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LAW DEPARTMENT

NOTIFICATION

The 29th October, 2024

No.15042—I-Legis-19/2024/L.— The following Ordinance promulgated by the Governor of Odisha on the 29th October, 2024 is hereby published for general information

**ODISHA ORDINANCE NO 01 OF 2024
THE ODISHA GOODS AND SERVICES TAX (SECOND AMENDMENT)
ORDINANCE, 2024.**

AN

ORDINANCE

FURTHER TO AMEND THE ODISHA GOODS AND SERVICES TAX ACT, 2017.

WHEREAS, the Legislature of the State of Odisha is not in session;

AND, WHEREAS, the Governor of Odisha is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Odisha Goods and Services Tax Act, 2017 in the manner hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Odisha is pleased to make and promulgate the following Ordinance in the Seventy-fifth Year of Republic of India as follows:-

Short title. **1.** (1) This Ordinance may be called the Odisha Goods and Services Tax (Amendment) Ordinance, 2024.

Amendment of Section 9.

2. In the Odisha Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 9, in sub-section (1), after the words “alcoholic liquor for human consumption”, the words “and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption” shall be inserted.

Odisha Act 7 of 2017.

Amendment of Section 10.

3. In Section 10 of the principal Act, in sub-section (5), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Insertion of new Section 11 A.

4. After Section 11 of the principal Act, the following section shall be inserted, namely:—

“Power not to recover Goods and Services Tax not levied or short-levied as a result of general practice.

11A. Notwithstanding anything contained in this Act, if the Government is satisfied that—

(a) a practice was, or is, generally prevalent regarding levy of state tax (including non-levy thereof) on any supply of goods or services or both; and

(b) such supplies were, or are, liable to,—

(i) state tax, in cases where according to the said practice, state tax was not, or is not being, levied, or

(ii) a higher amount of state tax than what was, or is being, levied, in accordance with the said practice,

the Government may, on the recommendation of the Council, by notification in the *Odisha Gazette*, direct that the whole of the state tax payable on such supplies, or, as the case may be, the state tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the state tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.”.

Amendment of Section 13.

5. In Section 13 of the principal Act, in sub-section (3),—

(i) in clause (b), for the words “by the supplier:”, the words “by the

supplier, in cases where invoice is required to be issued by the supplier; or” shall be substituted;

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

“(c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient:”; and

(iii) in the first proviso, after the words, brackets and letter “or clause (b)”, the words, brackets and letter “or clause (c)” shall be inserted.

Amendment
of Section 16.

6. In Section 16 of the principal Act, with effect from the 1st day of July, 2017, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.

(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—

(i) filed up to thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later:

Provided that no refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had these sub-sections been in force at all material times.”.

Amendment
of Section 17.

7. In Section 17 of the principal Act, in sub-section (5), in clause (i), for the words and figures “sections 74, 129 and 130”, the words and figures “Section 74 in respect of any period up to Financial Year 2023-24” shall be substituted.

Amendment
of Section 21.

8. In Section 21 of the principal Act, after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of Section 30

9. In Section 30 of the principal Act, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.”.

Amendment
of Section 31.

10. In Section 31 of the principal Act,—

(a) in sub-section (3), in clause (f), after the words and figure “of Section 9 shall”, the words “, within the period as may be prescribed,” shall be inserted; and

(b) after clause (g), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of clause (f), the expression “supplier who is not registered” shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.’

Amendment
of Section 35.

11. In Section 35 of the principal Act, in sub-section (6), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of section 39.

12. In Section 39 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for every calendar month of the deductions made during the month in such form and manner and within such time as may be prescribed:

Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.”.

Amendment
of Section 49.

13. In Section 49 of the principal Act, in sub-section (8), in clause (c), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of Section 50.

14. In Section 50 of the principal Act, in sub-section (1), in the proviso, after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of Section 51.

15. In Section 51 of the principal Act, in sub-section (7), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of Section 54.

16. In Section 54 of the principal Act,—

- (a) in sub-section (3), the second proviso shall be omitted; and
- (b) after sub-section (14) and before the *Explanation*, the following sub-section shall be inserted, namely:—

“(15) Notwithstanding anything contained in this section, no refund of unutilised input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods is subjected to export duty.”.

Amendment
of section 61.

17. In Section 61 of the principal Act, in sub-section (3), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of section 62.

18. In Section 62 of the principal Act, in sub-section (1), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of Section 63.

19. In Section 63 of the principal Act, after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of Section 64.

20. In Section 64 of the principal Act, in sub-section (2), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of Section 65.

21. In Section 65 of the principal Act, in sub-section (7), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of section 66.

22. In Section 66 of the principal Act, in sub-section (6), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment
of Section 70.

23. In Section 70 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) All persons summoned under sub-section (1) shall be bound to attend, either in person or by an authorised representative, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.”.

Amendment
of section 73.

24. In Section 73 of the principal Act,—

(i) in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period up to Financial Year 2023-24,” shall be inserted;

(ii) after sub-section (11), the following sub-section shall be inserted, namely:—

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.”.

Amendment of
Section 74.

25. In Section 74 of the principal Act,—

(i) in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period up to Financial Year 2023-24,” shall be inserted;

(ii) after sub-section (11) and before *Explanation 1*, the following sub-section shall be inserted, namely:—

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.”; and

(iii) the *Explanation 2* shall be omitted.

Insertion of
new section
74A.

26. After Section 74 of the principal Act, the following section shall be inserted, namely:—

“Determination
of tax not paid or
short paid or
erroneously
refunded or
input tax credit
wrongly
availed or
utilised
for any reason
pertaining to
Financial Year
2024-25
onward.

74A. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder:

Provided that no notice shall be issued, if the tax which has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised in a financial year is less than one thousand rupees.

(2) The proper officer shall issue the notice under sub-section (1) within forty-two months from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within forty-two months from the date of erroneous refund.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The penalty in case where any tax which has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised,—

(i) for any reason, other than the reason of fraud or any

wilful-misstatement or suppression of facts to evade tax, shall be equivalent to ten per cent. of tax due from such person or ten thousand rupees, whichever is higher;

(ii) for the reason of fraud or any wilful-misstatement or suppression of facts to evade tax shall be equivalent to the tax due from such person.

(6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(7) The proper officer shall issue the order under sub-section (6) within twelve months from the date of issuance of notice specified in sub-section (2):

Provided that where the proper officer is not able to issue the order within the specified period, the Commissioner, or an officer authorised by the Commissioner senior in rank to the proper officer but not below the rank of Joint Commissioner of State tax, may, having regard to the reasons for delay in issuance of the order under sub-section (6), to be recorded in writing, before the expiry of the specified period, extend the said period further by a maximum of six months.

(8) The person chargeable with tax where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, may,—

(i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information shall not serve any notice under sub-section (1) or the statement under sub-section (3), as the case may be, in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder; and

(ii) pay the said tax along with interest payable under section 50 within sixty days of issue of show cause notice, and on doing so, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The person chargeable with tax, where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, may,—

(i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;

(ii) pay the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within sixty days of issue of the notice, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded;

(iii) pay the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within sixty days of communication of the order, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded.

(10) Where the proper officer is of the opinion that the amount paid under clause (i) of sub-section (8) or clause (i) of sub-section (9) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(11) Notwithstanding anything contained in clause (i) or clause (ii) of sub-section (8), penalty under clause (i) of sub-section (5) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

(12) The provisions of this section shall be applicable for determination of tax pertaining to the Financial Year 2024-25 onwards.

Explanation 1.—For the purposes of this section,—

(i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132; and

(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under this section, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded.

Explanation 2.—For the purposes of this Act, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.”.

27. In Section 75 of principal Act,—

(a) in sub-section (1), after the word and figures “Section 74”, the words, brackets, figures and letter “or sub-sections (2) and (7) of Section 74A” shall be inserted;

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

“(2A) Where any Appellate Authority or Appellate Tribunal or court concludes that the penalty under clause (ii) of sub-section (5) of Section 74A is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the penalty shall be payable by such person, under clause (i) of sub-section (5) of Section 74A.”;

(c) for sub-section (10), the following sub-section shall be substituted, namely:—

“(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within the period specified in sub-section (10) of Section 73 or in sub-section (10) of Section 74 or in sub-section (7) of Section 74A.”;

(d) in sub-section (11), after the word and figures “Section 74”, the words, brackets, figures and letter “or sub-section (7) of Section 74A” shall be inserted;

(e) in sub-section (12), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted; and

(f) in sub-section (13), after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment of
Section 104.

28. In Section 104 of the principal Act, in sub-section (1), in the Explanation, after the word and figures “Section 74”, the words, brackets, figures and letter “or sub-sections (2) and (7) of Section 74A” shall be inserted.

Amendment of
Section 107.

29. In Section 107 of the principal Act,—

(a) in sub-section (6), in clause (b), for the word “twenty-five crore rupees”, the word “twenty crore rupees” shall be substituted; and

(b) in sub-section (11), in the second proviso, after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Amendment of
Section 112.

30. In Section 112 of the principal Act,—

(a) with effect from the 1st day of August, 2024, in sub-section (1), after the words “from the date on which the order sought to be appealed against is communicated to the person preferring the appeal”, the words “; or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act, whichever is later.” shall be inserted;

(b) with effect from the 1st day of August, 2024, in sub-section (3), after the words “from the date on which the said order has been passed”, the words “; or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later,” shall be inserted;

(c) in sub-section (6), after the words, brackets and figure “after the expiry of the period referred to in sub-section (1)”, the words, brackets and figure “or permit the filing of an application within three months after the expiry of the period referred to in sub-section (3)” shall be inserted; and

(d) in sub-section (8), in clause (b),—

(i) for the words “twenty per cent.”, the words “ten per cent.” shall be substituted; and

(ii) for the words “fifty crore rupees”, the words “twenty crore rupees” shall be substituted.

Amendment of
Section 122.

31. In Section 122 of the principal Act, with effect from the 1st day of October, 2023, in sub-section (1B), for the words “Any electronic commerce operator who”, the words and figures “Any electronic commerce operator, who is liable to collect tax at source under section 52,”- shall be substituted.

Amendment of
Section 127.

32. In Section 127 of the principal Act, after the words and figures “Section 73 or Section 74”, the words, figures and letter “or Section 74A” shall be inserted.

Insertion of new
Section 128A

33. After Section 128 of the principal Act, the following section shall be inserted, namely:—

“Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.

128A. (1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,—

(a) a notice issued under sub-section (1) of Section 73 or a statement issued under sub-section (3) of Section 73, and where no order under sub-section (9) of Section 73 has been issued; or

(b) an order passed under sub-section (9) of Section 73, and where no order under sub-section (11) of Section 107 or sub-section (1) of Section 108 has been passed; or

(c) an order passed under sub-section (11) of Section 107 or sub-section (1) of Section 108, and where no order under sub-section (1) of Section 113 has been passed,

pertaining to the period from dated 1st July, 2017 to 31st March, 2020, or a part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and penalty under this Act, shall be payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed:

Provided that where a notice has been issued under sub-section (1) of Section 74, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of Section 75, the said notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:

Provided further that the conclusion of the proceedings under this sub-section, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of Section 112 or an appeal is filed by an officer of state tax under sub-section (1) of section 117 or under sub-

section (1) of Section 118 or where any proceedings are initiated under sub-section (1) of Section 108, against an order referred to in clause (b) or clause (c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso, shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order:

Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.

(2) Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.

(3) Nothing contained in sub-section (1) shall be applicable in respect of cases where an appeal or writ petition filed by the said person is pending before Appellate Authority or Appellate Tribunal or a court, as the case may be, and has not been withdrawn by the said person on or before the date notified under sub-section (1).

(4) Notwithstanding anything contained in this Act, where any amount specified under sub-section (1) has been paid and the proceedings are deemed to be concluded under the said sub-section, no appeal under sub-section (1) of Section 107 or sub-section (1) of Section 112 shall lie against an order referred to in clause (b) or clause (c) of sub-section (1), as the case may be.”.

34. In section 171 of the principal Act,—

(a) in sub-section (2), the following proviso and *Explanation* shall be inserted, namely:—

“Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Explanation.—For the purposes of this sub-section, “request for examination” shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.”; and

(b) the *Explanation* shall be renumbered as Explanation 1 thereof, and after *Explanation 1* as so renumbered, the following Explanation shall be inserted, namely:—

Explanation 2.—For the purposes of this section, the expression “Authority” shall include the “Appellate Tribunal”.

Amendment of
Schedule III.

35. In Schedule III to the principal Act, after paragraph 8 and before *Explanation 1*, the following paragraphs shall be inserted, namely:—

“9. Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.

10. Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.”.

Dated the 29th October, 2024

RAGHUBAR DAS
GOVERNOR OF ODISHA

MANAS RANJAN BARIK
Principal Secretary to Government