



महाराष्ट्र शासन राजपत्र

असाधारण भाग पाच-अ

वर्ष ९, अंक १२]

बुधवार, जुलै १९, २०२३/आषाढ २८, शके १९४५

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असाधारण क्रमांक २४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानसभेत व महाराष्ट्र विधानपरिषदेत सादर केलेली विधेयके (इंग्रजी अनुवाद).

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on the **19th July, 2023** is published under Rule 117 of the Maharashtra Legislative Assembly Rules :—

L. A. BILL No. XXIV OF 2023.

A BILL

further to amend the Maharashtra Goods and Services

Tax Act, 2017.

Mah.
XLIII
of
2017.

WHEREAS it is expedient further to amend the Maharashtra Goods and Services Tax Act, 2017, for the purposes hereinafter appearing ; it is hereby enacted in the Seventy-fourth Year of the Republic of India, as follows :—

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

Short title and commencement.

(2) Save as otherwise provided in this Act, this section shall come into force with immediate effect, and the remaining sections shall come into force on such date, with prospective or retrospective effect, 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 section 10
of Mah. XLIII
of 2017.

2. In section 10 of the Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as “the principal Act”),—

Mah.
XLIII of
2017.

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

(b) in sub-section (2A), in clause (c), the words “goods or” shall be deleted.

Amendment
of section 16
of Mah. XLIII
of 2017.

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

(i) 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 ;

(ii) in the third proviso, after the words “made by him”, the words “to the supplier” shall be inserted.

Amendment
of section 17
of Mah. XLIII
of 2017.

4. In section 17 of the principal Act,—

(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, namely :—

“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, namely :—

“(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.

Amendment
of section 23
of Mah. XLIII
of 2017.

5. In section 23 of the principal Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st July 2017, namely :—

“(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.”.

6. In section 30 of the principal Act, in sub-section (1),—

Amendment of section 30 of Mah. XLIII of 2017.

(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 deleted.

7. In section 37 of the principal Act, after sub-section (4), the following sub-section shall be added, namely :—

Amendment of section 37 of Mah. XLIII of 2017.

“(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.”.

8. In section 39 of the principal Act, after sub-section (10), the following sub-section shall be added, namely :—

Amendment of section 39 of Mah. XLIII of 2017.

“(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.”.

9. Section 44 of the principal Act shall be renumbered as sub-section (1) thereof; and after sub-section (1) as so renumbered, the following sub-section shall be added, namely :—

Amendment of section 44 of Mah. XLIII of 2017.

“(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.”.

Amendment
of section 52
of Mah. XLIII
of 2017.

10. In section 52 of the principal Act, after sub-section (14), the following sub-section shall be added, namely :—

“(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 :

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.”.

Amendment
of section 54
of Mah. XLIII
of 2017.

11. In section 54 of the principal Act, in sub-section (6), the words “excluding the amount of input tax credit provisionally accepted,” shall be deleted.

Amendment
of section 56
of Mah. XLIII
of 2017.

12. In section 56 of the principal Act, 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.

Amendment
of section 62
of Mah. XLIII
of 2017.

13. In section 62 of the principal Act, in sub-section (2),—

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

(b) the following proviso shall be added, namely :—

“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.”.

- 14.** For section 109 of the principal Act, the following section shall be substituted, namely :—
- Substitution of section 109 of Mah. XLIII of 2017.
- “**109.** Subject to the provisions of this Chapter, the Goods and Services Tax Appellate Tribunal constituted under the Central Goods and Services Tax Act shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.”
- Constitution of Appellate Tribunal and Benches thereof.
- 15.** Sections 110 and 114 of the principal Act shall be deleted.
- Deletion of sections 110 and 114 of Mah. XLIII of 2017.
- 16.** In section 117 of the principal Act,—
- (i) in sub-section (1), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted ;
- Amendment of section 117 of Mah. XLIII of 2017.
- (ii) in sub-section (5),—
- (a) in clause (a), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted ;
- (b) in clause (b), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted ;
- 17.** In section 118 of the principal Act, in sub-section (1), in clause (a), for the words “National Bench or Regional Benches”, the words “Principal Bench” shall be substituted.
- Amendment of section 118 of Mah. XLIII of 2017.
- 18.** In section 119 of the principal Act,—
- (a) for the words “National or Regional Benches” the words “Principal Bench” shall be substituted ;
- Amendment of section 119 of Mah. XLIII of 2017.
- (b) for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted.
- 19.** In section 122 of the principal Act, after sub-section (1A), the following sub-section shall be inserted, namely :—
- Amendment of section 122 of Mah. XLIII of 2017.
- “(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.”.

Amendment
of section 132
of Mah. XLIII
of 2017.

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

(a) clauses (g), (j) and (k) shall be deleted ;

(b) 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 ;

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

(d) in clause (iv), the words, brackets and letters “or clause (g) or clause (j)” shall be deleted.

Amendment
of section 138
of Mah. XLIII
of 2017.

21. In section 138 of the principal Act,—

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

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

“(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 deleted ;

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

“(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 deleted ;

(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.

Insertion of
new section
158A in Mah.
XLIII of 2017.

22. After section 158 of the principal Act, the following section shall be inserted, namely :—

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

(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.”.

23. (1) In Schedule III appended to the principal Act, paragraphs 7 and 8 and the *Explanation 2* thereof (as inserted *vide* section 31 of Mah. Act No. LXVII of 2018) shall be deemed to have been inserted therein with effect from the 1st July 2017.

Retrospective exemption to certain activities and transactions in Schedule III of Mah. XLIII 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

Various decisions have been taken by the Goods and Services Tax Council requiring amendments in Goods and Services Tax Laws. Accordingly, the Central Goods and Services Tax Act, 2017 (12 of 2017) and Integrated Goods and Services Tax Act, 2017(13 of 2017) have been amended by the Parliament by the Finance Act, 2023 (8 of 2023). In order to maintain the uniformity in applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017), it is expedient to amend the Maharashtra Goods and Services Tax Act, 2017.

2. The salient features of the proposed amendments to the said Act are as follows :—

(i) in section 10, to amend clause (d) of sub-section (2) and clause (c) of sub-section (2A), 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.

(ii) in section 16, in sub-section (2), to amend second and third provisos, to align the said sub-section with the return filing system provided in the said Act.

(iii) in section 17,—

(a) in sub-section (3), to amend *Explanation*, 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.

(b) to amend sub-section (5), 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 (18 of 2013).

(iv) in section 23, to amend sub-section (2), retrospectively with effect from 1st July 2017, to clearly provide for overriding effect over sub-section (1) of section 22 and section 24.

(v) in section 30, to amend sub-section (1), so as to provide an enabling provision for prescribing the time limit, manner, conditions and restriction for filing application of revocation of cancellation of registration through relevant rules, so as to provide more flexibility in the provision.

(vi) in section 37, to insert new sub-section (5), so as to provide a time limit of three years upto which the details of outward supplies under sub-section (1) of the said section for a tax period can be furnished by a registered person.

(vii) in section 39, to insert new sub-section (11), so as to provide a time limit of three years upto which the return for a tax period can be furnished by a registered person.

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

(ix) in section 52, to insert new sub-section (15), so as to provide a time limit of three years upto which the statement under sub-section (4) of the said section for a month can be furnished by an electronic commerce operator.

(x) in section 54, to amend sub-section (6), 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.

(xi) to amend section 56, so as to provide by rules the manner of computation of period of delay for calculation of interest on delayed refunds.

(xii) in section 62,—

(a) to amend sub-section (2), to increase the time period from 30 days to 60 days for filling returns by the registered person for enabling deemed withdrawal of the assessment order issued under sub-section (1) ;

(b) to insert proviso to the said sub-section to provide an additional time period of 60 days to the registered person to file his returns, after the completion of specified time period under sub-section (2) of said section, with payment of an additional late fee during this extended period, for enabling deemed withdrawal of the assessment order issued under sub-section (1) of the said section.

(xiii) to substitute section 109, to provide for the constitution of Appellate Tribunal and Benches thereof.

(xiv) to delete sections 110 and 114.

(xv) to amend sections 117, 118 and 119, to harmonize the nomenclature in the Act by substituting the words “Principal Bench” for the words “National and Regional Benches” and “State Benches” for the words “State and Area Benches”.

(xvi) in section 122, to insert new sub-section (1B), so as to provide for penal provisions applicable to 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.

(xvii) in section 132, to amend sub-section (1), so as to decriminalise offences specified in clauses (g), (j) and (k) of the said sub-section.

(xviii) in section 138,

(a) to amend first proviso to sub-section (1), so as to exclude the persons 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 ;

(b) to amend sub-section (2), so as to rationalise the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.

(xix) to insert new section 158A, 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.

(xx) to amend Schedule III, to give retrospective applicability to paragraphs 7 and 8 and the *Explanation* 2 to the said Schedule with effect from the 1st July 2017.

3. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 17th July, 2023.

AJIT PAWAR,
Deputy Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :-

Clause 1(2).— Under this clause, power is taken to the State Government to bring into force the remaining sections of the Act on such date, with prospective or retrospective effect, as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of this Act.

Clause 5.— Under this clause, which seeks to amend sub-section (2) of section 23 of the Maharashtra Goods and Services Tax Act, 2017, power is taken to the State Government to specify by notification the category of persons who may be exempted from obtaining registration under the said Act subject to such conditions and restrictions specified therein.

Clause 6.— Under this clause, which seeks to amend sub-section (1) of section 30 of the said Act, power is taken to the State Government to make rules to provide for manners, time and such conditions and restrictions to apply for revocation of cancellation of the registration.

Clause 7.— Under this clause, which seeks to add sub-section (5) in section 37 of the said Act, power is taken to the State Government, on the recommendation of the council, to extend by notification, the time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.

Clause 8.— Under this clause, which seeks to insert a new sub-section (11) in section 39 of the said Act, power is taken to the State Government, on the recommendation of the council, to extend by notification, the time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.

Clause 9.— Under this clause, which seeks to insert a new sub-section (2) in section 44 of the said, power is taken to the State Government, on the recommendation of the Council, to extend by notification, the time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.

Clause 10.— Under this clause, which seeks to insert a new sub-section (15) in section 52 of the said Act, power is taken to the State Government, on the recommendation of the Council, to extend by notification, the time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.

Clause 12.— Under this clause, which seeks to amend section 56 of the said Act, power is taken to the State Government to provide by rules the manner of computation of period of delay for calculation of interest on delayed refunds.

Clause 22.- Under this clause, which seeks to insert a new section 158A in the said Act, power is taken to the State Government to provide by rules 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, on the common portal with such other systems, as may be notified.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

The Bill proposes to amend the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017.).

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF
THE CONSTITUTION OF INDIA(Copy of Government of Maharashtra Order,
Law and Judiciary Department)

In exercise of the power conferred upon him by clause (1) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the Introduction of the Maharashtra Goods and Service Tax (Amendment) Bill, 2023.

Vidhan Bhavan :
Mumbai,
Dated the 19th July, 2023.

JITENDRA BHOLE,
Secretary (1) (I / C),
Maharashtra Legislative Assembly.