) BILL, 2017. GUJARAT BILL NO.26 OF 2017

A BILL

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Sixty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2017.

Short title and commencement.

V-Ex-26

26-1

Amendment
of long title of
Guj.1 of 2005.

(2) It shall come into force on such date as the State Government may, by notification in the *official Gazette*, appoint. Guj. 1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the Principal Act"), in the long title, the words "or purchases" shall be deleted.

Amendment
of section 2 of
Guj.1 of 2005.

3. In the principal Act, in section 2,-

(1) clauses (1), (1A) and (2) shall be deleted;

(2) in clause (4), in sub-clause (ii), for the words "plant, machinery, raw materials, processing materials, packing materials, empties, consumable stores, waste products, or such other goods, or waste or scrap of any of them", the words "raw materials, processing materials, consumable stores, waste products or such other goods" shall be substituted;

(3) clauses (5) and (9) shall be deleted;

(4) in clause (10), Exceptions (i) to (ii) shall be deleted;

(5) clause (11) shall be deleted;

(6) for clause (13), the following clause shall be substituted, namely:-

"(13) "goods" means good as covered under entry 54 of List II of the Seventh Schedule to the Constitution of India;"

(7) in clause (19), the words "material used in the packing of the goods" shall be deleted;

(8) in clause (27), for the words, figures and letters "on sales or purchase of goods and includes *lump sum* leviable or payable under Section 14, 14A, 14B, 14C or 14D", the words "on sales of goods" shall be substituted;

(9) for clause (29), the following clause shall be substituted, namely:-

"(29) "taxable goods" means goods liable to tax under section 7 excluding the goods on which no tax is payable under section 5;"

(10) in clause (30),-

(i) the words "or purchases" shall be deleted;

(ii) in sub-clause (b), the words, brackets and figures

“under sub-section (1) of section 5 or” shall be deleted;

(11) in clause (34), in sub-clause (a) the words “or purchase”, occurring at two places, shall be deleted;

(12) clause (37) shall be deleted.

4. In the principal Act, in section 5, -

(1) sub-sections (1) and (1A) shall be deleted;

(2) in sub-section (2), the words “or purchases” wherever they occur, shall be deleted;

(3) in sub-section (3), the words, brackets, figure and letter “under sub-section (1A) and” shall be deleted.

5. In the principal Act, section 5A shall be deleted.

6. In the principal Act, in section 7,-

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

“(1) Subject to the provisions of this Act, there shall be levied a tax on the turnover of sale of Motor spirit commonly known as Petrol, High Speed Diesel, Aviation Turbine Fuel, Petroleum Crude, Natural Gas and Alcoholic Liquor for human consumption specified in Schedule III at the rate set out against each of them:

Provided that the Government may levy, from importer or manufacturer or oil marketing companies, a tax at full rate on the retail price in such manner as may be notified by the Government.”;

(2) sub-section (1A) shall be deleted;

(3) in sub-section (2), clause (i) shall be deleted.

7. In the principal Act, section 9 shall be deleted.

8. In the principal Act, for section 10, the following section shall be substituted, namely:-

“10. Notwithstanding anything contained in this Act, the value of Goods shall be inclusive of value of packing material unless value of packing material is separately charged and tax is collected under the Gujarat Goods and Services Tax Act, 2017.”.

**Deeming
Provision for
Packing
Material.**

**Amendment
of section 5 of
Guj.1 of 2005.**

**Deletion of
section 5A of
Guj. 1 of 2005.**

**Amendment
of section 7 of
Guj.1 of 2005.**

**Deletion of
section 9 of
Guj. 1 of 2005.**

**Substitution of
Section 10 of
Guj. 1 of 2005.**

Guj.....of 2017.

**Amendment of
section 11 of
Guj.1 of 2005.**

9. In the principal Act, in section 11,-
- (1) in sub-section (1), in clause (a), sub-clauses (ii) and (iii) shall be deleted;
- (2) in sub-section (3),-
- (i) in clause (a),-
- (a) in sub-clause (vi), the words “or in the packing of goods so manufactured” shall be deleted;
- (b) sub-clause (vii) shall be deleted;
- (ii) in clause (b),-
- (a) in sub-clause (ii), the words “or in the packing of the goods” shall be deleted;
- (b) in sub-clause (iii), for the words “manufacture of goods”, the words “manufacture of taxable goods” shall be substituted;
- (3) in sub-section (5),-
- (i) clause (c) shall be deleted;
- (ii) in clause (g), the words “the goods specified in Schedule I or” shall be deleted;
- (iii) in clause (h),-
- a. the words “goods specified in the Schedule I or” shall be deleted;
- b. the words “or in the packing of goods so manufactured” shall be deleted;
- (iv) clause (i) and (j) shall be deleted;
- (v) in clause (II), for the words “crude oil and lignite”, the words “and petroleum crude” shall be substituted;
- (vi) clause (mm) and (nn) shall be deleted;
- (vii) non-obstacle clause (I) and (III) shall be deleted;
- (4) in sub-section (7A), the first and second provisos thereunder shall be deleted;
- (5) to sub-section (8), the following proviso shall be added, namely:-
- “provided that when a dealer migrating to the Gujarat Goods and Services Tax Act, 2017 uses the capital goods till completion of remaining period of limit of 5 years continuously under the Gujarat Goods and Services Tax Act, 2017, the tax credit shall not be reduced for such period.”.
- (6) after sub-section (8), the following sub-section shall be inserted, namely:-

Guj.....of 2017.

Guj.....of 2017.

Guj.....of 2017.

Guj.....of 2017.

“(8A) (1) when a dealer has availed the tax credit for tax paid on purchases of goods in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and he opts for composition under section 10 of the Gujarat Goods and Services Tax Act, 2017, such tax credit shall stand reversed. Such amount of reversed tax credit shall be adjusted from the present balance of tax credit available. If such dealer does not have in balance tax credit available for adjustment of reversed tax credit, he shall pay into Government treasury, a sum equal to the amount of unadjusted reversed tax credit.

Guj.....of 2017.

(2) when a dealer has availed the tax credit for tax paid on purchases of capital goods on the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and he opts for composition under section 10 of the Gujarat Goods and Services Tax Act, 2017, but period of five year has not completed, such tax credit shall stand reversed. Such amount of reversed tax credit shall be adjusted from the present balance of tax credit available. If such dealer does not have in balance the tax credit available for adjustment of reversed tax credit, he shall pay into Government treasury, a sum equal to the amount of unadjusted reversed tax credit.”.

Guj.....of 2017.

10. In the principal Act, section 12 shall be deleted.

Deletion of section 12 of Guj. 1 of 2005.

11. In the principal act, section 14, 14A, 14B, 14C and 14D shall be deleted.

Deletion of sections 14 to 14D of Guj. 1 of 2005.

Amendment of section 16 of Guj.1 of 2005.

12. in the principal Act, in section 16.-

(1) to sub-section (1), the following proviso shall be added, namely:-

“provided that, the officers appointed under the Gujarat Goods and Services Tax Act, 2017 shall be deemed to be the officers appointed under the provisions of this Act.”.

Guj.....of 2017.

(2) to sub-section (2), the following proviso shall be added, namely:-

“provided that, the officers appointed under the Gujarat Goods and Services Tax Act, 2017 shall be deemed to be the officers appointed under the provisions of this Act to assist the Commissioner in the executions under this sub-section.”.

Guj.....of 2017.

Amendment of section 21 of Guj.1 of 2005.

13. In the principal Act, in section 21, sub-section (2) shall be deleted.

- Deletion of section 23 of Guj.1 of 2005.** 14. In the principal Act, section 23 shall be deleted.
- Insertion of New section 27A in Guj.1 of 2005.** 15. After section 27, the following section shall be inserted, namely:-
- Dealers deemed to be deregistered.** “27A. All registered dealers not dealing with goods defined under clause (13) of section 2 shall be deemed to be deregistered from the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and their registration certificates shall stand cancelled.”
- Guj.....of 2017.
- Amendment of section 60 of Guj.1 of 2005.** 16. In the principal Act, in section 60, in sub-section (1), in the proviso,-
- (i) in clause (a), the words “specified in Schedule 1 or” shall be deleted;
- (ii) clause (b) shall be deleted.
- Amendment of section 63 of Guj.1 of 2005.** 17. In the principal Act, in section 63, to sub-section (1), the following provisos shall be inserted, namely:-
- “provided that registered dealer whose taxable turnover is more than twenty five lakh shall file a final return for the period ending on the last day before the appointed day of the coming into force of the Gujarat Goods and Services Tax Act, 2017 in such manner as may be prescribed, reflecting such details as may be prescribed from the books of Account:
- Provided further that where the amount of tax credit is carried forward for more than rupees five lakhs, the books of accounts related to such final return shall have to be duly audited by a chartered Accountant or cost accountant.”
- Guj.....of 2017.**
18. In section 100, after sub-section (2), the following sub-section shall be added, namely:-
- Amendment of section 100 of Guj.1 of 2005.**
- Guj.....of 2017.** “(2A) The amendment of the Gujarat Value Added Tax (Amendment) Act, 2017 shall not-
- (a) revive anything not in force or existing at the time of such amendment or repeal; or
- (b) affect the previous operations of this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and orders or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 or orders made thereunder:
- provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is
- Guj.....of 2017.**

Guj.....of 2017.

rescinded on or after the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017; or

Guj.....of 2017.

(d) affect any tax, surcharge, penalty, fine, interest as are due or may become due on any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017; or

(e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed; or

(f) affect any proceedings including that relating to an appeal, revision, review or reference, instituted under this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and such proceedings shall be continued under the said amending Act.”.

Guj.....of 2017.

Deletion of Schedules I and II of Guj. 1 of 2005.

19. in the principal Act, Schedule I and Schedule II shall be deleted.

Substitution of Schedule III of Guj.1 of 2005.

20. in the principal Act, for Schedule III, the following Schedule shall be substituted, namely:-

“SCHEDULE III

(see section 7)

GOODS, THE SALE OF WHICH IS SUBJECT TO TAX AND RATE OF TAX

Sr.No.	Description of goods	Rate of Tax
1	High Speed Diesel	Twenty-four paise in the rupee
2	Motor spirit(commonly known as petrol)	Twenty-six paise in the rupee
3	Petroleum Crude	Five paise in the rupee
4	Aviation Turbine Fuel (Duty Paid)	Thirty paise in the rupee
5	Aviation Turbine Fuel (Bonded)	Thirty-eight paise in the rupee
6	Natural Gas	Fifteen paise in the rupee
7	Alcoholic Liquor for human consumption	Sixty-five paise in the rupee.”.

STATEMENT OF OBJECTS AND REASONS

The Constitution (One Hundred and First Amendment) Act, 2016 subsumes Value Added Tax in Goods and Services Tax except for goods- petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption which shall be subsumed from the date as may be recommended by the Goods and Services Tax council. Necessary amendment are therefore required in the Gujarat Value Added Tax Act, 2003. The object and reasons of major amendment in the Act are as follows:

1. As per the amendment in entry 54 of List II of the Constitution of India, the purchase tax cannot be levied now. Therefore, the word "purchases" required to be deleted from the long title of the Act.
2. As plant, machinery, packing materials, scrap, etc. are to be excluded from Value Added Tax, the definition of business is to be amended.
3. Sub-sections (1) and (1A) of section 5 are proposed to be deleted as there shall not be any exempted goods except when notified under section 5(2). Also, the Gujarat Special Economic Zone Act, 2004 excludes from exempted goods covered by Schedule III and all taxable goods are proposed to be included in Schedule III.
4. Only six goods are covered under the Gujarat Value Added Tax Act, 2003. Therefore, some redundant provisions related to agriculture, agriculturist to cultivate, capital goods are to be deleted. Accordingly, the definition of goods is also to be amended. Section 7 to levy tax on six goods is to be amended, Schedules I and II are to be deleted and Schedule III is to be amended to describe rate of tax on six goods. In section 7 enabling provision is also made to levy tax on retail sale price.
5. Section 9 is proposed to be deleted as the Constitution of India does not empower the State to levy tax on purchase.
6. Value of packing is included in the value of goods sold to avoid unnecessary ambiguities in section 10.
7. Section 11 is proposed to be amended in view of the limited taxable goods remaining for Value Added Tax. In sub-section (8) provisions are made for reduction of Input Tax Credit in case manufacturer seeking composition under the proposed Gujarat Goods and Services Tax Act, 2017.
8. Lump sum tax is removed and therefore sections 14, 14A, 14B, 14C and 14D are proposed to be deleted.
9. Section 27A is proposed to be inserted so as to declare cancellation of registration of all registered dealers migrating to the

Gujarat Goods and Services Tax Act, 2017 and are not liable to tax under the provisions of the Gujarat Value Added Tax Act, 2003.

10. Section 63 is proposed to be amended so as obtain final return for all registered dealers and a report audited by the Chartered Accountants in certain cases.

11. Natural gas, crude and alcoholic liquor for human consumption are proposed to be included in Schedule. III. Additional tax is also merged and there shall be a single rate of tax.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

NITIN PATEL,

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

This Bill involves delegation of legislative power in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

Dated 3rd May, 2017.

NITIN PATEL.

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

Gandhinagar,
Dated the 3rd May, 2017.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.