

(Authorised English Translation)

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

(To be introduced in the Rajasthan Legislative Assembly)

A

Bill

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

Be it enacted by the Rajasthan 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 Rajasthan Goods and Services Tax (Third 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, Rajasthan Act No. 9 of 2017.- For the existing sub-clauses (c) and (d) of clause (114) of section 2 of the Rajasthan Goods and Services Tax Act, 2017 (Act No. 9 of 2017), hereinafter referred to as the principal Act, the following shall be substituted, namely:—

“(c) Dadra and Nagar Haveli and Daman and Diu;
(d) Ladakh;”.

3. Amendment of section 10, Rajasthan Act No. 9 of 2017.- In sub-section (2) of section 10 of the principal Act,-

(i) in clause (b), after the existing expression “of goods” and before the existing expression “which are”, the expression “or

services” shall be inserted;

(ii) in clause (c), after the existing expression “of goods” and before the existing punctuation mark “;”, the expression “or services” shall be inserted; and

(iii) in clause (d), after the existing expression “of goods” and before the existing expression “through an”, the expression “or services” shall be inserted.

4. Amendment of section 16, Rajasthan Act No. 9 of 2017.- In sub-section (4) of section 16 of the principal Act, the existing expression “invoice relating to such” shall be deleted.

5. Amendment of section 29, Rajasthan Act No. 9 of 2017.- For the existing clause (c) of sub-section (1) of section 29 of the principal Act, the following 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, Rajasthan Act No. 9 of 2017.- In sub-section (1) of section 30 of the principal Act,-

(i) for the existing punctuation mark “.”, appearing at the end, the punctuation mark “:” shall be substituted; and

(ii) for the existing proviso, the following 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, Rajasthan Act No. 9 of 2017.- For the existing proviso to sub-section (2) of section 31 of the principal Act, the following 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, Rajasthan Act No. 9 of 2017.- In section 51 of the principal Act,—

(a) for the existing sub-section (3), the following 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.”; and

(b) the existing sub-section (4) shall be deleted.

9. Amendment of section 122, Rajasthan Act No. 9 of 2017.- After the existing sub-section (1) and before the existing sub-section (2) of section 122 of the principal Act, the following 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, Rajasthan Act No. 9 of 2017.- In sub-section (1) of section 132 of the principal Act,—

(i) for the existing expression “Whoever commits any of the following offences”, the expression “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;

(ii) for the existing clause (c), the following 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;”;

(iii) in sub-clause (e), the existing expression “, fraudulently avails input tax credit” shall be deleted.

11. Amendment of section 140, Rajasthan Act No. 9 of 2017.- In section 140 of the principal Act, with effect from the 1st day of July, 2017,-

(a) in sub-section (1), after the existing expression “existing law” and before the existing expression “in such manner”, the expression “within such time and” shall be inserted and shall be deemed to have been inserted;

(b) in sub-section (2), after the existing expression “appointed day” and before the existing expression “in such manner”, the expression “within such time and” shall be inserted and shall be deemed to have been inserted;

(c) in sub-section (3), for the existing expression “goods held in stock on the appointed day subject to”, the expression “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted;

(d) in sub-section (5), for the existing expression “existing law”, the expression “existing law, within such time and in such manner as may be prescribed” shall be substituted and shall be deemed to have been substituted; and

(e) in sub-section (6), for the existing expression “goods held in stock on the appointed day subject to”, the expression “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted.

12. Amendment of section 172, Rajasthan Act No. 9 of 2017.- In proviso to sub-section (1) of section 172 of the principal Act, for the existing expression “three years”, the expression “five years” shall be substituted.

13. Amendment of Schedule II, Rajasthan Act No. 9 of 2017.- In paragraph 4 of Schedule II of the principal Act, the existing expression “whether or not for a consideration,” wherever occurring, shall be deleted and shall be deemed to have been deleted with effect from the 1st day of July, 2017.

14. Repeal and savings.- (1) The Rajasthan Goods and Services Tax (Second Amendment) Ordinance, 2020 (Ordinance No. 7 of 2020) is hereby repealed.

(2) Notwithstanding such repeal, all things done, actions taken or orders made under the said Ordinance shall be deemed to have been done, taken or made under this Act.

STATEMENT OF OBJECTS AND REASONS

The Rajasthan 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 State Government.

The Rajasthan Goods and Services Tax (Third Amendment) Bill, 2020, *inter alia*, provides for the following, namely:-

- (i) Clause 2 of the Bill seeks to amend sub-clauses (c) and (d) of clause (114) of section 2 of the Rajasthan Goods and Services Tax Act, 2017 so as to align the definition of “Union territory” in line with the Jammu and Kashmir Re-organization Act, 2019 (Central Act No. 34 of 2019) and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019 (Central Act No. 44 of 2019).
- (ii) Clause 3 of the Bill seeks to amend clauses (b), (c) and (d) of sub-section (2) of section 10 of the Rajasthan Goods and Services Tax Act, 2017 to harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub-section (2A) of the said section.
- (iii) Clause 4 of the Bill seeks to amend sub-section (4) of section 16 of the Rajasthan Goods and Services Tax Act, 2017 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.
- (iv) Clause 5 of the Bill seeks to amend clause (c) of sub-section (1) of section 29 of the Rajasthan Goods and Services Tax Act, 2017 so as to provide for cancellation of registration voluntarily made under sub-section (3) of section 25.
- (v) Clause 6 of the Bill seeks to amend proviso to sub-section (1) of section 30 of the Rajasthan Goods and Services Tax Act, 2017 so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.

- (vi) Clause 7 of the Bill seeks to amend proviso to sub-section (2) of section 31 of the Rajasthan Goods and Services Tax Act, 2017 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.
- (vii) Clause 8 of the Bill seeks to amend section 51 of the Rajasthan Goods and Services Tax Act, 2017 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.
- (viii) Clause 9 of the Bill seeks to insert a new sub-section (1A) in section 122 of the Rajasthan Goods and Services Tax Act, 2017 so as to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.
- (ix) Clause 10 of the Bill seeks to amend sub-section (1) of section 132 of the Rajasthan Goods and Services Tax Act, 2017 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.
- (x) Clause 11 of the Bill seeks to amend section 140 of the Rajasthan Goods and Services Tax Act, 2017 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 unavailed credit under the existing law. This amendment shall take effect retrospectively from the 1st day of July, 2017.
- (xi) Clause 12 of the Bill seeks to amend section 172 of the Rajasthan Goods and Services Tax Act, 2017 so as to extend the time limit provided for removal of difficulties thereunder from three years to five years, with effect from the date of commencement of the said Act.

- (xii) Clause 13 of the Bill seeks to amend paragraph 4 of Schedule II to the Rajasthan Goods and Services Tax Act, 2017 so as to delete the expression “whether or not for a consideration,” and to give clarity to the meaning of the entries (a) and (b) of said paragraph. This amendment shall take effect retrospectively from the 1st day of July, 2017.

Since the Rajasthan State Legislative Assembly was not in session and circumstances existed which rendered it necessary for the Governor of Rajasthan to take immediate action, he, therefore promulgated the Rajasthan Goods and Services Tax (Second Amendment) Ordinance, 2020 (Ordinance No. 7 of 2020), on 1st July, 2020, which was published in Rajasthan Gazette, Extraordinary, Part IV(B), dated 1st July, 2020.

The Bill seeks to replace the aforesaid Ordinance.
Hence the Bill.

अशोक गहलोत,
Minister Incharge.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

Clause 7 of the Bill seeks to amend proviso to sub-section (2) of section 31 of the Rajasthan Goods and Services Tax Act, 2017 so as to empower the Government to make rules to provide for the time and manner of issuing tax invoice.

Clause 8 of the Bill seeks to amend sub-section (3) of section 51 of the Rajasthan Goods and Services Tax Act, 2017 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.

Clause 11 of the Bill seeks to amend section 140 of the Rajasthan Goods and Services Tax Act, 2017 with retrospective effect to empower the State Government to make rules to provide for the time limit and the manner for availing input tax credit against certain unavailed credit under the existing law.

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.

**अशोक गहलोत,
Minister Incharge.**

**EXTRACTS TAKEN FROM THE RAJASTHAN GOODS
AND SERVICES TAX ACT, 2017**

(Act No. 9 of 2017)

XX XX XX XX XX XX XX

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

(1) to (113) xx xx xx xx xx

(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;

(115) to (120) xx xx xx xx xx

XX XX XX XX XX XX XX

10. Composition levy.- (1) xx xx xx xx

(2) The registered person shall be eligible to opt under sub-section (1), if-

(a) xx xx xx xx xx

(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) to (f) xx xx xx xx xx

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961 (Central Act No. 43 of 1961), the 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.

(2A) to (5) xx xx xx xx xx

XX XX XX XX XX XX XX

16. Eligibility and conditions for taking input tax credit.- (1) to (3) XX XX XX XX XX XX

(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.

XX XX XX XX XX XX XX

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) to (b) XX XX XX XX XX

(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.

(2) to (6) XX XX XX XX XX

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, thereby 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.

(2) to (3) xx xx xx xx xx

CHAPTER VII

TAX INVOICE, CREDIT AND DEBIT NOTES

31. Tax invoice.- (1) xx xx xx xx

(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.

(3) to (7) xx xx xx xx xx

XX XX XX XX XX XX XX

51. Tax deduction at source.- (1) to (2) xx xx xx

(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 days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

(5) to (8) xx xx xx xx xx

XX XX XX XX XX XX XX

132. Punishment for certain offences.- (1) Whoever commits any of the following offences, namely:-

(a) to (b) xx xx xx xx xx

(c) avails input tax credit using such invoice or bill referred to in clause (b);

(d) xx xx xx xx xx

(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

(f) to (l)	xx	xx	xx	xx	xx
shall be punishable-					
(i) to (iv)	xx	xx	xx	xx	xx
(2) to (6)	xx	xx	xx	xx	xx

XX XX XX XX XX XX XX

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 No. 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, or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law but which are liable to tax under this Act or where the person was entitled to the credit of input tax at the time of sale of goods, if any, 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.

(4) xx xx xx xx xx

(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 sub-section.

(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.

(7) xx xx xx xx xx
 XX XX XX XX XX XX XX

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) xx xx xx xx xx
 XX XX XX XX XX XX XX

SCHEDULE II

[See section 7]

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

1 to 3 xx xx xx xx xx

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. to 7.	xx	xx	xx	xx	xx
XX	XX	XX	XX	XX	XX	XX

राजस्थान माल और सेवा कर (तृतीय संशोधन) विधेयक, 2020

(जैसाकि राजस्थान विधान सभा में पुरःस्थापित किया जायेगा)

राजस्थान विधान सभा

राजस्थान माल और सेवा कर अधिनियम, 2017 को और संशोधित करने के लिए विधेयक।

(जैसाकि राजस्थान विधान सभा में पुरःस्थापित किया जायेगा)

प्रमिल कुमार माथुर,
सचिव।

(अशोक गहलोत, प्रभारी मंत्री)

Bill No.24 of 2020

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

(To be introduced in the Rajasthan Legislative Assembly)

RAJASTHAN LEGISLATIVE ASSEMBLY

A

Bill

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

(To be introduced in the Rajasthan Legislative Assembly)

Pramil Kumar Mathur,
Secretary.

(Ashok Gehlot, **Minister-Incharge**)