

**THE GUJARAT GOODS AND SERVICES TAX (AMENDMENT)  
BILL, 2020.**

**GUJARAT BILL NO. 13 OF 2020.**

*A BILL*

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

It is hereby enacted in the Seventy-first Year of the Republic of India as follows:—

**Short title and  
commencement.**

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

(2) This section, section 12 and section 16 shall be deemed to have come into force on the 31<sup>st</sup> March, 2020; remaining provisions, except sections 2, 11, 13 and 14 shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint; and the different dates may be appointed for different provisions of this Act.

**Amendment  
of section 2 of  
Guj. 25 of  
2017.**

**2.** In the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the “principal Act”), in section 2, in clause (114), for sub-clauses (c) and (d), the following sub-clauses shall be substituted and shall be deemed to have been substituted from the 30th June, 2020, namely:—

**Guj. 25 of  
2017.**

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

(d) Ladakh;”.

**Amendment  
of section 10  
of Guj. 25 of  
2017.**

**3.** In the principal Act, in section 10, in sub-section (2), in clauses (b), (c) and (d), after the words “of goods”, the words “or services” shall be inserted.

**Amendment  
of section 16  
of Guj. 25 of  
2017.**

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

**Amendment  
of section 29  
of Guj. 25 of  
2017.**

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

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

**Amendment  
of section 30  
of Guj. 25 of  
2017.**

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

“Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—

(a) by the Deputy Commissioner, for a period not exceeding thirty days;

(b) by the Joint Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).”.

**Amendment  
of section 31  
of Guj. 25 of  
2017.**

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

“Provided that the Government may, on the recommendations

of the Council, by notification,—

- (a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;
- (b) subject to the condition mentioned therein, specify the categories of services in respect of which—
  - (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
  - (ii) tax invoice may not be issued.”.

**8.** In the principal Act, in section 51,—

- (a) for sub-section (3), the following sub-section shall be substituted, namely:—
  - “(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”;
- (b) sub-section (4) shall be deleted.

**Amendment  
of section 51  
of Guj. 25 of  
2017.**

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

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

**Amendment  
of section  
122 of Guj.  
25 of 2017.**

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

- (i) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;
- (ii) for clause (c), the following clause shall be substituted, namely:—
  - “(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;”;
- (iii) in clause (e), for the words “evades tax, fraudulently avails input tax credit” the words “evades tax” shall be substituted.

**Amendment  
of section  
132 of Guj.  
25 of 2017.**

**Amendment  
of section  
140 of Guj.  
25 of 2017.**

- 11.** In the principal Act, in section 140, with effect from the 1<sup>st</sup> day of July, 2017,-
- (a) in sub-section (1), after the words “existing law”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;
  - (b) in sub-section (2), after the words “appointed day”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;
  - (c) in sub-section (3), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted;
  - (d) in sub-section (5), for the words “existing law”, the words “existing law, within such time and in such manner as may be prescribed” shall be substituted and shall be deemed to have been substituted;
  - (e) in sub-section (6), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted.

**Insertion of  
new section  
168A in  
Guj.25 of  
2017.**

- 12.** In the principal Act, after section 168, the following section shall be inserted, namely:-

**Power of  
Government to  
extend time  
limit in special  
circumstances.**

**“168A.** (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to *force majeure*.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

***Explanation.-*** For the purposes of this section, the expression “*force majeure*” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any

other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.”.

**13.** In the principal Act, in section 172, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted and shall be deemed to have been substituted with effect from the 30th day of June, 2020.

**Amendment of section 172 of Guj. 25 of 2017.**

**14.** In the principal Act, in Schedule II, in para 4, in clauses (a) and (b), the words “whether or not for a consideration,” shall be deleted and shall be deemed to have been deleted with effect from the 1st day of July, 2017.

**Amendment to Schedule II of Guj. 25 of 2017.**

**15.** (1) Notwithstanding anything contained, in the Government Notification, Finance Department No. (GHN-31) GST -2017/S.9 (1) (1) –TH, dated the 30<sup>th</sup> June, 2017, Notification No. 1/2017-State Tax (Rate) issued by the Gujarat Government, on the recommendations of the Council, in exercise of the powers conferred under sub-section (1) of section 9 of the Gujarat Goods and Services Tax Act, 2017,—

**Amendment of notification number 1/2017-State Tax (Rate) issued under sub-section (1) of section 9 of Gujarat Goods and Services Tax Act, retrospectively.**

**Guj. 25 of 2017.**

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

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

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

**Guj. Ord. 2 of 2020.**

**16.** (1) The Gujarat Goods and Services Tax (Amendment) Ordinance, 2020, is hereby repealed.

**Repeal and saving.**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by the said Ordinance.

## STATEMENT OF OBJECTS AND REASONS

The Gujarat Goods and Services Tax Act, 2017 (the said Act) was enacted with a view to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Government.

The proposed Gujarat Goods and Services Tax (Amendment) Bill, 2020, *inter alia*, provides for the following, namely:-

- (i) to amend clause (114) of section 2 of the Gujarat Goods and Services Tax Act so as to align the definition of “Union territory” in line with the Jammu and Kashmir Reorganisation Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019.
- (ii) to amend clauses (b), (c) and (d) of sub-section (2) of section 10 of the Gujarat Goods and Services Tax Act to harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub-section (2A) of the said Act.
- (iii) to amend sub-section (4) of section 16 of the Gujarat Goods and Services Tax Act so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.
- (iv) to substitute the proviso to sub-section (1) of section 30 of the Gujarat Goods and Services Tax Act so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.
- (v) to amend section 51 of the Gujarat Goods and Services Tax Act so as to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.
- (vi) to amend section 132 of the Gujarat Goods and Services Tax Act so as to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable under sub-section (1) of section 69 and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.
- (vii) to amend section 140 of the Gujarat Goods and Services Tax Act relating to transitional arrangements for input tax

credit, so as to prescribe the time limit and the manner for availing input tax credit against certain un-availed credit under the existing law. This amendment shall take effect retrospectively from the 1st day of July, 2017.

Moreover, in view of the spread of pandemic COVID-19 across many countries of the world including India, causing immense loss to the lives of people, it has become imperative to make extension of time limit for various provisions, by way of inserting new section 168A in the Gujarat Goods and Services Tax Act, 2017. *Clause 12* of the Bill provides for the same.

As the Legislative Assembly of the State of Gujarat was not in session, the Gujarat Goods and Services Tax (Amendment) Ordinance, 2020 (Guj. Ord. 2 of 2020) was promulgated so as to insert new section 168A in the said Act to achieve the aforesaid object.

This Bill seeks to amend the said Act to achieve the aforesaid objects and also seeks to replace the said Gujarat Ordinance No. 2 of 2020 by an Act of the State Legislature.

The following notes on clauses explain, in brief, the important provisions of the Bill:-

***Clause 1.-*** This clause provides for the short title and commencement.

***Clause 2.-*** This clause seeks to amend clause (114) of section 2 of the Gujarat Goods and Services Tax Act so as to align the definition of “Union territory” in line with the Jammu and Kashmir Reorganisation Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019.

***Clause 3.-*** This clause seeks to amend clauses (b), (c) and (d) of sub-section (2) of section 10 of the Gujarat Goods and Services Tax Act to harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub-section (2A) of the said Act.

***Clause 4.-*** This clause seeks to amend sub-section (4) of section 16 of the Gujarat Goods and Services Tax Act so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.

**Clause 5.-** This clause seeks to amend clause (c) of sub-section (1) of section 29 of the Gujarat Goods and Services Tax Act so as to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25.

**Clause 6.-** This clause seeks to substitute the proviso to sub-section (1) of section 30 of the Gujarat Goods and Services Tax Act so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.

**Clause 7.-** This clause seeks to amend section 31 of the Gujarat Goods and Services Tax Act so as to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.

**Clause 8.-** This clause seeks to amend section 51 of the Gujarat Goods and Services Tax Act so as to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.

**Clause 9.-** This clause seeks to insert a new sub-section (1A) in section 122 of the Gujarat Goods and Services Tax Act so as to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.

**Clause 10.-** This clause seeks to amend section 132 of the Gujarat Goods and Services Tax Act so as to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable under sub-section (1) of section 69 and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.

**Clause 11.-** This clause seeks to amend section 140 of the Gujarat Goods and Services Tax Act relating to transitional arrangements for input tax credit, so as to prescribe the time limit and the manner for availing input tax credit against certain unavailed credit under the existing law. This amendment shall take effect retrospectively from the 1st day of July, 2017.



**Clause 13.-** This clause seeks to amend section 172 of the Gujarat Goods and Services Tax Act so as to extend the time limit provided for removal of difficulties thereunder from three years to five years.

**Clause 14.-** This clause seeks to amend paragraph 4 of Schedule II of the Gujarat Goods and Services Tax Act so as to delete the words “whether or not for consideration” so as to give clarity to the meaning of the entries (a) and (b) of said paragraph. This amendment shall take effect retrospectively from the 1st day of July, 2017.

**Clause 15.-** This clause seeks to provide retrospective exemption from State tax on supply of fishmeal, during the period from the 1st day of July, 2017 up to the 30th day of September, 2019 (both days inclusive).

It further seeks to retrospectively levy State tax at the reduced rate of six per cent. on supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of headings 8432, 8433 and 8436, during the period from the 1st day of July, 2017 up to the 31st day of December, 2018 (both days inclusive).

It also seeks to provide that no refund shall be made of the tax which has already been collected.

**NITIN PATEL,**

#### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill provides for delegation of legislative powers 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 remaining provisions other than sections 1, 12 and 16 shall come into force; it also empowers the State Government to appoint different dates for different provisions of the Act.

**Clause 7.-** Clause (a) of the proviso to sub-section (2) of section 31 proposed to be substituted by this clause empowers the State Government, to specify, by notification in the *Official Gazette*, the categories of services or supplies in respect of which a tax invoice shall be issued; it also empowers the State Government to prescribe by rules, the time within which and the manner in which such categories of services or supplies shall be specified.

**Clause 8.-** Sub-section (3) of section 51 proposed to be substituted by sub-clause (a) of this clause empowers the State Government to prescribe by rules, the time within which and the manner in which a certificate of tax deducted at source shall be issued.

**Clause 11.-** (i) Sub-section (3) of section 140 proposed to be amended by sub-clause (c) of this clause empowers the State Government to prescribe by rules, the time within which and the manner in which a registered person who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods or tax free goods, by whatever name called, or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law but which are liable to tax under this Act or where the person was entitled to the credit of input tax at the time of sale of goods, if any, shall be entitled to take, in his electronic credit ledger, credit of the value added tax and entry tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the conditions as mentioned therein;

(ii) sub-section (5) of section 140 proposed to be amended by sub-clause (d) of this clause empowers the State Government to prescribe by rules, the time within which and the manner in which a registered person shall be entitled to take, in his electronic credit ledger, credit of value added tax and entry tax, if any, in respect of inputs received on or after the appointed day but the tax in respect of which has been paid by the supplier under the existing law subject to the condition as specified therein.

(iii) sub-section (6) of section 140 proposed to be amended by sub-clause (e) of this clause empowers the State Government to prescribe by rules, the time within which and the manner in which a registered person who was either paying tax at a fixed

rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the conditions as mentioned therein.

**Clause 12.-** New section 168A proposed to be inserted by this clause empowers the State Government to extend, by notification in the *Official Gazette*, the time limit specified in, or prescribed or notified under, the Act in respect of actions which cannot be completed or complied with due to *force majeure*; it shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of the Act.

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

Dated the 11<sup>th</sup> September, 2020.

**NITIN PATEL.**

**ANNEXURE****EXTRACT FROM THE GUJARAT GOODS AND SERVICES  
TAX ACT, 2017.****( Guj. 25 of 2017)**

<b>Definitions.</b>	<b>2.</b> (1) to (113)	XXX	XXX	XXX
	(114) "Union territory" means the territory of,-			
	(a) the Andaman and Nicobar Islands;			
	(b) Lakshadweep;			
	(c) Dadra and Nagar Haveli;			
	(d) Daman and Diu;			
	(e) Chandigarh; and			
	(f) other territory;			
	<b>Explanation.-</b> For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory.			
	(115) to (120)	XXX	XXX	XXX
<b>Composition Levy.</b>	<b>10.</b> (1)	XXX	XXX	XXX
	(2) The registered person shall be eligible to opt under sub-section (1), if -			
	(a)	XXX	XXX	XXX
	(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;			

(e) and (f)                      XXX                      XXX                      XXX

**43 of 1961.**                      Provided that where more than one registered person 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 sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

(2A) to (5)                      XXX                      XXX                      XXX

**16.** (1) to (3)                      XXX                      XXX                      XXX

**Eligibility and conditions for taking input tax credit.**

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

**29.** (1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,

**Cancellation or suspension of registration.**

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.

Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration

may be suspended for such period and in such manner as may be prescribed.

(2) to (6)                      XXX                      XXX                      XXX

**Revocation of  
cancellation  
of  
registration.**

**30.** (1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

Provided that the registered person who was served notice under sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and who could not reply to the said notice, thereby resulting in cancellation of his registration certificate and is hence unable to file application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act, against such order passed up to 31.03.2019, shall be allowed to file application for revocation of cancellation of the registration not later than 22.07.2019.

(2) and (3)                      XXX                      XXX                      XXX

**Tax invoice.**

**31.** (1)                      XXX                      XXX                      XXX

(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which

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

(b) tax invoice may not be issued.

(3) to (7) XXX XXX XXX

**51.** (1) to (2) XXX XXX XXX

**Tax  
deduction at  
source.**

(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.

(4) to (8) XXX XXX XXX

**122.** (1) Where a taxable person who -

**Penalty for  
certain  
offences.**

(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;

(iii) to (vi) XXX XXX XXX

(vii) takes or utilizes input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;

(viii) XXX XXX XXX

(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;

(x) to (xxi) XXX XXX XXX

(2) and (3) XXX XXX XXX

**Punishment  
for certain  
offences.**

**132.** (1) Whoever commits any of the following offences, namely:-

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(c) avails input tax credit using such invoice or bill referred to in clause (b);

(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

(f) to (l)                      XXX                      XXX                      XXX

(i) to (iv)                      XXX                      XXX                      XXX

(2) to (6)                      XXX                      XXX                      XXX

**Transitional  
arrangements  
for input tax  
credit.**

**140.** (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax, and Entry Tax, if any, carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely: -



(i) where the said amount of credit is not admissible as input tax credit under this Act; or

(ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or

(iii) where the said amount of credit relates to goods sold under notification no. (GHN-51) GST-2001 S.49 (355) TH, dated the 31st December, 2001, (GHN-24) VAT- 2013/S.40 (1) (8) -TH, dated the 11th October, 2013 and any other notifications claiming refund of value added tax paid thereon:

Provided further that so much of the said credit as is attributable to any claim related to section 3, sub-section (3) of section 5, section 6, section 6A or sub-section (8) of section 8 of the Central Sales Tax Act, 1956 which is not substantiated in the manner, and within the period, prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 shall not be eligible to be credited to the electronic credit ledger:

Provided also that an amount equivalent to the credit specified in the second proviso shall be refunded under the existing law when the said claims are substantiated in the manner prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957.

(2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as input tax credit under the existing law and is also admissible as input tax credit under this Act.

***Explanation.-*** For the purposes of this section, the expression "unavailed input tax credit" means the amount that remains after subtracting the amount of input tax credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of input tax credit to which the said person was entitled in respect of the said capital goods under the existing law.

(3) A registered person, who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods or tax free goods, by whatever name called, or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law but which are liable to tax under this Act or where the person was entitled to the credit of input tax at the time of sale of goods, if any, shall be entitled to take, in his electronic credit ledger, credit of the value added tax and entry tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:-

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of such inputs; and

(iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of tax in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

(4) XXX XXX XXX

(5) A registered person shall be entitled to take, in his electronic credit ledger, credit of value added tax and entry tax, if any, in respect of inputs received on or after the appointed day but the tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other tax-paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:

Provided further that the said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

(6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:-

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is not paying tax under section 10;

(iii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of inputs; and

(v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(7) XXX XXX XXX

**Removal of difficulties.**

**172.** (1) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(2) XXX XXX XXX

**SCHEDULE II**  
(See section 7 (1) (d))

<b>ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES</b>			
	1. to 3.	XXX	XXX XXX
	4. Transfer of business assets		
	(a) where goods forming part of the assets of a business are transferred or disposed of by or under		

	<p>the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;</p> <p>(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;</p> <p>(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless-</p> <p>(i) the business is transferred as a going concern to another person; or</p> <p>(ii) the business is carried on by a personal representative who is deemed to be a taxable person.</p>	
	<p>5. to 7.                    XXX                    XXX                    XXX</p>	

**GUJARAT LEGISLATURE SECRETARIAT**

**GUJARAT BILL NO. 13 OF 2020.**

***A BILL***

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

**[ SHRI NITIN PATEL,  
MINISTER FOR FINANCE ]**

**( As published in the Gujarat Government  
Gazette of 11<sup>th</sup> September, 2020)**

**D.M.PATEL,**

Secretary,

Gujarat Legislative Assembly.