

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 7th September, 2021 is published together with Statement of Objects and Reasons for general information:—

L.A. Bill No. 32 of 2021

A Bill further to amend the Tamil Nadu Goods and Services Tax Act, 2017.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Seventy-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Goods and Services Tax (Second Amendment) Act, 2021.

Short title and commencement.

(2) (i) Sections 2, 6 and 15 shall be deemed to have come into force on the 1st day of July 2017;

(ii) Sections 4 and 5 shall be deemed to have come into force on the 1st day of August 2021; and

(iii) All other sections of this Act shall come into force on such date as the State Government may, by notification, appoint.

2. In the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in Section 7, in sub-section (1), after clause (a), the following clause and Explanation shall be inserted, namely:—

Amendment of Section 7.

“(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 Section 44.

“44. **Annual return.**— 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:

Tamil Nadu Act
19 of 2017.

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, 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.

Amendment of
Section 75.

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

“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.”.

Amendment of
Section 83.

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

“(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.”.

Amendment of
Section 107.

10. In section 107 of the principal Act, to sub-section (6), the following proviso shall be added, namely:—

“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.”.

Amendment of
Section 129.

11. In section 129 of the principal Act,—

(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.

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

(ii) in sub-section (2), in the second proviso, for the expression “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;

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

13. For Section 151 of the Principal Act, the following section shall be substituted, namely:—

Substitution of
Section 151.

“151. **Power to call for information.**—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.

14. In section 152 of the principal Act,—

(i) in sub-section (1),—

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

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

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

Amendment of
Schedule II.

15. In Schedule II of the Principal Act, paragraph 7 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Tamil Nadu Goods and Services Tax Act, 2017 (Tamil Nadu Act 19 of 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.

2. The Goods and Services Tax Council in its 39th Meeting held on 14th March, 2020, has recommended various amendments to the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017). To give effect to the said recommendations, the Central Government amended the said Central Act by the Finance Act, 2021 (Central Act 13 of 2021). Corresponding amendments are, therefore, required to be made to the Tamil Nadu Goods and Services Tax Act, 2017 (Tamil Nadu Act 19 of 2017). The Government have, therefore, decided to amend the said Tamil Nadu Act 19 of 2017 suitably.

3. The Bill seeks to give effect to the above decision.

P. MOORTHY,

Minister for Commercial Taxes and Registration.

Chennai-600 009,
7th September 2021.

K. SRINIVASAN,
Secretary.