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TELANGANA BILLS
TELANGANA LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Telangana Legislative Assembly on 14th September, 2020.

L. A. BILL No. 15 OF 2020.

A BILL FURTHER TO AMEND THE TELANGANA GOODS AND SERVICES TAX ACT, 2017.

Be it enacted by the Legislature of the State of Telangana in the Seventy-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Telangana Goods and Services Tax (Second Amendment) Act, 2020.

Short title
and
commence-
ment.

B. 63 (NG)

[1]

(2) The provisions of section 11 and section 14 of this Act shall be deemed to have come into force with effect from 01st day of July, 2017.

(3) The provisions of section 12 of this Act shall be deemed to have come into force with effect from 31st day of March, 2020.

(4) The provisions of section 2,13 of this Act shall be deemed to have come into force with effect from 30th day of June, 2020.

(5) Save as otherwise provided, the provisions of this Act except sections 2,11,12,13,14 and 15, shall come into force on such date as the 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.

Amendment
of section
2, Act
No.23 of
2017.

2. In section 2 of the Telangana Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in sub-section (114), for clauses (c) and (d), the following clauses shall be substituted, namely:--

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

Amendment
of section
10.

3. In section 10 of the principal Act, in sub-section (2),-

(1) in clauses (b) and (d), after the words “of goods”, the words “or services” shall be inserted.

(2) in clause (c), after the words “of goods”, the words “or services” shall be added at the end.

Amendment
of section
16.

4. In section 16 of the principal Act, in sub-section (4), the words “invoice to such” shall be omitted.

Amendment
of section
29.

5. In section 29 of the principal Act, in sub-section (1), before the proviso, for clause (c), the following clause 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 of (3) of section 25:”.

6. In section 30 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:- Amendment
of section
30.

“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. In section 31 of the principal Act, in sub-section (2), for the proviso, the following proviso shall be substituted, namely:-- Amendment
of section
31.

“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. In section 51 of the principal Act,-

(1) for sub-section (3), the following sub-section shall be substituted, namely:-- Amendment
of section
51.

“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”.

(2) sub-section (4) shall be omitted.”.

Amendment
of section
122.

9. In section 122 of the principal Act, after sub-section (1), the following sub-section 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.”.

Amendment
of section
132.

10. In section 132 of the principal Act, in sub-section (1),--

(1) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted.

(2) for clause (c), the following clause 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;”.

(3) in clause (e), the words “, fraudulently avails input tax credit” shall be omitted.

Amendment
of section
140.

11. In section 140 of the principal Act, with effect from the 1st day of July, 2017,--

(1) in sub-section (1), for the words “not later than ninety days after the said day”, the words “within such time and” shall be substituted.

(2) in sub-section (2), after the words “appointed day”, the words “within such time and” shall be inserted.

(3) in sub-section (3), for the words "goods held in stock on the appointed day subject to", the words "goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to" shall be substituted.

(4) in sub-section (5), for the words "existing law", the words "existing law, within such time and in such manner as may be prescribed" shall be substituted.

(5) in sub-section (6), for the words "goods held in stock on the appointed day", the words "goods held in stock on the appointed day, within such time and in such manner as may be prescribed," shall be substituted.

12. After section 168 of the principal Act, the following section shall be inserted, namely,-

"Power of Government to extend time limit in special circumstances.

168A. (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified

under this Act in respect of actions which cannot be completed or complied with due to force majeure.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

Explanation:- For the purpose of this section, the expression "force majeure" means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act."

13. In section 172 of the principal Act, in sub-section (1), in the proviso, for the words "three years", the words "five years" shall be substituted.

Insertion of new section 168A.

Amendment of section 172.

Amendment
of Schedule
II.

14. In Schedule II to the principal Act, in paragraph 4, the words "whether or not for a consideration," at both the places where they occur, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

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

15. (1) Notwithstanding anything contained in the Notification No: 1/2017 of the Government of Telangana issued vide G.O.Ms.No.110, Revenue (Commercial Taxes-II) Department, Dated: 29.06.2017, on the recommendations of the Council, in exercise of the powers conferred under sub-section (1) of section 9 of the Telangana Goods and Services Tax Act, 2017,-

(i) no State tax shall be levied or collected in respect of supply of fishmeal (falling under heading 2301), during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive);

(ii) State tax at the rate of six per cent. shall be levied or collected in respect of supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436), during the period commencing from the 1st day of July, 2017 and ending with the 31st day of December, 2018 (both days inclusive).

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

STATEMENT OF OBJECTS AND REASONS

The Telangana Goods and Services Tax Act, 2017 (Telangana Act No. 23 of 2017) was enacted providing for levy and collection of tax on intra-State supply of goods or services or both by the State Government. This act came into force with effect from 01-07-2017.

During the period of two and half years in which the said Act is in operation, certain difficulties which are being faced by the tax payers and procedural anomalies were identified. These issues came up for discussion before the Goods and Services Tax Council in its 38th meeting held on 18th December, 2019 and certain amendments to the Act were recommended by the council. The recommendations include easing the conditions of eligibility of opting to pay tax under composition scheme, delinking of invoice from debit note for availing input tax credit, simplifying cancellation of voluntary registrations, revocation of cancelled registrations simplifying Tax Deduction at Source procedures making the beneficiary of fraud transactions liable for penalty, empowering the Government to notify the time limit and the manner for availing transitional credits, extending the time limits provided for removal of difficulties orders from three years to five years.

The Government of India had already carried out those amendments to the Central Goods and Services Tax Act, 2017, in the Finance Act, 2020 (Central Act 12 of 2020), and advised the State Government to amend Telangana Goods and Services Tax Act, 2017 also on similar lines.

Further, in view of the spread of COVID-19 pandemic across the country, it is found imperative to insert a new provision in the Act enabling the Government to extend the time limits for actions which could not be complied with due to force majeure. The President of India had promulgated an Ordinance No: 02 of 2020 inserting section 168A in the CGST Act for that purpose. The Government of India requested all the States to provide a similar provision in the State GST Acts.

Accordingly, the Telangana Goods and Services Tax (Second Amendment) Bill, 2020 seeks to amend certain sections of the Telangana Goods and Services Tax Act, 2017 to provide for the following:

* To align the definition of "Union territory" in line with the Jammu and Kashmir Reorganisation Act, 2019 (Central Act 34 of 2019) and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019, (Central Act 44 of 2019).

* To harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub-section (2A) of the said Act.

* Delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.

* Provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25.

* Empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.

* 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.

* 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.

* Make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.

* Make the offence of fraudulent availment of input tax credit without invoice or Ordinance cognizable and non-bailable under sub-section (1) of section 69 and to make any person who retains with benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.

* 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.

* To empower the Government to extend time limit specified in, or prescribed or notified for actions which could not be complied with, due to force majeure including the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

* Extend the time limit provided for removal of difficulties there under from three years to five years, with effect from the date of commencement of the said Act.

* Give clarity to the meaning of the entries (a) and (b) of paragraph 4 of Schedule-II. This amendment shall take effect retrospectively from the 1st day of July, 2017.

* To Provide retrospective exemption from Telangana tax on supply of fishmeal, during the period from the 1st day of July, 2017 upto 30th day of September, 2019 (both days inclusive). It further seeks to retrospectively levy Telangana tax at the reduced rate of six per cent on supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of headings 8432, 8433 and 8436, during the period from the 1st day of July, 2017 up to 31st day of December, 2018 (both days inclusive). It also seeks to provide that no refund shall be made of the tax which has already been collected.

This Bill seeks to achieve the above objectives.

K. CHANDRASEKHAR RAO,
Chief Minister.

FINANCIAL MEMORANDUM

The proposed Talangana Goods and Services Tax (Second Amendment) Bill, 2020 does not involve any recurring or non-recurring expenditure to the State.

K. CHANDRASEKHAR RAO,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 1(5), 7, 8, 11 and 12 of the Bill authorizes the Government to issue notifications or to make rules in respect of matters specified therein and generally to carry out the purposes of the Act and such notifications issued and rules so made which are intended to cover matters mostly of procedural in nature are to be laid on the Table of the both Houses of the State Legislature and will be subject to any modifications made by the Legislature.

The above provisions of the Bill regarding delegated legislation are thus of normal type and are mainly intended to cover matters of procedure.

K. CHANDRASEKHAR RAO,
Chief Minister.

**MEMORANDUM UNDER RULE 95 OF THE RULES OF
PROCEDURE AND CONDUCT OF BUSINESS IN THE
TELANGANA LEGISLATIVE ASSEMBLY.**

The Telangana Goods and Services Tax (Second Amendment) Bill, 2020, after it is passed by both the Houses of State Legislature may be submitted to the Governor for her assent under article 200 of the Constitution of India.

K. CHANDRASEKHAR RAO,
Chief Minister.

Dr. V. NARASIMHA CHARYULU,
Secretary to State Legislature.