

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the Tamil Nadu on 18th April, 2023 is published together with Statement of Objects and Reasons for general information:—

L.A Bill No. 12 of 2023

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-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Goods and Services Tax (Amendment) Act, 2023.

Short title and commencement.

(2) Save as otherwise provided in this Act, sections 2 to 12, 14 and 15 shall be deemed to have come into force on the 1st day of October 2022.

Tamil Nadu Act
19 of 2017.

2. In the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 16,—

Amendment of section 16.

(1) in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

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

(2) in sub-section (4), for the expression “due date of furnishing of the return under section 39 for the month of September”, the expression “thirtieth day of November” shall be substituted.

3. In section 29 of the principal Act, in sub-section (2),—

Amendment of section 29.

(1) in clause (b), for the expression “returns for three consecutive tax periods”, the expression “the return for a financial year beyond three months from the due date of furnishing the said return” shall be substituted;

(2) in clause (c), for the expression “a continuous period of six months”, the expression “such continuous tax period as may be prescribed” shall be substituted.

4. In section 34 of the principal Act, in sub-section (2), for the expression “September”, the expression “the thirtieth day of November” shall be substituted.

Amendment of section 34.

5. In section 37 of the principal Act,—

Amendment of section 37.

(1) in sub-section (1),—

(a) after the expression “shall furnish, electronically”, the expression “subject to such conditions and restrictions and” shall be inserted;

(b) for the expression “shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed”, the expression “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;

(c) the first proviso shall be omitted;

(d) in the second proviso, for the expression “Provided further that”, the expression “Provided that” shall be substituted;

(e) in the third proviso, for the expression “Provided also that”, the expression “Provided further that” shall be substituted;

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

(3) in sub-section (3),—

(a) the expression “and which have remained unmatched under section 42 or section 43” shall be omitted;

(b) in the first proviso, for the expression “furnishing of the return under section 39 for the month of September”, the expression “the thirtieth day of November” shall be substituted;

(4) 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 section 38.

6. 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.

7. In section 39 of the principal Act,—

(1) in sub-section (5), for the expression “twenty days”, the expression “thirteen days” shall be substituted;

(2) in sub-section (7), for the first proviso, the following proviso shall be substituted, namely:—

“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.”;

(3) in sub-section (9),—

(i) for the expression “Subject to the provisions of sections 37 and 38, if”, the expression “Where” shall be substituted;

(ii) in the proviso, for the expression “the due date for furnishing of return for the month of September or second quarter”, the expression “the thirtieth day of November” shall be substituted;

(4) in sub-section (10), for the expression “has not been furnished by him”, the expression “or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:” shall be substituted;

(5) to sub-section (10), as so amended, the following proviso shall be added, namely:—

“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 return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period.”.

8. For section 41 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 41.

“41. **Availment of input tax credit.**—(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.”.

9. Sections 42 and 43 of the principal Act shall be omitted.

Omission of sections 42 and 43.

10. In section 47 of the principal Act, in sub-section (1),—

Amendment of section 47.

(1) the expression “or inward” shall be omitted;

(2) the expression “or section 38” shall be omitted;

(3) after the expression “section 39 or section 45”, the expression “or section 52” shall be inserted.

Amendment of section 48.	11. In section 48 of the principal Act, in sub-section (2), the expression “the details of inward supplies under section 38” shall be omitted.	
Amendment of section 49.	12. In section 49 of the principal Act,— (1) in sub-section (4), after the expression “subject to such conditions”, the expression “and restrictions” shall be inserted; (2) after sub-section (11), the following sub-section shall be inserted, namely:— “(12) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.”.	Central Act 13 of 2017.
Amendment of section 50.	13. In section 50 of the principal Act, for sub-section (3), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July 2017, namely:— “(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”.	
Amendment of section 52.	14. In section 52 of the principal Act, in sub-section (6), in the proviso, for the expression “due date for furnishing of statement for the month of September”, the expression “thirtieth day of November” shall be substituted.	
Amendment of section 54.	15. In section 54 of the principal Act,— (1) in the proviso to sub-section (1), for the expression “the return furnished under section 39 in such”, the expression “such form and” shall be substituted; (2) in sub-section (2), for the expression “six months”, the expression “two years” shall be substituted; (3) in sub-section (10), the expression “under sub-section (3)” shall be omitted; (4) in the Explanation, in clause (2), after sub-clause (b), the following sub-clause shall be inserted, namely:— “(bb) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;”.	
Amendment of Notification issued under section 146 of the principal Act retrospectively.	16. (1) The Commercial Taxes and Registration Department Notification No.II(2)/CTR/79(h-5)/2018 published at page 2 in Part II—Section 2 of the <i>Tamil Nadu Government Gazette</i> Extraordinary, dated the 23rd January 2018 issued by the Government on the recommendations of the Council, under section 146 of the principal Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the First Schedule, on and from the date specified in column (3) of that Schedule. (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 the said sub-section with retrospective effect as if the Government had the power to amend the said notification under section 146 of the principal Act, retrospectively, at all material times.	

17. (1) The Commercial Taxes and Registration Department Notification No.II(2)/CTR/532(d-3)/2017 published at page 2 in Part II-Section 2 of the *Tamil Nadu Government Gazette* Extraordinary dated 29th June 2017, issued by the Government on the recommendations of the Council, under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the principal Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Second Schedule, on and from the date specified in column (3) of that Schedule.

Amendment of Notification issued under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the principal Act, retrospectively.

(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 the said sub-section with retrospective effect as if the Government had the power to amend the said notification under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the principal Act, retrospectively, at all material times.

18. (1) Notwithstanding anything contained in the Commercial Taxes and Registration Department Notification No.II(2)/CTR/532(d-4)/2017, published at page 3 in Part II-Section 2 of the *Tamil Nadu Government Gazette*, Extraordinary dated the 29th June 2017 on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the principal Act, no State tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive).

Retrospective exemption from, or levy or collection of, State tax in certain cases.

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

19. (1) Subject to the provisions of sub-section (2), the Commercial Taxes and Registration Department Notification No.II(2)/CTR/773(a-14)/2019, published at page 12 in Part II-Section 2 of the *Tamil Nadu Government Gazette*, Extraordinary, dated the 30th September 2019, on the recommendations of the Council, in exercise of the powers under sub-section (2) of section 7 of the principal Act, shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July 2017.

Retrospective effect to notification issued under sub-section (2) of section 7 of the principal Act.

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

FIRST SCHEDULE
[See section 16(1)]

<i>Notification number and date (1)</i>	<i>Amendment (2)</i>	<i>Date of effect of amendment (3)</i>
Commercial Taxes and Registration Department Notification No.II(2)/CTR/79 (h 5)/2018, dated the 23rd January 2018.	In the said notification, in paragraph 1, for the words “furnishing of returns and computation and settlement of integrated tax”, the following shall be substituted, namely: — “furnishing of returns and computation and settlement of integrated tax and save as otherwise provided in the Commercial Taxes and Registration Department Notification No.II(2)/CTR/976(c)/2019, dated the 17 th December 2019, all functions provided under the Tamil Nadu Goods and Services Tax Rules, 2017.”.	28th June 2017.

SECOND SCHEDULE
[See section 17(1)]

<i>Notification number and date (1)</i>	<i>Amendment (2)</i>	<i>Date of effect of amendment (3)</i>
Commercial Taxes and Registration Department Notification No.II(2)/CTR/532(d-3)/2017, dated the 29th June 2017.	In the said notification, in the TABLE, against serial number 2, in column (3), for the figures “24”, the figures “18” shall be substituted.	1st July 2017.

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 43rd and 45th Meetings held on 28th May, 2021 and 17th September, 2021, 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, 2022 (Central Act 6 of 2022). 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.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 3, 5, 6, 7, 8, 12 and 13 of the Bill authorise the Government to issue notifications or to make rules, as the case may be, for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

P. MOORTHY,
Minister for Commercial Taxes and Registration.

FINANCIAL MEMORANDUM

The Bill when enacted and brought into operation would involve expenditure from the Consolidated Fund of the State. It is, however, not possible at this stage to estimate with any degree of accuracy, the expenditure to be incurred from the Consolidated Fund of the State as a result of the proposed legislation.

P. MOORTHY,
Minister for Commercial Taxes and Registration.

Secretariat,
Chennai-600 009,
18th April 2023.

K. SRINIVASAN,
Secretary.