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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 18th October, 2021 is hereby published for general information.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 21 OF 2021

(First published, after having received the assent of the Governor, in the *"Gujarat Government Gazette",* on the 20th October, 2021).

AN ACT

further to amend the Gujarat Goods and Services Tax Act, 2017.

It is hereby enacted in the Seventy-second Year of the Republic of India as follows:—

Short title and commencement.

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

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette,* appoint:

Provided that different dates may be appointed for different provisions of this Act.

Amendment of section 7 of Guj. 25 of 2017.

Guj. 25 of 2017.

2. In the Gujarat 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 from the 1st 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;".

Amendment of section 16 of Guj. 25 of 2017.

3. In the principal Act, in section 16, 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;".

Amendment of section 35 of Guj. 25 of 2017.

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

Substitution of section 44 of Guj. 25 of 2017.

5. In the principal Act, for section 44, the following section shall be substituted, namely:—

Annual return.

"44. 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.".

Amendment of section 50 of Guj. 25 of 2017.

6. In the principal Act, in section 50, in sub-section (1), for the existing 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:—

"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 of Guj. 25 of 2017.

7. In the principal Act, in section 74, 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 of Guj. 25 of 2017.

8. In the principal Act, in section 75, 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 of Guj. 25 of 2017.

9. In the principal Act, in section 83, 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 of Guj. 25 of 2017.

10. In the principal Act, in section 107, to 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 per cent. of the penalty has been paid by the appellant.".

Amendment of section 129 of Guj. 25 of 2017.

11. In the principal Act, in section 129,--

(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 deleted;

(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.".

Amendment of section 130 of Guj. 25 of 2017.

12. In the principal Act, in section 130,--

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

(b) 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 per cent. of the tax payable on such goods" shall be substituted;

(c) sub-section (3) shall be deleted.

Substitution of section 151 of Guj. 25 of 2017.

13. In the principal Act, for section 151, the following section shall be substituted, namely:—

Power to collect Statistics.

"**151.** 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.".

14. In the principal Act, in section 152,-- **Amendment of section 152 of Guj. 25 of 2017.**

(a) in sub-section (1),—

(i) the words "of any individual return or part thereof" shall be deleted;

(ii) after the words "any proceedings under this Act", the words "without giving an opportunity of being heard to the person concerned" shall be added;

(b) sub-section (2) shall be deleted.

15. In the principal Act, in Schedule II, para 7 shall be deleted and shall be deemed to have been deleted with effect from the 1st day of July, 2017. **Amendment to Schedule II of Guj. 25 of 2017.**

Government Central Press, Gandhinagar.