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The Gazette of Puducherry

PART - II

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GOVERNMENT OF PUDUCHERRY
LEGISLATIVE ASSEMBLY

No. XV-PLA/REF/R1/BILL/2021.

Puducherry, the 2nd September 2021.

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) Bill, 2021 (Bill No. 3 of 2021).

which was introduced in the Legislative Assembly on 2nd September, 2021, is published for general information.

THE PUDUCHERRY GOODS AND SERVICES TAX
(AMENDMENT) BILL, 2021
(Bill No. 3 of 2021)

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-second 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, 2021.

(2) (a) The provisions of sections 4 and 5
of this Act shall be deemed to have come into force
on the 1st day of August, 2021 and the provisions
of section 6 of this Act shall be deemed to have
come into force on the 1st day of June, 2021;

(b) Save as otherwise provided in this Act,
the provisions of section 2, section 3 and sections
7 to 16 of this Act shall come into force on such
date as the Government of Puducherry may, by
notification in the Official Gazette, appoint.

Amendment of section 7. 2. In the Puducherry Goods and Services Tax Act, 2017 (hereinafter referred as the "principal Act"), in section 7, in sub-section (1), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017, namely:—

“(aa) the activities or transactions, by a
person, other than an individual to its members or
constituents or *vice-versa* for cash, deferred
payment or other valuable consideration.

Explanation.- For the purposes of this clause, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, Tribunal or Authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one such person to another;”.

3. In section 16 of the principal Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:— Amendment of section 16.

“(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;”.

4. In section 35 of the principal Act, sub-section (5) shall be omitted. Amendment of section 35.

5. For section 44 of the principal Act, the following section shall be substituted namely:— Substitution of new section for section 44.

“44. Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed. Annual return.

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”.

Amendment of section 50.

6. In section 50 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, 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 payable on that portion of the tax which is paid by debiting the electronic cash ledger.”.

Amendment of section 74.

7. In section 74 of the principal Act, in Explanation 1, in clause (ii) for the words and figures “sections 122, 125, 129 and 130”, the words and figures “sections 122 and 125” shall be substituted.

8. In section 75 of the principal Act, in sub-section (12), the following Explanation shall be inserted, namely:— Amendment of section 75.

“Explanation.- For the purposes of this sub-section, the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but, not included in the return furnished under section 39.”.

9. In section 83 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:- Amendment of section 83.

“(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing, attach provisionally, any property, including Bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.”.

10. In section 107 of the principal Act, in sub-section (6), the following proviso shall be inserted, namely:- Amendment of section 107.

“Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.”.

11. In section 129 of the principal Act, — Amendment of section 129.
(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods,

on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where, the owner of the goods comes forward for payment of such penalty.

(b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;”;

(ii) sub-section (2) shall be omitted;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).”;

(iv) in sub-section (4), for the words “No tax, interest or penalty”, the words “No penalty” shall be substituted;

(v) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Where, the person transporting any goods or the owner of such goods fails to pay the amount of penalty under

sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.”.

12. In section 130 of the principal Act,— Amendment of section 130.

(a) in sub-section (1) for the words “Notwithstanding anything contained in this Act, if”, the word “Where” shall be substituted;

(b) in sub-section (2), in the second proviso, for the words, brackets and figures “amount of penalty leviable under sub-section (1) of section 129”, the words “penalty equal to hundred per cent. of the tax payable on such goods” shall be substituted;

(c) sub-section (3) shall be omitted.

13. In section 134 of the principal Act, the following proviso shall be inserted, namely:— Amendment of section 134.

“Provided that nothing contained in Chapter XXXVI of the Code of Criminal Procedure, 1973 shall apply to any offence punishable under this Act.”.

Central
Act 2
of
1974.

Substitution of new section for section 151. 14. For section 151 of the principal Act, the following section shall be substituted, namely:—

Power to call for information. “151. The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.”.

Amendment of section 152. 15. In section 152 of the principal Act,—

(a) in sub-section (1),—

(i) the words “of any individual return or part thereof” shall be omitted;

(ii) after the words “any proceedings under this Act”, the words “without giving an opportunity of being heard to the person concerned” shall be inserted;

(b) sub-section (2) shall be omitted.

Amendment of Schedule II 16. In Schedule II of the principal Act, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

—————

STATEMENT OF OBJECTS AND REASONS

The Goods and Services Tax Council in its 39th meeting held on 14th March, 2020 and in the 42nd meeting held on 5th October, 2020 had recommended certain amendments to be made in the GST Law. In order to carry out the amendments as recommended by the GST Council, the Puducherry Goods and Services Tax Act, 2017 is proposed to be amended. The proposed Puducherry Goods and Services Tax (Amendment) Bill, 2021, *inter alia* seeks:—

(i) to make the activities or transactions involving supply of goods or services by any person other than an individual to its members or constituents or *vice-versa*, for cash, deferred payment or other valuable consideration, as a taxable supply retrospectively with effect from the 1st July, 2017.

(ii) to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.

(iii) to remove the mandatory requirement of getting annual accounts audited and the reconciliation statement submitted by specified professional.

(iv) to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self-certification basis. The Commissioner of State Tax will be empowered to exempt a class of taxpayers from the requirement of filing the annual return.

(v) to charge interest on net cash liability retrospectively with effect from the 1st July, 2017.

(vi) to make seizure and confiscation of goods and conveyances in transit a separate proceeding from the recovery of tax.

(vii) to insert an Explanation to clarify that “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but, not included in the return furnished under section 39.

(viii) to provide that provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding under Chapter XII (Assessment), Chapter XIV (Inspection, Search, Seizure and Arrest) or Chapter XV (Demand and Recovery) till the expiry of a period of one year from the date of order made thereunder.

(ix) to provide that no appeal shall be filed against an order made under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.

(x) to delink the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty.

(xi) to delink the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.

(xii) to provide for the inapplicability of the provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 to offences punishable under the Act.

(xiii) to empower the Commissioner of State Tax to call for information from any person relating to any matters dealt with in connection with the Act.

(xiv) to provide that no information obtained under sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned.

(xv) to omit paragraph 7 in Schedule II of the principal Act with effect from 1st July, 2017, as a consequence to the Amendment made in section 7.

2. The Bill seeks to achieve the above objects.

N. RANGASAMY,
Chief Minister.

FINANCIAL MEMORANDUM

The proposed Puducherry Goods and Services Tax (Amendment) Bill, 2021 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the Union territory of Puducherry.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill seeks to amend section 44 of the Puducherry Goods and Services Tax Act, 2017, so as to empower the Government to provide by rules the time within which and the form and manner in which every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52 a casual taxable person and a non-resident taxable person shall furnish an annual return.

Clause 9 of the Bill seeks to amend section 83 of the said Act by substituting sub-section (1) thereof, which empowers the Government to provide by rules the manner in which the Commissioner may attach provisionally any property, including Bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122.

Clause 11 of the Bill seeks to amend section 129 of the said Act. Sub-section (6) of the said section seeks to empower the Government to provide by rules the manner in which and the time within which the goods or conveyance detained or seized under that section shall be sold or disposed of.

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.

3. Therefore, the powers delegated are of normal and not of an exceptional character.

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

[Copy of the Letter No. 001/CM/OSD/PA/Assembly/2021,
dated 27-08-2021 from the Hon'ble Chief Minister
Thiru N. Rangasamy, 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, 2021, 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.

R. MOUNISSAMY,
Secretary,
Legislative Assembly Secretariat.