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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

**GOVERNMENT OF WEST BENGAL**

**LAW DEPARTMENT**

**Legislative**

**NOTIFICATION**

No. 733-L.—31st July, 2023.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

**Bill No. 11 of 2023**

**THE WEST BENGAL GOODS AND SERVICES TAX  
(AMENDMENT) BILL, 2023.**

**A  
BILL**

*to amend the West Bengal Goods and Services Tax Act, 2017.*

WHEREAS it is expedient to amend the West Bengal Goods and Services Tax Act, 2017, for the purposes and in the manner hereinafter appearing;

West Ben. Act  
XXVIII of 2017.

It is hereby enacted in the Seventy-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

**1.** (1) This Act may be called the West Bengal Goods and Services Tax (Amendment) Act, 2023.

Short title and  
commencement.

*The West Bengal Goods and Services Tax  
(Amendment) Bill, 2023.*

(Clause 2.)

(2) Save as otherwise provided, this section shall come into force with immediate effect, and the other provisions of this Act shall come into force on such date, with prospective or retrospective effect as required, as the State Government may, by notification in the *Official Gazette*, appoint and 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  
West Ben. Act  
XXVIII of 2017.

2. In the West Bengal Goods and Services Tax Act, 2017,—

(1) in section 10,—

- (a) in sub-section (2), in clause (d), the words “goods or” shall be omitted;
- (b) in sub-section (2A), in clause (c), the words “goods or” shall be omitted;

(2) in section 16, in sub-section (2),—

- (a) in the second proviso, for the words “added to his output tax liability, along with interest thereon”, the words and figures “paid by him along with interest payable under section 50” shall be substituted;
- (b) in the third proviso, after the words “made by him”, the words “to the supplier” shall be inserted;

(3) in section 17,—

- (a) in sub-section (3), in the *Explanation*, for the words and figure “except those specified in paragraph 5 of the said Schedule”, the following shall be substituted:—

“except,—

- (i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and
  - (ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.”;
- (b) in sub-section (5), after clause (f), the following clause shall be inserted:—

“(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;”;

18 of 2013.

(4) in section 23, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017:—

“(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.”;

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(Amendment) Bill, 2023.*

(Clause 2.)

(5) in section 30, in sub-section (1),—

(a) for the words “the prescribed manner within thirty days from the date of service of the cancellation order:”, the words “such manner, within such time and subject to such conditions and restrictions, as may be prescribed.” shall be substituted;

(b) the proviso shall be omitted;

(6) in section 37, after sub-section (4), the following sub-section shall be inserted:—

“(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:

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 for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details.”;

(7) in section 39, after sub-section (10), the following sub-section shall be inserted:—

“(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:

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 for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return.”;

(8) section 44 shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted:—

“(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:

Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said annual return.”;

(9) in section 52, after sub-section (14), the following sub-section shall be inserted:—

“(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:

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(Clause 2.)

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 an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement.”;

(10) in section 54, in sub-section (6), the words “excluding the amount of input tax credit provisionally accepted” shall be omitted;

(11) in section 56, for the words “from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax”, the words “for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed” shall be substituted;

(12) in section 62, in sub-section (2),—

(a) for the words “thirty days”, the words “sixty days” shall be substituted;

(b) the following proviso shall be added:—

“Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of section 50 or to pay late fee under section 47 shall continue.”;

(13) for section 109, the following section shall be substituted:—

“Constitution of  
Appellate  
Tribunal and  
Benches thereof.

109. Subject to the provisions of this chapter, the Goods and Services Tax Tribunal constituted under the Central Goods and Services Tax Act, 2017 shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.”;

12 of 2017.

(14) section 110 shall be omitted;

(15) section 114 shall be omitted;

(16) in section 117,—

(a) in sub-section (1), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;

(b) in sub-section (5),—

(i) in clause (a), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;

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(Clause 2.)

(ii) in clause (b), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;

(17) in section 118, in sub-section (1), in clause (a), for the words “National Bench or Regional Benches”, the words “Principal Bench” shall be substituted;

(18) in section 119,—

(a) for the words “National or Regional Benches”, the words “Principal Bench” shall be substituted;

(b) for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;

(19) in section 122, after sub-section (1A), the following sub-section shall be inserted:—

“(1B) Any electronic commerce operator who—

(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher.”;

(20) in section 132, in sub-section (1),—

(a) clause (g) shall be omitted;

(b) clause (j) shall be omitted;

(c) clause (k) shall be omitted;

(d) in clause (l), for the words, brackets and letters “clauses (a) to (k)” the words, brackets and letters “clauses (a) to (f) and clauses (h) and (i)” shall be substituted;

(e) in clause (iii), for the words “any other offence”, the words, brackets and letter “an offence specified in clause (b),” shall be substituted;

(f) in clause (iv), the words, brackets and letters “or clause (g) or clause (j)” shall be omitted;

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(Clause 2.)

(21) in section 138,—

(a) in sub-section (1), in the first proviso,—

(i) for clause (a), the following clause shall be substituted:—

“(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;”;

(ii) clause (b) shall be omitted;

(iii) for clause (c), the following clause shall be substituted:—

“(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;”;

(iv) clause (e) shall be omitted;

(b) in sub-section (2), for the words “ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher”, the words “twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent. of the tax involved” shall be substituted;

(22) after section 158, the following section shall be inserted:—

“Consent based sharing of information furnished by taxable person.

158A. (1) Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of sub-section (2), and on the recommendations

of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—

(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;

(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;

(c) such other details as may be prescribed.

(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of—

(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and

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(Clause 3.)

- (b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient,

in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return.”.

3. (1) In Schedule III to the West Bengal Goods and Services Tax Act, 2017, paragraphs 7 and 8 and the *Explanation* 2 thereof (as inserted *vide* West Ben. Act XXIV of 2018) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.

West Ben. Act  
XXVIII of 2017.

(2) No refund shall be made of all the 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 Bill, namely the West Bengal Goods and Services Tax (Amendment) Bill, 2023, seeks to make amendments in the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), on the recommendations of the Goods and Services Tax Council, mainly to provide relief, to remove the major inconveniences caused to the taxpayers, especially micro and small entrepreneurs and traders and to decriminalize certain offences committed by taxpayers, and seeks *inter alia*—

- (1) to amend clause (d) of sub-section (2) and clause (c) of sub-section (2A) in section 10 of the said Act so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the composition levy;
- (2) to amend second and third provisos to sub-section (2) of section 16 of the said Act to align the said sub-section with the existing return filing system in GST;
- (3) to amend section 17 of the said Act,—
  - (a) so as to restrict availment of input tax credit in respect of certain transactions specified in clause (a) of paragraph 8 of Schedule III of the said Act, as may be provided by rules, by including the value of such transactions in the value of exempt supply [amendment of *Explanation* to sub-section (3)];
  - (b) so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013 [amendment of sub-section (5)];

Retrospective exemption to certain activities and transactions in Schedule III to the West Bengal Goods and Services Tax Act, 2017.

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- (4) to substitute sub-section (2) of section 23 of the said Act, with effect from the 1st day of July, 2017, to empower the Government to exempt categories of persons from obtaining registration, on the recommendations of the Council, overriding the provisions of mandatory registration as provided in sub-section (1) of section 22 and section 24 of the said Act;
- (5) to amend sub-section (1) of section 30 so as to provide that the manner, time limit and conditions for revocation of the order of cancellation of registration shall be prescribed in the rules;
- (6) to insert a new sub-section (5) in section 37 of the said Act so as to provide a time limit of three years from the due date of furnishing of the details of outward supplies under sub-section (1) of section 37 upto which the said details for a tax period can be furnished by a registered person.

It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions;

- (7) to insert a new sub-section (11) in section 39 of the said Act so as to provide a time limit of three years from the due date of furnishing of return for a tax period upto which the said return can be furnished by a registered person.

It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions;

- (8) to insert a new sub-section (2) in section 44 of the said Act so as to provide a time limit of three years from the due date of furnishing of annual return for a financial year under sub-section (1) of section 44 upto which the said annual return can be furnished by a registered person.

It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions;

- (9) to insert a new sub-section (15) in section 52 of the said Act so as to provide a time limit of three years from the due date of furnishing of monthly statement under sub-section (4) of section 52 upto which the said statement can be furnished by an electronic commerce operator.

It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for an operator or a class of operators, subject to certain conditions and restrictions;

- (10) seeks to amend sub-section (6) of section 54 of the said Act by removing reference to the provisionally accepted input tax credit so as to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the said Act;



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- (11) to amend section 56 of the said Act so as to provide by rules the manner of computation of period of delay for calculation of interest on delayed refunds;
- (12) to amend sub-section (2) of section 62 of the said Act so as to provide that the assessment made under sub-section (1) of section 62 for non-filing of return shall be deemed to have been withdrawn if a valid return for the said period is filed within sixty days of service of the assessment order. The existing time limit is only thirty days.

It further seeks to provide that the said assessment order shall be deemed to have been withdrawn even if the valid return for the said period is furnished beyond the said time line of sixty days but within a time period of further sixty days on payment of an additional late fee as specified;

- (13) to substitute section 109 so as to provide that the Goods and Services Tax Tribunal constituted under the Central Goods and Services Tax Act, 2017 shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under the said Act;
- (14) to omit section 110 of the said Act;
- (15) to omit section 114 of the said Act;
- (16) to amend sections 117, 118 and 119 of the said Act so as to provide that the “State Bench and Area Benches” of the Appellate Tribunal shall be renamed as the “State Benches”, and the “National Bench or Regional Benches” of the Appellate Tribunal shall be renamed as the “Principal Benches”;
- (17) to insert a new sub-section (1B) in section 122 of the said Act so as to provide for applicability of penal provisions on electronic commerce operators in case of contravention of provisions relating to supplies of goods or services made through them by unregistered persons or composition taxpayers;
- (18) to amend sub-section (1) of section 132 of the said Act so as to decriminalize offences specified in clauses (g), (j) and (k) of the said sub-section and to increase the monetary threshold from one hundred lakh rupees to two hundred lakh rupees for launching prosecution for the offences under the said Act, except for the offences related to issuance of invoices without supply of goods or services or both;

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- (19) to amend section 138 of the said Act—
- (a) so as to exclude the persons who have been allowed to compound once in respect of any of the offences as specified in sub-section (1) of section 132 and who have been involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act by amending first proviso to sub-section (1);
  - (b) so as to rationalise the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding by amending sub-section (2);
- (20) to insert a new section 158A in the said Act so as to provide for the manner and conditions for sharing of the information furnished by the registered person in his application for registration or in his return filed or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be provided by rules, on the common portal with such other systems, as may be notified;
- (21) to amend Schedule III of the said Act, to give retrospective applicability to paragraphs 7 and 8 and the *Explanation 2* to the said Schedule with effect from the 1st day of July, 2017.
2. The Bill has been framed with the above objects in view.
3. There is no financial implication involved in giving effect to the provisions of the Bill.

KOLKATA,  
*The 31st July, 2023.*

CHANDRIMA BHATTACHARYA,  
*Member-in-charge.*

By order of the Governor,  
PRADIP KUMAR PANJA,  
*Pr. Secy. to the Govt. of West Bengal,  
Law Department.*