

THE SIKKIM GOODS AND SERVICES TAX (AMENDMENT) BILL, 2022

(BILL NO. 26 OF 2022)

A
BILL

to amend the Sikkim Goods and Services Tax Act, 2017.

Be it enacted by the Legislature of Sikkim in the Seventy third Year of the Republic of India, as follows:-

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| Short title, extent and commencement | 1 | <p>(1) This Act may be called the Sikkim Goods and Services Tax (Amendment) Act, 2022.</p> <p>(2) It extends to the whole of the State of Sikkim.</p> <p>(3) 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.</p> |
| Amendment of section 2 | 2 | <p>In section 2 of the Sikkim 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.</p> |
| Amendment of section 7 | 3 | <p>In 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:—</p> <p>“(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.”.</p> |
| Amendment of section 10 | 4 | <p>In section 10 of the Principal Act,—</p> <p>(a) in sub-section (1), after the second proviso, the following <i>Explanation</i> shall be inserted, namely:—</p> <p>“<i>Explanation.</i>—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 or Union Territory.”;</p> |

- (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 new 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 or turnover in Union territory 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.”.

- (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 or turnover in Union territory” 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.’

Amendment of section 16

5 In section 16 of the Principal Act, 2017 —

(a) in sub-section (2),—

(i) After clause (a), the following clause shall be inserted, namely :—

“(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;”.

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

“(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;”;

(ii) in clause (c), the words, figures and letter "or section 43A" shall be omitted.

(b) in sub-section (4), for the words and figures "due date of furnishing of the return under section 39 for the month of September", the words "thirtieth day of November" shall be substituted.

Amendment of section 22

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

"Provided also that the Government may, on the recommendations of the Council, enhance the aggregate turnover from twenty lakhruppes 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

7 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 any State or Union territory or part thereof, 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.”.

Amendment of section 29

- 8 In section 29 of the Principal Act, in sub-section (2),—
- (a) in clause (b), for the words “returns for three consecutive tax periods”, the words “the return for a financial year beyond three months from the due date of furnishing the said return” shall be substituted;
- (b) in clause (c), for the words “a continuous period of six months”, the words “such continuous tax period as may be prescribed” shall be substituted.

Insertion of newsection 31A

- 9 In the Principal Act after section 31, the following section shall be inserted, namely:—
- “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 34

- 10 In section 34 of the Principal Act, in sub-section (2), for the word “September”, the words “the thirtieth day of November” shall be substituted.

- Amendment of section 35** 11 In section 35 of the Principal Act, sub-section (5) shall be omitted.
- Amendment of section 37** 12 In section 37 of the Principal Act,—
- (a) in sub-section (1),—
- (i) after the words “shall furnish, electronically,”, the words “subject to such conditions and restrictions and” shall be inserted;
- (ii) for the words “shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed”, the words “shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies” shall be substituted;
- (iii) the first proviso shall be omitted;
- (iv) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted;
- (v) in the third proviso, for the words “Provided also that”, the words “Provided further that” shall be substituted;
- (b) sub-section (2) shall be omitted;
- (c) in sub-section (3),—
- (i) the words and figures “and which have remained unmatched under section 42 or section 43” shall be omitted;
- (ii) in the first proviso, for the words and figures “furnishing of the return under section 39 for the month of September”, the words “the thirtieth day of November” shall be substituted;
- (d) after sub-section (3), the following sub-section shall be inserted, namely:—
- “(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him: Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods.”.
- Substitution of new section for section 38.** 13 For section 38 of the Principal Act, the following section shall be substituted, namely:—
- 38. Communication of details of inward supplies and input tax**

credit.

“(1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

(2) The auto-generated statement under sub-section (1) shall consist of— (a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and (b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,—

(i) by any registered person within such period of taking registration as may be prescribed; or

(ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or

(iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or

(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or

(v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or

(vi) by such other class of persons as may be prescribed.”.

Amendment of section 39

14 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 or Union territory, 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) in sub-section (5), for the word “twenty”, the word “thirteen” shall be substituted;

- (c) 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, in such form and manner, and within such time, as may be prescribed,—

(a) an amount equal to 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; or

(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions 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 or Union territory, 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.”

- (d) in sub-section (9), —
- (i) for the words and figures “Subject to the provisions of sections 37 and 38, if”, the word “Where” shall be substituted;
- (ii) in the proviso, for the words “the due date for furnishing of return for the month of September or second quarter”, the words “the thirtieth day of November” shall be substituted;
- (e) in sub-section (10), for the words “has not been furnished by him”, the following shall be substituted, namely:—