

Fifteenth Kerala Legislative Assembly

Bill No. 189

**THE KERALA STATE GOODS AND SERVICES TAX
(AMENDMENT) BILL, 2024**

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Kerala Legislature Secretariat
2024

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BILL

further to amend the Kerala State Goods and Services Tax Act, 2017.

Preamble.— WHEREAS, it is expedient further to amend the Kerala State Goods and Services Tax Act, 2017 for the purposes hereinafter appearing;

BE it enacted in the Seventy-fifth Year of the Republic of India as follows:—

1. *Short title and commencement* .— (1) This Act may be called the Kerala State Goods and Services Tax (Amendment) Act, 2024.

(2) It shall be deemed to have come into force on the 1st day of October, 2023.

2. *Amendment of section 2.*—In the Kerala State Goods and Services Tax Act, 2017 (20 of 2017) (hereinafter referred to as the principal Act), in section 2,—

(a) after clause (80), the following clauses shall be inserted, namely:—

“(80A) “online gaming” means offering of a game on the internet or an electronic network and includes online money gaming;

(80B) “online money gaming” means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force;”;

(b) after clause (102), the following clause shall be inserted, namely:—

“(102A) “specified actionable claim” means the actionable claim involved in or by way of—

- (i) betting;
- (ii) casinos;
- (iii) gambling;
- (iv) horse racing;
- (v) lottery; or
- (vi) online money gaming;”;

(c) in clause (105), the following proviso shall be inserted at the end, namely:—

“Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims;”;

(d) after clause (117), the following clause shall be inserted, namely:—

“(117A) "virtual digital asset" shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961 (Central Act 43 of 1961); ” .

3. *Amendment of section 24.*— In section 24 of the principal Act,—

(a) in clause (xi), the word "and" occurring at the end shall be omitted;

(b) after clause (xi), the following clause shall be inserted, namely:—

"(xia) every person supplying online money gaming from a place outside India to a person in India; and".

4. *Amendment of Schedule III.*—In Schedule III of the principal Act,—in paragraph 6, for the words and symbol "lottery, betting and gambling", the words "specified actionable claims" shall be substituted.

5. *Transitory provision.*—The amendments made under this Act shall be without prejudice to the provisions of any other law for the time being in force, providing for prohibiting, restricting or regulating betting, casino, gambling, horse racing, lottery or online gaming.

6. *Repeal and saving.*— (1) The Kerala State Goods and Services Tax (Amendment) Ordinance, 2023 (1 of 2024) 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 Goods and Services Tax Council (GST Council) in its 51st meeting considered representation from various associations on the issues regarding the taxability of casinos, horse racing and online gaming and recommended making certain amendments to the Central Goods and Services Tax Act, 2017 and amendments were made through the Central Goods and Services Tax (Amendment) Act, 2023 . It is requested to make respective amendments in the State Goods and Services Tax Acts also. Vide notification No. 48/2023 dated 29th

September, 2023, the Central Government have appointed 1st day of October, 2023 as the date on which the provisions of Central Goods and Services Tax (Amendment) Act, 2023 (Central Act 30 of 2023) shall come into force. In order to bring uniformity in the implementation of the provisions, the Government have decided to make suitable amendment in the Kerala State Goods and Services Tax Act by giving with effect from 1st day of October, 2023 in accordance with the Central Goods and Services Tax (Amendment) Act, 2023 (Central Act 30 of 2023).

4. As the Legislative Assembly of the State of Kerala was not in session and the above proposal had to be given effect to immediately, the Kerala State Goods and Services Tax (Amendment) Ordinance, 2023 was promulgated by the Governor of Kerala on the 04th day of January, 2024 and the same was published as Ordinance No. 1 of 2024 in the Kerala Gazette Extraordinary No. 52 dated 05th January, 2024.

5. The Bill seeks to replace Ordinance No. 1 of 2024 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

K. N. BALAGOPAL

EXTRACT FROM THE RELEVANT PORTIONS OF THE
KERALA STATE GOODS AND SERVICES TAX ACT, 2017
(20 of 2017)

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

(1) “actionable claim” shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882 (Central Act 4 of 1882);

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(80) “notification” means a notification published in the Official Gazette and the expressions “ notify” and “ notified” shall be construed accordingly;

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(102) “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

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(105) “supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

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(117) “valid return” means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full;

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24. *Compulsory registration in certain cases.*—Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,—

(i) persons making any inter-State taxable supply;

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(xi) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and

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SCHEDULE III

(See section 7)

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.

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6. Actionable claims, other than lottery, betting and gambling.

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