



महाराष्ट्र शासन राजपत्र

असाधारण भाग पाच-अ

वर्ष ८, अंक ८(७)]

बुधवार, ऑगस्ट १७, २०२२/श्रावण २६, शके १९४४

[पृष्ठे १४ किंमत : रुपये ३६.००

असाधारण क्रमांक २३

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 **17th August, 2022** is published under Rule 117 of the Maharashtra Legislative Assembly Rules :—

L. A. BILL No. XXII OF 2022.

A BILL

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

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

1. (1) This Act may be called the Maharashtra Goods and Services Tax (Amendment) Act, 2022.

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

(१)

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
16 of
Mah. XLIII
of 2017.

2. In the Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as “ the principal Act ”), in section 16,—

Mah.
XLIII
of
2017.

(a) in sub-section (2),—

(i) after clause (b), the following clause shall be inserted, namely :—

“ (ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted ;”

(ii) in clause (c), the words, figures and letter “ or section 43A ” shall be deleted ;

(b) in sub-section (4), for the words and figures “ due date of furnishing of the return under section 39 for the month of September ”, the words “ thirtieth day of November ” shall be substituted.

Amendment
of section
29 of
Mah. XLIII
of 2017.

3. In section 29 of the principal Act, in sub-section (2),—

(a) in clause (b), for the words “ returns for three consecutive tax periods ”, the words “ the return for a financial year beyond three months from the due date of furnishing the said return ” shall be substituted ;

(b) in clause (c), for the words “ a continuous period of six months ”, the words “ such continuous tax period as may be prescribed ” shall be substituted.

Amendment
of section
34 of
Mah. XLIII
of 2017.

4. In section 34 of the principal Act, in sub-section (2), for the word “ September ”, the words “ the thirtieth day of November ” shall be substituted.

Amendment
of section
37 of
Mah. XLIII
of 2017.

5. In section 37 of the principal Act,—

(a) in sub-section (1),—

(i) after the words “ shall furnish, electronically,”, the words “ subject to such conditions and restrictions and ” shall be inserted ;

(ii) for the words “ shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed ”, the words “shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies ” shall be substituted ;

(iii) the first proviso shall be deleted ;

(iv) in the second proviso, for the words “ Provided further that ”, the words “ Provided that ” shall be substituted ;

(v) in the third proviso, for the words “ Provided also that ”, the words “ Provided further that ” shall be substituted ;

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

(c) in sub-section (3),—

(i) the words and figures “and which have remained unmatched under section 42 or section 43” shall be deleted;

(ii) in the first proviso, for the words and figures “furnishing of the return under section 39 for the month of September”, the words “the thirtieth day of November” shall be substituted;

(d) after sub-section (3), the following sub-section shall be added, namely :—

“(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him :

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 under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods.”.

6. For section 38 of the principal Act, the following section shall be substituted, namely :—

Substitution of section 38 of Mah. XLIII of 2017.

“ **38.** (1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

Communication of details of inward supplies and input tax credit.

(2) The auto-generated statement under sub-section (1) shall consist of—

(a) details of inward supplies in respect of which credit of input tax may be available to the recipient ; and

(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,—

(i) by any registered person within such period of taking registration as may be prescribed ; or

(ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed ; or

(iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed ; or

(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed ; or

(v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed ; or

(vi) by such other class of persons as may be prescribed. ”.

Amendment
of section
39 of
Mah. XLIII
of 2017.

7. In section 39 of the principal Act,—

(a) in sub-section (5), for the word “twenty ”, the word “ thirteen ” shall be substituted ;

(b) in sub-section (7), for the first proviso, the following proviso shall be substituted, namely :—

“ Provided that, every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,—

(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or

(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed. ” ;

(c) in sub-section (9), —

(i) for the words and figures “Subject to the provisions of sections 37 and 38, if”, the word “ Where ” shall be substituted ;

(ii) in the proviso, for the words “the due date for furnishing of return for the month of September or second quarter”, the words “ the thirtieth day of November” shall be substituted ;

(d) in sub-section (10), for the words “has not been furnished by him”, the following shall be substituted, namely :—

“or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him :—

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, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period.”.

8. For section 41 of the principal Act, the following section shall be substituted, namely :—

Substitution of section 41 of Mah. XLIII of 2017.

“ 41. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

Availment of input tax credit.

(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed :

Provided that, where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed. ”.

9. Sections 42, 43 and 43A of the principal Act shall be deleted.

Deletion of sections 42, 43 and 43A of Mah. XLIII of 2017.

10. In section 47 of the principal Act, in sub-section (1)—

Amendment of section 47 of Mah. XLIII of 2017.

(a) the words “ or inward ” shall be deleted ;

(b) the words and figures “ or section 38 ” shall be deleted ;

(c) after the words and figures “ section 39 or section 45 ”, the words and figures “ or section 52 ” shall be inserted.

11. In section 48 of the principal Act, in sub-section (2), the words and figures “, the details of inward supplies under section 38” shall be deleted.

Amendment of section 48 of Mah. XLIII of 2017.

12. In section 49 of the principal Act,—

Amendment of section 49 of Mah. XLIII of 2017.

(a) in sub-section (2), the words, figures and letter “ or section 43A ” shall be deleted ;

(b) in sub-section (4), after the words “ subject to such conditions ”, the words “ and restrictions ” shall be inserted ;

(c) after sub-section (11), the following sub-section shall be added, namely :—

“ (12) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.”.

Amendment
of section
50 of
Mah. XLIII
of 2017.

13. In section 50 of the principal Act, for sub-section (3), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July 2017, namely :—

“(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”.

Amendment
of section
52 of
Mah. XLIII
of 2017.

14. In section 52 of the principal Act, in sub-section (6), in the proviso, for the words “ due date for furnishing of statement for the month of September ”, the words “thirtieth day of November” shall be substituted.

Amendment
of section
54 of
Mah. XLIII
of 2017.

15. In section 54 of the principal Act, —

(a) in sub-section (1), in the proviso, for the words and figures “ the return furnished under section 39 in such ”, the words “ such form and” shall be substituted ;

(b) in sub-section (2), for the words “six months”, the words “ two years ” shall be substituted ;

(c) in sub-section (10), the words, brackets and figure “under sub-section (3)” shall be deleted ;

(d) in the *Explanation*, in clause (2), after sub-clause (b), the following sub-clause shall be inserted, namely :—

“(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies ;”.

Amendment
of notification
issued under
section 146 of
Mah. XLIII of
2017,
retrospec-
tively.

16. (1) The Government Notification of the Finance Department No. GST-1018/C.R. 13/Taxation-1 (Notification No. 9/2018- State Tax), dated the 24th January 2018, issued by the State Government on the recommendations of the Council, under section 146 of the principal Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the First Schedule, on and from the date specified in column (3) of that Schedule.

(2) For the purposes of sub-section (1), the State Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the State Government had the power to amend the said notification under section 146 of the principal Act, retrospectively, at all material times.

Amendment
of notification
issued under
sections (1)
and (3) of
section 50,
sub-section
(12) of section
54 and section
56 of Mah.
XLIII of 2017,
retrospec-
tively.

17. (1) The Government Notification of the Finance Department No. GST-1017/C.R. 103(20)/Taxation-1, dated the 29th June 2017, issued by the State Government on the recommendations of the Council, under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the principal Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Second Schedule, on and from the date specified in column (3) of that Schedule.

(2) For the purposes of sub-section (1), the State Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the State Government had the power to

amend the said notification under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the principal Act, retrospectively, at all material times.

18. (1) Notwithstanding anything contained in the Government Notification of the Finance Department No. GST-1017/C.R. 104 /Taxation-1. (Notification No. 01/2017-State Tax (Rate)), dated the 29th June 2017, issued by the State Government on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the principal Act, no State tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period commencing from the 1st day of July 2017 and ending with the 30th day of September 2019 (both days inclusive).

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

(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.

19. (1) Subject to the provisions of sub-section (2), the Government Notification of the Finance Department No. GST-1019/C.R. 116(11)/Taxation-1. (Notification No. 25/2019-State Tax (Rate)), dated the 1st October 2019, issued by the State Government on the recommendations of the Council, in exercise of the powers under sub-section (2) of section 7 of the principal Act, shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July 2017.

Retrospective effect to notification issued under sub-section (2) of section 7 of Mah. XLIII of 2017.

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

FIRST SCHEDULE

(See section 16(1))

| Notification number and date (1) | Amendment (2) | Date of effect of amendment (3) |
|---|--|------------------------------------|
| Government Notification of the Finance Department, No. GST- 1018/ C.R. 13/Taxation-1 (Notification No. 9/2018- State Tax), dated the 24th January 2018. | In the said notification, in paragraph 1, for the words “ furnishing of returns and computation and settlement of integrated tax ”, the following shall be substituted, namely :— “furnishing of returns and computation and settlement of integrated tax and save as otherwise provided in the Government Notification of the Finance Department No. GST- 1019/C.R. 153 /Taxation-1, dated the 1st January 2020, all functions provided under the Maharashtra Goods and Services Tax Rules, 2017. ”. | 22nd June 2017. |

SECOND SCHEDULE

(See section 17(1))

| Notification number and date (1) | Amendment (2) | Date of effect of amendment (3) |
|---|--|------------------------------------|
| Government Notification of the Finance Department, No. GST- 1017/ C.R. 103(20) /Taxation-1, dated the 29th June 2017. | In the said notification, in the table, against serial number 2, in column (3), for the figures “24”, the figures “18” shall be substituted. | 1st July 2017. |

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, 2022 (6 of 2022). In order to maintain the uniformity in applicability of the provisions of the Central Goods and Services Tax Act, 2017 and Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017), it is considered 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 16,—

(a) to insert new clause (ba) in sub-section (2), so as to provide that input tax credit with respect to a supply may be availed only when such credit has not been restricted in the details communicated to the registered person under section 38 ;

(b) to amend sub-section (4) so as to provide that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note after the thirtieth day of November following the end of the financial year to which such invoice or debit note pertains, or furnishing of the relevant annual return, whichever is earlier ;

(ii) section 29, in sub-section (2),—

(a) to amend clause (b), so as to provide that the registration of a person paying tax under section 10 is liable to be cancelled if the return for a financial year has not been furnished beyond three months from the due date of furnishing of the said return ;

(b) to amend clause (c), so as to provide for prescribing continuous tax periods for which return has not been furnished, which would make a registration liable for cancellation, in respect of any registered person, other than a person specified in clause (b) thereof ;

(iii) in section 34, to amend sub-section (2) so as to provide for thirtieth day of November following the end of the financial year, or the date of furnishing of the relevant annual return, whichever is earlier, as the last date for issuance of credit notes in respect of any supply made in a financial year ;

(iv) in section 37,—

(a) to amend sub-section (1) so as to provide for prescribing conditions and restrictions for furnishing the details of outward supply and the conditions and restrictions as well as manner and time for communication of the details of such outward supplies to concerned recipients ;

(b) to delete first proviso to sub-section (1) and to delete sub-section (2) ;

(c) to amend sub-section (3) so as to remove reference to unmatched details under section 42 or section 43 ;

(d) to insert sub-section (4) so as to provide for tax period-wise sequential filing of details of outward supplies under sub-section (1) ;

(v) to substitute section 38 ;

(vi) in section 39,—

(a) to amend sub-section (5) so as to provide that the non-resident taxable person shall furnish the return for a month within thirteen days after the end of the month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier ;

(b) to substitute the first proviso to sub-section (7) so as to provide an option to the persons furnishing return under proviso to sub-section (1) to pay either the self-assessed tax or an amount that may be prescribed ;

(c) to amend sub-section (9) so as to remove reference of sections 37 and 38 and to amend the proviso to said sub-section so as to provide for thirtieth day of November following the end of the financial year, or the date of furnishing of the relevant annual return, whichever is earlier, as the last date for the rectification of errors in the return furnished under section 39 ;

(d) to amend sub-section (10) so as to provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period ;

(vii) to substitute section 41 so as to do away with the concept of “claim” of eligible input tax credit on a “provisional” basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed ;

(viii) to delete sections 42, 43 and 43A ;

(ix) to amend sub-section (1) of section 47 so as to provide for levy of late fee for delayed filing of return under section 52 and to remove reference of section 38 as there is no requirement of furnishing details of inward supplies by the registered person under the said section 38 ;

(x) to amend sub-section (2) of section 48 so as to remove reference to section 38 therefrom as there is no requirement of furnishing details of inward supplies by the registered person under the said section 38 ;

(xi) in section 49,—

(a) to amend sub-section (4) so as to provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger ;

(b) to insert sub-section (12) so as to provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger ;

(xii) to substitute sub-section (3) of section 50, retrospectively, with effect from the 1st July 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilised, and to provide for prescribing manner of calculation of interest in such cases ;

(xiii) to amend proviso to sub-section (6) of section 52 so as to provide for thirtieth day of November following the end of the financial year, or the date of furnishing of the relevant annual return, whichever is earlier, as the last date upto which the rectification of errors shall be allowed in the statement furnished under sub-section (4) ;

(xiv) in section 54,—

(a) to amend proviso to sub-section (1) so as to explicitly provide that claim of refund of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed ;

(b) to amend sub-section (2) so as to align it with sub-section (1) by providing time limit of two years from the last day of the quarter in which the supply was received for claiming refund of tax paid on inward supplies of goods or services or both by the person specified in the said sub-section ;

(c) to amend sub-section (10) so as to extend the scope of the said sub-section to all types of refund claims ;

(d) to insert a new sub-clause (ba) in clause (2) of *Explanation* in order to provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit ;

(xv) to amend the Government Notification, Finance Department, No. GST-1018/C.R. 13/Taxation-1, dated the 24th January 2018, to notify *www.gst.gov.in*, retrospectively, with effect from 22nd June 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under the Maharashtra Goods and Services Tax Rules, 2017 ;

(xvi) to amend the Government Notification, Finance Department, No. GST-1017/C.R. 103(20) /Taxation-1, dated the 29th June 2017, so as to notify rate of interest under sub-section (3) of section 50, retrospectively, as 18 per cent., with effect from the 1st July 2017 ;

(xvii) to provide retrospective exemption from State tax in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period from the 1st July 2017 upto the 30th September 2019 (both days inclusive) ;

(xviii) to give retrospective effect to the Government Notification, Finance Department, No. GST-1019/C.R.116(11)/Taxation-1, dated the 1st October 2019, with effect from the 1st July 2017.

3. The Bill is intended to achieve the above objectives.

Mumbai,
dated the 12th August 2022.

EKNATH SAMBHAJI SHINDE,
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 3.— Under this clause, which seeks to amend clause (c) of sub-section (2) of section 29 of the Maharashtra Goods and Services Tax Act, 2017, power is taken to the State Government to provide by rules continuous tax periods for which return has not been furnished, which would make a registration liable for cancellation, in respect of any registered person, other than a person specified in clause (b) thereof.

Clause 6.— Under this clause, which seeks to substitute section 38 of the said Act, power is taken to the State Government to make rules to specify other supplies as well as the manner, time, conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

Clause 8.— Under this clause, which seeks to substitute section 41 of the said Act, power is taken to the State Government to make rules, so as to do away with the concept of “claim” of eligible input tax credit on a “provisional” basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions.

Clause 12.— Under this clause, which seeks to amend section 49 of the Act, power is taken to the State Government to specify maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

Clause 13.— Under this clause, which seeks to substitute sub-section (3) of section 50 of the Act, power is taken to the State Government to provide for levy of interest on input tax credit wrongly availed and utilised, and to provide by rules the manner of calculation of interest in such cases.

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, 2022.

Vidhan Bhavan ;
Mumbai,
Dated the 17th August, 2022.

RAJENDRA BHAGWAT,
Principal Secretary,
Maharashtra Legislative Assembly.