



**KARNATAKA LEGISLATIVE ASSEMBLY  
FIFTEENTH LEGISLATIVE ASSEMBLY  
SEVENTH SESSION**

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

**(LA Bill No. 48 of 2020)**

A Bill further to amend the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act 27 of 2017).

Whereas, it is expedient further to amend the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act 27 of 2017), for the purpose hereinafter appearing;

Be it enacted by Karnataka State Legislature in the Seventy first year of the Republic of India, as follows:-

**1. Short title and Commencement.-** (1) This Act may be called the Karnataka Goods and Services Tax (Amendment) Act, 2020.

(2) Save as otherwise provided, the provisions of this Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint:

Provided that, 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 the Karnataka Goods and Services tax Act, 2017 (Karnataka Act 27 of 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, namely:-

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

(d) Ladakh ;".

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

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

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

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

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

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

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;

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

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

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

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

**8. Amendment of section 51.-** In section 51 of the principal Act,-

(1) 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."

(2) sub-section (4), shall be omitted.

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

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

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

(1) 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;

(2) 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;"

(3) in clause (e), the words " fraudulently avails input tax credit", shall be omitted.

**11. Amendment of section 140.-**In section 140 of the principal Act, with effect from the 1st day of July, 2017,-

(1) in sub-section (1), after the words "existing law", the words "within such time and", shall be and shall always be deemed to have been inserted;

(2) in sub-section (2), after the words "appointed day", the words "within such time and", shall be and shall always be deemed to have been inserted.

(3) 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 and shall always be deemed to have been substituted.

(4) 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 and shall always be deemed to have been substituted; and

(5) 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 and shall always be deemed to have been substituted;

**12. Insertion of new section 168A.-** After section 168 of the principal Act, the following shall be deemed to have been inserted with effect from the 31<sup>st</sup> day of March 2020, namely:-

**"168A. Power of the Government to extend time limit in special circumstances.-**(1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend 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. Amendment of section 172.-**In section 172 of the principal Act, in sub-section (1), in the proviso, for the words "three years", the words "five years", shall be substituted.

**14. Amendment of Schedule II.-**In Schedule II to the principal Act, in paragraph 4, the words "whether or not for a consideration", at both the places where they occur, shall be and shall always be deemed to have been omitted with effect from the 1st day of July, 2017.

**15. Amendment of Notification (01/2017) No. FD 48 CSL 2017 issued under sub-section (1) of section 9 of the principal Act, retrospectively.-** (1) Notwithstanding anything contained in the Government of Karnataka Notification (01/2017)No. FD 48 CSL 2017, dated the 29th June, 2017, issued by the Government of Karnataka, on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the Karnataka Goods and Services Tax Act, 2017,-

(a) 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 30<sup>th</sup> day of September, 2019 (both days inclusive).

(b) State tax at the rate of six percent 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 31<sup>st</sup> 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.

**16. Repeal and savings.-**(1) The Karnataka Goods and Services Tax (Amendment) Ordinance, 2020 (Karnataka Ordinance No.5 of 2020) is hereby repealed.

(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 this Act.

## **STATEMENT OF OBJECTS AND REASONS**

The Karnataka Goods and Services Tax Act, 2017 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 of Karnataka.

In view of the spread of pandemic of COVID -19 across many countries of the world including India, causing immense loss to the lives of people, it has become imperative to relax certain provisions, including extension of time limit in the said Act.

Accordingly, the Central Government has already promulgated the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 to amend the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017). Similar amendments have to be made in the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act 27 of 2017).

As the matter was urgent and both the Houses of the Karnataka Legislature were not in session, the Karnataka Goods and Services Tax (Amendment) Ordinance, 2020 (Karnataka ordinance 5 of 2020) was promulgated to achieve the above object.

In addition to that, the new tax regime had faced certain difficulties. In order to overcome the difficulties, as per the recommendation of GST Council, the Central Government already amended the Central Goods and Service Tax, 2017 (Central Act 12 of 2017) by Finance Act 2020 (Central Act 12 of 2020). Hence similar amendments have to be made in the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act 27 of 2017).

Therefore it is also considered necessary to amend the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act No 27 of 2017), to provide for amendment of,-

(1) clause (114) of section 2 so as to align the definition of "Union territory" in line with the Jammu and Kashmir Reorganization Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019;

(2) clauses (b), (c) and (d) of sub-section (2) of section 10 to harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub-section (2A) of the said Act;

(3) sub-section (4) of section 16 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;

(4) clause (c) of sub-section (1) of section 29 so as to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25;

(5) the proviso to sub-section (1) of section 30 so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration;

(6) section 31 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;

(7) section 51 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;

(8) insertion of a new sub-section (1A) in section 122 so as to make the beneficiary of certain transactions at whose instance such transactions are conducted is liable for penalty;

(9) section 132 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;

(10) section 140 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;

(11) section 172 so as to extend the time limit provided for removal of difficulties there under from three years to five years, with effect from the date of commencement of the said Act;

(12) paragraph 4 of Schedule II so as to omit 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 1<sup>st</sup> day of July, 2017; and

(13) to provide retrospective exemption from State tax on supply of fishmeal, during the period from the 1<sup>st</sup> day of July, 2017 up to 30<sup>th</sup> day of September, 2019 (both days inclusive). It further seeks to retrospectively levy State tax at the reduced rate of six percent 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 1<sup>st</sup> day of July, 2017 up to 31<sup>st</sup> 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.

This Bill seeks to replace the above Ordinance.

Hence the Bill.

**FINANCIAL MEMORANDUM**

There is no extra expenditure involved in the proposed Legislative measure

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

<b>Clause 7:</b>	Proviso to sub-section (2) of Section 31 proposed to be substituted by clause 7 empowers the State Government to prescribe by rules to fix the time and the manner for issue of tax invoice.
<b>Clause 8:</b>	Sub-section (3) of section 51 proposed to be substituted by clause 8 empowers the State Government to prescribe by rules, the form and the manner of issue certificate of tax deduction at source.
<b>Clause 11:</b>	<p>(1) sub-section (3), section 140 proposed to be substituted by clause 11 empowers the State Government to prescribe by rules to fix the time limit and to prescribe the manner for credit of the value added tax in respect of inputs held in stock and inputs contained in semi-finished or Goods held in stock on the appointed day.</p> <p>(2) sub-section (5) of section 140 proposed to be substituted by the clause 11 empowers the State Government to prescribe by rules to fix the time and in the manner the tax to be paid by supplier.</p> <p>(3) sub-section (6), section 140 proposed to be substituted by clause 11 empowers the State Government to prescribe by rules to fix the time limit and to prescribe the manner for credit of the value added tax in respect of inputs held in stock and inputs contained in semi-finished or Goods held in stock on the appointed day.</p>

The proposed delegation of Legislative power is normal in character.

**EXPLANATORY STATEMENT AS REQUIRED BY SUB-RULE (1) OF  
RULE 80 OF THE RULES OF PROCEDURE AND CONDUCT OF  
BUSINESS IN THE KARNATAKA LEGISLATIVE ASSEMBLY.**

The Karnataka Goods and Services Tax Act, 2017 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 of Karnataka.

In view of the spread of pandemic of COVID -19 across many countries of the world including India, causing immense loss to the lives of people, it has become imperative to relax certain provisions, including extension of time limit in the said Act.

Accordingly, the Central Government has already promulgated the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 to amend the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017). Similar amendments have to be made in the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act 27 of 2017).

As the matter was urgent and both the Houses of the Karnataka Legislature were not in session, the Karnataka Goods and Services Tax (Amendment) Ordinance, 2020 (Karnataka ordinance 5 of 2020) was promulgated to achieve the above object.

**B.S.YEDIYURAPPA**  
Chief Minister

**M.K. Vishalakshi**  
Secretary (I/c)  
Karnataka Legislative Assembly



## ANNEXURE

**Extract from the Karnataka Goods and Services Tax Act, 2017  
(Karnataka Act no.27 of 2017)**

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

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**(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;

**Explanation.-** 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;

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**10. Composition levy.-** XXX XXX XXX

(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 person are having the same Permanent Account Number (issued under the Income-tax Act 1961(Central Act 43 of 1961)), the 19 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.

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

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(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.

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**29. Cancellation or suspension of registration.**- (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,-

- (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.;

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**30. Revocation of cancellation of registration.**-(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, there by 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.

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**31. Tax invoice.**- xxx

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(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

**XXX****XXX****XXX****51. Tax deduction at source.- XXX XXX XXX**

(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) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five day period until the failure is rectified, subject to a maximum amount of five thousand rupees.

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**122. Penalty for certain offences.-** (1) Where a taxable person who— 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;

(i) 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;

(ii) 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;

(iii) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(iv) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;

(v) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;

(vi) 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;

(vii) fraudulently obtains refund of tax under this Act;

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

(ix) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

(x) is liable to be registered under this Act but fails to obtain registration;

(xi) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;

(xii) obstructs or prevents any officer in discharge of his duties under this Act;

(xiii) transports any taxable goods without the cover of documents as may be specified in this behalf;

- (xiv) suppresses his turnover leading to evasion of tax under this Act;
- (xv) fails to keep, maintain or retain books of account and other documents in accordance with the 74 provisions of this Act or the rules made thereunder;
- (xvi) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;
- (xvii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;
- (xviii) issues any invoice or document by using the registration number of another registered person;
- (xix) tampers with, or destroys any material evidence or documents;
- (xx) disposes off or tampers with any goods that have been detained, seized, or attached under this Act, he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

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**132. Punishment for certain offences.-** (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);

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**140. Transitional arrangements for input tax credit.-** (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, 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:

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 (Central Act 74 of 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, under the existing law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, credit of the 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 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.

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(5) A registered person shall be entitled to take, in his electronic credit ledger, credit of value added 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 subsection.

(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.

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**172. Removal of difficulties.-** (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) Every order made under this section shall be laid, as soon as may be, after it is made, before the State Legislature.

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## **SCHEDULE II**

**(See section 7)**

### **ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES**

#### **1. Transfer**

- (a) any transfer of the title in goods is a supply of goods;
- (b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
- (c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

#### **2. Land and Building**

- (a) any lease, tenancy, easement, licence to occupy land is a supply of services;
- (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

#### **3. Treatment or process**

- (a) Any treatment or process which is applied to another person's goods is a supply of services.

#### **4. Transfer of business assets**

- (a) where goods forming part of the assets of a business are transferred or disposed of by or under 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;
- (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;
- (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—
  - (i) the business is transferred as a going concern to another person; or
  - (ii) the business is carried on by a personal representative who is deemed to be a taxable person.

**5. Supply of services** The following shall be treated as supply of service, namely:--

- (a) renting of immovable property;
- (b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

**Explanation.**—For the purposes of this clause—

(1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:--

- (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (Central Act 20 of 1972); or
- (ii) a chartered engineer registered with the Institution of Engineers (India); or
- (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression "construction" includes additions, alterations, replacements or remodeling of any existing civil structure;

- (c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- (e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
- (f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

**6. Composite supply**

The following composite supplies shall be treated as a supply of services, namely:—

- (a) works contract as defined in clause (119) of section 2; and
- (b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

**7. Supply of Goods**

The following shall be treated as supply of goods, namely:--

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

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