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తెలంగాణ రాజపత్రము
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TELANGANA BILLS
TELANGANA LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Telangana Legislative Assembly on 1st October, 2021.

L. A. BILL No. 9 OF 2021.

**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-Second Year of the Republic of India as follows:-

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

(2) Save as otherwise provided in this Act, the provisions of this Act shall come into force on such date as the

Short title
and
commence-
ment.

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Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 7,
Act No. 23
of 2017.

2. In the Telangana 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 shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017, namely:-

“(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;”.

Amend-
ment of
section 16.

3. In section 16 of the principal Act, in sub-section (2), 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;”.

Amend-
ment of
section 35.

4. In section 35 of the principal Act, sub-section (5) shall be omitted.

Substitu-
tion of
section 44.

5. For section 44 of the principal Act, the following section shall be substituted, namely:—

“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:

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.”.

6. In section 50 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

Amend-
ment of
section 50.

“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, in sub-section (6), the following proviso shall be inserted, 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 percent 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 percent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two percent 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 percent of the value of the goods or two hundred percent of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five percent 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.”.

Amend-
ment of
section 130.

12. In section 130 of the principal Act,—

(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 words, brackets and figures “amount of penalty leviable under sub-section (1) of section 129”, the words “penalty equal to hundred percent of the tax payable on such goods” shall be substituted;

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

Substitu-
tion of
section 151.

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

“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.”.

Amend-
ment 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.

15. In Schedule II of the principal Act, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

**Amend-
ment to
Schedule-II.**

16. The provisions of sub-section (1) of section 44 and sub-section (10) and sub-section (11) of section 49 of the principal Act, amended through section 8 and section 9 of the Telangana Goods and Services Tax (Amendment) Act, 2020 (Act No. 3 of 2020) shall be deemed to have come into force with effect from 01st January, 2020.

**Appointing
dates for
section 8 & 9
in Act No. 3
of 2020.**

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 goods and services 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 four years in which the said Act is in operation, it is noticed that certain provisions were being misused by the fraudulent tax payers, hence, it is felt that there is a requirement to plug the loopholes in the leakage of revenue. Accordingly, certain issues came up for discussion before the GST Council in its 39th meeting held on 14th March, 2020 and amendments to the Act were recommended by the council. The recommendations include making the recipient of goods or services eligible for ITC only if the supplier furnishes the details of the supplies made, clarifying scope of the words self assessed tax, empowering the jurisdictional Commissioner to call for information from any person, removing the mandatory requirement of getting the annual accounts audited and others.

Accordingly, the Telangana Goods and Services Tax (Amendment) Bill, 2021 seeks to amend certain sections of the Telangana Goods and Services Tax Act, 2017 to provide for the following:

- To ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or *vice-versa*, for cash, deferred payment or other valuable consideration.
- To clarify that the person or 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 person to another.

- To provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note 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.
- To remove the mandatory requirement of getting annual accounts audited and the reconciliation statement submitted by specified professional.
- To remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self-certification basis. It further empowers the Commissioner to exempt a class of taxpayers from the requirement of filing the annual return.
- To charge interest on net cash liability retrospectively with effect from the 1st July, 2017.
- To make seizure and confiscation of goods and conveyances in transit a separate proceeding from the recovery of tax.
- To clarify that "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.
- To provide that provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV till the expiry of a period of one year from the date of order made there under.
- To provide that no appeal shall be filed against an order made under sub-section (3) of section 129, unless a sum equal to twenty-five percent of the penalty has been paid by the appellant.
- To delink the proceedings under that section relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty.

- To delink the proceedings under that section relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.
- To empower the jurisdictional commissioner to call for information from any person relating to any matters dealt with in connection with the Act.
- To provide that no information obtained under sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned.
- Omit paragraph 7 of Schedule II to the Telangana Goods and Services Tax Act, with retrospective effect from the 1st day of July, 2017, consequent to the amendments made in section 7.

The Bill seeks to achieve the above objectives.

K. CHANDRASEKHAR RAO,
Chief Minister.

FINANCIAL MEMORANDUM

The proposed Telangana Goods and Services Tax (Amendment) Bill, 2021 does not involve any recurring or non-recurring expenditure to the State.

K. CHANDRASEKHAR RAO,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 1, 5, 9 & 11 of the Bill authorize the Government to issue notifications or to make rules in respect of matters specified therein and generally to carryout the purposes of the Act and such rules so made or notifications issued 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 (Amendment) Bill, 2021, after it is passed by both the Houses of Legislature of the State 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.