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PART - II

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GOVERNMENT OF PUDUCHERRY
LEGISLATIVE ASSEMBLY

No. 104/LA/Special Session-Feb., 2020.

Puducherry, the 20th February 2020.

Under rule 140 of Rules of Procedure and Conduct of Business of the Puducherry Legislative Assembly, the following Bill *viz.*,

The Puducherry Goods and Services Tax (Amendment) 2020 (Bill No. 4 of 2020).

which was introduced in the Legislative Assembly on February, 12th 2020, is published for general information.

THE PUDUCHERRY GOODS AND SERVICES TAX
(AMENDMENT) BILL, 2020
(Bill No. 4 of 2020)

A

BILL

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

BE it enacted by the Legislative Assembly of Puducherry in the Seventy First Year of the Republic of India as follows:—

Short title and commencement.

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

(2) (i) Section 13 of this Act shall be deemed to have come into force on the 1st day of September, 2019, sections 3 to 6, 8, 9, 11, 12, 21 and 22 of this Act shall be deemed to have come into force on the 1st day of January, 2020 and section 23 of this Act shall come into force on the date of publication of this Act in the Official Gazette.

(ii) Other sections of this Act shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Puducherry Goods and Services Tax Act, 2017 (hereinafter referred as the principal Act), in clause (4), after the words "the Appellate Authority for Advance Ruling," the words "the National Appellate Authority for Advance Ruling," shall be inserted.

Act
No.6 of
2017.

Amendment of section 10.

3. In section 10 of the principal Act,—

(a) in sub-section (1), after the second proviso, the following Explanation shall be inserted, namely:—

"*Explanation.*—For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State.";

(b) in sub-section (2),—

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

(ii) in clause (e), for the word "Council:", the words "Council; and" shall be substituted;

(iii) after clause (e), the following clause shall be inserted, namely:—

"(f) he is neither a casual taxable person nor a non-resident taxable person:";

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

"(2A) Notwithstanding anything to the contrary contained in this Act, but, subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, *in lieu* of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but, not exceeding three per cent. of the turnover in State, if he is not—

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;

(b) engaged in making any Inter-State outward supplies of goods or services;

(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) a casual taxable person or a non-resident taxable person:

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 this sub-section unless all such registered persons opt to pay tax under this sub-section.";

Central
Act
No.43
of
1961.

(d) in sub-section (3), after the words, brackets and figure "under sub-section (1)" at both the places where they occur, the words, brackets, figure and letter "or sub-section (2A), as the case may be," shall be inserted;

(e) in sub-section (4), after the words, brackets and figure "of sub-section (1)", the words, brackets, figure and letter "or, as the case may be, sub-section (2A)" shall be inserted;

(f) in sub-section (5), after the words, brackets and figure "under sub-section (1)", the words, brackets, figure and letter "or sub-section (2A), as the case may be," shall be inserted;

(g) after sub-section (5), the following *Explanations* shall be inserted, namely:—

Explanation 1.—For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression "aggregate turnover" shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but, shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.—For the purposes of determining the tax payable by a person under this section, the expression "turnover in State" shall not include the value of following supplies, namely:—

(i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and

(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount."

4. In section 22 of the principal Act, in sub-section (1), after the second proviso, the following shall be inserted, namely:—

Amendment of section 22.

"Provided also that the Government may, on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such

amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if, he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount."

Amendment of section 25.

5. In section 25 of the principal Act, after sub-section (6), the following sub-sections shall be inserted, namely:—

"(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if, an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if, such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof

of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if, an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or part of the State, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression "Aadhaar number" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016."

Central
Act
No.18
of 2016.

Insertion of new
section 31A.

6. After section 31 of the principal Act, the following section shall be inserted, namely:—

Facility of
digital payment
to recipient.

"31A. The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed."

Amendment of
section 39.

7. In section 39 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a

return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.";

(b) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed."

Amendment of
section 44.

8. In section 44 of the principal Act, in sub-section (1), the following provisos shall be inserted, namely:—

"Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time-limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central Tax shall be deemed to be notified by the Commissioner."

Amendment of
section 49.

9. In section 49 of the principal Act, after sub-section (9), the following sub-sections shall be inserted, namely:—

"(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, Central Tax, State Tax or Cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1)."

Amendment of
section 50.

10. In section 50 of the Principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished

after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger."

11. In section 52 of the principal Act,—

Amendment of section 52.

(a) in sub-section (4), the following provisos shall be inserted, namely:—

"Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time-limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time-limit notified by the Commissioner of Central Tax shall be deemed to be notified by the Commissioner.";

(b) in sub-section (5), the following provisos shall be inserted, namely:—

"Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time-limit notified by the Commissioner of Central Tax shall be deemed to be notified by the Commissioner."

12. After section 53 of the Principal Act, the following section shall be inserted, namely:—

Insertion of new section 53A.

Transfer of certain amounts.

"53A. Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the Central Goods and Services Tax Act or under the Integrated Goods and Services Tax Act or under the Goods and Services Tax (Compensation to States) Act, the Government shall, transfer to the Central Tax account or integrated tax account or cess account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed."

Amendment of section 54.

13. In section 54 of the Principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

"(8A) Where the Central Government has disbursed the refund of State tax, the Government shall transfer an amount equal to the amount so refunded, to the Central Government."

Amendment of section 95.

14. In section 95 of the principal Act,—

(i) in clause (a),—

(a) after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "of Section 100", the words, figures and letter "or of Section 101C of the Central Goods and Services Tax Act" shall be inserted;

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

'(f) "National Appellate Authority" means the National Appellate Authority for Advance Ruling referred to in section 101A.'

15. After section 101 of the principal Act, the following section shall be inserted, namely:—
- Insertion of new section 101A.
- "101A. Subject to the provisions of this Chapter, for the purpose of this Act, the National Appellate Authority for Advance Ruling constituted under section 101A of the Central Goods and Services Tax Act shall be deemed to be the National Appellate Authority for Advance Ruling under this Act."
- National Appellate Authority for Advance Ruling.
16. In section 102 of the principal Act, in the opening portion,—
- Amendment of section 102.
- (a) after the words "Appellate Authority", at both the places where they occur, the words "or the National Appellate Authority" shall be inserted;
- (b) after the words and figures "or section 101", the words, figures and letter "or section 101C of the Central Goods and Services Tax Act, respectively," shall be inserted;
- (c) for the words "or the appellant", the words ", appellant, the Authority or the Appellate Authority" shall be substituted.
17. In section 103 of the principal Act,—
- Amendment of section 103.
- (i) after sub-section (1), the following sub-section shall be inserted, namely:—
- "(1A) The Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—
- (a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B of the Central Goods and Services Tax Act and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961;

(b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.";

Central
Act
No.43
of 1961.

(ii) in sub-section (2), after the words, brackets and figure "in sub-section (1)", the words, brackets, figure and letter "and sub-section (1A)" shall be inserted.

Amendment of
section 104.

18. In section 104 of the principal Act, in sub-section (1),—

(a) after the words "Authority or the Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "of section 101", the words, figures and letter "or under section 101C of the Central Goods and Services Tax Act" shall be inserted.

Amendment of
section 105.

19. In section 105 of the principal Act,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Powers of Authority, Appellate Authority and National Appellate Authority.";

(b) in sub-section (1), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

(c) in sub-section (2), after the words "Appellate Authority" at both the places where they occur, the words "or the National Appellate Authority" shall be inserted.

20. In section 106 of the principal Act,— Amendment of section 106.

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Procedure of Authority, Appellate Authority and National Appellate Authority.";

(b) after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted.

21. In section 171 of the principal Act, after sub-section (3), the following shall be inserted, namely:— Amendment of section 171.

'(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:

Provided that no penalty shall be leviable if, the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.—For the purposes of this section, the expression "profiteered" shall mean, the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.'

22. (1) In the notification of the Government of Puducherry, Commercial Taxes Secretariat issued *vide* G.O. Ms. No. 2/2017-Puducherry GST (Rate) dated Amendment of notification retrospectively.

29th June, 2017 [published in the Gazette of Puducherry, Extraordinary Part I, No. 95 dated 29th June, 2017] by the Government on the recommendations of the Council, under sub-section (1) of section 11 of the Puducherry Goods and Services Tax Act, 2017, in the Schedule, after S. No. 103 and the entries relating thereto, the following S. No. and the entries thereto have been inserted with effect from 15th day of November, 2017 and they shall be deemed to have been come into force with effect from the 1st day of July, 2017, namely:—

Act
No. 6 of
2017.

(1)	(2)	(3)
"103A	26	Uranium Ore Concentrate".

(2) For the purposes of sub-section (1), the Government shall have and shall be deemed to have the power to amend the notification referred to in sub-section (1) with retrospective effect as if, the Government had the power to amend the said notification under sub-section (1) of section 11 of the said Act, retrospectively, at all material times.

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

Repeal and savings.

23. (1) The Puducherry Goods and Services Tax (Amendment) Ordinance, 2019 is hereby repealed.

Ordi-
nance
1 of 2019.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the Puducherry Goods and Services Tax (Amendment) Act, 2020.

STATEMENT OF OBJECTS AND REASONS

The Puducherry Goods and Services Tax Act, 2017 was enacted by Act No. 6 of 2017 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.

2. The GST Council in its 35th meeting held on 21st June, 2019 had recommended various amendments in the GST Law. Further, in its 37th meeting held on 18th September, 2019, the GST Council had decided to bring into force the amendments with effect from 1st January, 2020. As the Legislative Assembly of the Union Territory was not in session, the Administrator of the Union Territory, after obtaining the instructions of the President of India as required under the proviso to clause (1) of Article 239B of the Constitution, promulgated the Puducherry Goods and Services Tax (Amendment) Ordinance, 2019 on the 30th day of December, 2019.

3. The Puducherry Goods and Services Tax (Amendment) Bill, 2020 which seeks to replace the Puducherry Goods and Services Tax (Amendment) Ordinance, 2019, *inter alia*, provides for the following, namely:—

- (a) to provide alternative composition scheme for supplier of services or mixed suppliers (not eligible for the earlier composition scheme) having an annual turnover in preceding financial year up to rupees fifty lakhs.
- (b) to provide for higher threshold exemption limit from rupees twenty lakhs to such amount not exceeding rupees forty lakhs in case of supplier who is engaged exclusively in the supply of goods.
- (c) to provide for mandatory Aadhaar submission or authentication for persons who intend to take or have taken registration.
- (d) to provide that supplier shall mandatorily offer facility for digital payments to his recipient.
- (e) to provide facility to the tax payer to transfer an amount from one head to another in the electronic cash ledger.
- (f) to empower the Commissioner to extend the due date for furnishing Annual return and reconciliation statement by the tax payers.

- (g) to empower the Commissioner to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.
- (h) to provide for charging interest only on the net cash tax liability, except in certain cases.
- (i) to provide for transfer of amount in the electronic cash ledger between the State and Centre as a consequence of the new facility given to the tax payer.
- (j) to provide that the National Appellate Authority for Advance Ruling constituted under the Central Goods and Services Tax Act, 2017 as the National Appellate Authority for Advance Ruling under the Puducherry Goods and Services Tax Act, 2017.
- (k) to empower the Anti Profiteering Authority to impose penalty equivalent to ten per cent. of the profiteered amount.
- (l) to amend the notification of the Commercial Taxes Secretariat issued *vide* G.O. Ms. No. 2/2017-Puducherry GST (Rate) dated 29th June, 2017 under sub-section (1) of section 11 of the Puducherry Goods and Services Tax Act, 2017, so as to give deemed retrospective exemption with effect from 1st day of July, 2017 to "Uranium Ore Concentrate" from the levy of State tax for the period from 1st July, 2017 to 14th November, 2017.

4. The Bill seeks to replace the aforesaid Ordinance so as to achieve the above objects.

V. NARAYANASAMY,

Chief Minister.

FINANCIAL MEMORANDUM

The proposed Puducherry Goods and Services Tax (Amendment) Bill, 2020 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the Union territory of Puducherry.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to amend section 10 of the Puducherry Goods and Services Tax Act, 2017. sub-clause (c) of the said clause seeks to insert new sub-section (2A) therein which empowers the Government on the recommendations of the Council to prescribe the rate not exceeding three per cent. of the turnover in State for the purpose of calculating the amount of tax under the said sub-section.

Clause 4 of the Bill seeks to amend section 22 of the said Act, so as to insert a third proviso which empowers the Government on the recommendations of the Council, to enhance the aggregate turnover from twenty lakh rupees to a higher amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods and subject to certain conditions and limitations as may be specified in the notification.

Clause 5 of the Bill seeks to amend section 25 of the said Act, so as to insert new sub-sections (6A), (6B), (6C) and (6D) therein. The said sub-section (6A) empowers the Government to make rules on the recommendations of the Council to provide for the form and manner, and the time within which a registered person shall undergo authentication or furnish proof of possession of Aadhaar number and in case such person is not assigned Aadhaar number, then the manner in which an alternate and viable means of identification may be offered to such person.

Clause 6 of the Bill seeks to insert a new section 31A in the said Act, which empowers the Government on the recommendations of the Council to make rules to provide for a class of registered person who shall provide prescribe mode of electronic payment to the recipient of the supply of goods or services or both and give option to the recipient to make payment in such mode, in the manner and subject to the conditions and restrictions as may be provided in such rules.

Clause 7 of the Bill seeks to amend section 39 of the said Act, so as to substitute sub-sections (1), (2) and (7) of said section to provide for a new return system and empower the Government to make rules regarding the particulars to be furnished in the return, the form, manner and time within which the return may be filed.

Clause 9 of the Bill seeks to insert new sub-sections (10) and (11) in section 49 of the said Act, which empowers the Government to make rules to provide for the form, manner, conditions and restrictions for a registered

person to transfer on the common portal, any amount of tax, interest, penalty, fee or any amount available in the electronic cash ledger under the said Act to the electronic cash ledger for integrated tax, central tax, State tax or cess, and such transfer shall be deemed to be a refund.

Clause 12 of the Bill seeks to insert a new section 53A in the said Act, which empowers the Government to transfer to the central tax account or integrated tax account or cess account an amount equal to the amount transferred from the electronic cash ledger in the manner and within the time provided by the rules.

2. The matters in respect of which the rules may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

**ADMINISTRATOR'S RECOMMENDATION
UNDER SUB-SECTION (1) OF SECTION 23 OF
THE GOVERNMENT OF UNION TERRITORIES ACT, 1963**

(Copy of Letter No. 13-156/CM/2020, dated 10-02-2020 from Hon'ble Thiru V. Narayanasamy, Chief Minister to the Hon'ble Speaker, Legislative Assembly, Puducherry)

The Lieutenant-Governor, Puducherry, having been informed of the subject matter of the proposed Puducherry Goods and Services Tax (Amendment) Bill, 2020 to replace the Puducherry Goods and Services Tax (Amendment) Ordinance, 2019 (No. 1 of 2019) recommends under sub-section (1) of section 23 of the Government of Union Territories Act, 1963 (Central Act 20 of 1963), the introduction in and consideration by the Legislative Assembly of the said Bill.

A. VINCENT RAYAR,

Secretary,

Legislative Assembly Secretariat.

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