

The

Kolkata **Gazette**
सत्यमेव जयते
Extraordinary
Published by Authority

MAGHA 7]

WEDNESDAY, JANUARY 27, 2021

[SAKA 1942

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. 95-L.— 27th January, 2021.—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. 3 of 2021

**THE WEST BENGAL GOODS AND SERVICES TAX
(AMENDMENT) BILL, 2021.**

**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-second Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and
commencement.

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

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(Amendment) Bill, 2021.*

(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 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 2, in clause (114), for sub-clauses (c) and (d), the following sub-clauses shall be substituted, namely:—
 - “(c) Dadra and Nagar Haveli and Daman and Diu;
 - (d) Ladakh;”;
- (2) in section 10, in sub-section (2), in clauses (b), (c) and (d), after the words “of goods”, the words “or services” shall be inserted;
- (3) in section 16, in sub-section (4), the words “invoice relating to such” shall be omitted;
- (4) in section 29, in sub-section (1), for clause (c), the following clause shall be substituted, namely:—
 - “(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25:”;
- (5) in section 30, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—
 - “Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—
 - (a) by the Senior Joint Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;
 - (b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).”;
- (6) in section 31, in sub-section (2), for the proviso, the following proviso shall be substituted, namely:—
 - “Provided that the Government may, on the recommendations of the Council, by notification,—
 - (a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;
 - (b) subject to the condition mentioned therein, specify the categories of services in respect of which—
 - (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
 - (ii) tax invoice may not be issued.”;

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(Clause 2.)

- (7) in section 51,—
- (a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”;
 - (b) sub-section (4) shall be omitted.”;
- (8) in section 122, after sub-section (1), the following sub-section shall be inserted, namely:—
- “(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.”;
- (9) in section 132, in sub-section (1),—
- (i) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retains the benefits arising out of, any of the following offences” shall be substituted;
 - (ii) for clause (c), the following clause shall be substituted, namely:—

“(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill.”;
 - (iii) in clause (e), the words “, fraudulently avails input tax credit” shall be omitted;
- (10) in section 140, with effect from the 1st day of July, 2017,—
- (a) in sub-section (1), after the words “existing law”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;
 - (b) in sub-section (2), after the words “appointed day”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;
 - (c) in sub-section (3), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted;
 - (d) in sub-section (5), for the words “existing law”, the words “existing law, within such time and in such manner as may be prescribed” shall be substituted and shall be deemed to have been substituted;
 - (e) in sub-section (6), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted;

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- (11) after section 168, with effect from the 31st day of March, 2020, the following section shall be deemed to have been inserted, namely:—

“Power of Government to extend time limit in special circumstances.

168A. (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to *force majeure*.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

Explanation.— For the purposes of this section, the expression “*force majeure*” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.”;

- (12) in section 172, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted;
- (13) in Schedule II, in paragraph 4, the words “whether or not for a consideration,” at both the places where they occur, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

STATEMENT OF OBJECTS AND REASONS.

The Bill, namely the West Bengal Goods and Services Tax (Amendment) Bill, 2021, seeks to make amendments to the West Bengal Goods and Services Tax Act, 2017, on recommendation of the Goods and Services Tax Council, mainly to provide relief and to remove the major inconveniences caused to the taxpayers, especially small and medium enterprises, and seeks *inter alia*:—

- (a) to harmonise the conditions for eligibility for opting to pay tax under composition scheme under sub-section (1) and sub-section (2A) of section 10 of the said Act;
- (b) to delink the date of issuance of debit note from the date of issuance of the corresponding invoice for purposes of availing input tax credit;
- (c) to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25 of the said Act;
- (d) to empower the jurisdictional tax authorities to extend the time period provided to file an application for revocation of cancellation of registration;
- (e) to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance;
- (f) to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued;
- (g) to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment;

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- (h) to amend section 140, retrospectively from the 1st day of July, 2017, relating to transitional arrangements for claiming benefit of unavailed input tax credit under the existing law;
- (i) to insert a new section 168A to relax certain provisions, including extension of time limit, in view of the spread of pandemic COVID-19;
- (j) to extend the time limit provided for removal of difficulties from existing three years to five years, with effect from the date of commencement of the Act;
- (k) to amend paragraph 4 of Schedule II, retrospectively from the 1st day of July, 2017, to omit the words “whether or not for consideration” for clarity of the meaning of the entries (a) and (b) of said paragraph.

2. The West Bengal Goods and Services Tax (Amendment) Bill, 2021 has been framed with the above objects in view.

3. There is no financial implication involved in the Bill.

HOWRAH,
The 22nd January, 2021.

DR. AMIT MITRA,
Member-in-charge.

By order of the Governor,

SIDDHARTHA ROY CHOWDHURY,
*Secy.-in-Charge to the Govt. of West Bengal,
Law Department.*