



The Madhya Pradesh Goods and Service Tax Act, 2017

Act 19 of 2017

Keyword(s):

Actionable Claim, Delivery, Record, Agent, Aggregate Turnover, Assessment, Audit, Associated Enterprises, Capital Goods, Cess, Conveyance, Deemed Export, Drawback, Exempt Supply, Fixed Establishment, Fund, Invoice, Inward Supply, Market Value

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MADHYA PRADESH ACT

No. 19 OF 2017

THE MADHYA PRADESH GOODS AND SERVICES TAX ACT, 2017

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MADHYA PRADESH ACT

No. 19 OF 2017

THE MADHYA PRADESH GOODS AND SERVICES TAX ACT, 2017

[Received the assent of the Governor on the 9th June 2017; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 12th June 2017].

An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the State of Madhya Pradesh and the matters connected therewith or incidental thereto

Be it enacted by the Madhya Pradesh Legislature in the sixty-eighth year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Madhya Pradesh Goods and Services Tax Act, 2017. Short title, extent and commencement.

(2) It extends to the whole of the Madhya Pradesh.

(3) 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 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.

2. In this Act, unless the context otherwise requires,— Definitions.

4 of 1882.

(1) "actionable claim" shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;

(2) "address of delivery" means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;

- (3) "address on record" means the address of the recipient as available in the records of the supplier;
- (4) "adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;
- (5) "agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;
- (6) "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;
- (7) "agriculturist" means an individual or a Hindu Undivided Family who undertakes cultivation of land—
- (a) by own labour, or
 - (b) by the labour of family, or
 - (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;
- (8) "Appellate Authority" means an authority appointed or authorised to hear appeals as referred to in section 107;
- (9) "Appellate Tribunal" means the Goods and Services Tax Appellate Tribunal referred in section 109;
- (10) "appointed day" means the date on which the provisions of this Act shall come into force;

- (11) "assessment" means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgement assessment;
- 43 of 1961. (12) "associated enterprises" shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961;
- (13) "audit" means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;
- (14) "authorised bank" shall mean a bank or a branch of a bank authorised by the Central Government to collect the tax or any other amount payable under this Act;
- (15) "authorised representative" means the representative as referred to under section 116;
- 54 of 1963. (16) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;
- (17) "business" includes—
- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
 - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
 - (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
 - (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
 - (f) admission, for a consideration, of persons to any premises;
 - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
 - (h) services provided by a race club by way of totalisator or a licence to book maker in such club; and
 - (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;
- (18) "business vertical" means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

Explanation.—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—

- (a) the nature of the goods or services;
- (b) the nature of the production processes;
- (c) the type or class of customers for the goods or services;
- (d) the methods used to distribute the goods or supply of services; and

(e) the nature of regulatory environment (wherever applicable), including banking, insurance or public utilities;

(19) “capital goods” means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;

(20) “casual taxable person” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in the taxable territory where he has no fixed place of business;

(21) “Central Goods and Services Tax Act” means the Central Goods and Services Tax Act, 2017 (No. 12 of 2017);

(22) “central tax” means the central goods and services tax levied under section 9 of the Central Goods and Services Tax Act;

(23) “cess” shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act;

(24) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949;

38 of 1949.

(25) “Commissioner” means the Commissioner of State tax appointed under section 3;

(26) “Commissioner in the Board” means the Commissioner referred to in section 168 of the Central Goods and Services Tax Act;

(27) “common portal” means the common goods and services tax electronic portal referred to in section 146;

(28) “common working days” shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the Government of Madhya Pradesh;

56 of 1980.

(29) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980;

(30) "competent authority" means such authority as may be notified by the Government;

(31) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

(32) "consideration" in relation to the supply of goods or services or both includes—

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

(33) "continuous supply of goods" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis,

under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

(34) "continuous supply of services" means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

(35) "conveyance" includes a vessel, an aircraft and a vehicle;

(36) "cost accountant" means a cost accountant as defined in clause (c) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959;

23 of 1959.

(37) "Council" means the Goods and Services Tax Council established under article 279A of the Constitution;

(38) "credit note" means a document issued by a registered person under sub-section (1) of section 34;

(39) "debit note" means a document issued by a registered person under sub-section (3) of section 34;

(40) "deemed exports" means such supplies of goods as may be notified under section 147;

(41) "designated authority" means such authority as may be notified by the Commissioner;

21 of 2000.

(42) "document" includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000;

- (43) “drawback” in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;
- (44) “electronic cash ledger” means the electronic cash ledger referred to in sub-section (1) of section 49;
- (45) “electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network;
- (46) “electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;
- (47) “electronic credit ledger” means the electronic credit ledger referred to in sub-section (2) of section 49;
- (48) “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, 2017 (No. 13 of 2017) and includes non-taxable supply;
- (49) “existing law” means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by the Legislature or any Authority or person having the power to make such law, notification, order, rule or regulation;
- (50) “family” means,—
- (i) the spouse and children of the person, and
 - (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;
- (51) “fixed establishment” means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of

- human and technical resources to supply services, or to receive and use services for its own needs;
- (52) "Fund" means the Consumer Welfare Fund established under section 57;
- (53) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- (54) "Government" means the Government of Madhya Pradesh;
- (55) "Goods and Services Tax (Compensation to States) Act" means the Goods and Services Tax (Compensation to States) Act, 2017 (No. 15 of 2017);
- (56) "goods and services tax practitioner" means any person who has been approved under section 48 to act as such practitioner;
- 80 of 1976 (57) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;
- (58) "Integrated Goods and Services Tax Act" means the Integrated Goods and Services Tax Act, 2017 (No. 13 of 2017);
- (59) "integrated tax" means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act;
- (60) "input" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;
- (61) "input service" means any service used or intended to be used by a supplier in the course or furtherance of business;

- (62) “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;
- (63) “input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
- (a) the integrated goods and services tax charged on import of goods;
 - (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
 - (c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act; or
 - (d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the Central Goods and Services Tax Act,
- but does not include the tax paid under the composition levy;
- (64) “input tax credit” means the credit of input tax;
- (65) “intra-State supply of goods” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;
- (66) “intra-State supply of services” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;
- (67) “invoice” or “tax invoice” means the tax invoice referred to in section 31;
- (68) “inward supply” in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means, with or without consideration;

(69) "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;

(70) "local authority" means—

(a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;

(b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;

(c) a Municipal Committee, a Zila Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) a Development Board constituted under article 371 of the Constitution; or

(g) a Regional Council constituted under article 371A of the Constitution;

(71) "location of the recipient of services" means,-

(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly

concerned with the receipt of the supply;
and

(d) in absence of such places, the location of the usual place of residence of the recipient;

(72) “location of the supplier of services” means,-

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply;
and

(d) in absence of such places, the location of the usual place of residence of the supplier;

(73) “manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;

(74) “market value” shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

(75) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

- (76) “money” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;
- (77) “motor vehicle” shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988;
- 59 of 1988.
- (78) “non-resident taxable person” means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;
- (79) “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;
- (80) “non-taxable territory” means the territory which is outside the taxable territory;
- (81) “notification” means a notification published in the Official Gazette and the expressions ‘notify’ and ‘notified’ shall be construed accordingly;
- (82) “other territory” includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114);
- (83) “output tax” in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;
- (84) “outward supply” in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange,

licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;

(85) "person" includes—

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013;
- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to co-operative societies;
- (j) a local authority;
- (k) Central Government or a State Government;
- (l) society as defined under the Societies Registration Act, 1860;
- (m) trust; and
- (n) every artificial juridical person, not falling within any of the above;

18 of 2013.

21 of 1860.

(86) "place of business" includes—

(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

(87) “place of supply” means the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act;

(88) “prescribed” means prescribed by rules made under this Act on the recommendations of the Council;

(89) “principal” means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

(90) “principal place of business” means the place of business specified as the principal place of business in the certificate of registration;

(91) “principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

(92) “proper officer” in relation to any function to be performed under this Act, means the Commissioner or the officer of the State tax who is assigned that function by the Commissioner;

(93) “quarter” shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;

(94) “recipient” of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

(95) "registered person" means a person who is registered under section 25 but does not include a person having a Unique Identity Number;

(96) "regulations" means the regulations made by the Government under this Act on the recommendations of the Council;

(97) "removal" in relation to goods, means-

(a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or

(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(98) "return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;

(99) "reverse charge" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3)

or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act;

(100) "Revisional Authority" means an authority appointed or authorised for revision of decision or orders as referred to in section 108;

(101) "Schedule" means a Schedule appended to this Act;

42 of 1956. (102) "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

(103) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(104) "State" means the State of Madhya Pradesh;

(105) "State tax" means the tax levied under this Act;

(106) "supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

(107) "tax period" means the period for which the return is required to be furnished;

(108) "taxable person" means a person who is registered or liable to be registered under section 22 or section 24;

(109) "taxable supply" means a supply of goods or services or both which is leviable to tax under this Act;

(110) "taxable territory" means the territory to which the provisions of this Act apply;

- (111) "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means;
- (112) "turnover in State" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess;
- (113) "usual place of residence" means—
- (a) in case of an individual, the place where he ordinarily resides;
- (b) in other cases, the place where the person is incorporated or otherwise legally constituted;
- (114) "Union territory" means the territory of,-
- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli;
- (d) Daman and Diu;
- (e) Chandigarh; and
- (f) other territory;
- Explanation.- For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory.
- (115) "Union territory tax" means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act;

- (116) "Union Territory Goods and Services Tax Act" means the Union Territory Goods and Services Tax Act, 2017;
- (117) "valid return" means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full;
- (118) "voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;
- (119) "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;
- (120) words and expressions used and not defined in this Act but defined in the Integrated Goods and Services Tax Act, the Central Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meanings as assigned to them in those Acts.

CHAPTER II ADMINISTRATION

3. The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—
- Officers under this Act.
- (a) Commissioner of State tax,
 - (b) Special Commissioners of State tax,
 - (c) Additional Commissioners of State tax,
 - (d) Joint Commissioners of State tax,

- (e) Deputy Commissioners of State tax,
- (f) Assistant Commissioners of State tax, and
- (g) any other class of officers as it may deem fit:

Provided that, the officers appointed under the Madhya Pradesh Vat Act, 2002(No. 20 of 2002) shall be deemed to be the officers appointed under the provisions of this Act.

4. (1) The Government may, in addition to the officers as may be notified under section 3, appoint such persons as it may think fit to be the officers under this Act. Appointment of officers.
- (2) The Commissioner shall have jurisdiction over the whole of the State, the Special Commissioner and an Additional Commissioner in respect of all or any of the functions assigned to them, shall have jurisdiction over the whole of the State or where the State Government so directs, over any local area thereof, and all other officers shall, subject to such conditions as may be specified, have jurisdiction over the whole of the State or over such local areas as the Commissioner may, by order, specify.
5. (1) Subject to such conditions and limitations as the Commissioner may impose, an officer of State tax may exercise the powers and discharge the duties conferred or imposed on him under this Act. Powers of officers.
- (2) An officer of State tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of State tax who is subordinate to him.
- (3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.
- (4) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of State tax.

6. (1) Without prejudice to the provisions of this Act, the officers appointed under the Central Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify. Authorisation of officers of central tax as proper officer in certain circumstances.
- (2) Subject to the conditions specified in the notification issued under sub-section (1),-
- (a) where any proper officer issues an order under this Act, he shall also issue an order under the Central Goods and Services Tax Act, as authorised by the said Act under intimation to the jurisdictional officer of central tax;
- (b) where a proper officer under the Central Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.
- (3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act, shall not lie before an officer appointed under the Central Goods and Services Tax Act.

CHAPTER III LEVY AND COLLECTION OF TAX

7. (1) For the purposes of this Act, the expression "supply" includes— Scope of supply.
- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- (b) import of services for a consideration whether or not in the course or furtherance of business;
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and
- (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),—

(a) activities or transactions specified in Schedule III;
or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services;
or

(b) a supply of services and not as a supply of goods.

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely: — Tax liability on composite and mixed supplies.

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

9. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the Madhya Pradesh goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person. Levy and collection.

- (2) The State tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
- (3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
- (4) The State tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
- (5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

10. (1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding,-

Composition levy.

- (a) one per cent of the turnover in State in case of a manufacturer,
- (b) two and a half per cent of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
- (c) half per cent of the turnover in State in case of other suppliers,

subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.

- (2) The registered person shall be eligible to opt under sub-section (1), if—
- (a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;
 - (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;
 - (c) he is not engaged in making any inter-State outward supplies of goods;

- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

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Provided that where more than one registered person are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

- (3) The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).
- (4) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- (5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.
11. (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

Power to grant exemption from tax.

- (2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
- (3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.
- (4) Any notification issued by the Central Government, on the recommendations of the Council, under sub-section (1) of section 11 or order issued under sub-section (2) of the said section of the Central Goods and Services Tax Act shall be deemed to be a notification or, as the case may be, an order issued under this Act.

Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

CHAPTER IV TIME AND VALUE OF SUPPLY

12. (1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section. Time of supply of goods.

(2) The time of supply of goods shall be the earlier of the following dates, namely:-

(a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Explanation 1.—For the purposes of clauses (a) and (b), “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2.—For the purposes of clause (b), “the date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—

(a) the date of the receipt of goods; or

(b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

(4) In case of supply of vouchers by a supplier, the time of supply shall be-

(a) the date of issue of voucher, if the supply is identifiable at that point; or

(b) the date of redemption of voucher, in all other cases.

(5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) in any other case, be the date on which the tax is paid.

(6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

13. (1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section. Time of supply of services.

(2) The time of supply of services shall be the earliest of the following dates, namely:—

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply:

Provided that where the supplier of taxable service receives an amount upto one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

Explanation.—For the purposes of clauses (a) and (b)-

- (i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;
- (ii) “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:—

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

(4) In case of supply of vouchers by a supplier, the time of supply shall be—

(a) the date of issue of voucher, if the supply is identifiable at that point; or

(b) the date of redemption of voucher, in all other cases.

(5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) in any other case, be the date on which the tax is paid.

(6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

14. Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—

Change in rate of tax in respect of supply of goods or services.

(a) in case the goods or services or both have been supplied before the change in rate of tax,—

(i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or

(iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

(b) in case the goods or services or both have been supplied after the change in rate of tax,—

(i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

(ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or

(iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Explanation.—For the purposes of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

15. (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Value of taxable supply.

(2) The value of supply shall include—

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the Central Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation.—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(3) The value of the supply shall not include any discount which is given—

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if -

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

- (4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.
- (5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Explanation.- For the purposes of this Act,-

(a) persons shall be deemed to be "related persons" if -

- (i) such persons are officers or directors of one another's businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

(b) the term "person" also includes legal persons.

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

CHAPTER V
INPUT TAX CREDIT

16. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

Eligibility and conditions for taking input tax credit.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

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(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

17. (1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

Apportionment of credit and blocked credits.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be

restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

- (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
- (4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

- (5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(a) motor vehicles and other conveyances except when they are used—

(i) for making the following taxable supplies, namely:—

(A) further supply of such vehicles or conveyances; or

(B) transportation of passengers; or

(C) imparting training on driving, flying, navigating such vehicles or conveyances;

(ii) for transportation of goods;

(b) the following supply of goods or services or both:-

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre;

(iii) rent-a-cab, life insurance and health insurance except where -

(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

(iv) travel benefits extended to employees on vacation such as leave or home travel concession.

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes reconstruction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

- (6) The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

Explanation.— For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-

- (i) land, building or any other civil structures;
- (ii) telecommunication towers; and
- (iii) pipelines laid outside the factory premises.

18. (1) Subject to such conditions and restrictions as may be prescribed— Availability of credit in special circumstances.

(a) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from

which he becomes liable to pay tax under the provisions of this Act;

(b) a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;

(c) where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

(d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

- (2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.
- (3) Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to

such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

- (4) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

- (5) The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.
- (6) In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:

Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

19. (1) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job worker for job work.

Taking input tax credit in respect of inputs and capital goods sent for job work.

- (2) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.
- (3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out:
- Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.
- (4) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.
- (5) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.
- (6) Where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:

Provided that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

- (7) Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

Explanation.- For the purpose of this section, "principal" means the person referred to in section 143.

20. (1) The Input Service Distributor shall distribute the credit of State tax as State tax or integrated tax and integrated tax as integrated tax or State tax, by way of issue of document containing the amount of input tax credit being distributed in such manner as may be prescribed.

Manner of distribution of credit by Input Service Distributor.

- (2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:—

(a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;

(b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;

(c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

(d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

(e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the

turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Explanation.—For the purposes of this section,—

(a) the “relevant period” shall be—

(i) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

(ii) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;

(b) the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

(c) the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

21. Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.
- Manner of recovery of credit distributed in excess.

CHAPTER VI REGISTRATION

22. (1) Every supplier making a taxable supply of goods or services or both in the State shall be liable to be registered under this Act if his aggregate turnover in a financial year exceeds twenty lakh rupees: **Persons liable for registration.**

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

- (2) Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.
- (3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
- (4) Notwithstanding anything contained in subsections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Explanation.—For the purposes of this section,—

- (i) the expression “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;
- (ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of

goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered jobworker;

(iii) the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution.

23. (1) The following persons shall not be liable to registration, namely:—

Persons not liable for registration.

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;

(b) an agriculturist, to the extent of supply of produce out of cultivation of land.

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

24. Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,-

Compulsory registration in certain cases.

(i) persons making any inter-State taxable supply;

(ii) casual taxable persons making taxable supply;

(iii) persons who are required to pay tax under reverse charge;

(iv) person who are required to pay tax under sub-section (5) of section 9;

(v) non-resident taxable persons making taxable supply;

(vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;

(vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;

(viii) Input Service Distributor, whether or not separately registered under this Act;

(ix) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9,

through such electronic commerce operator who is required to collect tax at source under section 52;

(x) every electronic commerce operator;

(xi) every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person; and

(xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

25. (1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed: Procedure for registration.

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

Explanation.- Every person who makes a supply from the territorial waters of India shall obtain registration in the State where the nearest point of the appropriate baseline is located.

(2) A person seeking registration under this Act shall be granted a single registration:

Provided that a person having multiple business verticals in the State may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

(3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

- 43 of 1961.
- (5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.
- (6) Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 in order to be eligible for grant of registration:

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

- (7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.
- (8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.
- (9) Notwithstanding anything contained in sub-section (1),—
- (a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and
- 46 of 1947.
- (b) any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

(10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.

(11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.

(12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

26. (1) The grant of registration or the Unique Identity Number under the Central Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.

Deemed registration.

(2) Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the Central Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

27. (1) The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration:

Special provisions relating to casual taxable person and non-resident taxable person.

Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.

(2) A casual taxable person or a non-resident taxable person shall, at the time of submission of

application for registration under sub-section (1) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:

Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

(3) The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.

28. (1) Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed. Amendment of registration.

(2) The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed:

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed:

Provided further that the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.

(3) Any rejection or approval of amendments under the Central Goods and Services Tax Act shall be deemed to be a rejection or approval under this Act.

29. (1) The proper officer may, either on his own motion or on an application filed by the registered person or Cancellation of registration.

by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

- (3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.
- (4) The cancellation of registration under the Central Goods and Services Tax Act shall be deemed to be a cancellation of registration under this Act.
- (5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

- (6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.

30. (1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

Revocation of cancellation of registration.

- (2) The proper officer may, in such manner and within such period as may be prescribed, by order,

either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

- (3) The revocation of cancellation of registration under the Central Goods and Services Tax Act shall be deemed to be a revocation of cancellation of registration under this Act.

CHAPTER VII TAX INVOICE, CREDIT AND DEBIT NOTES

31. (1) A registered person supplying taxable goods shall, before or at the time of- Tax invoice.

(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or

(b) delivery of goods or making available thereof to the recipient, in any other case,

issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

- (2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

(a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(b) tax invoice may not be issued.

(3) Notwithstanding anything contained in subsections (1) and (2)—

(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;

(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:

Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;

(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;

(f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

(g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.

(4) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

(5) Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—

(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;

(b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;

(c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

(6) In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

(7) Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

Explanation.—For the purposes of this section, the expression “tax invoice” shall include any revised invoice issued by the supplier in respect of a supply made earlier.

32. (1) A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act. **Prohibition of unauthorised collection of tax**

(2) No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

33. Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made. **Amount of tax to be indicated in tax invoice and other documents.**

34. (1) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed. **Credit and debit notes.**

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

- (3) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed.
- (4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation.—For the purposes of this Act, the expression “debit note” shall include a supplementary invoice.

CHAPTER VIII ACCOUNTS AND RECORDS

35. (1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of- Accounts and other records.
- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

- (2) Every owner or operator of warehouse or godown or any other place used for storage of goods and

every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

- (3) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.
- (4) Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.
- (5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.
- (6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

36. Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of seventy two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any

Period of retention of accounts.

Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

CHAPTER IX RETURNS

37. (1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:
- Furnishing details of outward supplies.

Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner.

- (2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or

reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.

- (3) Any registered person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Explanation.—For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

38. (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall verify, validate, modify or delete, if required, the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 37 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 37.

Furnishing details of inward supplies.

- (2) Every registered person, other than an Input Service Distributor or a non-resident taxable

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person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and credit or debit notes received in respect of such supplies during a tax period after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner.

- (3) The details of supplies modified, deleted or included by the recipient and furnished under sub-section (2) shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.
- (4) The details of supplies modified, deleted or included by the recipient in the return furnished under sub-section (2) or sub-section (4) of section 39 shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.
- (5) Any registered person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if

any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

39. (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed on or before the twentieth day of the month succeeding such calendar month or part thereof. Furnishing of returns.
- (2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.
- (3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.
- (4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.
- (5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish,

in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar 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.

- (6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner.

- (7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.
- (8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.
- (9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for

furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

40. Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration. **First Return.**

41. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger. **Claim of input tax credit and provisional acceptance thereof.**

(2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

42. (1) The details of every inward supply furnished by a registered person (hereafter in this section referred to as the "recipient") for a tax period shall, in such manner and within such time as may be prescribed, be matched— **Matching, reversal and reclaim of input tax credit.**

(a) with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the "supplier") in his valid return for the same tax period or any preceding tax period;

(b) with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and

(c) for duplication of claims of input tax credit.

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- (2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.
- (3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
- (4) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- (6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.
- (7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.

- (8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.
- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

- (10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

43. (1) The details of every credit note relating to outward supply furnished by a registered person (hereafter in this section referred to as the "supplier") for a tax period shall, in such manner and within such time as may be prescribed, be matched—

Matching, reversal and reclaim of reduction in output tax liability.

(a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the "recipient") in his valid return for the same tax period or any subsequent tax period; and

(b) for duplication of claims for reduction in output tax liability.

- (2) The claim for reduction in output tax liability by the supplier that matches with the corresponding

reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.

- (3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
- (4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- (6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.
- (7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.
- (8) A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax

liability till the corresponding additions are made under the said sub-sections.

- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

- (10) The amount reduced from output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

44. (1) 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 for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year. Annual return.

- (2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

45. Every registered person who is required to furnish a return under sub-section (1) of section 39 and whose registration has been cancelled shall furnish a final return within three months of the date of cancellation Final return.

or date of order of cancellation, whichever is later, in such form and manner as may be prescribed.

46. Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed. Notice to return defaulters.
47. (1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees. Levy of late fee.
- (2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent of his turnover in the State.
48. (1) The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed. Goods and services tax practitioners.
- (2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed.
- (3) Notwithstanding anything contained in subsection (2), the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

**CHAPTER X
PAYMENT OF TAX**

49. (1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.
- (2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.
- (3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- (4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.
- (5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of —
- (a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;
- (b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

Payment of tax,
interest, penalty and
other amounts.

- (c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
- (d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
- (e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and
- (f) the State tax or Union territory tax shall not be utilised towards payment of central tax.
- (6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.
- (7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.
- (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—
- (a) self-assessed tax, and other dues related to returns of previous tax periods;
- (b) self-assessed tax, and other dues related to the return of the current tax period;
- (c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.
- (9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Explanation.—For the purposes of this section,

- (a) the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;
- (b) the expression,-
 - (i) “tax dues” means the tax payable under this Act and does not include interest, fee and penalty; and
 - (ii) “other dues” means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

50. (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council. Interest on delayed payment of tax.
- (2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.
- (3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent, as may be notified by the Government on the recommendations of the Council.

51. (1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate- Tax deduction at source.

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or

(c) Governmental agencies; or

(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or, as the case may be, Union territory of registration of the recipient.

Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, integrated tax and cess indicated in the invoice.

- (2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.
- (3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.
- (4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five day period until the failure is rectified, subject to a maximum amount of five thousand rupees.

- (5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.
- (6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.
- (7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.
- (8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

52. (1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator. Collection of tax at source.

Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

- (2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.
- (3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.
- (4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.
- (5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.
- (6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for

the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

- (7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.
- (8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.
- (9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.
- (10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.
- (11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

(a) supplies of goods or services or both effected through such operator during any period; or

(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,

as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

53. On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as State tax shall stand reduced by an amount equal to such credit so utilised and the State Government shall transfer an amount equal to the amount so reduced from the State tax account to the integrated tax account in such manner and within such time as may be prescribed.

Transfer of input tax credit.

**CHAPTER XI
REFUNDS**

- 54. (1)** Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed: Refund of tax.

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.

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- (2) A specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.
- (3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than-

- (i) zero-rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both claims refund of the integrated tax paid on such supplies.

(4) The application shall be accompanied by—

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

(b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(6) Notwithstanding anything contained in subsection (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent of the total amount so claimed, excluding the

amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

- (7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.
- (8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to –
- (a) refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;
 - (b) refund of unutilised input tax credit under sub-section (3);
 - (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
 - (d) refund of tax in pursuance of section 77;
 - (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
 - (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.
- (9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time

being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Explanation.—For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.

(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(12) Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-

resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

- (14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

Explanation.—For the purposes of this section,—

(1) “refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (3).

(2) “relevant date” means –

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

(ii) if the goods are exported by land, the date on which such goods pass the frontier; or

(iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—

(i) receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

(e) in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;

(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(h) in any other case, the date of payment of tax.

55. The Government may, on the recommendations of the Council, by notification, specify any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.

Refund in certain cases.

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- 56.** If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund 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: Interest on delayed refunds.

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

Explanation.—For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

- 57.** The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,— Consumer Welfare Fund.

- (a) the amount referred to in sub-section (5) of section 54;
- (b) any income from investment of the amount credited to the Fund; and
- (c) such other monies received by it,

in such manner as may be prescribed.

- 58. (1)** All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed. **Utilisation of Fund.**
- (2)** The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor General of India.

CHAPTER XII ASSESSMENT

- 59.** Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39. **Self-assessment.**
- 60. (1)** Subject to the provisions of sub-section (2), where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him. **Provisional assessment**
- (2)** The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.
- (3)** The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.

- (4) The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both under provisional assessment but not paid on the due date specified under sub-section (7) of section 39 or the rules made thereunder, at the rate specified under sub-section (1) of section 50, from the first day after the due date of payment of tax in respect of the said supply of goods or services or both till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.
- (5) Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of section 54, interest shall be paid on such refund as provided in section 56.

61. (1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

Scrutiny of returns.

(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.

(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.

62. (1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Assessment of non-filers of returns.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.

63. Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:

Assessment of unregistered persons.

Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

64. (1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:

Summary assessment in certain special cases.

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

- (2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

CHAPTER XIII AUDIT

65. (1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed. Audit by tax authorities.
- (2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.
- (3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.
- (4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.—For the purposes of this sub-section, the expression “commencement of audit” shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

(5) During the course of audit, the authorised officer may require the registered person,—

(i) to afford him the necessary facility to verify the books of account or other documents as he may require;

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

66. (1) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner. Special audit.

(2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and

certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified:

Provided that the Assistant Commissioner may, on an application made to him in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of ninety days.

- (3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.
- (4) The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.
- (5) The expenses of the examination and audit of records under sub-section (1), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner and such determination shall be final.
- (6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

CHAPTER XIV INSPECTION, SEARCH, SEIZURE AND ARREST

67. (1) Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—
- Power of inspection, search and seizure.
- (a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has

indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or

(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

he may authorise in writing any other officer of State tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of State tax to search and seize or may himself search and seize such goods, documents or books or things:

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

(3) The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made

thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.

- (4) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.
- (5) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.
- (6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.
- (7) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.

- (8) The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure

under sub-section (2), be disposed of by the proper officer in such manner as may be prescribed.

(9) Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorised by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.

2 of 1974.

(10) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.

(11) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

(12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

68. (1) The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

Inspection of goods in movement.

- (2) The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.
- (3) Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

69. (1) Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of State tax to arrest such person. Power to arrest.

(2) Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty four hours.

(3) Subject to the provisions of the Code of Criminal Procedure, 1973,--

(a) where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;

(b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station

2 of 1974.

5 of 1908 70. (1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the Power to summon persons to give evidence and produce documents.

same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.

45 of 1860. (2) Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code.

71. (1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue. Access to business premises.

(2) Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66,

(i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

(ii) trial balance or its equivalent;

(iii) statements of annual financial accounts, duly audited, wherever required;

18 of 2013. (iv) cost audit report, if any, under section 148 of the Companies Act, 2013;

43 of 1961. (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and

(vi) any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

72. (1) All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of central tax and officers of the Union territory tax shall assist the proper officers in the implementation of this Act.

Officers to assist proper officers.

(2) The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.

CHAPTER XV DEMANDS AND RECOVERY

73. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input

tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

- (4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
- (5) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.
- (6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.
- (7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.
- (8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.
- (9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten

thousand rupees, whichever is higher, due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

74. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

- (4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
- (5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.
- (6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.
- (7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.
- (8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty five per cent of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.
- (9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

- (10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.
- (11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

Explanation 1.—For the purposes of section 73 and this section, —

(i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;

(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

Explanation 2.—For the purposes of this Act, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

75. (1) Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, as the case may be.

General provisions relating to determination of tax.

- (2) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.
- (3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.
- (4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.
- (5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.
- (6) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.
- (7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.
- (8) Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.

- (9) The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.
- (10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.
- (11) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in sub-section (10) of section 73 or sub-section (10) of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.
- (12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.
- (13) Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.
76. (1) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made Tax collected but not paid to Government.

thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

- (2) Where any amount is required to be paid to the Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.
- (3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.
- (4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or sub-section (3) also be liable to pay interest thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.
- (5) An opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.
- (6) The proper officer shall issue an order within one year from the date of issue of the notice.
- (7) Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.

- (8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.
- (9) The amount paid to the Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section (1).
- (10) Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.
- (11) The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

77. (1) A registered person who has paid the central tax and State tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

Tax wrongfully collected and paid to Central Government or State Government.

(2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of State tax payable.

78. Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated:

Initiation of recovery proceedings.

Provided that where the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months as may be specified by him.

79. (1) Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:—

Recovery of tax.

(a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;

(b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;

(c) (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the

consequences of this Act or the rules made thereunder shall follow;

(iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;

(v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;

(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;

(d) the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping

of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

(e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

2 of 1974.

(f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.

- (2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.
- (3) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of central tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of central tax and credit the amount so recovered to the account of the Government.
- (4) Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to

be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

80. On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly instalments not exceeding twenty four, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed:
- Payment of tax and other amount in instalments.

Provided that where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

81. Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:
- Transfer of property to be void in certain cases.

Provided that, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

82. Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.
- Tax to be first charge on property.

83. (1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, 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 in such manner as may be prescribed. Provisional attachment to protect revenue in certain cases.
- (2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).
84. Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereafter in this section referred to as "Government dues"), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then— Continuation and validation of certain recovery proceedings.
- (a) where such Government dues are enhanced in such appeal, revision or other proceedings, the Commissioner shall serve upon the taxable person or any other person another notice of demand in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision or other proceedings may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;
- (b) where such Government dues are reduced in such appeal, revision or in other proceedings—
- (i) it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;
- (ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;

(iii) any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

CHAPTER XVI LIABILITY TO PAY IN CERTAIN CASES

- 85.** (1) Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter. Liability in case of transfer of business.
- (2) Where the transferee of a business referred to in sub-section (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services or both effected by him with effect from the date of such transfer and shall, if he is a registered person under this Act, apply within the prescribed time for amendment of his certificate of registration.
- 86.** Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act. Liability of agent and principal.
- 87.** (1) When two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other Liability in case of amalgamation or merger of companies.

during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

- (2) Notwithstanding anything contained in the said order, for the purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled with effect from the date of the said order.

88. (1) When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereafter in this section referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner.

Liability in case of company in liquidation.

- (2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

- (3) When any private company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

18 of 2013. 89. (1) Notwithstanding anything contained in the Companies Act, 2013, where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a director of the private company during such period shall, jointly and severally, be liable for the payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Liability of directors of private company.

(2) Where a private company is converted into a public company and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, nothing contained in sub-section (1) shall apply to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company:

Provided that nothing contained in this sub-section shall apply to any personal penalty imposed on such director.

90. Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment:

Liability of partners of firm to pay tax.

Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due upto the date of his retirement whether determined or not, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

91. Where the business in respect of which any tax, interest or penalty is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly. Liability of guardians, trustees etc.
92. Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly. Liability of Court of Wards, etc.
- 31 of 2016 93. (1) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then— Special provisions regarding liability to pay tax, interest or penalty in certain cases.
- (a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and
- (b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act,

whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

31 of 2016 (2) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons is partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable to pay the tax, interest or penalty due from the taxable person under this Act upto the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition.

31 of 2016 (3) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, and the firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act upto the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution.

31 of 2016 (4) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person liable to pay tax, interest or penalty under this Act,—

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian; or

(b) is a trustee who carries on the business under a trust for a beneficiary,

then, if the guardianship or trust is terminated, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax,

interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

94. (1) Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business— Liability in other cases.

(a) the tax, interest or penalty payable under this Act by such firm, association or family upto the date of such discontinuance may be determined as if no such discontinuance had taken place; and

(b) every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 90, jointly and severally, be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or to partition.

Explanation.—For the purposes of this Chapter,—

- 6 of 2009.
- (i) a “Limited Liability Partnership” formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a firm;
- (ii) “court” means the District Court, High Court or Supreme Court.

CHAPTER XVII ADVANCE RULING

95. In this Chapter, unless the context otherwise requires,— Definitions.

- (a) “advance ruling” means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;
- (b) “Appellate Authority” means the Appellate Authority for Advance Ruling constituted under section 99;
- (c) “applicant” means any person registered or desirous of obtaining registration under this Act;
- (d) “application” means an application made to the Authority under sub-section (1) of section 97;
- (e) “Authority” means the Authority for Advance Ruling, constituted under section 96.

96. (1) The Government shall, by notification, constitute an Authority to be known as the Madhya Pradesh Authority for Advance Ruling: Constitution of Authority for Advance Ruling.

Provided that the Government may, on the recommendation of the Council, notify any Authority located in another State to act as the Authority for the State.

(2) The Authority shall consist of-

- (i) one member from amongst the officers of central tax; and
- (ii) one member from amongst the officers of State tax,

to be appointed by the Central Government and the State Government respectively.

(3) The qualifications, the method of appointment of the members and the terms and conditions of their services shall be such as may be prescribed.

97. (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought. Application for advance ruling.

(2) The question on which the advance ruling is sought under this Act, shall be in respect of, -

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

98. (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:
- Procedure on receipt of application.

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

- (2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

- (3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.
- (4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.
- (5) Where the members of the Authority differ on any question on which the advance ruling is sought,

they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

- (6) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.
- (7) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

99. The Government shall, by notification, constitute an Authority to be known as Madhya Pradesh Appellate Authority for Advance Ruling for Goods and Services Tax for hearing appeals against the advance ruling pronounced by the Advance Ruling Authority:
- Constitution of
Appellate Authority for
Advance Ruling.

Provided that the Government may, on the recommendations of the Council, notify any Appellate Authority located in another State or Union territory to act as the Appellate Authority for the State.

100. (1) The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.
- Appeal to the Appellate
Authority.
- (2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

- (3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

101. (1) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to. Orders of Appellate Authority.
- (2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section (5) of section 98.
- (3) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.
- (4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.
102. The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, or the applicant or the appellant within a period of six months from the date of the order: Rectification of advance ruling.
- Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.
103. (1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only - Applicability of advance ruling.
- (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

104. (1) Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:

Advance ruling to be void in certain circumstances.

Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

Explanation.—The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned officer and the jurisdictional officer.

105. (1) The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding –
 (a) discovery and inspection;
 (b) enforcing the attendance of any person and examining him on oath;
 (c) issuing commissions and compelling production of books of account and other records,

Powers of Authority and Appellate Authority.

5 of 1908. have all the powers of a civil court under the Code of Civil Procedure, 1908.

- 2 of 1974. (2) The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.
- 45 of 1860.

106. The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure. Procedure of Authority and Appellate Authority.

CHAPTER XVIII APPEALS AND REVISION

107. (1) Any person aggrieved by any decision or order passed under this Act or the Central Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person. Appeals to Appellate Authority.
- (2) The Commissioner may, on his own motion, or upon request from the Commissioner of central tax, call for and examine the record of any proceeding in which an adjudicating authority has passed any decision or order under this Act or the Central Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.
- (3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were

an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

- (4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.
- (5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.
- (6) No appeal shall be filed under sub-section (1), unless the appellant has paid –
 - (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
 - (b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.
- (7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.
- (8) The Appellate Authority shall give an opportunity to the appellant of being heard.
- (9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.

(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

- (14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.
- (15) A copy of the order passed by the Appellate Authority shall also be sent to the Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of central tax or an authority designated by him in this behalf.
- (16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.

108. (1) Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of central tax, call for and examine the record of any proceedings, and if he considers that any decision or order passed under this Act or under the Central Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

Powers of Revisional Authority.

(2) The Revisional Authority shall not exercise any power under sub-section (1), if—

(a) the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or

(b) the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or

(c) the order has already been taken for revision under this section at an earlier stage; or

(d) the order has been passed in exercise of the powers under sub-section (1):

Provided that the Revisional Authority may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.

- (3) Every order passed in revision under sub-section (1) shall, subject to the provisions of section 113 or section 117 or section 118, be final and binding on the parties.
- (4) If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2) where proceedings for revision have been initiated by way of issue of a notice under this section.
- (5) Where the issuance of an order under sub-section (1) is stayed by the order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2).

(6) For the purposes of this section, the term,—

(i) “record” shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;

(ii) “decision” shall include intimation given by any officer lower in rank than the Revisional Authority.

109. (1) Subject to the provisions of this Chapter, the Goods and Services Tax 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. Appellate Tribunal and Benches thereof.

(2) The constitution and jurisdiction of the State Bench and the Area Benches located in the State shall be in accordance with the provisions of section 109 of the Central Goods and Services Tax Act or the rules made thereunder.

110. The qualifications, appointment, salary and allowances, terms of office, resignation and removal of the President and Members of the State Bench and Area Benches shall be in accordance with the provisions of section 110 of the Central Goods and Services Tax Act. President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.

111. (1) The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure. Procedure before Appellate Tribunal.

5 of 1908.

5 of 1908.

(2) The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

1 of 1872.

- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) dismissing a representation for default or deciding it ex parte;
- (g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
- (h) any other matter which may be prescribed.

(3) Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—

- (a) in the case of an order against a company, the registered office of the company is situated; or
- (b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

45 of 1860.

(4) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

112. (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Appeals to Appellate Tribunal.

Act or the Central Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

- (2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.
- (3) The Commissioner may, on his own motion, or upon request from the Commissioner of central tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or under the Central Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.
- (4) Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).
- (5) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order

appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).

- (6) The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty five days after the expiry of the period referred to in sub-section (5), if it is satisfied that there was sufficient cause for not presenting it within that period.
- (7) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.
- (8) No appeal shall be filed under sub-section (1), unless the appellant has paid —

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of the section 107, arising from the said order, in relation to which the appeal has been filed.

- (9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.
- (10) Every application made before the Appellate Tribunal, —

(a) in an appeal for rectification of error or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by such fees as may be prescribed.

113. (1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, Orders of Appellate Tribunal.

modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

- (2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

- (3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any error apparent on the face of the record, if such error is noticed by it on its own accord, or is brought to its notice by the Commissioner or the Commissioner of central tax or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the party has been given an opportunity of being heard.

- (4) The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of one year from the date on which it is filed.
- (5) The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or the Revisional Authority, or the original adjudicating authority, as the case may be, the appellant and the Commissioner or the jurisdictional Commissioner of central tax.
- (6) Save as provided in section 117 or section 118, orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.

- 114.** The State President shall exercise such financial and administrative powers over the State Bench and Area Benches of the Appellate Tribunal in a State, as may be prescribed:
- Financial and administrative powers of State President.

Provided that the State President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the State Bench or Area Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the State President.

- 115.** Where an amount paid by the appellant under sub-section (6) of section 107 or sub-section (8) of section 112 is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, interest at the rate specified under section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.
- Interest on refund of amount paid for admission of appeal.

- 116.** (1) Any person who is entitled or required to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorised representative.
- Appearance by authorised representative.

- (2) For the purposes of this Act, the expression "authorised representative" shall mean a person authorised by the person referred to in sub-section (1) to appear on his behalf, being —

- (a) his relative or regular employee; or
- (b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or
- (c) any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or

(d) a retired officer of the Commercial Tax Department of any State Government or Union territory or of the Board who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than two years:

Provided that such officer shall not be entitled to appear before any proceedings under this Act for a period of one year from the date of his retirement or resignation; or

(e) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.

(3) No person, —

(a) who has been dismissed or removed from Government service; or

(b) who is convicted of an offence connected with any proceedings under this Act, the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, or under the existing law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both; or

(c) who is found guilty of misconduct by the prescribed authority;

(d) who has been adjudged as an insolvent,

shall be qualified to represent any person under subsection (1)—

(i) for all times in case of persons referred to in clauses (a), (b) and (c); and

(ii) for the period during which the insolvency continues in the case of a person referred to in clause (d).

(4) Any person who has been disqualified under the provisions of the Central Goods and Services Tax

Act or the Goods and Services Tax Act of any other State or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.

117. (1) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law. Appeal to High Court.

(2) An appeal under sub-section (1) shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(4) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(5) The High Court may determine any issue which—

(a) has not been determined by the State Bench or Area Benches; or

(b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in subsection (3).

(6) Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(7) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(8) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

5 of 1908

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

118. (1) An appeal shall lie to the Supreme Court-

Appeal to Supreme Court.

(a) from any order passed by the National Bench or Regional Benches of the Appellate Tribunal; or

(b) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

5 of 1908

(2) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of

appeals under this section as they apply in the case of appeals from decrees of a High Court.

- (3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

119. Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed. Sums due to be paid notwithstanding appeal etc.

120. (1) The Commissioner may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as he may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the State tax under the provisions of this Chapter. Appeal not to be filed in certain cases.

- (2) Where, in pursuance of the orders or instructions or directions issued under sub-section (1), the officer of the State tax has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such officer of the State tax from filing appeal or application in any other case involving the same or similar issues or questions of law.

- (3) Notwithstanding the fact that no appeal or application has been filed by the officer of the State tax pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the officer of the State tax has acquiesced in the decision on the disputed issue by not filing an appeal or application.

(4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the State tax in pursuance of the orders or instructions or directions issued under sub-section (1).

121. Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by an officer of State tax if such decision taken or order passed relates to any one or more of the following matters, namely:—

Non appealable decisions and orders.

(a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or

(b) an order pertaining to the seizure or retention of books of account, register and other documents; or

(c) an order sanctioning prosecution under this Act;
or

(d) an order passed under section 80.

CHAPTER XIX OFFENCES AND PENALTIES

122. (1) Where a taxable person who—

Penalty for certain offences.

(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;

(iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the

Government beyond a period of three months from the date on which such payment becomes due;

(v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;

(vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;

(vii) takes or utilizes input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;

(viii) fraudulently obtains refund of tax under this Act;

(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;

(x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

(xi) is liable to be registered under this Act but fails to obtain registration;

(xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;

(xiii) obstructs or prevents any officer in discharge of his duties under this Act;

(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;

(xv) suppresses his turnover leading to evasion of tax under this Act;

(xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;

(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;

(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;

(xix) issues any invoice or document by using the registration number of another registered person;

(xx) tampers with, or destroys any material evidence or documents;

(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized,-

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(3) Any person who—

(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(d) fails to appear before the officer of State tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account,

shall be liable to a penalty which may extend to twenty five thousand rupees.

123. If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct, that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues: Penalty for failure to furnish information return.

Provided that the penalty imposed under this section shall not exceed five thousand rupees.

124. If any person required to furnish any information or return under section 151,— Fine for failure to furnish statistics.

(a) without reasonable cause fails to furnish such information or return as may be required under that section, or

(b) wilfully furnishes or causes to furnish any information or return which he knows to be false,

he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of twenty five thousand rupees.

125. Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty five thousand rupees. General penalty.

126. (1) No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence. General disciplines related to penalty.

Explanation.—For the purpose of this sub-section,—

(a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees;

(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

(2) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall commensurate with the degree and severity of the breach.

(3) No penalty shall be imposed on any person without giving him an opportunity of being heard.

- (4) The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.
- (5) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.
- (6) The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

127. Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person. **Power to impose penalty in certain cases.**
128. The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council. **Power to waive penalty or fee or both**
129. (1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,— **Detention, seizure and release of goods and conveyances in transit.**

(a) on payment of the applicable tax and penalty equal to one 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 tax and penalty;

(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon 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 tax and penalty;

(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

- (2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.
- (3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).
- (4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.
- (5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.
- (6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty

as provided in sub-section (1) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided 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 seven days may be reduced by the proper officer.

130. (1) Notwithstanding anything contained in this Act, if any person –

Confiscation of goods or conveyances and levy of penalty.

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for registration; or

(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall

give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

- (3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.
- (4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.
- (5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.
- (6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.
- (7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

- 2 of 1974.
- 131.** Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force. **Confiscation or penalty not to interfere with other punishments.**
- 132.** (1) Whoever commits any of the following offences, namely:— **Punishment for certain offences**
- (a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
- (b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
- (c) avails input tax credit using such invoice or bill referred to in clause (b);
- (d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
- (e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
- (f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
- (g) obstructs or prevents any officer in the discharge of his duties under this Act;
- (h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, purchasing or in any other manner

deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(j) tampers with or destroys any material evidence or documents;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,

shall be punishable—

(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

- (iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.
- (2) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.
- (3) The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.
- (4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non-cognizable and bailable.
- (5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.
- (6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Explanation.- For the purposes of this section, the term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and cess levied under the Goods and Services Tax (Compensation to States) Act.

133.(1) Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerisation thereof or if any officer of State tax having access to information specified under sub-section (1) of section 150, or if any person engaged

Liability of officers and certain other persons.

in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty five thousand rupees, or with both.

(2) Any person –

(a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;

(b) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

134. No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence. Cognizance of offences.

135. In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution. Presumption of culpable mental state.

Explanation.—For the purposes of this section—

(i) the expression “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;

(ii) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

136. A statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

Relevancy of statements under certain circumstances.

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

137. (1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by Companies.

(2) Notwithstanding anything contained in subsection (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu

Undivided Family or a trust, the partner or karta or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall mutatis mutandis apply to such persons.

- (4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Explanation.—For the purposes of this section,—

(i) “company” means a body corporate and includes a firm or other association of individuals; and

(ii) “director”, in relation to a firm, means a partner in the firm.

138. (1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case may be, of such compounding amount in such manner as may be prescribed: Compounding of offences.

Provided that nothing contained in this section shall apply to —

- (a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;
- (b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated

Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;

- (c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;
- (d) a person who has been convicted for an offence under this Act by a court;
- (e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and
- (f) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

- (2) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than 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.
- (3) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

CHAPTER XX TRANSITIONAL PROVISIONS

139. (1) On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as
- Migration of existing taxpayers.

may be prescribed, which unless replaced by a final certificate of registration under sub-section (2), shall be liable to be cancelled if the conditions so prescribed are not complied with.

- (2) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.
- (3) The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.

140. (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax, , if any, carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

Transitional arrangements for input tax credit.

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely: –

- (i) where the said amount of credit is not admissible as input tax credit under this Act; or
- (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or

Provided further that so much of the said credit as is attributable to any claim related to section 3, sub-section (3) of section 5, section 6, section 6A or sub-section (8) of section 8 of the Central Sales Tax Act, 1956 which is not substantiated in the manner, and within the period, prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 shall not be eligible to be credited to the electronic credit ledger:

Provided also that an amount equivalent to the credit specified in the second proviso shall be refunded under the existing law when the said claims are substantiated in the manner prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957.

- (2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as input tax credit under the existing law and is also admissible as input tax credit under this Act.

Explanation.—For the purposes of this section, the expression “unavailed input tax credit” means the amount that remains after subtracting the amount of input tax credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of input tax credit to which the said person was entitled in respect of the said capital goods under the existing law.

- (3) A registered person, who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods or tax free goods, by whatever name called, or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State under the existing law but which are liable to tax under this Act or where the person was entitled to the credit of input tax at the time of sale of goods, if any, shall be entitled to take, in his electronic credit ledger, credit of the value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions namely:—

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of such inputs; and
- (iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of tax in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

- (4) A registered person, who was engaged in the sale of taxable goods as well as exempted goods or tax free goods, by whatever name called, under the existing law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,-
 - (a) the amount of credit of the value added tax, if any, carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and
 - (b) the amount of credit of the value added tax, if any, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or tax free goods, by whatever name called, in accordance with the provisions of sub-section (3).

(5) A registered person shall be entitled to take, in his electronic credit ledger, credit of value added tax, if any, in respect of inputs received on or after the appointed day but the tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:

Provided further that the said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this subsection.

(6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is not paying tax under section 10;

(iii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of inputs; and

(v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(7) The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed.

141. (1) Where any inputs received at a place of business had been despatched as such or despatched after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day: Transitional provisions relating to job work.

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if such inputs are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142.

- (2) Where any semi-finished goods had been despatched from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereafter in this sub-section referred to as "the said goods") are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within a period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142:

Provided also that the person despatching the goods may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

- (3) Where any goods had been despatched from the place of business without payment of tax for carrying out tests or any other process, to any other premises, whether registered or not, in accordance with the provisions of existing law prior to the appointed day and such goods, are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to such place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142:

Provided also that the person despatching the goods may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

- (4) The tax under sub-sections (1), (2) and (3) shall not be payable, only if the person despatching the goods and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed.

142. (1) Where any goods on which tax, if any, had been paid under the existing law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the tax paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Miscellaneous
transitional
provisions.

Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.

- (2) (a) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised upwards on or after the appointed day, the registered person who had sold such goods shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act, such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act;
- (b) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised downwards on or after the appointed day, the registered person who had sold such goods may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

- (3) Every claim for refund filed by any person before, on or after the appointed day for refund of any amount of input tax credit, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be refunded to him in cash in accordance with the provisions of the said law:

Provided that where any claim for refund of the amount of input tax credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of input tax credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

- (4) Every claim for refund filed after the appointed day for refund of any tax paid under the existing law in respect of the goods exported before or after the appointed day, shall be disposed of in accordance with the provisions of the existing law:

Provided that where any claim for refund of input tax credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of input tax credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

- (5) Notwithstanding anything to the contrary contained in this Act, any amount of input tax credit reversed prior to the appointed day shall not be admissible as input tax credit under this Act.
- (6) (a) every proceeding of appeal, revision, review or reference relating to a claim for input tax credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of the existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash in accordance with the provisions of the existing law, and the amount rejected, if any, shall not be admissible as input tax credit under this Act:

Provided that no refund shall be allowed of any amount of input tax credit where the balance of the said amount as on the appointed day has been carried forward under this Act;

(b) every proceeding of appeal, revision, review or reference relating to recovery of input tax credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of the existing law, and if any amount of credit becomes recoverable as a result of such appeal, revision, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(7) (a) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(b) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash in accordance with the provisions of the existing law and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(8) (a) Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day under the

existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

(b) Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(9) (a) Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of input tax credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

(b) Where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or input tax credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(10) Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(11) (a) Notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002);

(b) Notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;

32 of 1994

(c) Where tax was paid on any supply, both under the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

20 of 2002
32 of 1994

(12) Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after the period specified in this sub-section:

Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within the period specified in this sub-section.

(13) Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under the Madhya Pradesh

Vat, 2002(No. 20 of 2002) and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

- (14) Where any goods or capital goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such goods or capital goods subject to fulfilment of the following conditions:
- (i) the agent is a registered taxable person under this Act;
 - (ii) both the principal and the agent declare the details of stock of goods or capital goods lying with such agent on the day immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;
 - (iii) the invoices for such goods or capital goods had been issued not earlier than twelve months immediately preceding the appointed day; and
 - (iv) the principal has either reversed or not availed of the input tax credit in respect of such,-
 - (a) goods; or
 - (b) capital goods or, having availed of such credit, has reversed the said credit, to the extent availed of by him.

CHAPTER XXI MISCELLANEOUS

- 143.** (1) A registered person (hereafter in this section referred to as the "principal") may, under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,—
- Job work procedure.
- (a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and

three years, respectively, of their being sent out, to any of his place of business, without payment of tax;

(b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business except in a case-

(i) where the job worker is registered under section 25; or

(ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

(2) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

(3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

(4) Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place

of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

- (5) Notwithstanding anything contained in sub-sections (1) and (2), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.

Explanation. - For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

144. Where any document-

Presumption as to documents in certain cases.

- (i) is produced by any person under this Act or any other law for the time being in force; or
- (ii) has been seized from the custody or control of any person under this Act or any other law for the time being in force; or
- (iii) has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force,

and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall--

- (a) unless the contrary is proved by such person, presume —
 - (i) the truth of the contents of such document;

- (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;
- (b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

145. (1) Notwithstanding anything contained in any other law for the time being in force, —

Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence.

- (a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or
- (b) a facsimile copy of a document; or
- (c) a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or
- (d) any information stored electronically in any device or media, including any hard copies made of such information,

shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) In any proceedings under this Act and or the rules made thereunder, where it is desired to give a

statement in evidence by virtue of this section, a certificate, —

- (a) identifying the document containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer,

shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

146. The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed. **Common Portal.**

147. The Government may, on the recommendations of the Council, notify certain supplies of goods as “deemed exports”, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India. **Deemed Exports.**

148. The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons. **Special procedure for certain processes.**

149. (1) Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act. **Goods and services tax compliance rating.**

- (2) The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.
- (3) The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

150. (1) Any person, being—

Obligation to furnish information return.

(a) a taxable person; or

(b) a local authority or other public body or association; or

(c) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or

43 of 1961. (d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or

2 of 1934. (e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or

36 of 2003. (f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or

16 of 1908. (g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

18 of 2013. (h) a Registrar within the meaning of the Companies Act, 2013; or

59 of 1988. (i) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or

(j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and

- 30 of 2013. Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
- 42 of 1956. (k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or
- 22 of 1996. (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or
- 2 of 1934. (m) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or
- 18 of 2013. (n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or
- (o) a person to whom a Unique Identity Number has been granted under sub-section (9) of section 25; or
- (p) any other person as may be specified, on the recommendations of the Council, by the Government,

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.

- (2) Where the Commissioner, or an officer authorised by him in this behalf, considers that the information furnished in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of

such intimation or within such further period which, on an application made in this behalf, the said authority may allow and if the defect is not rectified within the said period of thirty days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.

- (3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

151. (1) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act. Power. to collect statistics.

- (2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected.

152. (1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act. Bar on disclosure of information.

- (2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for

the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.

(3) Nothing in this section shall apply to the publication of any information relating to a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.

153. Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him. Taking assistance from an expert.

154. The Commissioner or an officer authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken. Power to take samples.

155. Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person. Burden of proof.

156. All persons discharging functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Persons deemed to be public servants.

5 of 1860.

157. (1) No suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other person authorised by the said Appellate Tribunal for anything which is in good faith done or intended to be done under this Act or the rules made thereunder. Protection of action taken under this Act.

(2) No suit, prosecution or other legal proceedings shall lie against any officer appointed or authorised under this Act for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.

158. (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record Disclosure of information by a public servant.

of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section (3), not be disclosed.

1 of 1872.

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).

(3) Nothing contained in this section shall apply to the disclosure of,—

45 of 1860.
49 of 1988.

(a) any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or

(b) any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or

(c) any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or

(d) any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or

(e) any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or

(f) any particulars where such particulars are relevant for the purposes of any inquiry into the

conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or

(g) any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or

(h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or

(i) any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

(j) any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or

(k) any such particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; and

(l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

159. (1) If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, it may cause to be published such name and particulars in such manner as it thinks fit.

Publication of information in respect of persons in certain cases.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.—In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it.

160. (1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

Assessment proceedings, etc. not to be invalid on certain grounds.

(2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

161. Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the Central Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be: **Rectification of errors apparent on the face of record.**

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

162. Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act. **Bar on jurisdiction of civil courts.**

163. Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed. **Levy of fee.**

164. (1) The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act. **Power of Government to make rules.**

- (2) Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.
- (3) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.
- (4) Any rules made under sub-section (1) or sub-section (2) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

165. The Government may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act. Power to make regulations.

166. Every rule made by the Government, every regulation made by the Government and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rule or regulation or in the notification, as the case may be, or the State Legislature agrees that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be. Laying of rules, regulations and notifications.

167. The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by Delegation of powers.

any authority or officer under this Act may be exercisable also by another authority or officer as may be specified in such notification.

- 168.** The Commissioner may, if he considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the State tax officers as it may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions. Power to issue instructions or directions.
- 169.** (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:-- Service of notice in certain circumstances.
- (a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or
- (b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or
- (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
- (d) by making it available on the common portal; or
- (e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

- (2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).
- (3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

170. The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored. Rounding off of tax etc.

171. (1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices. Anti-profiteering measure.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

172. (1) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty: Removal of difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before the State Legislature.

MP Act
No. 20 of
2002

173. Save as otherwise provided in this Act, on and from the date of commencement of whole or any part of this Act, except for the entries of the goods in Schedule I and Schedule II of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) relating to the goods specified under entry 54 of the State List in the Seventh Schedule to the Constitution of India and provisions relating to such goods in the said Act, all other entries in the Schedule I and Schedule II and the provisions relating to other goods in the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) shall stand omitted. Amendment of certain Acts

174. (1) Save as otherwise provided in this Act, on and from the date of commencement of whole or any part of this Act, Repeal and saving.

(i) the Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhinyam, 1976 (Act No. 52 of 1976)

(ii) the Madhya Pradesh Vilasita, Manoranjan, Amod Evam Vigyapan Kar Adhinyam, 2011 (Act No. 11 of 2011)

(hereafter referred to as the repealed Acts) are hereby repealed.

- (2) The repeal of the said Acts and the amendment of the Acts specified in section 173 (hereafter referred to as "such amendment" or "amended Act", as the case may be) to the extent mentioned in sub-section (1) or section 173 shall not—
- (a) revive anything not in force or existing at the time of such amendment or repeal; or
 - (b) affect the previous operation of the amended Acts or repealed Acts and orders or anything duly done or suffered thereunder; or
 - (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Acts or repealed Acts or orders under such repealed Acts:
Provided that any tax exemption granted through a notification under the amended Act or repealed Acts shall not continue as privilege; or
 - (d) affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or
 - (e) affect any investigation, inquiry, assessment proceedings and any other legal proceedings or recovery of arrears or remedy in respect of any such tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, assessment proceedings and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;
 - (f) affect any proceedings including that relating to an appeal, revision, review or reference, instituted before, on or after the appointed day under the said amended Act or repealed Acts or the rules made thereunder and such proceedings shall be continued under the said amended Acts or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.
- (3) The mention of the particular matters referred to in section 173 and sub-section (1) shall not be held to prejudice or affect the general application of the Madhya Pradesh General Clauses Act, 1957 (No. 3 of 1958) with regard to the effect of repeal.

SCHEDULE I

[See section 7]

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods—

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

SCHEDULE II

[See section 7]

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. Transfer

(a) any transfer of the title in goods is a supply of goods;

(b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;

(c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

2. Land and Building

(a) any lease, tenancy, easement, licence to occupy land is a supply of services;

(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services.

4. Transfer of business assets

(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;

(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

(i) the business is transferred as a going concern to another person; or

(ii) the business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of services

The following shall be treated as supply of service, namely:-

(a) renting of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent

authority or after its first occupation, whichever is earlier.

Explanation.—For the purposes of this clause—

(1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

20 of 1972

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression "construction" includes additions, alterations, replacements or remodeling of any existing civil structure;

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

(a) works contract as defined in clause (119) of section 2; and

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

7. Supply of Goods

The following shall be treated as supply of goods, namely:--

Supply of goods by any unincorporated association or body of

persons to a member thereof for cash, deferred payment or other valuable consideration.

SCHEDULE III

[See section 7]

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
- 3.(a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
- (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- (c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than lottery, betting and gambling.

Explanation.—For the purposes of paragraph 2, the term “court” includes District Court, High Court and Supreme Court.

इसे वेबसाईट www.govtpressmp.nic.in से भी डाउन लोड किया जा सकता है.



मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 53]

भोपाल, शुक्रवार, दिनांक 8 फरवरी 2019—माघ 19, शक 1940

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 8 फरवरी 2019

क्र. 2640-37-इक्कीस-अ(प्रा.)अधि.—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 7 फरवरी 2019 को राज्यपाल महोदया की अनुमति प्राप्त हो चुकी है, एतद्वारा सर्वसाधारण की जानकारी के लिये प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

मध्यप्रदेश अधिनियम

क्रमांक २ सन् २०१९

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०१९

विषय-सूची.

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३३. धारा १६५ का संशोधन.
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३७. अनुसूची २ का संशोधन.
३८. अनुसूची ३ का संशोधन.
३९. निरसन तथा व्यावृत्ति.

मध्यप्रदेश अधिनियम

क्रमांक २ सन् २०१९

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०१९

[दिनांक ७ फरवरी, २०१९ को राज्यपाल की अनुमति प्राप्त हुई, अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक ८ फरवरी, २०१९ को प्रथम बार प्रकाशित की गई.]

मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ को और संशोधित करने हेतु अधिनियम.

भारत गणराज्य के उनहत्तरवें वर्ष में मध्यप्रदेश विधान-मंडल द्वारा निम्नलिखित रूप में यह अधिनियमित हो :-

१. (१) इस अधिनियम का संक्षिप्त नाम मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०१९ है.

संक्षिप्त नाम और प्रारंभ.

(२) अन्यथा उपबंधित के सिवाय, इस अधिनियम के उपबंध उस तारीख को प्रवृत्त होंगे, जो राज्य सरकार, राजपत्र में अधिसूचना द्वारा, नियत करे:

परंतु इस अधिनियम के विभिन्न उपबंधों के लिए विभिन्न तारीखें नियत की जा सकेंगी और इस अधिनियम के प्रारंभ पर किसी ऐसे उपबंध में किसी निर्देश का अर्थान्वयन उस उपबंध के प्रवृत्त होने के निर्देश के रूप में किया जाएगा.

२. मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ (क्रमांक १९ सन् २०१७) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) की धारा २ में,—

धारा २ का संशोधन.

(क) खण्ड (४) में, शब्द "अपील प्राधिकारी और अपील अधिकरण" के स्थान पर, शब्द, अंक और कोष्ठक "अपील प्राधिकारी, अपील अधिकरण और धारा १७१ की उपधारा (२) में निर्दिष्ट प्राधिकारी" स्थापित किए जाएं;

(ख) खण्ड १६ में, शब्द "केन्द्रीय उत्पाद-शुल्क और सीमाशुल्क बोर्ड" के स्थान पर, शब्द "केन्द्रीय अप्रत्यक्ष कर और सीमाशुल्क बोर्ड" स्थापित किए जाएं;

(ग) खण्ड (१७) में, उपखंड (ज) के स्थान पर, निम्नलिखित उपखंड स्थापित किया जाए, अर्थात् :-

"(ज) किसी घुड़दौड़ की गतिविधियां जिसमें किसी योगक या बुक मेकर की अनुज्ञप्ति या ऐसे क्लब में अनुज्ञप्तिधारी बुक मेकर की गतिविधियां सम्मिलित हैं; और";

(घ) खण्ड (१८) का लोप किया जाए;

(ङ) १ जुलाई, २०१७ से, खण्ड (२१) लोप किया गया समझा जाएगा;

(च) १ जुलाई, २०१७ से, खण्ड (२२) से खण्ड (१११) तक को क्रमशः खण्ड (२१) से (११०) तक पुनर्क्रमांकित किया गया समझा जाएगा;

(छ) इस प्रकार पुनर्क्रमांकित किए गए खण्ड (३५) में, शब्द, कोष्ठक और अक्षर "खण्ड (ग)" के स्थान पर, शब्द, कोष्ठक और अक्षर "खण्ड (ख)" स्थापित किए जाएं;

(ज) इस प्रकार पुनर्क्रमांकित किए गए खण्ड (६९) में, उपखण्ड (च) में, शब्द और अंक "अनुच्छेद ३७१" के पश्चात् शब्द और अंक "और अनुच्छेद ३७१ज" अंतःस्थापित किए जाएं;

(झ) इस प्रकार पुनर्क्रमांकित खण्ड (१०२) में, निम्नलिखित स्पष्टीकरण अंतःस्थापित किया जाए, अर्थात् :—

“स्पष्टीकरण.—शंकाओं के निवारण के लिए, एतद्वारा यह स्पष्ट किया जाता है कि अभिव्यक्ति “सेवा” में प्रतिभूतियों में संव्यवहारों को सुकर बनाना या प्रबंध करना सम्मिलित है;”;

(ञ) १ जुलाई, २०१७ से, इस प्रकार पुनर्क्रमांकित खंड (११०) के पश्चात्, निम्नलिखित खण्ड अंतःस्थापित किया गया समझा जाएगा, अर्थात् :—

“(१११) केन्द्रीय माल और सेवा कर अधिनियम, २०१७ से अभिप्रेत है, केन्द्रीय माल और सेवा कर अधिनियम, २०१७ (२०१७ का १२);”.

धारा ६ का संशोधन.

३. मूल अधिनियम की धारा ६ के पार्श्व शीर्ष के स्थान पर, निम्नलिखित पार्श्व शीर्ष स्थापित किया जाए, अर्थात् :—

“कतिपय परिस्थितियों में उचित अधिकारी के रूप में केन्द्रीय कर के अधिकारियों की प्राधिकारिता”.

धारा ७ का संशोधन.

४. मूल अधिनियम की धारा ७ में, १ जुलाई, २०१७ से,—

(क) उपधारा (१) में,—

(एक) खण्ड (ख) में, शब्द, “चाहे वह कारबार के दौरान या उसे अग्रसर करने के लिये”, के पश्चात्, शब्द “और” अंतःस्थापित किया जाए और सदैव अंतःस्थापित किया गया समझा जाएगा;

(दो) खण्ड (ग) में, शब्द प्रतिफल के पश्चात्, शब्द “और” का लोप किया जाए और सदैव लोप किया गया समझा जाएगा;

(तीन) खण्ड (घ) का लोप किया जाए और सदैव लोप किया गया समझा जाएगा;

(ख) उपधारा (१) के पश्चात्, निम्नलिखित उपधारा अंतःस्थापित की जाए और सदैव अंतःस्थापित की गई समझी जाएगी, अर्थात् :—

“(१क) जहां उपधारा (१) के उपबंधों के अनुसार कतिपय कार्यकलाप या संव्यवहार प्रदाय का गठन करते हैं वहां उन्हें अनुसूची २ में यथानिर्दिष्ट माल का प्रदाय या सेवा का प्रदाय माना जाएगा.”;

(ग) उपधारा (३) में, शब्द, कोष्ठक और अंकों “उपधारा (१) और उपधारा (२)” के स्थान पर, शब्द, कोष्ठक और अंक, “उपधारा (१), उपधारा (१क) और उपधारा (२)” स्थापित किए जाएं.

धारा ९ का संशोधन.

५. मूल अधिनियम की धारा ९ में, उपधारा (४) के स्थान पर, निम्नलिखित उपधारा स्थापित की जाए, अर्थात् :—

“(४) सरकार, परिषद् की अनुशंसाओं पर, अधिसूचना द्वारा, रजिस्ट्रीकृत व्यक्तियों के एक वर्ग को विनिर्दिष्ट कर सकेगी, जो किसी अरजिस्ट्रीकृत प्रदायकर्ता से प्राप्त माल या सेवाओं या दोनों के विनिर्दिष्ट प्रवर्गों के प्रदाय के संबंध में, माल या सेवा या दोनों के ऐसे प्रदाय के प्राप्तकर्ता के रूप में विपरीत प्रभार के आधार पर कर का संदाय करेंगे तथा इस अधिनियम के सभी उपबंध ऐसे प्राप्तकर्ता पर इस प्रकार लागू होंगे, मानो वह ऐसा व्यक्ति है जो ऐसे माल या सेवा या दोनों के प्रदाय के संबंध में कर का संदाय करने के लिये दायी है.”.

६. मूल अधिनियम की धारा १० में,—

धारा १० का संशोधन.

(क) उपधारा (१) में,—

(एक) शब्द “उसके द्वारा संदेय कर के स्थान पर, ऐसी दर पर,” के स्थान पर, शब्द, कोष्ठक और अंक “धारा ९ की उपधारा (१) के अधीन उसके द्वारा संदेय कर के स्थान पर, ऐसी दर पर” स्थापित किए जाएं;

(दो) विद्यमान परंतुक में, शब्द “एक करोड़ रुपये” के स्थान पर, शब्द “एक करोड़ पचास लाख रुपये” स्थापित किए जाएं;

(तीन) विद्यमान परंतुक के पश्चात्, निम्नलिखित परंतुक अंतःस्थापित किया जाए, अर्थात् :—

“परंतु यह और कि कोई व्यक्ति, जो खंड (क) या खण्ड (ख) या खण्ड (ग) के अधीन कर के संदाय का विकल्प लेता है, किसी राज्य में पूर्ववर्ती वित्तीय वर्ष में के कारबार के दस प्रतिशत से अनधिक मूल्य या पाँच लाख रुपये, जो भी अधिक हों की सेवा (अनुसूची २ के पैरा ६ के खण्ड (ख) में निर्दिष्ट से भिन्न) का प्रदाय कर सकेगा.”;

(ख) उपधारा (२) में खण्ड (क) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात् :—

“(क) उपधारा (१) में यथाउपबंधित के सिवाय, वह सेवा के प्रदाय में नहीं लगा हुआ है;”.

७. मूल अधिनियम की धारा १२ में, उपधारा (२) में खण्ड (क) में, शब्द, कोष्ठक और अंक “की उपधारा (१)” का लोप किया जाए.

धारा १२ का संशोधन.

८. मूल अधिनियम की धारा १३ में, उपधारा (२) में, दोनों स्थानों पर आने वाले शब्द, कोष्ठक और अंक “की उपधारा (२)” का लोप किया जाए.

धारा १३ का संशोधन.

९. मूल अधिनियम की धारा १६ में, उपधारा (२) में,—

धारा १६ का संशोधन.

(क) खण्ड (ख) में, विद्यमान स्पष्टीकरण के स्थान पर निम्नलिखित स्पष्टीकरण स्थापित किया जाए, अर्थात् :—

“स्पष्टीकरण.—इस खण्ड के प्रयोजनों के लिए यह समझा जाएगा कि रजिस्ट्रीकृत व्यक्ति ने, यथास्थिति, माल या सेवा को प्राप्त कर लिया है—

(एक) जहां माल, किसी प्रदायकर्ता द्वारा किसी प्राप्तिकर्ता या किसी अन्य व्यक्ति को, ऐसे रजिस्ट्रीकृत व्यक्ति के निदेश पर परिदान किया गया है, चाहे व अभिकर्ता के रूप में या अन्यथा माल के संचलन से पूर्व या दौरान, माल के मालिकाना दस्तावेजों के अंतरण के माध्यम से या अन्यथा कार्य कर रहा हो;

(दो) जहां सेवाएं, किसी व्यक्ति को ऐसे रजिस्ट्रीकृत व्यक्ति के निदेश और उसकी ओर से प्रदायकर्ता द्वारा उपलब्ध कराई जाती हो.”;

(ख) खण्ड (ग) में, शब्द और अंक “धारा ४१” के स्थान पर, शब्द, अंक और अक्षर “धारा ४१ या धारा ४३क” स्थापित किए जाएं.

धारा १७ का
संशोधन.

१०. मूल अधिनियम की धारा १७ में,—

(क) उपधारा (३) में, निम्नलिखित स्पष्टीकरण अंतःस्थापित किया जाए, अर्थात् :—

“स्पष्टीकरण.—इस उपधारा के प्रयोजनों के लिए, अभिव्यक्ति “छूट-प्राप्त प्रदाय के मूल्य” में उक्त अनुसूची के पैरा ५ में विनिर्दिष्ट के सिवाय, अनुसूची-तीन में विनिर्दिष्ट कार्यकलाप या संव्यवहार का मूल्य सम्मिलित नहीं होगा.”;

(ख) उपधारा (५) में, खण्ड (क) और (ख) के स्थान पर, निम्नलिखित खण्ड स्थापित किए जाएं, अर्थात् :—

“(क) तेरह से अनधिक व्यक्तियों (चालक सहित) की बैठने की अनुमोदित क्षमता के परिवहन के लिए मोटरयान, सिवाय तब जब उनका उपयोग निम्नलिखित कराधेय प्रदाय करने के लिए किया जाता हो, अर्थात् :—

(अ) ऐसे मोटरयानों की आगे और प्रदाय; या

(आ) यात्रियों का परिवहन; या

(इ) ऐसे मोटरयानों को चलाने के लिए प्रशिक्षण प्रदान करना;

(कक) जलयान और वायुयान, सिवाय तब जब उनका उपयोग—

(एक) निम्नलिखित कराधेय प्रदाय के लिए किया जा रहा हो, अर्थात् :—

(अ) ऐसे जलयान या वायुयान की आगे और प्रदाय; या

(आ) यात्रियों का परिवहन; या

(इ) ऐसे जलयानों को चलाने के लिए प्रशिक्षण प्रदान करना; या

(ई) ऐसे वायुयान चलाने के लिए प्रशिक्षण प्रदान करना;

(दो) माल के परिवहन के लिए;

(कख) साधारण बीमा सेवाएं, सर्विसिंग, मरम्मत और अनुरक्षण की सेवाएं, जहां तक उनका संबंध खण्ड (क) या खण्ड (कक) में निर्दिष्ट मोटरयान, जलयान या वायुयान से है :

परन्तु ऐसी सेवा के लिए इनपुट कर प्रत्यय उपलब्ध होगा—

(एक) जहां खण्ड (क) या खण्ड (कक) में निर्दिष्ट मोटरयान, जलयान या वायुयान का उपयोग उसमें विनिर्दिष्ट प्रयोजनों के लिए किया जाता है;

(दो) जहां किसी कराधेय व्यक्ति द्वारा प्राप्त किया जाता है, जो—

(एक) ऐसे मोटरयान, जलयान या वायुयान के विनिर्माण में लगा हुआ है; या

(दो) उसके द्वारा बीमाकृत ऐसे मोटरयान, जलयान या वायुयान के संबंध में साधारण बीमा सेवाओं के प्रदाय में लगा हुआ है;

(ख) माल या सेवा या दोनों का निम्नलिखित प्रदाय—

(एक) खाद्य और सुपेय, आउटडोर कैटरिंग, सौंदर्य उपचार, स्वास्थ्य सेवाएं, कास्मेटिक और प्लास्टिक शल्यक्रिया, खण्ड (क) या खण्ड (कक) में निर्दिष्ट मोटरयान, जलयान या वायुयान को लीज, भाड़े या भाटक पर देने के सिवाय जब कि उनका उपयोग उसमें विनिर्दिष्ट प्रयोजनों के लिए किया जाता है, जीवन बीमा और स्वास्थ्य बीमा :

परन्तु ऐसे माल या सेवा या दोनों के संबंध में इनपुट कर प्रत्यय वहां उपलब्ध होगा जहां ऐसे माल या सेवा या दोनों की आवक प्रदाय का उपयोग किसी रजिस्ट्रकृत व्यक्ति द्वारा उसी प्रवर्ग के माल या सेवा या दोनों की जावक कराधेय प्रदाय के लिए या कराधेय समिश्र या मिश्रित प्रदाय के तत्व के रूप में किया जाता है;

(दो) किसी क्लब, स्वास्थ्य और फिटनेस केन्द्र की सदस्यता; और

(तीन) कर्मचारियों को अवकाश के दौरान प्रदात यात्रा लाभ जैसे छुट्टी या गृह यात्रा रियायत:

परन्तु ऐसे माल या सेवा या दोनों के संबंध में इनपुट कर प्रत्यय वहां उपलब्ध होगा, जहां किसी नियोक्ता के लिए अपने कर्मचारियों को तत्समय प्रवृत्त किसी विधि के अधीन उपबंध करना बाध्यकर हो.”

११. मूल अधिनियम की धारा २० में, स्पष्टीकरण में, खण्ड (ग) में, शब्द तथा अंक “प्रविष्टि ८४” के स्थान पर, शब्द अंक और अक्षर, “प्रविष्टि ८४ और ९२क” स्थापित किए जाएं.

धारा २० का संशोधन.

१२. मूल अधिनियम की धारा २२ में,—

(क) उपधारा (१) में, परन्तुक के पश्चात्, निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात् :—

“परन्तु यह और कि सरकार, किसी विशेष प्रवर्ग के राज्य के अनुरोध पर तथा परिषद् की सिफारिशों पर पहले परन्तुक में निर्दिष्ट समग्र आवर्त को दस लाख रुपये से ऐसी रकम तक बढ़ा सकेगी, जो बीस लाख रुपये से अधिक नहीं होगी और ऐसी शर्तों और सीमाओं के अध्यधीन रहते हुए, जैसी कि अधिसूचित की जाए;”

धारा २२ का संशोधन.

(ख) स्पष्टीकरण में, खण्ड (तीन) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात् :—

“(तीन) अभिव्यक्ति “विशेष प्रवर्ग राज्यों” से अभिप्रेत होंगे, जम्मू और कश्मीर, अरुणाचल प्रदेश, आसाम, हिमाचल प्रदेश, मेघालय, सिक्किम तथा उत्तराखण्ड राज्य के सिवाय, संविधान के अनुच्छेद, २७९क के खण्ड (४) के उपखण्ड (छ) में यथाविनिर्दिष्ट राज्य.”

१३. मूल अधिनियम की धारा २४ में, खण्ड (दस) में, शब्द “वाणिज्य आपरेटर” के पश्चात्, शब्द तथा अंक “जिससे धारा ५२ के अधीन स्रोत पर कर का संग्रहण करने की अपेक्षा है” अंतःस्थापित किए जाएं.

धारा २४ का संशोधन.

१४. मूल अधिनियम की धारा २५ में,—

(क) उपधारा (१) में, विद्यमान परन्तुक के पश्चात् और स्पष्टीकरण से पहले निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात् :—

“परन्तु यह और कि किसी ऐसे व्यक्ति को, जिसके पास किसी विशेष आर्थिक जोन में विशेष आर्थिक जोन अधिनियम, २००५ में यथापरिभाषित कोई इकाई है या एक विशेष आर्थिक जोन विकासकर्ता

धारा २५ का संशोधन.

होने के चलते, उसे एक पृथक् रजिस्ट्रीकरण के लिए आवेदन करना होगा, जो कि उसी राज्य में विशेष आर्थिक जोन के बाहर अवस्थित उसके कारबार के स्थान से सुभिन्न है.”;

- (ख) उपधारा (२) में, विद्यमान परन्तुक के स्थान पर, निम्नलिखित परन्तुक स्थापित किया जाए, अर्थात् :—

“परन्तु ऐसे किसी व्यक्ति को, जो राज्य में कारबार के बहु स्थान का धारक है, को कारबार के ऐसे प्रत्येक स्थान के लिए उन शर्तों के अध्याधीन रहते हुए जैसी कि विहित की जाए पृथक् रजिस्ट्रीकरण मंजूर किया जा सकेगा.”

धारा २९ का संशोधन.

१५. मूल अधिनियम की धारा २९ में,—

- (क) पार्श्व शीर्ष के स्थान पर, निम्नलिखित पार्श्व शीर्ष स्थापित किया जाए, अर्थात् :—

“रजिस्ट्रीकरण का रद्दकरण अथवा निलंबन”;

- (ख) उपधारा (१) में, खण्ड (ग) के पश्चात्, निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात् :—

“परन्तु रजिस्ट्रीकृत व्यक्ति द्वारा फाइल की गई रजिस्ट्रीकरण से रद्दकरण से संबंधित कार्यवाहियों के लंबित रहने के दौरान, रजिस्ट्रीकरण को ऐसी अवधि के लिए और ऐसी रीति में, जो कि विहित की जाए, निलंबित किया जा सकेगा.”;

- (ग) उपधारा (२) में, विद्यमान परन्तुक के पश्चात्, निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात् :—

“परन्तु यह और कि रजिस्ट्रीकरण के रद्दकरण से संबंधित कार्यवाहियों के लंबित रहने के दौरान, समुचित अधिकारी रजिस्ट्रीकरण को ऐसी अवधि के लिए और ऐसी रीति में, जो कि विहित की जाए, निलंबित कर सकेगा.”

धारा ३४ का संशोधन.

१६. मूल अधिनियम की धारा ३४ में,—

- (क) उपधारा (१) में,—

(एक) शब्द “कोई कर बीजक जारी किया गया है” के स्थान पर, शब्द “एक या अधिक कर बीजक जारी किए गए हैं” स्थापित किए जाएं;

(दो) शब्द “जमापत्र” के स्थान पर, शब्द “किसी वित्तीय वर्ष में किए गए प्रदायों के लिए एक या अधिक जमापत्र” स्थापित किए जाएं;

- (ख) उपधारा (३) में,—

(एक) शब्द “कोई कर बीजक जारी किया गया है” के स्थान पर, शब्द “एक या अधिक कर बीजक जारी किए गए हैं” स्थापित किए जाएं;

(दो) शब्द “नामे पत्र” के स्थान पर, शब्द “किसी वित्तीय वर्ष में की गई पूर्तियों के लिए एक या अधिक नामे पत्र” स्थापित किए जाएं.

१७. मूल अधिनियम की धारा ३५ में, उपधारा (५) में, निम्नलिखित परन्तुक अंतःस्थापित किया जाए, धारा ३५ का अर्थात् :- संशोधन.

“परन्तु इस उपधारा में अंतर्विष्ट कोई बात, केन्द्रीय सरकार या किसी राज्य सरकार के किसी विभाग या किसी स्थानीय प्राधिकरण को लागू नहीं होगी, जिसकी लेखाबहियां, भारत के नियंत्रक एवं महालेखापरीक्षक या तत्समय प्रवृत्त किसी विधि के अधीन किन्हीं स्थानीय प्राधिकरणों के लेखाओं की संपरीक्षा के लिए नियुक्त किसी लेखापरीक्षक द्वारा संपरीक्षा किए जाने के अध्यक्षीन हैं.”

१८. मूल अधिनियम की धारा ३९ में,—

धारा ३९ का संशोधन.

(क) उपधारा (१) में,—

(एक) शब्द “ऐसे प्ररूप में और ऐसी रीति में, जो विहित की जाए” के स्थान पर, शब्द “ऐसे प्ररूप, रीति में तथा ऐसे समय के भीतर, जो विहित किया जाए” स्थापित किए जाएं;

(दो) “ऐसे कलेंडर मास या उसके किसी भाग के उत्तरवर्ती मास के बीसवें दिन से पूर्व या को” शब्दों का लोप किया जाए;

(तीन) निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात् :-

“परन्तु सरकार, परिषद् की सिफारिशों पर, रजिस्ट्रीकृत व्यक्तियों के कतिपय वर्गों को अधिसूचित कर सकेगी, जो ऐसी शर्तों और रक्षोपायों, जो उसमें विनिर्दिष्ट किए जाएं, के अध्यक्षीन रहते हुए, प्रत्येक तिमाही या उसके भाग के लिए विवरणी प्रस्तुत करेंगे.”;

(ख) उपधारा (७) में, निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात् :-

“परन्तु सरकार, परिषद् की सिफारिशों पर, रजिस्ट्रीकृत व्यक्तियों के कतिपय वर्गों को अधिसूचित कर सकेगी, जो ऐसी शर्तों और रक्षोपायों, जो उसमें विनिर्दिष्ट किए जाएं, के अध्यक्षीन रहते हुए, ऐसी विवरणी प्रस्तुत करने के लिए उससे अपेक्षित अंतिम तारीख को या उससे पूर्व ऐसी विवरणी के अनुसार सरकार को, शोध्य कर या उसके किसी भाग का संदाय करेंगे.”;

(ग) उपधारा (९) में,—

(एक) शब्द “उस मास या तिमाही, जिसके दौरान ऐसा लोप या अशुद्ध विशिष्टियां ध्यान में आई हैं” के स्थान पर, शब्द “ऐसे प्ररूप और रीति में, जो विहित की जाए” स्थापित किए जाएं;

(दो) परन्तुक के स्थान पर, निम्नलिखित परन्तुक स्थापित किया जाए, अर्थात् :-

“परन्तुक वित्तीय वर्ष, जिससे ऐसे ब्यौरे संबंधित हैं, की समाप्ति पश्चात्, सितम्बर मास या दूसरी तिमाही के लिए विवरणी देने की नियत तारीख या सुसंगत वार्षिक विवरणी देने की तिथि, जो भी पूर्वोत्तर हो, के पश्चात् किसी लोप या अशुद्ध विशिष्टियों का ऐसा सुधार अनुज्ञात नहीं किया जाएगा.”

१९. मूल अधिनियम की धारा ४३ के पश्चात्, निम्नलिखित धारा अंतःस्थापित की जाए, अर्थात् :-

धारा ४३क का अंतःस्थापन.

“४३क. विवरणी प्रस्तुत करने और इनपुट कर प्रत्यय का फायदा लेने के लिए प्रक्रिया:

(१) धारा १६ की उपधारा (२), धारा ३७ या धारा ३८ में अंतर्विष्ट किसी बात के होते हुए भी, प्रत्येक रजिस्ट्रीकृत व्यक्ति, धारा ३९ की उपधारा (१) के अधीन प्रस्तुत विवरणियों में, प्रदायकर्ताओं द्वारा प्रस्तुत किए गए प्रदायों के ब्यौरों को सत्यापित, विधिमान्य, उपांतरित या विलोपित करेगा.

- (२) धारा ४१, धारा ४२ या धारा ४३ में अंतर्विष्ट किसी बात के होते हुए भी, प्राप्तिकर्ता द्वारा इनपुट कर प्रत्यय का फायदा लेने की प्रक्रिया और उसका सत्यापन ऐसा होगा, जैसा कि विहित किया जाए.
- (३) प्राप्तिकर्ता द्वारा इनपुट कर प्रत्यय का फायदा लेने के प्रयोजनों के लिए, सामान्य पोर्टल पर प्रदायकर्ता द्वारा जावक प्रदायों के ब्यौरे प्रस्तुत करने की प्रक्रिया ऐसी होगी, जैसे कि विहित की जाए.
- (४) उपधारा (३) के अधीन प्रस्तुत नहीं की गई जावक प्रदायों के संबंध में इनपुट कर प्रत्यय का फायदा लेने की प्रक्रिया ऐसी होगी, जो विहित की जाए और ऐसी प्रक्रिया में इनपुट कर प्रत्यय की ऐसी अधिकतम रकम सम्मिलित हो सकेगी, जिसका इस प्रकार फायदा लिया जा सकता है, जो उक्त उपधारा के अधीन प्रदायकर्ताओं द्वारा प्रस्तुत ब्यौरों के आधार पर उपलब्ध इनपुट कर प्रत्यय के बीस प्रतिशत से अधिक नहीं होगी.
- (५) जावक प्रदायों में, विनिर्दिष्ट कर की रकम जिसके लिए प्रदायकर्ता द्वारा उपधारा (३) के अधीन ब्यौरों को प्रस्तुत किया गया है, अधिनियम के उपबंधों के अधीन उसके द्वारा संदेय कर के रूप में माना जाएगा.
- (६) किसी प्रदाय का प्रदायकर्ता और प्राप्तिकर्ता, संयुक्तः और पृथकतः, ऐसी जावक प्रदायों के संबंध में, जिनके ब्यौरे उपधारा (३) या उपधारा (४) के अधीन प्रस्तुत किए गए हैं, किन्तु उनकी विवरणी प्रस्तुत नहीं की गई है, यथास्थिति फायदा लिए गए इनपुट कर प्रत्यय का संदाय या कर का संदाय करने के लिए दायी होंगे.
- (७) उपधारा (६) के प्रयोजनों के लिए, वसूली ऐसी रीति में की जाएगी, जैसी कि विहित की जाए और ऐसी प्रक्रिया गलती से फायदा लिए गए एक हजार रुपए से अनधिक कर या इनपुट कर प्रत्यय की रकम की वसूली न करने के लिए उपबंध कर सकेगी.
- (८) जावक प्रदायों के संबंध में प्रक्रिया, रक्षोपाय और कर की रकम की अवसीमा, जिनके ब्यौरे उपधारा (३) के अधीन किसी ऐसे रजिस्ट्रीकृत व्यक्ति द्वारा निम्नलिखित अवधि में प्रस्तुत किए जा सकते हैं,—

(एक) रजिस्ट्रीकरण प्राप्त करने के छह मास के भीतर;

(दो) जिसने कर के संदाय में व्यतिक्रम किया है और जहां ऐसा व्यतिक्रम ऐसी व्यतिक्रमित राशि के भुगतान की नियत तारीख से दो मास से अधिक के लिए जारी रहता है ऐसी होगी, जैसी कि विहित की जाए.”

धारा ४८ का संशोधन.

२०. मूल अधिनियम की धारा ४८ में, उपधारा (२) में, शब्द तथा अंक “धारा ३९ या धारा ४४ या धारा ४५ के अधीन विवरणी” के पश्चात्, शब्द “और ऐसे अन्य कृत्यों का निर्वहन” अंतःस्थापित किए जाएं.

धारा ४९ का संशोधन.

२१. मूल अधिनियम की धारा ४९ में,—

(क) उपधारा (२) में, शब्द और अंक “धारा ४१” के स्थान पर, शब्द, अंक और अक्षर “धारा ४१ या धारा ४३क” स्थापित किए जाएं;

(ख) उपधारा (५) में,—

(एक) खण्ड (ग) में, निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात् :—

“परन्तु राज्य कर के मददे इनपुट कर प्रत्यय का उपयोग एकीकृत कर के संदाय के लिए केवल वहां किया जाएगा, जहां केन्द्रीय कर के मददे इनपुट कर प्रत्यय का अतिशेष एकीकृत कर के संदाय के लिए उपलब्ध नहीं है;”

(दो) खण्ड (घ) में, निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात् :—

“परन्तु संघ राज्यक्षेत्र कर के मद्दे इनपुट कर प्रत्यय का उपयोग एकीकृत कर के संदाय के लिए केवल वहां किया जाएगा, जहां केन्द्रीय कर के मद्दे इनपुट कर प्रत्यय का अतिशेष एकीकृत कर के संदाय के लिए उपलब्ध नहीं है;”

२२. मूल अधिनियम की धारा ४९ के पश्चात्, निम्नलिखित धाराएं अंतःस्थापित की जाएं, अर्थात् :—

धारा ४९क और
४९ख का
अंतःस्थापन.

“४९क. कतपिय शर्तों के अध्यक्षीन रहते हुए इनपुट कर प्रत्यय का उपयोग.— धारा ४९ में अंतर्विष्ट किसी बात के होते हुए भी, राज्य कर के मद्दे इनपुट कर प्रत्यय का उपयोग, यथास्थिति एकीकृत कर या राज्य कर के संदाय के लिए, केवल तब किया जाएगा, जबकि एकीकृत कर के मद्दे उपलब्ध इनपुट कर प्रत्यय का पहले ही ऐसे संदाय के प्रति पूर्णतया उपयोग कर लिया गया है.

४९ख. इनपुट कर प्रत्यय के उपयोग का आदेश.— इस अध्याय में अंतर्विष्ट किसी बात के होते हुए भी और धारा ४९ की उपधारा (५) के खण्ड (ड) और खण्ड (च) के उपबंधों के अध्यक्षीन रहते हुए, सरकार, परिषद् की अनुशंसाओं पर, इनपुट कर प्रत्यय के यथास्थिति, एकीकृत कर, केन्द्रीय कर, राज्य कर या संघ राज्यक्षेत्र कर के मद्दे ऐसे किसी कर के संदाय के उपयोग किए जाने के आदेश और रीति को विहित कर सकेगी.”

२३. मूल अधिनियम की धारा ५२ में, उपधारा (९) में, शब्द और अंक “धारा ३७” के स्थान पर, शब्द और अंक “धारा ३७ या धारा ३९” स्थापित किए जाएं.

धारा ५२ का
संशोधन.

२४. मूल अधिनियम की धारा ५४ में,—

धारा ५४ का
संशोधन.

(क) उपधारा (८) में, खण्ड (क) में, दो बार आए शब्द “शून्य अंकित प्रदायों” के स्थान पर, क्रमशः शब्द “निर्यात” एवं “निर्यातों” स्थापित किए जाएं;

(ख) स्पष्टीकरण में, खण्ड (२) में,—

(एक) उपखण्ड (ग) में, मद (एक) में, शब्द “विदेशी मुद्रा में” के पश्चात्, शब्द “या भारतीय रूप में, जहां कहीं भारतीय रिजर्व बैंक द्वारा अनुमति दी जाए,” अंतःस्थापित किया जाए;

(दो) उपखण्ड (ड) के स्थान पर, निम्नलिखित उपखण्ड स्थापित किया जाए, अर्थात् :—

“ (ड) उपधारा (३) के प्रथम परंतुक के खण्ड (दो) के अधीन उपयोग न किए गए इनपुट कर प्रत्यय के प्रतिदाय की दशा में, उस अवधि के लिए, जिसमें ऐसे प्रतिदाय का दावा उत्पन्न होता है, धारा ३९ के अधीन विवरणी प्रस्तुत करने की अंतिम तारीख;”

२५. १ जुलाई, २०१७ से मूल अधिनियम की धारा ६७ की उपधारा (२) में, प्रारंभिक पैरा के स्थान पर, निम्नलिखित पैरा स्थापित किया जाए, अर्थात्:—

धारा ६७ का
संशोधन.

“जहां संयुक्त आयुक्त की पंक्ति से अन्यून समुचित अधिकारी के पास या तो उपधारा (१) के अधीन किए गए निरीक्षण के अनुसरण में या अन्यथा यह विश्वास करने का कारण है कि अधिहरण के लिए दायी कोई माल या कोई दस्तावेज या बहियां या चीजें, जो उसके मत में इस अधिनियम के अधीन किन्हीं कार्यवाहियों के लिये उपयोगी या सुसंगत होंगी, जिन्हें किसी स्थान पर छिपाकर रखा गया है तो वह राज्य कर के किसी अन्य अधिकारी को तलाशी और अभिग्रहण करने के लिए लिखित में प्राधिकृत कर सकेगा या ऐसे मालों, दस्तावेजों या बहियों या चीजों की तलाशी ले सकेगा और अभिग्रहण कर सकेगा :”

धारा ७९ का संशोधन.

२६. मूल अधिनियम की धारा ७९ में, उपधारा (४) के पश्चात्, निम्नलिखित स्पष्टीकरण अंतःस्थापित किया जाए, अर्थात्:—

“स्पष्टीकरण—इस धारा के प्रयोजनों के लिए, शब्द “व्यक्ति” में, धारा २५ की उपधारा (४) या यथास्थिति, उपधारा (५) में यथानिर्दिष्ट “सुभिन्न व्यक्ति” सम्मिलित होंगे.”

धारा १०७ का संशोधन.

२७. मूल अधिनियम की धारा १०७ में, उपधारा (६) में, खण्ड (ख) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

“(ख) उक्त आदेश, जिसके संबंध में अपील फाईल की गई है, से उद्धृत विवाद में बकाया कर की रकम के दस प्रतिशत के बराबर राशि का, अधिकतम पच्चीस करोड़ रुपये के अध्यक्षीन रहते हुए, संदाय नहीं किया हो.”

धारा ११२ का संशोधन.

२८. मूल अधिनियम की धारा ११२ में, उपधारा (८) में, खंड (ख) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

“(ख) धारा १०७ की उपधारा (६) के अधीन संदत्त रकम के अतिरिक्त, उक्त आदेश, जिसके संबंध में अपील फाईल की गई है, से उद्धृत विवाद में बकाया कर की रकम के बीस प्रतिशत के बराबर राशि, अधिकतम पचास करोड़ रुपए के अध्यक्षीन रहते हुए.”

धारा १२९ का संशोधन.

२९. मूल अधिनियम की १२९ में,—

(क) १ जुलाई, २०१७ से, उपधारा (१) में, खण्ड (ख) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

“(ख) लागू कर के और उस पर संदत्त कर की रकम द्वारा कम करके माल के मूल्य का पचास प्रतिशत के बराबर शास्ति और, छूट प्राप्त माल की दशा में, माल के मूल्य के पांच प्रतिशत के बराबर रकम या पच्चीस हजार रुपए जो भी कम हो, के संदाय पर जहां माल का स्वामी ऐसे कर और शास्ति के संदाय के लिए आगे नहीं आता है;”

(ख) उपधारा (६) में, शब्द “सात दिन” के स्थान पर, शब्द “चौदह दिन” स्थापित किए जाएं.

धारा १४० का संशोधन.

३०. १ जुलाई, २०१७ से, मूल अधिनियम की धारा १४० में—

(क) उपधारा (४) में, प्रारंभिक पैरा के स्थान पर, निम्नलिखित पैरा स्थापित किया जाए, अर्थात्:—

“कोई रजिस्ट्रीकृत व्यक्ति, जो विद्यमान विधि के अधीन ऐसे कराधेय मालों के साथ-साथ छूट प्राप्त मालों या कर मुक्त मालों, चाहे किसी भी नाम से ज्ञात हों के विक्रय में लगा हुआ है, किन्तु जो इस अधिनियम के अधीन कर के दायी हैं, अपने इलेक्ट्रॉनिक जमा खाते में लेने का हकदार होगा,—”;

(ख) उपधारा (६) में, प्रारंभिक पैरा के स्थान पर, निम्नलिखित पैरा स्थापित किया जाए, अर्थात्:—

“कोई रजिस्ट्रीकृत व्यक्ति जो या तो किसी नियत दर पर कर का संदाय कर रहा था विद्यमान विधि के अधीन संदाय कर रहा था, निम्नलिखित शर्तों के अध्यक्षीन रहते हुए नियत दिन को अपने स्टॉक में अंतर्विष्ट अर्धनिर्मित या निर्मित मालों के इनपुट को स्टॉक में धारित स्टॉक और इनपुट के संबंध में पात्र मूल्यवर्धित कर की जमा अपने इलेक्ट्रॉनिक जमा खाते में लेने का हकदार होगा, अर्थात्:—”

३१. १ जुलाई, २०१७ से, मूल अधिनियम की धारा १४२ में,—

धारा १४२ का संशोधन.

(क) उपधारा (१) में, प्रारंभिक पैरा के स्थान पर, निम्नलिखित पैरा स्थापित किया जाए, अर्थात्:—

“(१) जहां किसी माल पर कोई कर, यदि कोई हो, उसके विक्रय के समय पर विद्यमान विधि के अधीन देय किया गया था नियत तारीख से पूर्व छह मास से पूर्व का समय ना हुआ हो, नियत तारीख को या उसके पश्चात् कारबार के किसी स्थान पर वापिस किया जाता है, रजिस्ट्रीकृत व्यक्ति विद्यमान विधि के अधीन संदत्त कर के वापस किए जाने के लिए पात्र होगा, जहां ऐसा माल नियत तारीख से छह मास की अवधि के भीतर, कारबार के उक्त स्थान के लिए किसी रजिस्ट्रीकृत व्यक्ति के अलावा किसी व्यक्ति द्वारा वापस कर दिया जाता है तथा ऐसे माल का उचित अधिकारी के समाधान होने हेतु पहचाने जाने योग्य है:”;

(ख) उपधारा (७) में, खण्ड (क) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

“(क) आशयित बाहरी देय कर के संबंध में अपील, पुनरीक्षण, पुनर्विलोकन अथवा निर्देश की प्रत्येक कार्यवाही चाहे वह विद्यमान विधि के अधीन नियत तारीख के पूर्व अथवा उसके पश्चात् की गई हो, विद्यमान विधि के उपबंधों के अनुसार निपटाई जाएगी तथा यदि कोई रकम, ऐसी अपील, पुनरीक्षण, पुनर्विलोकन या निर्देश के परिणाम के रूप में वसूली योग्य है तो वह विद्यमान विधि के अधीन जब तक वसूल ना कर ली गई हो, इस अधिनियम के अधीन कर के किसी बकाया के रूप में वसूल की जाएगी और इस प्रकार वसूल की गई रकम इस अधिनियम के अधीन इनपुट कर प्रत्यय के रूप में स्वीकार नहीं की जाएगी.”

३२. मूल अधिनियम की धारा १४३ में, उपधारा (१) में, खंड (ख) में, परन्तुक के पश्चात्, निम्नलिखित परंतुक अंतःस्थापित किया जाए, अर्थात्:—

धारा १४३ का संशोधन.

“परंतु यह और कि पर्याप्त हेतुक दर्शित किए जाने पर, एक वर्ष और तीन वर्ष की अवधि को, आयुक्त द्वारा क्रमशः एक वर्ष और दो वर्ष से अनधिक की अवधि के लिए आगे और बढ़ाया जा सकेगा.”

३३. १ जुलाई, २०१७ से, मूल अधिनियम की धारा १६५ के स्थान पर, निम्नलिखित धारा स्थापित की जाए, अर्थात्:—

धारा १६५ का संशोधन.

“१६५. विनियम बनाने की शक्ति.

सरकार, अधिसूचना द्वारा इस अधिनियम के उपबंधों को कार्यान्वित करने के लिए इस अधिनियम तथा इसके अधीन बनाए गए नियमों से संगत विनियम बना सकेगी.”

३४. १ जुलाई, २०१७ से, मूल अधिनियम की धारा १६६ के स्थान पर, निम्नलिखित धारा स्थापित की जाए, अर्थात्:—

धारा १६६ का संशोधन.

“१६६. नियमों, विनियमों और अधिसूचनाओं का रखा जाना.

इस अधिनियम के अधीन सरकार द्वारा बनाए गए प्रत्येक नियम, प्रत्येक विनियम और सरकार द्वारा जारी प्रत्येक अधिसूचना, उसे बनाए जाने अथवा जारी किए जाने के पश्चात् राज्य विधान-मंडल के समक्ष, जब वह सत्र में हो, कुल तीस दिन की अवधि के लिए रखा जाएगा, यह अवधि एक सत्र या दो या अधिक अनुक्रमिक सत्रों में हो सकेगी और यदि पूर्वोक्त सत्र या अनुक्रमिक सत्रों से तुरन्त पूर्व के सत्र के अवसान के पूर्व राज्य विधान-मंडल यथास्थिति, नियम, विनियम या अधिसूचना में कोई उपांतरण करने पर सहमत हो जाता है या राज्य विधान-मंडल इस बात के लिए सहमत हो जाता है कि यथास्थिति ऐसे नियम, विनियम या अधिसूचना को नहीं बनाया जाना चाहिए तो ऐसा नियम, विनियम या अधिसूचना उसके पश्चात् यथास्थिति केवल ऐसे उपांतरित रूप में ही प्रभावी होगी या प्रभावी नहीं रहेगी; तथापि ऐसा कोई उपांतरण या रद्दकरण, यथास्थिति इस नियम या विनियम या अधिसूचना के अधीन पूर्व में की गई किसी बात की विधिमान्यता पर प्रतिकूल प्रभाव नहीं डालेगा.”

धारा १७४ का संशोधन.

३५. १ जुलाई, २०१७ से, मूल अधिनियम की धारा १७४ में,—

(क) उपधारा (२) में, खण्ड (च) के स्थान पर निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

“(च) कोई कार्यवाहियां, जिनका संबंध किसी अपील, पुनरीक्षण, पुनर्विलोकन या निर्देश जिन्हें नियत दिन के पूर्व, उस दिन पर या उसके पश्चात् उक्त संशोधित अधिनियम या निरसित अधिनियम या उसके अधीन बनाए गए नियम के अधीन संस्थित किया गया है, और ऐसी कार्यवाहियां उक्त संशोधित अधिनियम या निरसित अधिनियम के अधीन जारी रहेगी जैसे कि यह अधिनियम प्रवृत्त नहीं हुआ हो और उक्त अधिनियम को संशोधित या निरसित नहीं किया गया है, को प्रभावित नहीं करेगा;”

(ख) उपधारा (३) के स्थान पर निम्नलिखित उपधारा स्थापित की जाए, अर्थात्:—

“(३) निरसन के प्रभाव के संदर्भ में मध्यप्रदेश साधारण खंड अधिनियम, १९५७ (क्रमांक ३ सन् १९५८) साधारण उपयोजन पर प्रतिकूल प्रभावित करने के लिए धारा १७३ और उपधारा (१) में निर्दिष्ट विशिष्ट विषयों के उल्लेख को नहीं रखा जाएगा.”

अनुसूची १ का संशोधन.

३६. मूल अधिनियम की अनुसूची १ में, पैरा ४ में शब्द “कराधेय व्यक्ति” के स्थान पर, “व्यक्ति” स्थापित किया जाए.

अनुसूची २ का संशोधन.

३७. मूल अधिनियम की अनुसूची २ में, शीर्षक में, शब्द “क्रियाकलापों” के पश्चात् शब्द “या संव्यवहारों” अंतःस्थापित किया जाए और सदैव १ जुलाई, २०१७ से अंतःस्थापित किया गया समझा जाए.

अनुसूची ३ का संशोधन.

३८. मूल अधिनियम की अनुसूची ३ में,—

(क) पैरा ६ के पश्चात् निम्नलिखित पैरा अंतःस्थापित किए जाएं, अर्थात्:—

“७. भारत के बाहर किसी स्थान से, भारत के बाहर किसी अन्य स्थान पर माल का, ऐसे माल के भारत में प्रवेश किए बिना प्रदाय.

८. (क) घरेलू उपभोग के लिए अनुमति प्रदान किये जाने से पूर्व किसी व्यक्ति को भांडागार में रखे गए माल का प्रदाय;

(ख) परेषिती द्वारा किसी अन्य व्यक्ति को, माल का भारत से बाहर अवस्थित मूल पत्तन से प्रेषण किए जाने के पश्चात् किन्तु घरेलू उपभोग के लिए अनुमति दिए जाने से पूर्व माल के मालिकाना हक के दस्तावेज में पृष्ठांकन द्वारा माल का प्रदाय.”;

(ख) स्पष्टीकरण को, स्पष्टीकरण १ के रूप में क्रमांकित किया जाए और इस प्रकार पुनःक्रमांकित स्पष्टीकरण १ के पश्चात् निम्नलिखित स्पष्टीकरण अंतःस्थापित किया जाए, अर्थात्:—

स्पष्टीकरण २.—पैरा ८ के प्रयोजनों के लिए, अभिव्यक्ति “भांडागार में रखे गये माल” का वही अर्थ होगा, जैसा कि सीमा शुल्क अधिनियम, १९६२ (१९६२ का ५२) में उसके लिए समानुदेशित किया गया है.”

निरसन तथा व्यावृत्ति.

३९. (१) मध्यप्रदेश माल और सेवा कर (संशोधन) अध्यादेश २०१८ (क्रमांक ११ सन् २०१८) एतद्वारा निरसित किया जाता है.

(२) उक्त अध्यादेश के निरसन के होते हुए भी, उक्त अध्यादेश के अधीन की गई कोई बात या की गई कोई कार्रवाई, इस अधिनियम के तत्स्थानी उपबंधों के अधीन की गई बात या की गई कार्रवाई समझी जाएगी.

भोपाल, दिनांक 8 फरवरी 2019

क्र. 2640-37-इक्कीस-अ(प्रा.)अधि.—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, 2019 (क्रमांक 2 सन् 2019) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

MADHYA PRADESH ACT

No. 2 OF 2019

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2019

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MADHYA PRADESH ACT

No. 2 OF 2019

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2019

Received the assent of the Governor on the 7th February, 2019; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 8th February 2019.

An Act further to amend the Madhya Pradesh Goods and Services Tax Act, 2017.

Be it enacted by the Madhya Pradesh Legislature in the sixty-ninth year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Madhya Pradesh Goods and Services Tax (Amendment) Act, 2019.

(2) Save as otherwise provided, the provisions of this Act 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 the 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 2.

2. In Section 2 of the Madhya Pradesh Goods and Services Tax Act, 2017 (No. 19 of 2017) (hereinafter referred to as the principal Act)—

- (a) in clause (4), for the words "the Appellate Authority and the Appellate Tribunal", the words, bracket and figures "the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of Section 171" shall be substituted;
- (b) in clause (16) for the words "Central Board of Excise and Customs", the words "Central Board of Indirect Taxes and Customs" shall be substituted;
- (c) in clause (17), for sub-clause (h), the following sub-clause shall be substituted, namely:—
 - "(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and";
- (d) clause (18) shall be omitted;
- (e) with effect from the 1st day of July, 2017 clause (21) shall be deemed to have been omitted;
- (f) with effect from the 1st day of July, 2017 clauses (22) to (111) shall be deemed to have been renumbered as clauses (21) to (110) respectively;
- (g) in clause (35) as so renumbered, for the word, bracket and letter "clause (c)", the word, bracket and letter "clause (b)" shall be substituted;
- (h) in clause (69) so renumbered, in sub-clause (f), after the word and figure "article 371", the words, figure and letter "and article 371J" shall be inserted;
- (i) in clause (102) so renumbered, the following Explanation shall be inserted, namely:—

"Explanation.—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;"
- (j) with effect from the 1st day of July, 2017 after the clause (110) so renumbered, the following clause shall be deemed to have been inserted, namely:—

"(111) "the Central Goods and Services Tax Act, 2017" means the Central Goods and Services Tax Act, 2017 (No. 12 of 2017); "

3. For the marginal heading of Section 6 of the principal Act, the following marginal heading shall be substituted, namely:— **Amendment of Section 6.**

“Authorisation of officers of central tax as proper officer in certain circumstances”.

4. In Section 7 of the principal Act, with effect from the 1st day of July, 2017,— **Amendment of Section 7.**

(a) in sub-section (1),—

(i) in clause (b), after the words “or furtherance of business;”, the word “and” shall be inserted and shall always be deemed to have been inserted;

(ii) in clause (c), after the words “a consideration”, the word “and shall be omitted and shall always be deemed to have been omitted;

(iii) clause (d) shall be omitted and shall always be deemed to have been omitted;

(b) after sub-section (1), the following sub-section shall be inserted and shall always be deemed to have been inserted, namely:—

“(1A) Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.”;

(c) in sub-section (3), for the words, brackets and figures “sub-sections (1), and (2)” the words, brackets, figures and letter “sub-section (1), (1A) and (2)” shall be substituted.

5. In Section 9 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:— **Amendment of Section 9.**

“(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”.

6. In Section 10 of the principal Act,— **Amendment of Section 10.**

(a) in sub-section (1),—

(i) for the words “in lieu of the tax payable by him, an amount calculated at such rate”, the words, brackets and figures “in lieu of the tax payable by him under sub-section (1) of Section 9, an amount of tax calculated at such rate” shall be substituted;

(ii) in the existing proviso, for the words “one crore rupees”, the words “one crore and fifty lakh rupees” shall be substituted;

(iii) after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent of turnover in a State in the preceding financial year or five lakh rupees, whichever is higher.”;

(b) in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

“(a) save as provided in sub-section (1), he is not engaged in the supply of services;”.

- Amendment of Section 12.** 7. In Section 12 of the principal Act, in sub-section (2), in clause (a), the words, bracket and figure “sub-section (1) of” shall be omitted.
- Amendment of Section 13.** 8. In Section 13 of the principal Act, in sub-section (2), the words, brackets and figure “sub-section (2) of” occurring at both the places, shall be omitted.
- Amendment of Section 16.** 9. In Section 16 of the principal Act, in sub-section (2),—
- (a) in clause (b), for the Explanation, the following Explanation shall be substituted, namely:—
- “**Explanation.**—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services,—
- (i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
- (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered persons.”;
- (b) in clause (c), for the word and figure “section 41”, the words, figures and letter “section 41 or section 43A” shall be substituted.
- Amendment of Section 17.** 10. In Section 17 of the principal Act,—
- (a) in sub-section (3), the following Explanation shall be inserted, namely:—
- “**Explanation.**—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.”;
- (b) in sub-section (5), for clauses (a) and (b), the following clauses shall be substituted, namely:—
- “(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—
- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;
- (aa) vessels and aircraft except when they are used—
- (i) for making the following taxable supplies, namely:—
- (A) further supply of such vessels or aircraft; or
- (B) transportation of passengers; or
- (C) imparting training on navigating such vessels; or
- (D) imparting training on flying such aircraft;
- (ii) for transportation of goods;
- (ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):
- Provided that the input tax credit in respect of such services shall be available,—
- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purpose specified therein;

- (ii) where received by a taxable person engaged—
- (I) in the manufacture of such motor vehicles, vessels or aircraft; or
- (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;
- (b) the following supply of goods or services or both,—
- (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

- (ii) membership of a club, health and fitness centre; and
- (iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”.

11. In Section 20 of the principal Act, in the Explanation, in clause (c), for the words and figure “under entry 84,”, the words, figures and letter “under entries 84 and 92A” shall be substituted.

Amendment of Section 20.

12. In Section 22 of the principal Act,—

Amendment of Section 22.

- (a) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the Government may, at the request of a special category State and on the recommendations of the council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified.”;

- (b) in the Explanation, for clause (iii), the following clause shall be substituted, namely:—

“(iii) the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu and Kashmir, Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Utterakhand.”.

13. In Section 24 of the principal Act, in clause (x), after the words “commerce operator”, the words and figure “who is required to collect tax at source under-section 52” shall be inserted.

Amendment of Section 24.

14. In Section 25 of the principal Act,—

Amendment of Section 25.

- (a) in sub-section (1), after the existing proviso and before the Explanation, the following proviso shall be inserted, namely:—

“Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State.”.

- (b) in sub-section (2), for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that a person having multiple places of business in a State may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.”

**Amendment of
Section 29.**

15. In Section 29 of the principal Act,—

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Cancellation or suspension of Registration.”;

- (b) in sub-section (1), after clause (c), the following proviso shall be inserted, namely:—

“Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.”;

- (c) in sub-section (2), after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.”.

**Amendment of
Section 34.**

16. In section 34 of the principal Act,—

- (a) in sub-section (1),—

- (i) for the words “Where a tax invoice has”, the words “where one or more tax invoices have” shall be substituted;

- (ii) for the words “a credit note”, the words “one or more credit notes for supplies made in financial year” shall be substituted;

- (b) in sub-section (3),—

- (i) for the words “Where a tax invoice has”, the words “Where one or more tax invoices have” shall be substituted;

- (ii) for the words “a debit note”, the words “one or more debit notes for supplies made in a financial year” shall be substituted.

**Amendment of
Section 34.**

17. In section 35 of the principal Act, in sub-section (5), the following proviso shall be inserted, namely:—

“Provided that nothing contained in this sub-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 39.**

18. In Section 39 of the principal Act,—

- (a) in sub-section(1),—

- (i) for the words “in such form and manner as may be prescribed”, the words “in such form, manner and within such time as may be prescribed” shall be substituted;

- (ii) the words “on or before the twentieth day of the month succeeding such calendar month or part thereof” shall be omitted;
- (iii) the following proviso shall be inserted, namely:—
- “Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.”;
- (b) in sub-section (7), the following proviso shall be inserted, namely:—
- “Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.”;
- (c) in the sub-section (9),—
- (i) for the words “in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed”, the words “in such form and manner as may be prescribed” shall be substituted;
- (ii) for the proviso, the following proviso shall be substituted, namely:—
- “Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.”.
19. After section 43 of the principal Act, the following section shall be inserted, namely:—
- Insertion of Section 43 A.**
- “43A. Procedure for furnishing return and availing input tax credit.**
- (1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.
- (2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.
- (3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.
- (4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.
- (5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.

- (6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.
- (7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.
- (8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—
- (i) within six months of taking registration;
- (ii) who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount, shall be such as may be prescribed.”.

Amendment of Section 48.

20. In section 48 of principal Act, in sub-section (2), after the words and figures “return under section 39 or section 44 or section 45”, the words “and to perform such other functions” shall be inserted.

Amendment of Section 49.

21. In section 49 of the principal Act,—

- (a) in sub-section (2), for the word and figures “Section 41”, the words, figures and letter “Section 41 or section 43A” shall be substituted;
- (b) in sub-section (5),—
- (i) in clause (c), the following proviso shall be inserted, namely:—
- “Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”;
- (ii) in clause (d), the following proviso shall be inserted, namely:—
- ”Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”.

Insertion of Sections 49 A and 49 B.

22. After section 49 of the principal Act, the following sections shall be inserted, namely:—

“49A. Utilisation of input tax credit subject to certain conditions.

Notwithstanding anything contained in section 49, the input tax credit on account of State tax shall be utilised towards payment of integrated tax or State tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

49B. Order of utilisation of input tax credit.

Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.”.

23. In Section 52 of the principal Act, in sub-section (9), for the word and figures "section 37", the words and figures "section 37 or section 39" shall be substituted. **Amendment of Section 52.**
24. In section 54 of the principal Act,— **Amendment of Section 54.**
- (a) in sub-section (8), in clause (a), for the words "zero-rated supplies" occurring twice, the words "export" and "exports" shall respectively be substituted;
- (b) in the Explanation, in clause (2),—
- (i) in sub-clause (c), in item (i), after the words "foreign exchange", the words "or in Indian rupees wherever permitted by the Reserve Bank of India" shall be inserted;
- (ii) for sub-clause (e), the following sub-clause shall be substituted namely :—
- "(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;"
25. With effect from the 1st day of July, 2017, in sub-section (2) of section 67 of the principal Act, for the opening paragraph, the following paragraph shall be substituted, namely :— **Amendment of Section 67.**
- "Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of State tax to search and seize or may himself search and seize such goods, documents or books or things."
26. In Section 79 of the principal Act, after sub-section (4), the following Explanation shall be inserted, namely :— **Amendment of Section 79.**
- "Explanation.—for the purposes of this section, the word "person" shall include "Distinct Persons" as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25."
27. In Section 107 of the principal Act, in sub-section (6), for clause (b), the following clause shall be substituted, namely :— **Amendment of Section 107.**
- "(b) a sum equal to ten per cent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed, subject to a maximum of twenty-five crore rupees."
28. In Section 112 of the principal Act, in sub-section (8), for clause (b), the following clause shall be substituted, namely :— **Amendment of Section 112.**
- "(b) in addition to the amount paid under sub-section (6) of section 107, a sum equal to twenty per cent of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filled, subject to a maximum of fifty crore rupees."

Amendment of Section 129.

29. In Section 129 of the principal Act,—

- (a) with effect from first day of July, 2017, in sub-section (1) for clause (b), the following clause shall be substituted, namely :—
“(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon 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 tax and penalty;”.
- (b) in sub-section (6), for the words “Seven days”, the words “fourteen days” shall be substituted.

Amendment of Section 140.30. With effect from the 1st day of July, 2017, in Section 140 of the principal Act.—

- (a) in sub-section (4), for the opening paragraph , the following paragraph shall be substituted, namely:—
“A registered person, who was engaged in the sale of taxable goods as well as exempted goods or tax free goods, by whatever name called, under the existing law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—”;
- (b) in sub-section (6), for the opening paragraph, the following paragraph shall be substituted, namely:—
“A registered person, who was either paying tax at fixed rate or paying under the existing law shall be entitled to take, in his electronic credit ledger, credit of value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—”.

Amendment of section 142.31. With effect from the 1st day of July, 2017, in Section 142 of the principal Act.—

- (a) in sub-section (1), for the opening paragraph , the following paragraph shall be substituted, namely:—
“(1) where any goods on which tax, if any, had been paid under the existing law at the time of sale thereof not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the tax paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:”;
- (b) in sub-section (7), for clause (a), the following clause shall be substituted, namely:—
“(a) Every proceeding of appeal, revision, review or reference relating to any output tax liability intimated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.”.

32. In Section 143 of the principal Act, in sub-section (1), in clause (b), after the proviso, the following proviso shall be inserted, namely:— **Amendment of Section 143.**

“Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the commissioner for a further period not exceeding one year and two years respectively.”.

33. With effect from 1st day of July, 2017, for Section 165 of the principal Act, the following section shall be substituted, namely:— **Amendment of Section 165.**

“165. Power to make regulations.

The Government may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.”.

34. with effect from 1st day of July, 2017, for Section 166 of the principal Act, the following section shall be substituted. namely:— **Amendment of Section 166.**

166. Laying of rules, regulations and notifications.

Every rule made by the Government, every regulation made by the Government and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rule or regulation or in the notification, as the case may be, or the State Legislature agrees that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.”.

35. with effect from 1st day of July, 2017, for Section 174 of the principal Act,— **Amendment of Section 174.**

(a) in sub-section(2), for clause (f), the following clause shall be substituted, namely:—

“(f) affect any proceedings including that relating to an appeal, revision, review or reference, instituted before, on or after the appointed day under the said amended Act or repealed Acts or the rules made thereunder and such proceedings shall be continued under the said amended Acts or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The mention of the particular matters referred to in Section 173 and sub-section (1) shall not be held to prejudice or affect the general application of the Madhya Pradesh General Clauses Act, 1957 (No. 3 of 1958) with regard to the effect of repeal.”.

Amendment of Schedule I.

36. In Schedule I of the principal Act, in paragraph 4, for the words “taxable person”, the word “person” shall be substituted.

Amendment of Schedule II.

37. In Schedule II of the principal Act, in the heading, after the word “ACTIVITIES”, the words “OR TRANSACTIONS” shall be inserted and shall always be deemed to have been inserted with effect from the 1st day of July, 2017.

Amendment of Schedule III.

38. In Schedule III of the principal Act,—

(a) after paragraph 6, the following paragraphs shall be inserted, namely :—

“7. Supply of goods from a place outside India to another place outside India without such goods entering into India.

8. (a) Supply of warehoused goods to any person before clearance for home consumption;

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”;

(b) the Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

“Explanation 2.-For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962 (No. 52 of 1962).”.

Repeal and saving

39. (1) The Madhya Pradesh Goods and Services Tax (Amendment) Ordinance, 2018 (No.11 of 2018) is hereby repealed.

(2) Notwithstanding the repeal of the said ordinance, anything done or any action taken under the said ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.

इसे वेबसाईट www.govtpressmp.nic.in से भी डाउन लोड किया जा सकता है.



मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 6]

भोपाल, सोमवार, दिनांक 6 जनवरी 2020—पौष 16, शक 1941

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 6 जनवरी 2020

क्र. 283-6-इक्कीस-अ(प्रा.).—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 4 जनवरी 2020 को महामहिम राज्यपाल की अनुमति प्राप्त हो चुकी है, एतद्वारा सर्वसाधारण की जानकारी के लिये प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

मध्यप्रदेश अधिनियम

क्रमांक १ सन् २०२०

मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) अधिनियम, २०१९

विषय-सूची.

धाराएं :

१. संक्षिप्त नाम और प्रारंभ
२. धारा २ का संशोधन.
३. धारा १० का संशोधन.
४. धारा २२ का संशोधन.
५. धारा २५ का संशोधन.
६. नई धारा ३१क का अंतःस्थापन.
७. धारा ३९ का संशोधन.
८. धारा ४४ का संशोधन.
९. धारा ४९ का संशोधन.
१०. धारा ५० का संशोधन.
११. धारा ५२ का संशोधन.
१२. धारा ५३क का अंतःस्थापन.
१३. धारा ५४ का संशोधन
१४. धारा ९५ का संशोधन.
१५. नई धाराएं १०१क और १०१ख का अंतःस्थापन.
१६. धारा १०२ का संशोधन.
१७. धारा १०३ का संशोधन.
१८. धारा १०४ का संशोधन.
१९. धारा १०५ का संशोधन.
२०. धारा १०६ का संशोधन.
२१. धारा १७१ का संशोधन.
२२. मध्यप्रदेश माल एवं सेवा कर अधिनियम, २०१७ की धारा ११ की उप-धारा (१) के अधीन जारी की गई अधिसूचना क्रमांक एफ-ए-३-३५-२०१७-१-V(१४८), दिनांक १४ नवम्बर, २०१७ का भूतलक्षी रूप से संशोधन.

मध्यप्रदेश अधिनियम

क्रमांक १ सन् २०२०

मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) अधिनियम, २०१९

[दिनांक ४ जनवरी, २०२० को राज्यपाल की अनुमति प्राप्त हुई, अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक ६ जनवरी, २०२० को प्रथम बार प्रकाशित की गई.]

मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ के संशोधन हेतु अधिनियम

भारत गणराज्य के सत्तरवें वर्ष में मध्यप्रदेश राज्य विधान-मंडल द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

१. (१) इस अधिनियम का संक्षिप्त नाम मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) अधिनियम, २०१९.

संक्षिप्त नाम और प्रारंभ.

(२) अन्यथा उपबंधित के सिवाय, यह अधिनियम के उपबंध उस तारीख को प्रवृत्त होंगे, जो राज्य सरकार, राजपत्र में, अधिसूचना द्वारा, नियत करे:

परंतु इस अधिनियम के विभिन्न उपबंधों के लिए विभिन्न तारीखें नियत की जा सकेंगी और इस अधिनियम के प्रारंभ पर किसी ऐसे उपबंध में किसी निर्देश का अर्थान्वयन उस उपबंध के प्रवृत्त होने के निर्देश के रूप में किया जाएगा.

२. मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ (क्रमांक १९ सन् २०१७) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) की धारा २ में, खण्ड (४) में, शब्द "अग्रिम विनिर्णय अपील प्राधिकारी" के स्थान पर, शब्द "राष्ट्रीय अग्रिम विनिर्णय अपील प्राधिकारी" अन्तःस्थापित किए जाएं.

धारा २ का संशोधन.

३. मूल अधिनियम की धारा १० में,—

धारा १० का संशोधन.

(क) उप-धारा (१) में, द्वितीय परंतुक के पश्चात्, निम्नलिखित स्पष्टीकरण अंतःस्थापित किया जाए, अर्थात्:—

“स्पष्टीकरण १.—द्वितीय परंतुक के प्रयोजनों के लिए, जहां तक प्रतिफल को ब्याज या बट्टे के रूप में प्रदर्शित किया जाता है, निक्षेपों, ऋणों या अग्रिमों को विस्तारित करके, छूट प्राप्त सेवाओं की पूर्ति के मूल्य को, किसी राज्य में आवर्त के मूल्य के अवधारण के लिए गणना में नहीं लिया जाएगा.”;

(ख) उप-धारा (२) में,—

(एक) खंड (घ) में अन्त में आने वाला शब्द "और" का लोप किया जाए;

(दो) खंड (ड) में, "परिषद;" के स्थान पर, शब्द "परिषद; और" शब्द स्थापित किए जाएं;

(तीन) खंड (ड) के पश्चात्, निम्नलिखित खंड अंतःस्थापित किया जाए, अर्थात्:—

“(च) वह न तो कोई नैमित्तिक कराधेय व्यक्ति है और न ही कोई अनिवासी कराधेय व्यक्ति;”;

(ग) उप-धारा (२) के पश्चात्, निम्नलिखित उप-धारा अंतःस्थापित की जाए, अर्थात्:—

“(२क) इस अधिनियम में अंतर्विष्ट किसी प्रतिकूल बात के होते हुए भी, परन्तु धारा ९ की उप-धारा (३) और उप-धारा (४) के उपबंधों के अधीन रहते हुए, कोई रजिस्ट्रीकृत व्यक्ति,

जो उप-धारा (१) और उप-धारा (२) के अधीन कर के संदाय का विकल्प लेने के लिए पात्र नहीं है और जिसकी पूर्व वित्तीय वर्ष के सकल आवर्त पचास लाख रुपए से अधिक नहीं है, उसके द्वारा धारा ९ की उप-धारा (१) के अधीन संदेय कर के अधीन, विहित की जाने वाली ऐसी दर पर, जो राज्य में उसकी आवर्त के तीन प्रतिशत से अधिक नहीं होगी, संगणित कर की रकम का संदाय करने का विकल्प ले सकेगा, यदि वह,—

- (क) मालों या सेवाओं के किसी प्रदाय करने में नहीं लगा है, जो इस अधिनियम के अधीन कर से उद्ग्रहणीय नहीं है;
- (ख) माल या सेवाओं की अंतरराज्यीय जावक प्रदाय करने में नहीं लगा है;
- (ग) किसी ऐसे इलैक्ट्रॉनिक वाणिज्य प्रचालक के माध्यम से माल या सेवाओं के ऐसे प्रदाय में नहीं लगा है, जिससे धारा ५२ के अधीन स्रोत पर कर का संग्रहण करना अपेक्षित है;
- (घ) ऐसे माल का विनिर्माता या ऐसी सेवाओं का पूर्तिकार नहीं है, जो सरकार द्वारा परिषद् की सिफारिशों पर अधिसूचित की जाएं; और
- (ङ) न तो कोई नैमित्तिक कराधेय व्यक्ति है और न ही कोई अनिवासी कराधेय व्यक्ति है:

परंतु जहां एक से अधिक रजिस्ट्रीकृत व्यक्तियों का आय-कर अधिनियम, १९६१ (१९६१ का ४३) के अधीन जारी स्थायी खाता संख्यांक एक ही है, वहां ऐसा रजिस्ट्रीकृत व्यक्ति इस उप-धारा के अधीन तब तक स्कीम के लिए विकल्प का चुनाव करने का पात्र नहीं होगा, जब तक ऐसे सभी रजिस्ट्रीकृत व्यक्ति इस उप-धारा के अधीन कर का संदाय करने के विकल्प का चुनाव नहीं करते हैं.”;

- (घ) उप-धारा (३) में, शब्दों, कोष्ठक और अंक “उप-धारा (१) के अधीन” दोनों स्थानों पर, जहां कहीं भी आए हैं, के पश्चात्, शब्द कोष्ठक, अंक और अक्षर “या उप-धारा (२क) के अधीन यथास्थिति,” अंतःस्थापित किए जाएं;
- (ङ) उप-धारा (४) में, शब्द, कोष्ठक तथा अंक “उप-धारा (१) के” के पश्चात्, शब्द, कोष्ठक, अंक तथा अक्षर “या यथास्थिति उप-धारा (२क)” अंतःस्थापित किए जाएं;
- (च) उप-धारा (५) में, शब्द कोष्ठक तथा अंक “उप-धारा (१) के अधीन” के स्थान पर, शब्द, कोष्ठक, अंक और अक्षर “या उप-धारा (२क) के अधीन यथास्थिति,” अंतःस्थापित किए जाएं;
- (छ) उप-धारा (५) के पश्चात्, निम्नलिखित स्पष्टीकरण अंतःस्थापित किया जाए, अर्थात्:—

“स्पष्टीकरण १.—इस धारा के अधीन किसी व्यक्ति की कर संदाय करने की पात्रता का अवधारण करने के लिए, इसके सकल आवर्त की संगणना करने के प्रयोजनों के लिए, अभिव्यक्ति “सकल आवर्त” पद के अंतर्गत किसी वित्तीय वर्ष के १ अप्रैल से उस तारीख तक की पूर्तियां सम्मिलित होंगी, जिसको वह इस अधिनियम के अधीन रजिस्ट्रीकरण का दायी बन जाता है, किन्तु जहां तक प्रतिफल को ब्याज या बट्टे के रूप में प्रदर्शित किया जाता है, निक्षेपों, ऋणों या अग्रियों को विस्तारित करके छूट प्राप्त सेवाओं के प्रदाय का मूल्य सम्मिलित नहीं होगा.

“**स्पष्टीकरण २.**—इस धारा के अधीन किसी व्यक्ति द्वारा संदेय कर का अवधारण करने के लिए, अभिव्यक्ति “किसी राज्य में आवर्त” में निम्नलिखित पूर्तियों का मूल्य सम्मिलित नहीं होगा, अर्थात्:—

- (एक) किसी वित्तीय वर्ष के १ अप्रैल से उस तारीख तक की पूर्तियां, जिसको ऐसा व्यक्ति इस अधिनियम के अधीन रजिस्ट्रीकरण का दायी बन जाता है; और
- (दो) जहां तक प्रतिफल को ब्याज या बट्टे के रूप में प्रदर्शित किया जाता है, निक्षेपों, ऋणों या अग्रिमों को विस्तारित करके छूट प्राप्त सेवाओं की पूर्ति.”

४. मूल अधिनियम की धारा २२ में, उप-धारा (१) में, द्वितीय परंतुक में, पूर्ण विराम के स्थान पर, कोलन स्थापित किया जाए और तत्पश्चात् निम्नलिखित परन्तुक तथा स्पष्टीकरण अंतःस्थापित किया जाए, अर्थात्:—

धारा २२ का संशोधन.

“परन्तु यह भी कि सरकार, परिषद् की सिफारिशों के आधार पर, पूर्तिकार जो माल के अनन्य पूर्ति में लगा हो की दशा में संकलित आवर्त बीस लाख रुपये से चालीस लाख रुपये से अनधिक की ऐसी राशि तक, ऐसी शर्तों तथा परिसीमा के अधीन बढ़ा सकेगा, जैसी कि अधिसूचित की जाएं,

स्पष्टीकरण.—इस उप-धारा के प्रयोजनों के लिए, किसी व्यक्ति के बारे में तब भी यह समझा जाएगा कि वह माल की अनन्य पूर्ति में लगा है, यदि वह निक्षेपों, ऋणों या अग्रिमों को विस्तारित करके छूट प्राप्त सेवाओं की पूर्ति में लगा हुआ है, जहां तक प्रतिफल को ब्याज या बट्टे के रूप में प्रदर्शित किया जाता है.”

५. मूल अधिनियम की धारा २५ में, उप-धारा (६) के पश्चात्, निम्नलिखित उप-धाराएं अंतःस्थापित की जाएं, अर्थात्:—

धारा २५ का संशोधन.

“(६क) प्रत्येक रजिस्ट्रीकृत व्यक्ति, ऐसे प्ररूप और रीति में तथा ऐसे समय के भीतर जैसी कि विहित की जाएं, सत्यापन कराएगा या आधार संख्या धारित करने का सबूत प्रस्तुत करेगा:

परंतु यदि किसी रजिस्ट्रीकृत व्यक्ति को आधार संख्या समनुदेशित नहीं की गयी है, तो ऐसा व्यक्ति ऐसी रीति में, जो परिषद् की सिफारिशों पर, सरकार विहित करे, पहचान का कोई वैकल्पिक और व्यवहार्य साधन प्रदान किया जाएगा:

परंतु यह और कि सत्यापन कराने या आधार संख्या धारित करने का सबूत प्रस्तुत करने या पहचान का कोई वैकल्पिक और व्यवहार्य साधन प्रस्तुत करने में असफल रहने की दशा में ऐसे व्यक्ति को आबंटित रजिस्ट्रीकरण अविधिमान्य समझा जाएगा और इस अधिनियम के अन्य उपबंध इस प्रकार लागू होंगे मानो ऐसे व्यक्ति के पास रजिस्ट्रीकरण नहीं है.

(६ख) अधिसूचना की तारीख को तथा से प्रत्येक व्यक्ति, रजिस्ट्रीकरण की मंजूरी के लिए पात्र बनने हेतु, ऐसी रीति में, जैसी कि सरकार, परिषद् की सिफारिशों के आधार पर, उक्त अधिसूचना में विनिर्दिष्ट करे सत्यापन कराएगा या आधार संख्या धारित करने का सबूत प्रस्तुत करेगा:

परंतु जहां किसी व्यष्टि को आधार संख्या समनुदेशित नहीं की गई है, वहां ऐसे व्यष्टि को ऐसी रीति में जैसी कि सरकार, परिषद् की सिफारिशों के आधार पर, उक्त अधिसूचना में विनिर्दिष्ट करे, पहचान का कोई वैकल्पिक और व्यवहार्य साधन प्रदान किया जाएगा.

(६ग) अधिसूचना की तारीख को तथा से, व्यक्ति से भिन्न प्रत्येक व्यक्ति, रजिस्ट्रीकरण की मंजूरी के लिए पात्र बनने हेतु, ऐसी रीति में जैसी कि सरकार, परिषद् की सिफारिशों के आधार पर, उक्त अधिसूचना में विनिर्दिष्ट करे, सत्यापन कराएगा या कर्ता, प्रबंध निदेशक, पूर्णकालिक निदेशक, ऐसे संख्या के भागीदारों, यथास्थिति, संगम की प्रबंध समिति, न्यासी बोर्ड के सदस्यों, प्राधिकृत प्रतिनिधियों, प्राधिकृत हस्ताक्षरकर्ताओं और व्यक्तियों के ऐसे अन्य वर्ग आधार संख्या धारित करने का सबूत प्रस्तुत करेंगे:

परंतु जहां ऐसे व्यक्ति या व्यक्तियों के वर्ग, जिन्हें आधार संख्या समनुदेशित नहीं की गयी है, ऐसे व्यक्ति या व्यक्तियों के वर्ग को ऐसी रीति में जैसी कि सरकार, परिषद् की सिफारिशों पर, उक्त अधिसूचना में विनिर्दिष्ट करे, पहचान का वैकल्पिक और व्यवहार्य साधन प्रस्तुत किया जाएगा.

(६घ) उप-धारा (६क) या उप-धारा (६ख) या उप-धारा (६ग) के उपबंध ऐसे व्यक्ति या व्यक्तियों के वर्ग या राज्य के ऐसे भाग को लागू नहीं होंगे, जैसी कि सरकार, परिषद् की सिफारिशों पर, उक्त अधिसूचना में विनिर्दिष्ट करे.

स्पष्टीकरण.—इस धारा के प्रयोजनों के लिए अभिव्यक्ति “आधार संख्या” का वही अर्थ होगा, जो आधार (वित्तीय और अन्य सहायिकियों, फायदों तथा सेवाओं का लक्ष्यित परिदान) अधिनियम, २०१६ (२०१६ का १८) की धारा २ के खंड (क) में उसे समनुदेशित किया गया है.”

नई धारा ३१क का
अंतःस्थापन.

६. मूल अधिनियम की धारा ३१ के पश्चात्, निम्नलिखित धारा अंतःस्थापित की जाए, अर्थात्:—

“३१क. प्राप्तिकर्ता को डिजिटल संदाय की सुविधा

सरकार, परिषद् की सिफारिशों पर, रजिस्ट्रीकृत व्यक्तियों के ऐसे वर्ग को विहित कर सकेगी, जो उसके द्वारा की गई माल या सेवाओं या दोनों की पूर्ति प्राप्तिकर्ता को इलेक्ट्रॉनिक संदाय का विहित ढंग उपलब्ध कराएगा और ऐसे प्राप्तिकर्ता को, ऐसी रीति में और ऐसी शर्तों और निर्बंधनों के अधीन, जो विहित किए जाएं, तदनुसार संदाय करने का विकल्प उपलब्ध कराएगा.”

धारा ३१ का
संशोधन.

७. मूल अधिनियम की धारा ३१ में,—

(क) उप-धारा (१) और उप-धारा (२) के स्थान पर, निम्नलिखित उप-धाराएं स्थापित की जाएं, अर्थात्:—

“(१) किसी इनपुट सेवा वितरक या अनिवासी कर योग्य व्यक्ति या धारा १० या धारा ५१ या धारा ५२ के उपबंधों के अधीन कर संदत्त करने वाले व्यक्ति से भिन्न प्रत्येक रजिस्ट्रीकृत व्यक्ति, प्रत्येक कलेंडर मास या उसके किसी भाग के लिए माल या सेवाओं या दोनों के आवक और जावक पूर्तियों, प्राप्त किए गए इनपुट कर प्रत्यय, संदेय कर तथा सदत्त कर और ऐसी अन्य विशिष्टियां, ऐसे प्ररूप तथा रीति और ऐसे समय के भीतर, जो विहित किया जाए, इलेक्ट्रॉनिक रूप से विवरणी प्रस्तुत करेगा:

परंतु सरकार, परिषद् की सिफारिशों पर, रजिस्ट्रीकृत व्यक्तियों के कतिपय वर्ग को अधिसूचित कर सकेगी, जो ऐसी शर्तों और निर्बंधनों, जो उसमें विनिर्दिष्ट किए जाएं, के अधीन रहते हुए, प्रत्येक तिमाही या उसके किसी भाग के लिए विवरणी प्रस्तुत करेंगे.

(२) धारा १० के उपबंधों के अधीन कर का संदाय करने वाला कोई रजिस्ट्रीकृत व्यक्ति, प्रत्येक वित्तीय वर्ष या उसके किसी भाग के लिए, माल या सेवाओं या दोनों की आवक पूर्तियों, संदेय कर, संदत्त कर और ऐसी अन्य विशिष्टियां, ऐसे प्ररूप तथा रीति और ऐसे समय के भीतर, जो विहित किया जाए, इलेक्ट्रॉनिक रूप से राज्य में आवर्त की विवरणी प्रस्तुत करेगा.”;

(ख) उप-धारा (७) के स्थान पर, निम्नलिखित उप-धारा स्थापित की जाए, अर्थात्:—

“(७) उप-धारा (३) या उप-धारा (५) या उसके परन्तुक में निर्दिष्ट व्यक्ति से भिन्न प्रत्येक रजिस्ट्रीकृत व्यक्ति, जिससे उप-धारा (१) के अधीन विवरणी प्रस्तुत किया जाना अपेक्षित है ऐसी विवरणी के अनुसार देय कर, अंतिम तारीख, जिसको उससे ऐसी विवरणी देने की अपेक्षा की जाती है, से अपश्चात् सरकार को संदत्त करेगा:

परंतु उप-धारा (१) के परंतुक के अधीन विवरणी प्रस्तुत करने वाला प्रत्येक रजिस्ट्रीकृत व्यक्ति, किसी मास के दौरान, माल या सेवाओं या दोनों की आवक और जावक पूर्तियों, प्राप्त कर प्रत्यय, संदेय कर और ऐसी अन्य विशिष्टियां ऐसे प्ररूप तथा रीति में और ऐसे समय के भीतर, जो विहित किया जाए, सरकार को देय कर का संदाय करेगा:

परंतु यह और कि उप-धारा (२) के अधीन विवरणी प्रस्तुत करने वाला प्रत्येक रजिस्ट्रीकृत व्यक्ति, किसी तिमाही के दौरान, माल या सेवाओं या दोनों की आवक पूर्तियों, संदेय कर और ऐसी अन्य विशिष्टियां ऐसे प्ररूप तथा रीति में और ऐसे समय के भीतर, जो विहित किया जाए, सरकार को देय कर का संदाय करेगा.”

८. मूल अधिनियम की धारा ४४ में, उप-धारा (१) में, पूर्ण विराम के स्थान पर, कोलन स्थापित किया जाए और तत्पश्चात् निम्नलिखित परंतुक अंतःस्थापित किए जाएं, अर्थात्:—

धारा ४४ का संशोधन.

“परंतु आयुक्त, परिषद् की सिफारिशों पर और लेखबद्ध किए जाने वाले कारणों से, अधिसूचना द्वारा, रजिस्ट्रीकृत व्यक्तियों के ऐसे वर्ग, जो उसमें विनिर्दिष्ट किया जाए, के लिए वार्षिक विवरणी प्रस्तुत करने की समय-सीमा को विस्तारित कर सकेगा:

परंतु यह और कि केन्द्रीय कर आयुक्त द्वारा अधिसूचित समय-सीमा के किसी विस्तार को, आयुक्त द्वारा अधिसूचित किया गया समझा जाएगा.”

९. मूल अधिनियम की धारा ४९ में, उप-धारा (९) के पश्चात्, निम्नलिखित उप-धाराएं अंतःस्थापित की जाए, अर्थात्:—

धारा ४९ का संशोधन.

“(१०) कोई रजिस्ट्रीकृत व्यक्ति, ऐसे प्ररूप और रीति में तथा ऐसी शर्तों और निर्बंधनों के अधीन रहते हुए, जैसी कि विहित की जाएं, सामान्य पोर्टल पर, इस अधिनियम के अधीन इलैक्ट्रानिक नकद खाते में उपलब्ध किसी कर, ब्याज, शास्ति, फीस या किसी अन्य रकम को एकीकृत कर, केन्द्रीय कर, राज्य कर या उपकर के लिए इलैक्ट्रानिक नकद खाते में अंतरित कर सकेगा और ऐसे अंतरण को इस अधिनियम के अधीन इलैक्ट्रानिक नकद खाते से प्रतिसंदाय के रूप में समझा जाएगा.

(११) जहां किसी रकम को इस अधिनियम के अधीन इलैक्ट्रानिक नकद खाते में अंतरित किया गया है, वहां उसे उप-धारा (१) के उपबंधों के अनुसार उक्त खाते में जमा किया गया समझा जाएगा.”

१०. मूल अधिनियम की धारा ५० में उप-धारा (१) में पूर्ण विराम के स्थान पर, कोलन स्थापित किया जाए तथा इसके पश्चात् निम्नलिखित परंतुक अंतःस्थापित किया जाए, अर्थात्:—

धारा ५० का संशोधन.

“परंतु किसी कर अवधि के दौरान की गई पूर्तियों के संबंध में संदेय कर पर ब्याज को, जिसे धारा ३९ के उपबंधों के अनुसार नियत तारीख के पश्चात् उक्त अवधि के लिए प्रस्तुत की गई विवरणी में घोषित किया गया है, सिवाय वहां के, जहां ऐसी विवरणी को उक्त अवधि के संबंध में धारा ७३ या धारा ७४ के अधीन किन्हीं कार्यवाहियों के प्रारंभ होने के पश्चात् प्रस्तुत किया जाता है, कर के उस भाग पर उद्गृहीत किया जाएगा, जिसका संदाय इलैक्ट्रानिक नकद खाते से राशि को निकालकर किया गया है.”

धारा ५२ का संशोधन.

११. मूल अधिनियम की धारा ५२ में,—

(एक) उप-धारा (४) में, पूर्ण विराम के स्थान पर, कोलन स्थापित किया जाए तथा इसके पश्चात् निम्नलिखित परन्तुक अंतःस्थापित किए जाएं, अर्थात्:—

“परंतु आयुक्त, लेखबद्ध किए जाने वाले कारणों से, अधिसूचना द्वारा, रजिस्ट्रीकृत व्यक्तियों के ऐसे वर्ग के लिए, जो उसमें विनिर्दिष्ट किया जाए, विवरण प्रस्तुत करने की समय-सीमा को विस्तारित कर सकेंगे:

परंतु यह और कि केन्द्रीय कर आयुक्त द्वारा अधिसूचित समय-सीमा के किसी विस्तार को आयुक्त द्वारा अधिसूचित किया गया समझा जाएगा.”;

(दो) उप-धारा (५) में, पूर्ण विराम के स्थान पर, कोलन स्थापित किया जाए तथा इसके पश्चात् निम्नलिखित परन्तुक अंतःस्थापित किए जाएं, अर्थात्:—

“परंतु आयुक्त, परिषद् की सिफारिशों पर और लेखबद्ध किए जाने वाले कारणों से, अधिसूचना द्वारा, रजिस्ट्रीकृत व्यक्तियों के ऐसे वर्ग के लिए, जो उसमें विनिर्दिष्ट किया जाए, वार्षिक विवरण प्रस्तुत करने की समय-सीमा को विस्तारित कर सकेगा:

परंतु यह और कि केन्द्रीय कर आयुक्त द्वारा अधिसूचित समय-सीमा के किसी विस्तार को आयुक्त द्वारा अधिसूचित किया गया समझा जाएगा.”.

धारा ५३क का अंतःस्थापन.

१२. मूल अधिनियम के अध्याय दस में धारा ५३ के पश्चात्, अध्याय दस में निम्नलिखित धारा अंतःस्थापित की जाए, अर्थात्:—

“५३क. कतिपय रकमों का अंतरण.

जहां किसी रकम को इस अधिनियम के अधीन इलैक्ट्रानिक नकद खाते से किसी केन्द्रीय कर, एकीकृत कर या उपकर के लिए इलैक्ट्रानिक नकद खाते में अंतरित किया गया है, वहां सरकार केन्द्रीय कर खाते, एकीकृत कर खाते या उपकर खाते को, इलैक्ट्रानिक नकद खाते से अंतरित की गई रकम के बराबर रकम को, ऐसी रीति और ऐसे समय के भीतर, जो विहित किया जाए, अंतरण करेगी.”.

धारा ५४ का संशोधन.

१३. मूल अधिनियम की धारा ५४ में, उप-धारा (८) के पश्चात्, निम्नलिखित उप-धारा अंतःस्थापित की जाए, अर्थात्:—

“(८क) जहां केन्द्र सरकार द्वारा राज्य कर के प्रतिदाय का वितरण किया गया है, सरकार, केन्द्रीय सरकार, को उस प्रतिदाय के बराबर रकम अंतरित करेगी.”.

धारा ९५ का संशोधन.

१४. मूल अधिनियम की धारा ९५ में,—

(एक) खंड (क) में,—

(क) शब्द “अपील प्राधिकारी” के पश्चात्, शब्द “या राष्ट्रीय अपील प्राधिकारी” अंतःस्थापित किए जाएं;

(ख) शब्द तथा अंक “की धारा १०० उप-धारा (१)” के पश्चात्, शब्द “या केन्द्रीय माल एवं सेवा कर अधिनियम, २०१७ (२०१७ का १२) की धारा १०१ग” अंतःस्थापित किए जाएं;

(दो) खंड (ड) में, पूर्ण विराम के स्थान पर, अर्धविराम स्थापित किया जाए तथा उसके पश्चात् निम्नलिखित खंड अंतःस्थापित किया जाए, अर्थात्:—

“(च) “राष्ट्रीय अपील प्राधिकारी” से अभिप्रेत है धारा १०१ क में निर्दिष्ट राष्ट्रीय अग्रिम विनिर्णय अपील प्राधिकारी.”

१५. मूल अधिनियम की धारा १०१ के पश्चात् निम्नलिखित धाराएं अंतःस्थापित की जाएं, अर्थात्:—

नई धाराएं १०१क
और १०१ख का
अंतःस्थापन.

“१०१क.राष्ट्रीय अग्रिम विनिर्णय अपील प्राधिकारी का गठन

इस अध्याय के उपबंधों के अधीन रहते हुए, इस अधिनियम के प्रयोजन के लिए, केन्द्रीय माल एवं सेवा कर अधिनियम, २०१७ (२०१७ का १२) की धारा १०१क के अंतर्गत गठित राष्ट्रीय अग्रिम विनिर्णय अपील प्राधिकारी, इस अधिनियम के अंतर्गत अग्रिम विनिर्णय के लिए राष्ट्रीय अपील प्राधिकारी माना जाएगा.

१०१ख. राष्ट्रीय अपील प्राधिकारी को अपील

(१) जहां धारा ९७ की उप-धारा (२) में निर्दिष्ट प्रश्नों के संबंध में, धारा ९९ के अधीन गठित अपील प्राधिकारी द्वारा तथा धारा १०१ की उप-धारा (१) या उप-धारा (३) के अधीन किसी अन्य राज्य या राज्यों या किसी संघ राज्य क्षेत्र या संघ राज्यक्षेत्रों या दोनों के अपील प्राधिकरणों द्वारा विरोधाभासी अग्रिम विनिर्णय दिए जाते हैं, वहां आयुक्त द्वारा प्राधिकृत कोई अधिकारी या आवेदक, जो धारा २५ में विनिर्दिष्ट से सुभिन्न व्यक्ति है, जो अग्रिम विनिर्णय से व्यथित है, तो वह राष्ट्रीय अपील प्राधिकारी को अपील कर सकेगा:

परन्तु अधिकारी उन राज्यों से होगा, जहां ऐसे अग्रिम विनिर्णय दिए गए हैं.

(२) इस धारा के अधीन प्रत्येक अपील, उस तारीख से, जिसको वह विनिर्णय, जिसके विरुद्ध अपील चाही गई है, आवेदक, संबंधित अधिकारियों और अधिकारिता रखने वाले अधिकारियों को संसूचित किया गया है, तीस दिन की अवधि के भीतर फाइल की जाएगी:

परन्तु आयुक्त द्वारा प्राधिकृत अधिकारी, उस तारीख से, जिसको वह विनिर्णय, जिसके विरुद्ध अपील चाही गई है, संबंधित अधिकारी और अधिकारिता रखने वाले अधिकारी को संसूचित किया गया है, नब्बे दिन की अवधि के भीतर अपील फाइल कर सकेगा:

परन्तु यह और कि राष्ट्रीय अपील प्राधिकारी, यदि उसका यह समाधान हो जाता है कि अपीलार्थी को, यथास्थिति, उक्त तीस दिन या नब्बे दिन के भीतर अपील प्रस्तुत करने से पर्याप्त कारण से निवारित किया गया था, तो वह ऐसी अपील को तीस दिन से अनधिक और अवधि के भीतर प्रस्तुत करने के लिए अनुज्ञात कर सकेगा.

स्पष्टीकरण:—शंकाओं के निराकरण के लिए यह स्पष्ट किया जाता है कि यथास्थिति, तीन दिन या नब्बे दिन की अवधि की गणना, उस तारीख से की जाएगी, जिसको अंतिम विरोधाभासी विनिर्णय को, जिसके विरुद्ध अपील चाही गई है, संसूचित किया गया था.

(३) इस धारा के अधीन प्रत्येक अपील ऐसे प्ररूप में, ऐसी फीस के साथ होगी, और उसे ऐसी रीति में सत्यापित किया जाएगा, जो विहित की जाए.”

धारा १०२ का संशोधन.

१६. मूल अधिनियम की धारा १०२ में आरंभिक भाग में,—

- (क) शब्द “अपील प्राधिकारी” के पश्चात्, दोनों स्थानों पर, जहां वे आए हैं, शब्द “या राष्ट्रीय अपील प्राधिकारी” अंतःस्थापित किए जाएं;
- (ख) शब्द तथा अंक “धारा १०१” के पश्चात्, शब्द, अंक तथा अक्षर “या केन्द्रीय माल एवं सेवा कर अधिनियम, २०१७ (२०१७ का १२) की धारा १०१ ग यथास्थिति” अंतःस्थापित किए जाएं;
- (ग) शब्द “या अपीलार्थी” के स्थान पर, शब्द “अपीलार्थी”, प्राधिकारी या अपील प्राधिकारी” स्थापित किए जाएं.

धारा १०३ का संशोधन.

१७. मूल अधिनियम की धारा १०३ में,—

(एक) उप-धारा (१) के पश्चात्, निम्नलिखित उप-धारा अंतःस्थापित की जाए, अर्थात्:—

“(१क) इस अध्याय के अधीन राष्ट्रीय अपील प्राधिकारी द्वारा सुनाया गया अग्रिम विनिर्णय निम्नलिखित पर आबद्धकर होगा—

(क) आवेदक, जो सुभिन्न व्यक्ति हैं, जिन्होंने धारा १०१ ख की उप-धारा (१) के अधीन विनिर्णय चाहा है और वे सभी रजिस्ट्रीकृत व्यक्ति, जिन्हें आय-कर अधिनियम, १९६१ (१९६१ का ४३) के अधीन वही स्थायी खाता संख्यांक जारी किया गया है;

(ख) खंड (क) में निर्दिष्ट आवेदकों और ऐसे रजिस्ट्रीकृत व्यक्ति, जिनका आय-कर अधिनियम, १९६१ (१९६१ का ४३) के अधीन जारी किया गया समान स्थायी खाता संख्यांक है, की बाबत संबंधित अधिकारी और अधिकारिता रखने वाले अधिकारी.”;

(दो) उप-धारा (२) में शब्द, कोष्ठक और अंक “उप-धारा (१)” के पश्चात् शब्द, कोष्ठक, अंक और अक्षर “और उप-धारा (१क) में ” अंतःस्थापित किए जाएं.

धारा १०४ का संशोधन.

१८. मूल अधिनियम की धारा १०४ में, उपधारा (१) में,—

(क) शब्द “प्राधिकारी या अपील प्राधिकारी” के पश्चात्, शब्द “या राष्ट्रीय अपील प्राधिकारी” अंतःस्थापित किए जाएं;

(ख) शब्द तथा अंक “धारा १०१ की उप-धारा (१)” के पश्चात्, शब्द, अंक, अक्षर तथा कोष्ठक “या केन्द्रीय माल एवं सेवा कर अधिनियम, २०१७ (२०१७ का १२) की धारा १०१ ग” अंतःस्थापित किए जाएं.

धारा १०५ का संशोधन.

१९. मूल अधिनियम की धारा १०५ में,—

(क) पार्श्व शीर्ष के स्थान पर, निम्नलिखित पार्श्व शीर्ष स्थापित किया जाए, अर्थात्:—

“प्राधिकारी, अपील प्राधिकारी और राष्ट्रीय अपील प्राधिकारी की शक्तियां”;

(ख) उप-धारा (१) में, शब्द “अपील प्राधिकारी” के पश्चात्, शब्द “या राष्ट्रीय अपील प्राधिकारी” अंतःस्थापित किए जाएं;

(ग) उप-धारा (२) में, “अपील प्राधिकारी” के पश्चात्, शब्द “या राष्ट्रीय अपील प्राधिकारी” अंतःस्थापित किए जाएं.

२०. मूल अधिनियम की धारा १०६ में,—

धारा १०६ का संशोधन.

(क) पार्श्व शीर्ष के स्थान पर, निम्नलिखित पार्श्व शीर्ष स्थापित किया जाए, अर्थात्:—

“प्राधिकारी, अपील प्राधिकारी और राष्ट्रीय अपील प्राधिकारी की प्रक्रिया”;

(ख) शब्द “अपील प्राधिकारी” के पश्चात्, शब्द “या राष्ट्रीय अपील प्राधिकारी” अंतःस्थापित किए जाएं;

२१. मूल अधिनियम की धारा १७१ में, उप-धारा (३) के पश्चात्, निम्नलिखित उप-धारा अंतःस्थापित की जाए, अर्थात्:—

धारा १७१ का संशोधन.

“(३ क) जहां उक्त उप-धारा के अधीन यथाअपेक्षित परीक्षण करने के पश्चात्, उप-धारा (२) में निर्दिष्ट प्राधिकारी इस निष्कर्ष पर पहुंचता है कि किसी रजिस्ट्रीकृत व्यक्ति ने उप-धारा (१) के अधीन मुनाफाखोरी की है, वहां ऐसा व्यक्ति इस प्रकार मुनाफाखोरी की गई रकम के दस प्रतिशत के बराबर शास्ति का संदाय करने का दायी होगा:

परन्तु ऐसी कोई शास्ति उद्घरणनीय नहीं होगी यदि मुनाफाखोरी की रकम को प्राधिकारी द्वारा आदेश पारित किए जाने की तारीख से तीस दिन के भीतर जमा करा दिया गया है.

स्पष्टीकरण—इस धारा के प्रयोजन के लिए अधिव्यक्ति “मुनाफाखोरी” से ऐसी रकम अभिप्रेत है, जिसे माल या सेवा या दोनों के प्रदाय पर कर की दर में कमी का फायदा या इनपुट कर प्रत्यय का फायदा माल या सेवा या दोनों की कीमत में कमी की अनुरूपता के माध्यम से प्राप्तकर्ता को नहीं देने के कारण अवधारित किया गया है.”

२२. (१) मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ की धारा ११ की उप-धारा (१) के अधीन परिषद् की सिफारिशों पर मध्यप्रदेश शासन के वाणिज्यिक कर विभाग द्वारा जारी अधिसूचना क्रमांक एफ-ए-३-३५-२०१७-१-V(१४८) दिनांक १४ नवम्बर, २०१७ में, अनुसूची में, अनुक्रमांक १०३ और उससे संबंधित प्रविष्टियों के पश्चात्, निम्नलिखित अनुक्रमांक और प्रविष्टियां अंतःस्थापित की जाएं और १ जुलाई, २०१७ से भूतलक्षी रूप से अंतःस्थापित की हुई समझी जाएं, अर्थात्:—

मध्यप्रदेश माल एवं सेवा कर अधिनियम, २०१७ की धारा ११ की उप-धारा (१) के अधीन जारी की गई अधिसूचना क्रमांक एफ-ए-३-३५-२०१७-१-पांच(१४८) दिनांक १४ नवम्बर, २०१७ का भूतलक्षी रूप से संशोधन.

१	२	३
“१०३क	२६	यूरेनियम अयस्क सांद्र”.

(२) उप-धारा (१) के प्रयोजनों के लिए सरकार के पास उप-धारा (१) में विनिर्दिष्ट अधिसूचना का भूतलक्षी रूप से इस प्रकार संशोधन करने की शक्ति होगी और होनी समझी जाएगी मानो राज्य सरकार के पास उक्त अधिनियम, की धारा ११ की उप-धारा (१) के अधीन उक्त अधिसूचना का भूतलक्षी रूप से संशोधन करने की शक्ति सभी तात्विक समयों पर थी.

(३) कोई प्रतिदाय, सभी ऐसे करों, जिन्हें संग्रहित किया गया है, किंतु जो संग्रहीत नहीं किए गए होते यदि उप-धारा (१) में निर्दिष्ट अधिसूचना सभी तात्विक समयों पर प्रवृत्त हुई होती, में से नहीं किया जाएगा.

भोपाल, दिनांक 6 जनवरी 2020

क्र. 283-6-इक्कीस-अ(प्रा.)-भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) अधिनियम, 2019 (क्रमांक 1 सन् 2020) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

MADHYA PRADESH ACT
No. 1 of 2020

THE MADHYA PRADESH GOODS AND SERVICES TAX (SECOND AMENDMENT) ACT, 2019

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20. Amendment of Section 106.
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MADHYA PRADESH ACT
No. 1 of 2020

**THE MADHYA PRADESH GOODS AND SERVICES TAX (SECOND AMENDMENT)
ACT, 2019**

[Received the assent of the Governor on the 4th January, 2020; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 6th January, 2020.]

An Act further to amend the Madhya Pradesh Goods and Services Tax Act, 2017.

Be it enacted by the Madhya Pradesh Legislature in the seventieth year of the Republic of India as follows :—

1. (1) This Act may be called the Madhya Pradesh Goods and Services Tax (Second Amendment) Act, 2019. Short title and commencement.

(2) Save as otherwise provided, the provisions of this Act 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 the 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.

2. In Section 2 of the Madhya Pradesh Goods and Services Tax Act, 2017 (No. 19 of 2017) (hereinafter referred as the principal Act), in clause (4), after the words "the Appellate Authority for Advance Ruling," the words "the National Appellate Authority for Advance Ruling," shall be inserted. Amendment of Section 2.

3. In Section 10 of the principal Act,—

Amendment of Section 10.

(a) in sub-section (1), after the second proviso, the following Explanation shall be inserted, namely:—

"Explanation.—For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in the State.";

(b) in sub-section (2),—

(i) in clause (d), the word "and" occurring at the end shall be omitted;

(ii) in clause (e), for the word "Council:", the words "Council; and" shall be substituted;

(iii) after clause (e), the following clause shall be inserted, namely:—

"(f) he is neither a casual taxable person nor a non-resident taxable person:";

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of Section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of Section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent of the turnover in the State, if he is not—

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;

- (b) engaged in making any inter-State outward supplies of goods or services;
- (c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under Section 52;
- (d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
- (e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961(43 of 1961), the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.";

- (d) in sub-section (3), after the words, bracket and figure "under sub-section (1)" at both the places where they occur, the words, bracket, figure and letter "or sub-section (2A), as the case may be," shall be inserted;
- (e) in sub-section (4), after the words, bracket and figure "of sub-section (1)", the words, brackets, figure and letter "or, as the case may be, sub-section (2A)" shall be inserted;
- (f) in sub-section (5), after the words, bracket and figure "under sub-section (1)", the words, bracket, figure and letter "or sub-section (2A), as the case may be," shall be inserted;
- (g) after sub-section (5), the following Explanations shall be inserted, namely:—

“Explanation 1.—For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.—For the purposes of determining the tax payable by a person under this section, the expression “turnover in the State” shall not include the value of following supplies, namely:—

- (i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”.

Amendment of Section 22.

4. In Section 22 of the principal Act, in sub-section (1), in the second proviso, for full stop, colon shall be substituted and thereafter the following proviso and explanation shall be inserted, namely:—

“Provided also that the Government may, on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”

5. In Section 25 of the principal Act, after sub-section (6), the following sub-sections shall be inserted, namely:—

Amendment of Section 25.

"(6A) "Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or such part of the State, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression "Aadhaar number" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016)."

6. After Section 31 of the principal Act, the following section shall be inserted, namely:—

Insertion of new Section 31A.

"31A. **Facility of Digital Payment to recipient.**—The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed."

Amendment of Section 39.

7. In Section 39 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish a return electronically of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(2) A registered person paying tax under the provisions of Section 10, shall, for each financial year or part thereof, furnish a return electronically of turnover in the State, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.”;

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

“(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

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

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.”.

Amendment of Section 44.

8. In Section 44 of the principal Act, in sub-section (1), for full stop, colon shall be substituted and thereafter the following provisos shall be inserted, namely:—

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central Tax shall be deemed to be notified by the Commissioner.”.

Amendment of Section 49.

9. In Section 49 of the principal Act, after sub-section (9), the following sub-sections shall be inserted, namely:—

“(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

- (11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1)."

10. In Section 50 of the principal Act, in sub-section (1), for full stop, colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

Amendment of Section 50.

"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 levied on that portion of the tax that is paid by debiting the electronic cash ledger."

11. In Section 52 of the principal Act,—

Amendment of Section 52.

- (i) in sub-section (4), for full stop, colon shall be substituted and thereafter the following provisos shall be inserted, namely:—

"Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner.";

- (ii) in sub-section (5), for full stop, colon shall be substituted and thereafter the following provisos shall be inserted, namely:—

"Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner."

12. After Section 53 of the principal Act, the following Section shall be inserted in Chapter X, namely:—

Insertion of new Section 53A.

"53A. **Transfer of certain amounts.**—Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger for central tax integrated tax or cess, the Government shall, transfer to the central tax account or integrated tax account or cess account an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed."

13. In Section 54 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

Amendment of Section 54.

"(8A) Where the Central Government has disbursed the refund of the State tax, the Government shall transfer the amount equal to the amount so refunded, to the Central Government."

14. In Section 95 of the principal Act,—

Amendment of Section 95.

- (i) in clause (a),—

(a) after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "of Section 100", the words, figures and letter "or of Section 101C of the Central Goods and Services Tax Act, 2017 (12 of 2017)" shall be inserted;

(ii) in clause (e), for full stop, semicolon shall be substituted and thereafter the following clause shall be inserted, namely:—

"(f) "National Appellate Authority" means the National Appellate Authority for Advance Ruling referred to in Section 101A."

Insertion of new Sections 101A and 101B.

15. After Section 101 of the principal Act, the following sections shall be inserted, namely:—

"101A. **Constitution of National Appellate Authority for Advance Ruling.**—Subject to the provisions of this Chapter, for the purposes of this Act, the National Appellate Authority for Advance Ruling constituted under section 101A of the Central Goods and Services Tax Act, 2017 (12 of 2017) shall be deemed to be the National Appellate Authority for Advance Ruling under this Act.

101B. **Appeal to National Appellate Authority.**—(1) Where, in respect of the questions referred to in sub-section (2) of Section 97, conflicting advance rulings are given by the Appellate Authority constituted under section 99 and the Appellate Authority of any other State or States or of a Union territory or Union territories or both under sub-section (1) or sub-section (3) of Section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in Section 25 aggrieved by such advance ruling, may prefer an appeal to National Appellate Authority:

Provided that the officer shall be from the State in which such advance ruling have been given.

(2) Every appeal under this Section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicants, concerned officers and jurisdictional officers:

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.— For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings sought to be appealed against.

(3) Every appeal under this Section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed."

Amendment of Section 102.

16. In Section 102 of the principal Act, in the opening portion,—

(a) after the words "Appellate Authority", at both the places where they occur, the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "or Section 101", the words, figures and letter, "or Section 101C of Central Goods and Services Act, 2017 (12 of 2017) , respectively," shall be inserted;

- (c) for the words "or the appellant", the words "appellant, the Authority or the Appellate Authority" shall be substituted.

17. In Section 103 of the principal Act,—

Amendment of Section 103.

- (i) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—

- (a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of Section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961(43 of 1961);
- (b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961(43 of 1961).";

- (ii) in sub-section (2), after the words, bracket and figure "in sub-section (1)", the words, bracket, figure and letter "and sub-section (1A)" shall be inserted.

18. In Section 104 of the principal Act, in sub-section (1),—

Amendment of Section 104.

- (a) after the words "Authority or the Appellate Authority", the words "or the National Appellate Authority" shall be inserted;
- (b) after the words and figures "of Section 101", the words, figures and letter "or under Section 101C of Central Goods and Services Act, 2017 (12 of 2017) " shall be inserted.

19. In Section 105 of the principal Act,—

Amendment of Section 105.

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Powers of Authority, Appellate Authority and National Appellate Authority.";

- (b) in sub-section (1), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;
- (c) in sub-section (2), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted.

20. In Section 106 of the principal Act,—

Amendment of Section 106

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Procedure of Authority, Appellate Authority and National Appellate Authority.";

- (b) after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted.

21. In Section 171 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of Section 171.

- '(3A) Where the Authority referred to in sub-section (2), after holding examination as

required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.—For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.

Amendment of Notification No. F A-3-35-2017-1-V(148) dated the 14th November, 2017 issued under sub-section(1) of Section 11 of the Madhya Pradesh Goods and Services Tax Act, 2017, retrospectively.

22. (1) In the notification of the Madhya Pradesh Governemnt Commercial Tax Department No. F A-3-35-2017-1-V(148) dated the 14th November, 2017", issued on the recommendations of the Council, under sub-section (1) of section 11 of the Madhya Pradesh Goods and Services Tax Act, 2017, in the Schedule, after S. No. 103 and the entries relating thereto, the following S. No. and the entries shall be inserted and shall deemed to have been inserted retrospectively with effect from the 1st day of July, 2017, namely:—

(1)	(2)	(3)
"103A	26	Uranium Ore Concentrate".

(2) For the purposes of sub-section (1), the Government shall have and shall be deemed to have the power to amend the notification referred to in sub-section (1) with retrospective effect as if the Government had the power to amend the said notification under sub-section (1) of section 11 of the said Act, retrospectively, at all material times.

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

इसे वेबसाईट www.govtpressmp.nic.in से भी डाउन लोड किया जा सकता है.



मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 345]

भोपाल, शनिवार, दिनांक 26 सितम्बर 2020—आश्विन 4, शक 1942

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 26 सितम्बर 2020

क्र. 11299-200-इक्कीस-अ(प्रा.).—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 25 सितम्बर, 2020 को महामहिम राज्यपाल की अनुमति प्राप्त हो चुकी है, एतद्वारा सर्वसाधारण की जानकारी के लिये प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
अभय कुमार, अतिरिक्त सचिव.

मध्यप्रदेश अधिनियम

क्रमांक १९ सन् २०२०

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम , २०२०

विषय-सूची.

धाराएं :

१. संक्षिप्त नाम तथा प्रारंभ
२. धारा २ का संशोधन.
३. धारा १० का संशोधन.
४. धारा १६ का संशोधन.
५. धारा २९ का संशोधन.
६. धारा ३० का संशोधन.
७. धारा ३१ का संशोधन.
८. धारा ५१ का संशोधन.
९. धारा १२२ का संशोधन.
१०. धारा १३२ का संशोधन.
११. धारा १४० का संशोधन.
१२. धारा १६८क का अंतःस्थापन.
१३. धारा १७२ का संशोधन.
१४. अनुसूची २ का संशोधन.

मध्यप्रदेश अधिनियम

क्रमांक १९ सन् २०२०

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२०

[दिनांक २५ सितम्बर, २०२० को राज्यपाल की अनुमति प्राप्त हुई; अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक २६ सितम्बर, २०२० को प्रथमबार प्रकाशित की गई.]

मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ को और संशोधित करने हेतु अधिनियम

भारत गणराज्य के इकहत्तरवें वर्ष में मध्यप्रदेश विधान-मंडल द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

१. (१) इस अधिनियम का संक्षिप्त नाम मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२० है.

संक्षिप्त नाम तथा प्रारंभ

(२) इस अधिनियम में यथा उपबंधित के सिवाय,—

(क) इस अधिनियम का खण्ड १२, ३१ मार्च २०२० से प्रवृत्त हुआ समझा जाएगा;

(ख) अन्य खण्ड ऐसी तारीख से प्रवृत्त होंगे, जैसा कि राज्य सरकार, राजपत्र में अधिसूचना द्वारा नियत करे:

परंतु इस अधिनियम के भिन्न-भिन्न उपबंधों के लिए भिन्न-भिन्न तारीखें नियत की जा सकेंगी.

२. मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ (क्रमांक १९ सन् २०१७) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) की धारा २ में, खण्ड (११४) में, उपखण्ड (ग) और (घ) के स्थान पर, निम्नलिखित खण्ड स्थापित किए जाएं, अर्थात्:—

धारा २ का संशोधन.

"(ग) दादरा और नगर हवेली तथा दमन और दीव;

(घ) लद्दाख;".

३. मूल अधिनियम की धारा १० में, उपधारा (२) में, खण्ड (ख), (ग) और (घ) में, शब्द "माल का" के पश्चात् शब्द "या सेवा का" अंतःस्थापित किए जाएं.

धारा १० का संशोधन.

४. मूल अधिनियम की धारा १६ में, उपधारा (४) में, शब्द "से संबंधित बीजक" का लोप किया जाए.

धारा १६ का संशोधन.

५. मूल अधिनियम की धारा २९ में, उपधारा (१) में, खण्ड (ग) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

धारा २९ का संशोधन.

"(ग) कराधेय व्यक्ति धारा २२ या धारा २४ के अधीन इससे अधिक रजिस्ट्रेशन के लिए दायी नहीं है या धारा २५ की उपधारा (३) के अधीन किए गए स्वेच्छिक रजिस्ट्रेशन से बाहर आने का आशय रखता हो."

६. मूल अधिनियम की धारा ३० में, उपधारा (१) के पश्चात्, पूर्ण विराम के स्थान पर कोलन स्थापित किया जाए और तत्पश्चात्, निम्नलिखित परन्तुक अंतःस्थापित किया जाए:—

धारा ३० का संशोधन.

"परन्तु यह कि ऐसी कालावधि दर्शाए गए पर्याप्त कारण के आधार पर और कारण लेखबद्ध कर बढ़ाई जा सकेगी,—

(क) संयुक्त आयुक्त द्वारा तीस दिन से अनधिक की कालावधि के लिए;

(ख) अतिरिक्त आयुक्त या विशेष आयुक्त द्वारा खण्ड (क) में विनिर्दिष्ट कालावधि से अधिक, तीस दिन से अनधिक की और कालावधि के लिए."

धारा ३१ का संशोधन. ७. मूल अधिनियम की धारा ३१ में, उपधारा (२) में, परन्तुक के स्थान पर, निम्नलिखित परन्तुक स्थापित किया जाए, अर्थात्:—

“परन्तु सरकार, परिषद् की सिफारिश पर, अधिसूचना द्वारा,—

- (क) सेवाओं या पूर्तियों के प्रवर्गों को विनिर्दिष्ट कर सकेगी जिनके संबंध में ऐसे समय के भीतर तथा ऐसी रीति में, जैसी कि विहित की जाए, कर बीजक जारी किया जाएगा;
- (ख) उसमें उल्लिखित शर्तों के अधधीन रहते हुए, सेवाओं के प्रवर्गों को विनिर्दिष्ट कर सकेगी, जिनके संबंध में,—
 - (एक) पूर्ति के संबंध में जारी किया गया कोई अन्य दस्तावेज कर बीजक समझा जाएगा; या
 - (दो) कर बीजक जारी नहीं किया जा सकेगा.

धारा ५१ का संशोधन.

८. मूल अधिनियम की धारा ५१ में,—

(क) उपधारा (३) के स्थान पर, निम्नलिखित उपधारा जोड़ी जाए, अर्थात्:—

“(३) स्रोत पर कर कटौती का प्रमाणपत्र ऐसे प्ररूप में तथा ऐसी रीति में जारी किया जाएगा, जैसा कि विहित किया जाए.”;

(ख) उपधारा (४) का लोप किया जाए.

धारा १२२ का संशोधन.

९. मूल अधिनियम की धारा १२२ में, उपधारा (१) के पश्चात्, निम्नलिखित उपधारा अंतःस्थापित की जाए, अर्थात्:—

“(१क) कोई व्यक्ति जो उपधारा (१) के खण्ड (एक), (दो), (सात) या (नौ) के अधीन आने वाले संव्यवहार का लाभ प्रतिधारित करता है और जिसके कारण उस समय जब ऐसा संव्यवहार किया गया, कर अपबंचन अथवा उपभोग किए गए कर प्रत्यय के समतुल्य राशि की शास्ति का दायी होगा.”.

धारा १३२ का संशोधन.

१०. मूल अधिनियम की धारा १३२ में, उपधारा (१) में,—

(एक) शब्द “जो निम्नलिखित में से किसी अपराध को कारित करता है” के स्थान पर, शब्द “जो निम्नलिखित में से किसी अपराध को कारित करता है अथवा कारित करवाता है और उससे उत्पन्न होने वाले लाभों को प्रतिधारित करता है” स्थापित किए जाएं;

(दो) खण्ड (ग) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

“(ग) खण्ड (ख) में निर्दिष्ट बीजक या बिल का प्रयोग करते हुए इनपुट कर प्रत्यय को प्राप्त करता है या बिना किसी कर बीजक या बिल के कपट पूर्वक इनपुट कर प्रत्यय को प्राप्त करता है;”;

(तीन) खण्ड (ड) में, शब्द “कपट से इनपुट कर प्रत्यय की प्राप्ति” का लोप किया जाए.

११. मूल अधिनियम की धारा १४० में, निम्नलिखित संशोधन १ जुलाई, २०१७ से प्रभावी हुए समझे जाएंगे,—

धारा १४० का संशोधन.

- (एक) उपधारा (१) में, शब्द “विद्यमान विधि के अधीन” के पश्चात्, शब्द “ऐसे समय के भीतर और” अन्तःस्थापित किए जाएं.
- (दो) उपधारा (२) में, शब्द “नियत दिन के तत्काल पूर्ववर्ती दिन” के पश्चात्, शब्द “ऐसे समय के भीतर और” अन्तःस्थापित किए जाएं.
- (तीन) उपधारा (३) में, शब्द “नियत दिन को” के पश्चात्, शब्द “ऐसे समय के भीतर और ऐसी रीति में जैसा कि विहित किया जाए” अन्तःस्थापित किए जाएं.
- (चार) उपधारा (५) में, शब्द “विद्यमान विधि के अधीन” के पश्चात् शब्द “ऐसे समय के भीतर और ऐसी रीति में जैसा कि विहित किया जाए” अन्तःस्थापित किए जाएं.
- (पांच) उपधारा (६) में, शब्द “नियत दिन को”, पश्चात्, शब्द “ऐसे समय के भीतर और ऐसी रीति में जैसा कि विहित किया जाए” अन्तःस्थापित किए जाएं.

१२. मूल अधिनियम की धारा १६८ के पश्चात्, निम्नलिखित धारा अन्तःस्थापित की जाए, अर्थात्:—

धारा १६८क का संशोधन.

“१६८ (१) इस अधिनियम में अंतर्विष्ट किसी बात के होते हुए भी, परिषद् की अनुशंसाओं पर, अधिसूचना द्वारा, उन कार्रवाइयों के संबंध में जो अप्रत्याशित घटनाओं के कारण पूरी नहीं की जा सकती हैं या अनुपालन नहीं किया जा सकता है, सरकार इस अधिनियम के अधीन विनिर्दिष्ट या विहित या अधिसूचित समय सीमा को बढ़ा सकेगी.

(२) उपधारा (१) के अधीन अधिसूचना जारी करने की शक्ति में, उन अधिसूचनाओं को भूतलक्षी प्रभाव देने की शक्ति भी सम्मिलित होगी जो इस अधिनियम के प्रवृत्त होने के दिनांक से पूर्व की नहीं होगी.

स्पष्टीकरण.—इस धारा के प्रयोजन के लिए अभिव्यक्ति “अपरिहार्य घटना” से अभिप्रेत है, युद्ध, महामारी, बाढ़, सूखा, आग, ज्वालामुखी, भूकंप या अन्य प्रकृति द्वारा या अन्यथा कारित कोई आपदा जिससे इस अधिनियम के किन्हीं भी उपबंधों का क्रियान्वयन प्रभावित होता हो.

१३. मूल अधिनियम की धारा १७२ में, उपधारा (१) में, परन्तुक में, शब्द “तीन वर्ष” के स्थान पर, शब्द “पांच वर्ष” स्थापित किए जाएं.

धारा १७२ का संशोधन.

१४. मूल अधिनियम की अनुसूची दो में, पैराग्राफ ४ में, निम्नलिखित संशोधन किए जाएं जो १ जुलाई २०१७ से प्रभावशील माने जाएंगे,—

अनुसूची २ का संशोधन.

- (एक) मद (क) में, शब्द “जो विचारणीय है या नहीं” का लोप किया जाए.
- (दो) मद (ख) में, शब्द “चाहे वह किसी प्रतिफल के लिए हो या नहीं” का लोप किया जाए.

भोपाल, दिनांक 26 सितम्बर 2020

क्र. 11299-200-इक्कीस-अ(प्रा.)-भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, 2020 (क्रमांक 19 सन् 2020) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
अभय कुमार, अतिरिक्त सचिव.

MADHYA PRADESH ACT
NO. 19 OF 2020

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2020

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7. Amendment of Section 31.
8. Amendment of Section 51.
9. Amendment of Section 122.
10. Amendment of Section 132.
11. Amendment of Section 140.
12. Insertion of Section 168A.
13. Amendment of Section 172.
14. Amendment of Schedule II.

MADHYA PRADESH ACT
No. 19 OF 2020

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2020

[Received the assent of the Governor on the 25th September, 2020; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 26th September, 2020.

An Act further to amend the Madhya Pradesh Goods and Services Tax Act, 2017.

Be it enacted by the Madhya Pradesh Legislature in the seventy first year of the Republic of India as follows :—

1. (1) This Act may be called the Madhya Pradesh Goods and Services Tax (Amendment) Act, 2020. **Short title and commencement.**

(2) Save as otherwise provided in this Act,—

- (a) clause 12 of this Act shall be deemed to have come into force on the 31st March, 2020;
- (b) other clauses shall come into force from such a date, as the State Government may, by notification in the Gazette, appoint:

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

2. In Section 2 of the Madhya Pradesh Goods and Services Tax Act, 2017 (No. 19 of 2017) (hereinafter referred to as the principal Act), in clause (114), for sub-clauses (c) and (d), the following sub-clauses shall be substituted, namely :— **Amendment of Section 2.**

"(c) Dadra and Nagar Haveli and Daman and Diu;

(d) Ladakh;"

3. In Section 10 of the principal Act, in sub-section (2), in clauses (b), (c) and (d), after the words "of goods" the words "or services" shall be inserted. **Amendment of Section 10.**

4. In Section 16 of the principal Act, in sub-section (4), the words "invoice relating to such" shall be omitted. **Amendment of Section 16.**

5. In Section 29 of the principal Act, in sub-section (1) for clause (c), the following clause shall be substituted, namely :— **Amendment of Section 29.**

"(c) the taxable person is no longer liable to be registered under section 22 or 24 or intends to opt out of the registration voluntarily made under sub-section (3) of Section 25."

6. In Section 30 of the principal Act, after sub-section (1), for the full stop colon shall be substituted and thereafter the following proviso shall be inserted, namely :— **Amendment of Section 30.**

"Provided that such period may, on sufficient cause being shown, and for reason to be recorded in writing, be extended,—

- (a) by the Joint Commissioner, for a period not exceeding thirty days;
- (b) by the Additional Commissioner or the Special Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).".

Amendment of Section 31.

7. In Section 31 of the principal Act, after 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.

Amendment of Section 51.

8. In Section 51 of the principal Act,—

- (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.

Amendment of Section 122.

9. In Section 122 of the principal Act, 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 (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.".

Amendment of Section 132.

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

- (i) for the words "Whoever commits any of the following offences", the words "Whoever commits, or causes to commit and retain 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 tax invoice or bill;"
- (iii) in clause (e), the words, "fraudulently avails input tax credit" shall be omitted.

11. In Section 140 of the principal Act, the following amendments shall be deemed to have been made with effect from the 1st day of July, 2017,— **Amendment of Section 140.**

- (i) in sub-section (1), after the words "under the existing laws", the words "within such time and" shall be inserted;
- (ii) in sub-section (2), after the words "immediately preceding the appointed day", the words "within such time and" shall be inserted;
- (iii) in sub-section (3), after the words "on the appointed day", the words "within such time and in such manner as may be prescribed" shall be inserted;
- (iv) in sub-section (5), after the words "under the existing law,", the words "within such time and in such manner as may be prescribed" shall be inserted;
- (v) in sub-section (6), after the words "on the appointed day", the words "within such time and in such manner as may be prescribed" shall be inserted.

12 After Section 168 of the principal Act, the following Section shall be inserted, namely:— **Insertion of Section 168A.**

"168-A.(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 purpose 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.

13. In Section 172 of the principal Act, in sub-section (1), in the proviso, for the words "three years", the words "five years" shall be substituted. **Amendment of Section 172.**

14. In Schedule II of the principal Act, in paragraph 4, the following amendments shall be deemed to have been made with effect from the 1st day of July, 2017,— **Amendment of Schedule II.**

- (i) in item (a), the words "whether or not for a consideration," shall be omitted.
- (ii) in item (b), the words "whether or not for a consideration," shall be omitted.

इसे वेबसाईट www.govtpressmp.nic.in से भी डाउन लोड किया जा सकता है.



मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 351]

भोपाल, शुक्रवार, दिनांक 27 अगस्त 2021—भाद्र 5, शक 1943

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 27 अगस्त 2021

क्र. 10902-257-इक्कीस-अ(प्रा.).—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 26 अगस्त 2021 को महामहिम राज्यपाल की अनुमति प्राप्त हो चुकी है, एतद्वारा सर्वसाधारण की जानकारी के लिए प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अतिरिक्त सचिव.

मध्यप्रदेश अधिनियम

क्रमांक २१ सन् २०२१

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम , २०२१**विषय-वस्तु**

धाराएं :

१. संक्षिप्त नाम और प्रारंभ.
२. धारा ७ का संशोधन.
३. धारा १६ का संशोधन.
४. धारा ३५ का संशोधन.
५. धारा ४४ का स्थापन.
६. धारा ५० का संशोधन.
७. धारा ७४ का संशोधन.
८. धारा ७५ का संशोधन.
९. धारा ८३ का संशोधन.
१०. धारा १०७ का संशोधन.
११. धारा १२९ का संशोधन.
१२. धारा १३० का संशोधन.
१३. धारा १५१ का स्थापन.
१४. धारा १५२ का संशोधन.
१५. अनुसूची २ का संशोधन.

मध्यप्रदेश अधिनियम

क्रमांक २१ सन् २०२१

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२१

[दिनांक २६ अगस्त २०२१ को राज्यपाल की अनुमति प्राप्त हुई, अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक २७ अगस्त, २०२१ को प्रथम बार प्रकाशित की गई.]

मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ को और संशोधित करने हेतु अधिनियम .

भारत गणराज्य के बहत्तरवें वर्ष में मध्यप्रदेश राज्य विधान-मंडल द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

१. (१) इस अधिनियम का संक्षिप्त नाम मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२१.

संक्षिप्त नाम और प्रारंभ

(२) इस अधिनियम में अन्यथा उपबंधित के सिवाय, इस अधिनियम के उपबंध ऐसी तारीख से प्रवृत्त होंगे जैसा कि राज्य सरकार, राजपत्र में अधिसूचना द्वारा नियत करे:

परंतु इस अधिनियम के विभिन्न उपबंधों के लिए विभिन्न तारीखें नियत की जा सकेंगी.

२. मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ (क्रमांक १९ सन् २०१७) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) की धारा ७ में, उपधारा (१) में, खण्ड (क) के पश्चात्, निम्नलिखित खण्ड अंतःस्थापित किया जाए और १ जुलाई, २०१७ से अंतःस्थापित किया गया समझा जाएगा, अर्थात्:—

धारा ७ का संशोधन.

“(कक) किसी व्यक्ति से भिन्न, अन्य व्यक्ति द्वारा नकद, आस्थगित संदाय या अन्य मूल्यवान प्रतिफल के लिए, उसके सदस्यों या घटकों या इसके विपरीत क्रम में कोई क्रियाकलाप या हस्तांतरण.

स्पष्टीकरण.—इस खंड के प्रयोजन के लिए, एतद्द्वारा, यह स्पष्ट किया जाता है कि, तत्समय प्रवृत्त किसी अन्य विधि या किसी न्यायालय, अधिकरण या प्राधिकरण के किसी निर्णय, डिक्री या आदेश में किसी बात के होते हुए भी, व्यक्ति और उसके सदस्यों या घटकों को दो अलग-अलग व्यक्ति समझा जाएगा और उनके मध्य परस्पर गतिविधियां या संव्यवहार का प्रदाय ऐसे व्यक्ति से दूसरे व्यक्ति के मध्य होना समझा जाएगा.

३. मूल अधिनियम की धारा १६ में, उपधारा (२) में, खंड (क) के पश्चात्, निम्नलिखित खंड अंतःस्थापित किया जाए, अर्थात्:—

धारा १६ का संशोधन.

“(कक) आपूर्तिकर्ता द्वारा खंड (क) में निर्दिष्ट इनवॉइस या डेबिट नोट का विवरण आउटवर्ड आपूर्ति के विवरण में प्रस्तुत किया गया है और ऐसे विवरण ऐसे इनवॉइस या डेबिट नोट के प्राप्तकर्ता को धारा ३७ के अधीन विनिर्दिष्ट रीति में, सूचित किए गए हैं.”

४. मूल अधिनियम की धारा ३५ में, उपधारा (५) का लोप किया जाए.

धारा ३५ का संशोधन.

५. मूल अधिनियम की धारा ४४ के स्थान पर, निम्नलिखित धारा स्थापित की जाए, अर्थात्:—

धारा ४४ का संशोधन.

“४४. इनपुट सेवा वितरक, धारा ५१ या धारा ५२ के अधीन कर संदाय करने वाले व्यक्ति, नैमित्तिक कराधेय व्यक्ति और अनिवासी कराधेय व्यक्ति से भिन्न प्रत्येक रजिस्ट्रीकृत व्यक्ति, प्रत्येक वित्त वर्ष के लिए इलेक्ट्रॉनिक रूप से, ऐसे समय के भीतर और ऐसे प्ररूप में और ऐसी रीति में जो विहित की जाए, एक वार्षिक विवरणी प्रस्तुत करेगा, जिसमें वित्तीय वर्ष के लिए प्रस्तुत वार्षिक विवरणियों में घोषित प्रदायों के मूल्य का संपरीक्षित वार्षिक वित्तीय विवरण के साथ मिलान करते हुए, एक स्वसत्यापित समाधान विवरण सम्मिलित है:

परन्तु आयुक्त, परिषद् की सिफारिश पर, अधिसूचना द्वारा, किसी वर्ग या रजिस्ट्रीकृत व्यक्तियों को इस धारा के अधीन वार्षिक विवरणी प्रस्तुत करने से छूट दे सकेगा:

परन्तु यह और कि इस धारा में अंतर्विष्ट कोई बात केन्द्र सरकार या किसी राज्य सरकार या किसी स्थानीय प्राधिकरण के किसी विभाग पर लागू नहीं होगी, जिनकी लेखा बहियां भारत के नियंत्रक महालेखा परीक्षक अथवा तत्समय प्रवृत्त किसी अन्य विधि के अधीन स्थानीय प्राधिकरणों के लेखाओं की संपरीक्षा के लिए नियुक्त किसी संपरीक्षक द्वारा संपरीक्षा के अधीन हैं.”

धारा ५० का संशोधन.

६. मूल अधिनियम की धारा ५० में, उप-धारा (१) में, परन्तुक के स्थान पर, निम्नलिखित परन्तुक स्थापित किया जाए और १ जुलाई, २०१७ से स्थापित किया गया समझा जाएगा, अर्थात्:—

“परंतु किसी कर अवधि के दौरान की गई पूर्तियों के संबंध में संदेय कर पर ब्याज को, जिसे धारा ३९ के उपबंधों के अनुसार नियत तारीख के पश्चात् उक्त अवधि के लिए प्रस्तुत की गई विवरणी में घोषित किया गया है, सिवाय वहां के जहां ऐसी विवरणी को उक्त अवधि के संबंध में धारा ७३ या धारा ७४ के अधीन किन्हीं कार्यवाहियों के प्रारंभ होने के पश्चात् प्रस्तुत किया जाता है, कर के उस भाग पर देय होगा जिसका संदाय इलैक्ट्रॉनिक नकद खाते से विकलित कर किया जाता है.”

धारा ७४ का संशोधन.

७. मूल अधिनियम की धारा ७४ में, स्पष्टीकरण १ में, खण्ड (दो) में, शब्द और अंक “धारा १२२, १२५, १२९ और १३० के स्थान पर, शब्द और अंक “धारा १२२ और १२५” स्थापित किए जाएं.

धारा ७५ का संशोधन.

८. मूल अधिनियम की धारा ७५ में, उपधारा (१२) में, निम्नलिखित स्पष्टीकरण अंतःस्थापित किया जाए, अर्थात्:—

स्पष्टीकरण.—इस उपधारा के प्रयोजन के लिए, पद “स्वतः निर्धारित कर” में धारा ३७ के अधीन प्रस्तुत जावक पूर्तियों के ब्यौरों के संबंध में देय कर सम्मिलित है किन्तु धारा ३९ के अधीन प्रस्तुत की गई विवरणी में सम्मिलित नहीं है.”

धारा ८३ का संशोधन.

९. मूल अधिनियम की धारा ८३ में, उपधारा (१) के स्थान पर, निम्नलिखित उपधारा स्थापित की जाए, अर्थात्:—

“(१) जहां, अध्याय १२, अध्याय १४ या अध्याय १५ के अधीन किसी कार्यवाही के प्रारंभ होने के पश्चात्, आयुक्त का यह मत है कि सरकारी राजस्व के हित का संरक्षण करने के प्रयोजन के लिए ऐसा करना आवश्यक हो तो वह लिखित आदेश द्वारा अनंतिम रूप से ऐसे कराधेय व्यक्ति या धारा १२२ की उपधारा (१क) में विनिर्दिष्ट किसी व्यक्ति की संपत्ति, जिसके अंतर्गत बैंक खाता भी है, को ऐसी रीति में, जैसा कि विहित की जाए, कुर्क कर सकेगा.”

धारा १०७ का संशोधन.

१०. मूल अधिनियम की धारा १०७ में, उपधारा (६) में, पूर्ण विराम के स्थान पर, कोलन स्थापित किया जाए और तत्पश्चात् निम्नलिखित परंतुक अंतःस्थापित किया जाए, अर्थात्:—

“परंतु यह कि धारा १२९ की उपधारा (३) के अधीन किसी आदेश के विरुद्ध कोई अपील नहीं की जाएगी, जब तक कि अपीलार्थी द्वारा शास्ति के पच्चीस प्रतिशत के बराबर राशि का भुगतान नहीं कर दिया जाता.”

११. मूल अधिनियम की धारा १२९ में,—

धारा १२९ का संशोधन.

(एक) उपधारा (१) में, खण्ड (क) और (ख) के स्थान पर, निम्नलिखित खण्ड स्थापित किए जाएं, अर्थात्:—

“(क) ऐसे माल पर देय कर के दो सौ प्रतिशत के बराबर शास्ति के संदाय पर, और छूट प्राप्त माल की दशा में, माल के मूल्य के दो प्रतिशत के बराबर रकम या पच्चीस हजार रुपए, जो भी कम हो, के संदाय पर, जहां माल का स्वामी ऐसी शास्ति के संदाय के लिए आगे आता है;

(ख) माल के मूल्य के पचास प्रतिशत अथवा ऐसे माल पर देय कर के दो सौ प्रतिशत, जो भी अधिक हो, के बराबर शास्ति के संदाय पर, और छूट प्राप्त माल की दशा में, माल के मूल्य के पांच प्रतिशत के बराबर रकम या पच्चीस हजार रुपए, जो भी कम हो, के संदाय पर, जहां माल का स्वामी ऐसी शास्ति के संदाय के लिए आगे नहीं आता है;”;

(दो) उपधारा (२) का लोप किया जाए;

(तीन) उपधारा (३) के स्थान पर, निम्नलिखित उपधारा स्थापित की जाए, अर्थात्:—

“(३) माल की अभिरक्षा या अभिग्रहण या प्रवहण करने वाला समुचित अधिकारी संदेय शास्ति को विनिर्दिष्ट करते हुए, ऐसी अभिरक्षा या अभिग्रहण के सात दिवस के भीतर नोटिस जारी करेगा और उसके पश्चात्, उपधारा (१) के खण्ड (क) या खण्ड (ख) के अधीन शास्ति के संदाय के लिए, ऐसे नोटिस की तामील की तारीख से सात दिवस की कालावधि के भीतर आदेश पारित करेगा.”;

(चार) उपधारा (४) में, शब्द “कर, ब्याज या शास्ति” के स्थान पर, शब्द “शास्ति” स्थापित किया जाए;

(पांच) उपधारा (६) के स्थान पर, निम्नलिखित उपधारा स्थापित की जाए, अर्थात्:—

“(६) जहां किसी माल का परिवहन करने वाला व्यक्ति या माल का स्वामी, उपधारा (३) के अधीन पारित आदेश की प्रति की प्राप्ति की तारीख से पंद्रह दिवस के भीतर, उपधारा (१) के अधीन रकम या शास्ति का संदाय करने में असफल रहता है, इस प्रकार अभिरक्षित या अभिग्रहीत माल या प्रवहण उपधारा (३) के अधीन देय शास्ति वसूल करने के लिए, ऐसी रीति में तथा ऐसे समय के भीतर जैसा कि विहित किया जाए, विक्रय या अन्यथा व्ययन का दायी होगा:

परन्तु प्रवहण, उपधारा (३) के अधीन शास्ति अथवा एक लाख रुपए, जो भी कम हो, का परिवाहक द्वारा संदाय किए जाने पर मुक्त किया जाएगा:

परन्तु यह और कि जहां अभिरक्षा या अभिग्रहण का माल शीघ्र नष्ट होने योग्य या खतरनाक या समय के साथ मूल्य में ह्रास की प्रकृति का है तो उक्त पंद्रह दिवस की अवधि समुचित अधिकारी द्वारा कम की जा सकेगी.

धारा १३० का संशोधन.

१२. मूल अधिनियम की धारा १३० में,—

- (एक) उपधारा (१) में, शब्द “इस अधिनियम में किसी बात के होते हुए भी यदि” के स्थान पर, शब्द “जहां” स्थापित किया जाए;
- (दो) उपधारा (२) में, द्वितीय परन्तुक में, शब्द, कोष्ठक और अंक “धारा १२९ की उपधारा (१) के अधीन उद्ग्रहणीय शास्ति की रकम” के स्थान पर, शब्द “ऐसे माल पर देय कर की सौ प्रतिशत के बराबर शास्ति” स्थापित किए जाएं;
- (तीन) उपधारा (३) का लोप किया जाए.

धारा १५१ का स्थापन.

जानकारी मांगने की शक्ति.

१३. मूल अधिनियम की धारा १५१ के स्थान पर, निम्नलिखित धारा स्थापित की जाए, अर्थात्:—

“१५१. आयुक्त या उसके द्वारा प्राधिकृत कोई अधिकारी आदेश द्वारा किसी व्यक्ति को इस अधिनियम से संबंधित किसी मामले के संबंध में जानकारी, ऐसे समय के भीतर, ऐसे प्ररूप में और ऐसी रीति में, जो इसमें विनिर्दिष्ट की जाए प्रस्तुत करने हेतु निर्देश दे सकेगा.”

धारा १५२ का संशोधन.

१४. मूल अधिनियम की धारा १५२ में,—

(एक) उपधारा (१) के स्थान पर, निम्नलिखित उपधारा स्थापित की जाए, अर्थात्:—

“(१) धारा १५० या धारा १५१ के प्रयोजनों के लिए दिए गए किसी मामले के संबंध में सूचना, संबंधित व्यक्ति या उसके प्राधिकृत प्रतिनिधि की लिखित में पूर्व सहमति के बिना ऐसी रीति में प्रकाशित नहीं की जाएगी ताकि विशिष्ट व्यक्ति को ऐसी विशिष्टियों की पहचान हेतु समर्थ बना सके और ऐसी सूचना संबंधित व्यक्ति को सुनवाई का अवसर दिए बिना इस अधिनियम के अधीन किन्हीं प्रक्रियाओं के प्रयोजन के लिए उपयोग में नहीं लाई जाएगी.”;

(दो) उपधारा (२) का लोप किया जाए.

अनुसूची २ का संशोधन.

१५. मूल अधिनियम की अनुसूची २ में, पैरा ७ का लोप किया जाए और १ जुलाई, २०१७ से विलोपित किया गया समझा जाए.

भोपाल, दिनांक 27 अगस्त 2021

क्र. 10902-257-इक्कीस-अ(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, 2021 (क्रमांक 21 सन् 2021) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अतिरिक्त सचिव.

MADHYA PRADESH ACT

No. 21 OF 2021

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2021

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Sections :

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2. Amendment of Section 7.
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8. Amendment of Section 75.
9. Amendment of Section 83.
10. Amendment of Section 107.
11. Amendment of Section 129.
12. Amendment of Section 130.
13. Substitution of Section 151.
14. Amendment of Section 152.
15. Amendment of Schedule II.

MADHYA PRADESH ACT

No. 21 OF 2021

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2021

[Received the assent of the Governor on the 26th August, 2021; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 27th August, 2021].

An Act further to amend the Madhya Pradesh Goods and Services Tax Act, 2017.

Be it enacted by the Madhya Pradesh Legislature in the Seventy-second Year of the Republic of India, as follows :—

1. (1) This Act may be called the Madhya Pradesh Goods and Services Tax (Amendment) Act, 2021. **Short title and commencement.**

(2) Save as otherwise provided in this Act, the provisions of this Act shall come into force from such date as the State Government may, by notification in the Gazette, appoint:

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

2. In Section 7 of the Madhya Pradesh Goods and Services Tax Act, 2017 (No. 19 of 2017) (hereinafter referred to as the principal Act), in sub-section (1), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017, namely:— **Amendment of section 7.**

“(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 purpose 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 interse shall be deemed to take place from one such person to another;”.

Amendment of Section 16.

3. In Section 16 of the principal Act, 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.

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

Substitution of Section 44.

5. For Section 44 of the principal Act, 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 or 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.

6. In Section 50 of the principal Act, in sub-section (1), for the 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.

7. In Section 74 of the principal Act, in Explanation 1, in clause (ii), for the words and figures “Section 122,125,129 and 130”, the words and figures “Section 122 and 125” shall be substituted.

Amendment of Section 75.

8. In Section 75 of the principal Act, 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.”.

9. In Section 83 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— **Amendment of Section 83.**

“(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.”.

10. In Section 107 of the principal Act, in sub-section (6), for full stop, colon shall be substituted and thereafter the following proviso shall be inserted, namely:— **Amendment of Section 107.**

“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.”.

11. In Section 129 of the principal Act,— **Amendment of 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 or 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.

12. In Section 130 of the principal Act,-

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

(ii) 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;

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

Substitution of Section 151.

13. For Section 151 of the principal Act, the following section shall be substituted, namely:—

Power to call for information.

“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.”.

Amendment of Section 152.

14. In Section 152 of the principal Act,

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) No information with respect to any matter given for the purpose of Section 150 or Section 151 shall, without the previous consent in writing of the concerned person or his authorized representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act, without giving an opportunity of being heard to the person concerned.”;

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

Amendment of Schedule II.

15. In Schedule II to the principal Act, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

इसे वेबसाईट www.govtpressmp.nic.in से
भी डाउन लोड किया जा सकता है.



मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 536]

भोपाल, शुक्रवार, दिनांक 30 सितम्बर 2022—आश्विन 8, शक 1944

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 30 सितम्बर 2022

क्र. 14823-236-इक्कीस-अ(प्रा.)—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 29 सितम्बर 2022 को महामहिम राज्यपाल की अनुमति प्राप्त हो चुकी है, एतद्वारा, सर्वसाधारण की जानकारी के लिये प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अतिरिक्त सचिव.

मध्यप्रदेश अधिनियम

क्रमांक १५ सन् २०२२

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२२**विषय-सूची.****धाराएं :**

१. संक्षिप्त नाम और प्रारंभ.
२. धारा १६ का संशोधन.
३. धारा २९ का संशोधन.
४. धारा ३४ का संशोधन.
५. धारा ३७ का संशोधन.
६. धारा ३८ का स्थापन.
७. धारा ३९ का संशोधन.
८. धारा ४१ का स्थापन.
९. धारा ४२, ४३ और ४३क का लोप.
१०. धारा ४७ का संशोधन.
११. धारा ४८ का संशोधन.
१२. धारा ४९ का संशोधन.
१३. धारा ५० का संशोधन.
१४. धारा ५२ का संशोधन.
१५. धारा ५४ का संशोधन.
१६. धारा १४६ के अधीन जारी अधिसूचना का भूतलक्षी संशोधन.
१७. धारा ५० की उपधारा (१) एवं (३), धारा ५४ की उपधारा (१२) तथा ५६ के अधीन जारी अधिसूचना का भूतलक्षी संशोधन.
१८. कतिपय मामलों में राज्य कर के उद्ग्रहण या संग्रहण से भूतलक्षी छूट.
१९. धारा ७ की उपधारा (२) के अधीन जारी अधिसूचना का भूतलक्षी प्रभाव होना.
२०. कतिपय मामलों में राज्य कर के उद्ग्रहण या संग्रहण से भूतलक्षी छूट.

मध्यप्रदेश अधिनियम

क्रमांक १५ सन् २०२२

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२२

[दिनांक २९ सितम्बर, २०२२ को राज्यपाल की अनुमति प्राप्त हुई; अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक ३० सितम्बर, २०२२ को प्रथम बार प्रकाशित की गई]

मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ को और संशोधित करने हेतु अधिनियम

भारत गणराज्य के तिहत्तरवें वर्ष में मध्यप्रदेश विधान-मंडल द्वारा निम्नलिखित रूप में यह अधिनियमित हो :-

१. (१) इस अधिनियम का संक्षिप्त नाम मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२२ है.

संक्षिप्त नाम और प्रारंभ

(२) अन्यथा उपबंधित के सिवाय, इस अधिनियम की धारा २ से १५ तथा धारा २० उस तारीख से प्रवृत्त होगी, जैसी कि राज्य सरकार, राजपत्र में, अधिसूचना द्वारा, नियत करे:

परंतु इस अधिनियम के भिन्न-भिन्न उपबंधों के लिए भिन्न-भिन्न तारीखें नियत की जा सकेंगी.

२. मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) की धारा १६ में,—

धारा १६ का संशोधन.

(क) उपधारा (२) में,—

(एक) खण्ड (ख) के पश्चात्, निम्नलिखित खण्ड अतःस्थापित किया जाए, अर्थात्:—

“(खक) धारा ३८ के अधीन ऐसे रजिस्ट्रीकृत व्यक्ति को संसूचित उक्त आपूर्ति के संबंध में इनपुट कर प्रत्यय के ब्यौरे निर्बंधित नहीं किए गए हों;”;

(दो) खण्ड (ग) में, शब्द, अंक और अक्षर “या धारा ४३क” का लोप किया जाए;

(ख) उपधारा (४) में, शब्द और अंक “सितम्बर मास के लिए धारा ३९ के अधीन विवरणी के लिए दिए जाने की देय तारीख” के स्थान पर, शब्द और अंक “तीस नवम्बर” स्थापित किए जाएं.

३. मूल अधिनियम की धारा २९ में, उपधारा (२) में,—

धारा २९ का संशोधन.

(क) खण्ड (ख) में, शब्द “तीन क्रमवर्ती कर अवधियों के लिए विवरणी” के स्थान पर शब्द “उक्त विवरणी प्रस्तुत करने के लिए नियत तारीख से तीन मास से परे किसी वित्तीय वर्ष के लिए विवरणी” स्थापित किए जाएं;

(ख) खण्ड (ग) में, शब्द “लगातार छह मास की अवधि तक” के स्थान पर, शब्द “ऐसी निरंतर कर अवधि जैसी कि विहित की जाए”, स्थापित किए जाएं.

४. मूल अधिनियम की धारा ३४ में, उपधारा (२) में, शब्द “सितम्बर मास” के स्थान पर, शब्द “तीस नवम्बर” स्थापित किए जाएं.

धारा ३४ का संशोधन.

धारा ३७ का संशोधन.

५. मूल अधिनियम की धारा ३७ में,—

(क) उपधारा (१) के स्थान पर, निम्नलिखित उपधारा स्थापित की जाए, अर्थात्:—

“(१) किसी इनपुट सेवा वितरक, किसी अनिवासी कर योग्य व्यक्ति और धारा १० या धारा ५१ या धारा ५२ के उपबंधों के अधीन कर संदत्त करने वाले किसी व्यक्ति से भिन्न प्रत्येक रजिस्ट्रीकृत व्यक्ति, इलेक्ट्रानिक रूप में, ऐसी शर्तों तथा निबन्धनों के अध्यधीन तथा ऐसे प्ररूप और रीति में जो विहित की जाए, माल या सेवाओं या दोनों की, की गई जावक पूर्तियों के ब्यौरे कर अवधि के दौरान उक्त कर अवधि के मास के उत्तरवर्ती १० वें दिन से पूर्व या को देगा और ऐसे ब्यौरे, उक्त पूर्तियों के प्राप्तिकर्ता को ऐसी शर्तों तथा निबंधनों के अध्यधीन ऐसी समयवधि के भीतर और ऐसी रीति में, जो विहित की जाए, संसूचित किए जाएंगे:

परन्तु, आयुक्त, कारणों को लिखित में अभिलिखित करते हुए, अधिसूचना द्वारा कर योग्य व्यक्तियों के जो उसमें विनिर्दिष्ट किए जाएं, के ऐसे वर्ग के लिए ऐसे ब्यौरे देने के लिये समय-सीमा को विस्तारित कर सकेगा:

परन्तु, यह और कि केन्द्रीय कर आयुक्त द्वारा अधिसूचित समय-सीमा का कोई विस्तार आयुक्त द्वारा अधिसूचित किया गया समझा जाएगा,

(ख) उपधारा (२) का लोप किया जाए;

(ग) उपधारा (३) में,—

(एक) शब्द और अंक “और जो धारा ४२ या धारा ४३ के अधीन बे-मिलान रह गए हैं”, का लोप किया जाए;

(दो) प्रथम परंतुक में, शब्द और अंक “सितम्बर मास के लिए धारा ३९ के अधीन विवरणी देने” के स्थान पर, शब्द “तीस नवम्बर” स्थापित किए जाएं;

(घ) उपधारा (३) के पश्चात्, निम्नलिखित उपधारा अतः स्थापित की जाए, अर्थात्:—

“(४) किसी रजिस्ट्रीकृत व्यक्ति को उपधारा (१) के अधीन किसी कर अवधि के लिए जावक पूर्तियों के ब्यौरे प्रस्तुत करना अनुज्ञात नहीं किया जाएगा, यदि उसके द्वारा किन्हीं पूर्ववर्ती कर अवधियों के लिए जावक पूर्तियों के ब्यौरे प्रस्तुत नहीं किए गए हैं:

परन्तु सरकार, परिषद् की सिफारिशों पर, अधिसूचना द्वारा ऐसी शर्तों और निबंधनों के अधीन रहते हुए, जो कि उसमें विनिर्दिष्ट किए जाएं, किसी रजिस्ट्रीकृत व्यक्ति या रजिस्ट्रीकृत व्यक्तियों के किसी वर्ग को उपधारा (१) के अधीन, जावक पूर्तियों के ब्यौरे प्रस्तुत करना तब भी अनुज्ञात कर सकेगी जब उसने एक या अधिक पूर्ववर्ती कर अवधियों के लिए जावक पूर्तियों के ब्यौरे प्रस्तुत नहीं किए हैं.”

६. मूल अधिनियम की धारा ३८ के स्थान पर, निम्नलिखित धारा स्थापित की जाए, अर्थात्:—

धारा ३८ का स्थापन.

“३८. (१) धारा ३७ की उपधारा (१) के अधीन रजिस्ट्रीकृत व्यक्तियों द्वारा प्रस्तुत जावक पूर्तियों तथा ऐसी अन्य पूर्तियों, जो कि विहित किए जाएं, के ब्यौरे तथा स्वतः जनित विवरण, जिसमें इनपुट कर प्रत्यय के ब्यौरे अंतर्विष्ट हों, ऐसे प्ररूप और रीति में, ऐसे समय के भीतर और ऐसी शर्तों और निर्बंधनों के अधीन रहते हुए, जो विहित किए जाएं, ऐसी पूर्तियों के प्राप्तकर्ताओं को, इलैक्ट्रॉनिक रूप से उपलब्ध करवाए जाएंगे.

आवक पूर्तियों तथा इनपुट कर प्रत्यय के ब्यौरों की संसूचना.

(२) उपधारा (१) के अधीन स्वतः जनित विवरण निम्नलिखित से मिलकर बनेगा:—

(क) आवक पूर्तियों के ब्यौरे, जिनके संबंध में इनपुट कर प्रत्यय प्राप्तकर्ता को उपलब्ध हो सके; और

(ख) पूर्तियों के ब्यौरे, जिनके संबंध में ऐसे प्रत्यय का लाभ, प्राप्तकर्ता द्वारा, धारा ३७ की उपधारा (१) के अधीन उक्त पूर्तियों के ब्यौरे प्रस्तुत किए जाने के कारण, चाहे पूर्ण रूप से या भाग रूप से, निम्नलिखित द्वारा नहीं उठाया जा सकता,—

(एक) किसी रजिस्ट्रीकृत व्यक्ति द्वारा रजिस्ट्रीकरण लेने की ऐसी अवधि के भीतर, जो विहित की जाए; या

(दो) किसी रजिस्ट्रीकृत व्यक्ति द्वारा, जो कर के संदाय में व्यतिक्रमी रहा है और ऐसा व्यतिक्रम ऐसी अवधि के लिए, जो विहित की जाए, निरंतर रहा है; या

(तीन) किसी रजिस्ट्रीकृत व्यक्ति द्वारा, जिसके द्वारा संदेय आउटपुट कर ऐसी अवधि के दौरान, जो विहित की जाए, उक्त उपधारा के अधीन उसके द्वारा प्रस्तुत जावक पूर्तियों के विवरण के अनुसार, ऐसी सीमा द्वारा, जो विहित की जाए, उक्त अवधि के दौरान उसके द्वारा संदत्त आउटपुट कर से अधिक है; या

(चार) किसी रजिस्ट्रीकृत व्यक्ति द्वारा, जिसने ऐसी अवधि के दौरान, जो विहित की जाए, उस रकम के इनपुट कर के प्रत्यय का लाभ लिया है, जो उस प्रत्यय से, खण्ड (क) के अनुसार ऐसी सीमा तक अधिक है, जो विहित की जाए, जिसका कि उसके द्वारा लाभ लिया जा सकता है; या

(पांच) किसी रजिस्ट्रीकृत व्यक्ति द्वारा, जिसने ऐसी शर्तों और निर्बंधनों के अधीन रहते हुए, जो विहित किए जाएं, धारा ४९ की उपधारा (१२) के उपबंधों के अनुसार अपने कर दायित्व के निर्वहन में व्यतिक्रम किया है; या

(छह) व्यक्तियों के ऐसे अन्य वर्ग द्वारा, जो विहित किए जाएं.”

७. मूल अधिनियम की धारा ३९ में,—

धारा ३९ का संशोधन.

(क) उपधारा (५) में, शब्द “बीस” के स्थान पर, शब्द “तेरह” स्थापित किया जाए;

(ख) उपधारा (७) में, प्रथम परंतुक के स्थान पर, निम्नलिखित परंतुक स्थापित किया जाए, अर्थात्:—

“परंतु उपधारा (१) के परंतुक के अधीन विवरणी प्रस्तुत करने वाला प्रत्येक रजिस्ट्रीकृत व्यक्ति, सरकार को ऐसे प्ररूप और रीति में और ऐसे समय के भीतर, जैसा कि विहित किया जाये,—

(क) माल या सेवाओं या दोनों की आवक और जावक पूर्तियों को गणना में लेते हुए लाभ लिए गए इनपुट कर प्रत्यय, संदेय कर और मास के दौरान ऐसी अन्य विशिष्टियों के समतुल्य कर की रकम, या

(ख) खण्ड (क) में निर्दिष्ट रकम के स्थान पर, ऐसी रीति में और ऐसी शर्तों और निर्बंधनों के अधीन रहते हुए, जो विहित किए जाए, अवधारित रकम,

का भुगतान करेगा.”;

(ग) उपधारा (९) में,—

(एक) शब्द और अंक “धारा ३७ और धारा ३८ के उपबंधों के अधीन यदि,” के स्थान पर, शब्द “जहां” स्थापित किया जाए;

(दो) परंतुक में, शब्द “सितम्बर मास के लिए या दूसरी तिमाही के लिए वार्षिक विवरणी देने की नियत तारीख,” के स्थान पर, शब्द “तीस नवंबर” स्थापित किए जाएं;

(घ) उपधारा (१०) के स्थान पर, निम्नलिखित उपधारा स्थापित की जाए, अर्थात्:—

“(१०) किसी रजिस्ट्रीकृत व्यक्ति को किसी कर अवधि के लिए कोई विवरणी देने के लिए अनुज्ञात नहीं किया जाएगा, यदि उसके द्वारा किसी पूर्ववर्ती कर अवधि या उक्त कर अवधि के लिए धारा ३७ की उपधारा (१) के अधीन जावक पूर्तियों के ब्यौरे नहीं दिए गए हैं:

परंतु सरकार, परिषद् की सिफारिश पर, अधिसूचना द्वारा ऐसी शर्तों और निर्बंधनों के अधीन रहते हुए, जो उसमें विनिर्दिष्ट किए जाएं, किसी रजिस्ट्रीकृत व्यक्ति या रजिस्ट्रीकृत व्यक्तियों के किसी वर्ग को विवरणी प्रस्तुत करने के लिए अनुज्ञात कर सकेगी, यद्यपि उसने एक या अधिक पूर्व कर अवधियों के लिए विवरणियां प्रस्तुत नहीं की हों या उक्त कर अवधि के लिए धारा ३७ की उपधारा (१) के अधीन जावक पूर्ति के ब्यौरे प्रस्तुत नहीं किए हों.”

धारा ४१ का
स्थापन.

इनपुट कर प्रत्यय
का उपयोग.

८. मूल अधिनियम की धारा ४१ के स्थान पर, निम्नलिखित धारा स्थापित की जाए, अर्थात्:—

“४१. (१) प्रत्येक रजिस्ट्रीकृत व्यक्ति, ऐसी शर्तों और निर्बंधनों के अधीन रहते हुए, जो विहित किए जाएं, अपनी विवरणी में स्वनिर्धारित रूप में, पात्र इनपुट कर के प्रत्यय का उपभोग करने का हकदार होगा और ऐसी रकम उसके इलैक्ट्रॉनिक जमा खाते में जमा की जाएगी.

- (२) माल या सेवाओं या दोनों की ऐसी पूर्ति के संबंध में उपधारा (१) के अधीन रजिस्ट्रीकृत व्यक्ति द्वारा उपभोग किया गया इनपुट कर प्रत्यय, उस पर संदेय कर, पूर्तिकर्ता द्वारा संदत्त नहीं किया गया है, वह उक्त व्यक्ति द्वारा, ऐसी रीति में, जो विहित की जाए, लागू ब्याज के साथ वापस किया जाएगा:

परंतु जहां ऐसा पूर्तिकर्ता पूर्वोक्त पूर्ति के संबंध में संदेय कर का भुगतान करता है, वहां उक्त रजिस्ट्रीकृत व्यक्ति उसके द्वारा वापस की गई प्रत्यय की रकम ऐसी रीति में, जो विहित की जाए, पुनः प्राप्त कर सकेगा."

९. मूल अधिनियम की धारा ४२, ४३ और ४३ (क) का लोप किया जाए.

धारा ४२, ४३ और ४३ (क) का लोप.

१०. मूल अधिनियम की धारा ४७ में, उपधारा (१) में,—

धारा ४७ का संशोधन.

- (क) शब्द "या अंतर्गामी" का लोप किया जाए;
- (ख) शब्द और अंक "या धारा ३८" का लोप किया जाए;
- (ग) शब्द और अंक "धारा ३९ या धारा ४५" के पश्चात्, शब्द और अंक "या धारा ५२" अंतःस्थापित किए जाएं.

११. मूल अधिनियम की धारा ४८ में, उपधारा (२) में, शब्द और अंक "धारा ३८ के अधीन अंतर्गामी प्रदायों के ब्यौरे." का लोप किया जाए.

धारा ४८ का संशोधन.

१२. मूल अधिनियम की धारा ४९ में,—

धारा ४९ का संशोधन.

- (क) उपधारा (२) में, शब्द, अंक और अक्षर "या धारा ४३ क" का लोप किया जाए;
- (ख) उपधारा (४) में, शब्द "ऐसी शर्तों के अधीन रहते हुए" के स्थान पर, शब्द "ऐसी शर्तों तथा निर्बंधनों के अध्ययन रहते हुए" स्थापित किए जाएं;
- (ग) उपधारा (११) के पश्चात्, निम्नलिखित नई उपधारा अंतःस्थापित की जाए, अर्थात्:—

"(१२) इस अधिनियम में अंतर्विष्ट किसी बात के होते हुए भी, सरकार, परिषद् की सिफारिशों पर, इस अधिनियम के अधीन, ऐसी शर्तों और निर्बंधनों के अध्ययन रहते हुए, जैसा कि विहित किया जाए, जावक कर दायित्व के ऐसे अधिकतम भाग को विनिर्दिष्ट कर सकेगी, जिसे रजिस्ट्रीकृत व्यक्ति या रजिस्ट्रीकृत व्यक्तियों के किसी वर्ग द्वारा, इलैक्ट्रॉनिक जमा खाते के माध्यम से चुकाया जा सकेगा."

१३. मूल अधिनियम की धारा ५० में, उपधारा (३) के स्थान पर, निम्नलिखित उपधारा स्थापित की जाए और १ जुलाई, २०१७ से स्थापित की गई समझी जाए, अर्थात्:—

धारा ५० का संशोधन.

- "(३) जहां इनपुट कर प्रत्यय का गलत उपभोग और उपयोग किया गया है, रजिस्ट्रीकृत व्यक्ति, ऐसे गलत उपभोग और उपयोग किए गए ऐसे इनपुट कर प्रत्यय पर, सरकार द्वारा, परिषद् की सिफारिशों पर यथा अधिसूचित चौबीस प्रतिशत से अनधिक की ऐसी दर पर ब्याज का संदाय करेगा और ब्याज की गणना ऐसी रीति में, जो विहित की जाए, की जाएगी."

धारा ५२ का संशोधन.

१४. मूल अधिनियम की धारा ५२ में, उपधारा (६) में, परंतुक में, शब्द "सितंबर मास का विवरण प्रस्तुत करने के लिए सम्यक् तारीख" के स्थान पर, शब्द "तीस नवंबर" स्थापित किए जाएं.

धारा ५४ का संशोधन.

१५. मूल अधिनियम की धारा ५४ में,—

- (क) उपधारा (१) में, परंतुक में, शब्दों और अंकों "धारा ३९ के अधीन प्रस्तुत विवरणी में ऐसे प्रतिदाय का ऐसी रीति में, जो विहित की जाए, दावा कर सकेगा" के स्थान पर, शब्द "ऐसे प्रतिदाय का ऐसे प्ररूप और ऐसी रीति में, जो विहित की जाए, दावा कर सकेगा" स्थापित किए जाएं;
- (ख) उपधारा (२) में, शब्द "छह मास" के स्थान पर, शब्द "दो वर्ष" स्थापित किए जाएं;
- (ग) उपधारा (१०) में, शब्द, कोष्ठक और अंक "उपधारा (३) के अधीन" का लोप किया जाए;
- (घ) स्पष्टीकरण में, खंड (२) में, उपखंड (ख) के पश्चात्, निम्नलिखित उपखण्ड अंतःस्थापित किया जाए, अर्थात्:—

"(खक) किसी विशेष आर्थिक जोन विकासकर्ता या विशेष आर्थिक जोन इकाई को शून्य दर पर माल या सेवाओं अथवा दोनों की पूर्ति की दशा में, जहां, यथास्थिति, उन्हें ऐसी पूर्ति या ऐसी पूर्ति में प्रयुक्त इनपुट या इनपुट सेवाओं के संबंध में संदत्त कर का प्रतिदाय उपलब्ध है, ऐसी पूर्तियों के संबंध में धारा ३९ के अधीन विवरणी प्रस्तुत करने के लिए नियत तारीख;

धारा १४६ के अधीन जारी अधिसूचना का भूतलक्षी संशोधन

१६. (१)

मध्यप्रदेश माल और सेवा कर अधिनियम २०१७ की धारा १४६ के अधीन परिषद् की सिफारिशों पर, राज्य सरकार द्वारा जारी, मध्यप्रदेश राजपत्र (असाधारण) में सरल क्रमांक ४७ पर दिनांक २३ जनवरी, २०१८ में प्रकाशित अधिसूचना क्रमांक एफ-ए-३-०७-२०१८-१-पांच(८) दिनांक २३ जनवरी, २०१८ में संशोधन किए जाएंगे और नीचे दी गई तालिका के स्तम्भ (२) में विनिर्दिष्ट रीति से उस तालिका के स्तम्भ (३) में विनिर्दिष्ट तारीख से, भूतलक्षी रूप से संशोधित किया गया समझा जाएगा.

अधिसूचना क्रमांक और तारीख (१)	संशोधन (२)	संशोधन की प्रभावी तारीख (३)
अधिसूचना क्रमांक एफ-ए-३-०७-२०१८-१-पांच(८) दिनांक २३ जनवरी, २०१८	उक्त अधिसूचना में पैरा १ में, शब्द "विवरणियां प्रस्तुत करने और एकीकृत कर की संगणना तथा परिनिर्धारण" के स्थान पर, निम्नलिखित स्थापित किया जाए, अर्थात्:— "विवरणियां प्रस्तुत करने और एकीकृत कर की संगणना तथा परिनिर्धारण और अधिसूचना क्रमांक एफ-ए-३-५०-२०१९-१-पांच (०७) दिनांक १४-०२-२०२० में अन्यथा उपबंधित के सिवाय मध्यप्रदेश माल और सेवा कर नियम, २०१७ के अधीन उपबंधित सभी कृत्य."	२२ जून, २०१७

(२) उपधारा (१) में प्रयोजनों के लिए, राज्य सरकार को उक्त उपधारा में निर्दिष्ट अधिसूचनाओं को संशोधित करने की शक्ति होगी और भूतलक्षी प्रभाव के साथ संशोधित करने की शक्ति समझी जाएगी मानों कि राज्य सरकार को मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ की धारा १४६ के अधीन सभी तात्त्विक समय पर भूतलक्षी प्रभाव से उक्त अधिसूचना को संशोधित करने की शक्ति थी।

१७. (१) मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ की धारा ५० की उपधारा (१) और उपधारा (३), धारा ५४ की उपधारा (१२) तथा धारा ५६ के अधीन, परिषद् की सिफारिशों पर, राज्य सरकार द्वारा जारी, मध्यप्रदेश राजपत्र (असाधारण) में सरल क्रमांक ३०७ पर प्रकाशित अधिसूचना क्रमांक एफ-ए-३-२७-२०१७-पांच(५४), दिनांक ३० जून २०१७ में संशोधन किए जाएंगे और नीचे दी गई तालिका के स्तंभ (२) में विनिर्दिष्ट रीति में उक्त तालिका के स्तंभ (३) में विनिर्दिष्ट रीति में, भूतलक्षी रूप से किए गए समझे जाएंगे।

धारा ५० की उपधारा (१) एवं (३), धारा ५४ की उपधारा (१२) तथा धारा ५६ के अधीन जारी अधिसूचना का भूतलक्षी संशोधन.

अधिसूचना क्रमांक और तारीख (१)	संशोधन (२)	संशोधन की तारीख (३)
अधिसूचना क्रमांक एफ-ए-३-२७-२०१७-१-पांच(५४) दिनांक ३० जून २०१७	उक्त अधिसूचना की सारणी में क्रम संख्या २ के सामने, स्तंभ (३) में, "२४" अंकों के स्थान पर, "१८" अंक रखे जाएंगे।	१ जुलाई २०१७

(२) उपधारा (१) के प्रयोजनों के लिए, राज्य सरकार को उक्त उपधारा में निर्दिष्ट अधिसूचनाओं को संशोधित करने की शक्ति होगी और भूतलक्षी प्रभाव के साथ संशोधित करने की शक्ति समझी जाएगी मानों कि राज्य सरकार को मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ की धारा ५० की उपधारा (१) और उपधारा (३), धारा ५४ की उपधारा (१२) तथा धारा ५६ के अधीन सभी तात्त्विक समय पर भूतलक्षी प्रभाव से उक्त अधिसूचना को संशोधित करने की शक्ति थी।

१८. (१) मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ की धारा ९ की उपधारा (१) के अधीन शक्तियों का प्रयोग करते हुए, परिषद् की सिफारिशों पर, राज्य सरकार द्वारा जारी, मध्यप्रदेश राजपत्र (असाधारण) में सरल क्रमांक ४३३ पर प्रकाशित अधिसूचना क्रमांक एफ-ए-३/३३/२०१७/१/पांच (४२), दिनांक ५ अगस्त २०१७ में अन्तर्विष्ट किसी बात के होते हुए भी, मत्स्य आहार (शीर्ष २३०१ के अधीन आने वाला) के, सिवाय मत्स्य तेल के, उत्पादन के दौरान सृजित अनआशयित अपशिष्ट की पूर्ति के संबंध में, १ जुलाई २०१७ से प्रारंभ होकर, ३० सितंबर, २०१९ (दोनों दिन सम्मिलित) को समाप्त होने वाली अवधि के दौरान, कोई राज्य कर उद्गृहीत या संगृहीत नहीं किया जाएगा।

कतिपय मामलों में राज्य कर के उद्गृहण से या संग्रहण से छूट को भूतलक्षी प्रभाव से लागू करना.

(२) ऐसे सभी राज्य कर का प्रतिदाय नहीं किया जाएगा, जिसका संग्रहण किया गया है, किन्तु उसका इस प्रकार संग्रहण नहीं किया जाता, यदि उपधारा (१) सभी तात्त्विक समय पर प्रवृत्त होती.

१९. (१) उपधारा (२) के उपबंधों के अधीन रहते हुए, मध्यप्रदेश माल एवं सेवा कर अधिनियम, २०१७ की धारा ७ की उपधारा (२) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए, परिषद् की सिफारिशों पर, राज्य सरकार द्वारा जारी, मध्यप्रदेश राजपत्र (असाधारण) में सरल क्रमांक ४६४ पर प्रकाशित अधिसूचना क्रमांक एफ-ए-३-३९/२०१७/१/पांच (८३), दिनांक २२ नवम्बर, २०१९, सभी प्रयोजनों के लिए १ जुलाई, २०१७ से प्रवृत्त हुई समझी जाएगी।

धारा ७ की उपधारा (२) के अधीन जारी अधिसूचना को भूतलक्षी प्रभाव से लागू करना.

(२) ऐसे सभी राज्य कर का प्रतिदाय नहीं किया जाएगा, जिसका संग्रहण किया गया है, किन्तु उसका इस प्रकार संग्रहण नहीं किया जाता, यदि उपधारा (१) में निर्दिष्ट अधिसूचना, सभी तात्त्विक समय पर प्रवृत्त होती.

कतिपय मामलों में राज्य कर के उद्ग्रहण या संग्रहण से छूट को भूतलक्षी प्रभाव से लागू करना.

२०. (१) मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ की धारा ९ की उपधारा (१) के अधीन, शक्तियों का प्रयोग करते हुए, परिषद् की सिफारिशों पर, राज्य सरकार द्वारा जारी, मध्यप्रदेश राजपत्र (असाधारण) में सरल क्रमांक ४३३ पर प्रकाशित अधिसूचना क्रमांक एफ-ए-३/३३/२०१७/१/पांच (४२), दिनांक ५ अगस्त, २०१७ में अन्तर्विष्ट किसी बात के होते हुए भी:—
- (एक) मत्स्य आहार (शीर्ष २३०१ के अधीन आने वाला) की प्रदाय के संबंध में, १ जुलाई, २०१७ से प्रारंभ होकर, ३० सितंबर, २०१९ (दोनों दिन सम्मिलित) को समाप्त होने वाली अवधि के दौरान, कोई राज्य कर उद्ग्रहीत या संग्रहीत नहीं किया जाएगा.
- (दो) पूली, व्हील्स और अन्य भाग (शीर्ष ८४८३ के अधीन आने वाला) और कृषि उपकरण के भाग के रूप में प्रयुक्त (शीर्ष ८४३२, ८४३३ एवं ८४३६ के अधीन आने वाला) के प्रदाय के संबंध में, १ जुलाई, २०१७ से प्रारंभ होकर, ३१ दिसंबर, २०१८ (दोनों दिन सम्मिलित) को समाप्त होने वाली अवधि के दौरान, छह प्रतिशत की दर से राज्य कर उद्ग्रहीत या संग्रहीत किया जाएगा.
- (२) ऐसे सभी कर का प्रतिदाय नहीं किया जाएगा, जिसका संग्रहण किया गया है, किन्तु उसका इस प्रकार संग्रहण नहीं किया जाता, यदि उपधारा (१) में निर्दिष्ट अधिसूचना, सभी तात्विक समय पर प्रवृत्त होती.

भोपाल, दिनांक 30 सितम्बर 2022

क्र. 236-इक्कीस-अ(प्रा.)—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, 2022 (क्रमांक 15 सन् 2022) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

**MADHYA PRADESH ACT
NO. 15 OF 2022**

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2022

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MADHYA PRADESH ACT
No. 15 OF 2022

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2022

[Received the assent of the Governor on the 29th September, 2022; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 30th September, 2022.]

An Act further to amend the Madhya Pradesh Goods and Services Tax Act, 2017.

Be it enacted by the Madhya Pradesh Legislature in the seventy-third year of the Republic of India as follows :—

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

Short title and commencement.

(2) Save as otherwise provided, sections 2 to 15 and 20 of this Act shall come into force from such date as the State Government may, by notification in the Gazette, appoint:

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

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

Amendment of Section 16.

(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, figure and letter “or section 43A” shall be omitted;

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

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

Amendment of Section 29.

(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.

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

Amendment of Section 34.

5. In Section 37 of the principal Act,—

Amendment of Section 37.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of Section 10 or Section 51 or Section 52, shall furnish, electronically, subject to such conditions and restrictions and in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details 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:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit noticed by the Commissioner of Central tax shall be deemed to be notified by the Commissioner;

- (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 omitted;
 - (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 new sub-section shall be inserted, 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.”.

Substitution of Section 38. Communication of details of inward supplies and input tax credit.

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

“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.

(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 who 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.”.

7. In Section 39 of the principal Act,—

Amendment of Section 39.

- (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) for sub-section (10), the following sub-section shall be substituted, namely:—

“(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods 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.

“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 where on 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.”.

Deletion of Sections 42, 43 and 43A.

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

Amendment of Section 47.

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

- (a) the words “or inward” shall be omitted;
- (b) the words and figures “or Section 38” shall be omitted;
- (c) after the words and figures “Section 39 or Section 45”, the words and figures “or section 52” shall be inserted.

Amendment of Section 48.

11. In Section 48 of the principal Act, in sub-section (2), the words and figure “the details of in ward supplies under section 38” shall be omitted.

Amendment of Section 49.

12. In Section 49 of the principal Act,—

- (a) in sub-section (2), the words, figure and letter “or Section 43A” shall be omitted;
- (b) in sub-section (4), for the words “subject to such conditions”, the words “subject to such conditions and restrictions” shall be substituted;
- (c) after sub-section (11), the following new sub-section shall be inserted, namely:—

“(12) Notwithstanding any thing 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 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.

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 percent 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.

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.

15. In Section 54 of the principal Act,—

Amendment of
Section 54

- (a) in sub-section (1), in the proviso, for the words and figure “may claim such refund in the return furnished under section 39 in such manner as may be prescribed”, the words “may claim such refund in such form and manner as may be prescribed” 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, bracket and figure “under sub-section (3)” shall be omitted;
- (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;”.

16. (1) The notification No. F. A-3-07-2018-1-V-(8), published in the Madhya Pradesh Gazette (Extraordinary) Serial No 47 dated the 23rd January, 2018, issued by the State Government, on the recommendations of the Council, under section 146 of the Madhya Pradesh Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively, as specified in column (2) of the table below, on and from the date specified in column (3) of that Table :—

Retrospective
amendment of
notification
issued under
Section 146 .

TABLE

Notification number and date (1)	Amendment (2)	Date of effect of Amendment (3)
No. F. A-3-07-2018-1-V-(8), Dated 23rd 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 notification No. F A-3-50-2019-1-V (07), Dated 14th February, 2020, all functions provided under The Madhya Pradesh Goods and Services Tax Rules, 2017.”.	22nd June, 2017

(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 Madhya Pradesh Goods and Services Tax Act, 2017 retrospectively, at all material times.

Retrospective amendment of notification issued under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56.

17. (1) (1) The notification No F. A-3-27/2017/1/FIVE-(54), published in the Madhya Pradesh Gazette (Extraordinary) Serial No 307 dated the 30th 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 Madhya Pradesh Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively as specified in column (2) of the table below, on and from the date specified in column (3) of that table :—

TABLE

Notification number and date (1)	Amendment (2)	Date of effect of Amendment (3)
No F. A-3-27/2017/1/FIVE-(54), dated the 30th 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

(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 Madhya Pradesh Goods and Services Tax Act, 2017, retrospectively, at all material times.

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

18. (1) Notwithstanding anything contained in the notification no. F-A3-33-2017-1-V(42), published in the Madhya Pradesh Gazette (Extraordinary) Serial No. 293 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 Madhya Pradesh Goods and Services Tax Act, 2017, 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).

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

Retrospective effect to notification issued under sub-section (2) of Section 7.

19. (1) Subject to the provisions of sub-section (2), the notification no F A-3-39/2017/1/V(83), published in the Madhya Pradesh Gazette (Extraordinary) Serial No.464 dated the 22nd November, 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 Madhya Pradesh Goods and Services Tax Act, 2017, shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July, 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.

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

20. (1) Notwithstanding anything contained in the notification no. F. A-3-33-2017-1-V(42), published in the Madhya Pradesh Gazette (Extraordinary) at Serial No 293 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 Madhya Pradesh Goods and Services Tax Act, 2017,—

- (i) no State tax shall be levied or collected in respect of supply of fishmeal (falling under heading 2301), during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive);
 - (ii) State tax at the rate of six percent shall be levied or collected in respect of supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436), during the period commencing from the 1st day of July, 2017 and ending with the 31st day of December, 2018 (both days inclusive).
- (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.

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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 248]

भोपाल, शुक्रवार, दिनांक 11 अगस्त 2023—श्रावण 20, शक 1945

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 11 अगस्त 2023

क्र. 13505-167-इक्कीस-अ(प्रा.).—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 10 अगस्त, 2023 को महामहिम राज्यपाल की अनुमति प्राप्त हो चुकी है, एतद्वारा, सर्वसाधारण की जानकारी के लिये प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. पी. गुप्ता, अवर सचिव.

मध्यप्रदेश अधिनियम

क्रमांक २१ सन् २०२३

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम , २०२३

विषय-सूची

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मध्यप्रदेश अधिनियम

क्रमांक २१ सन् २०२३

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२३

[दिनांक १० अगस्त, २०२३ को राज्यपाल की अनुमति प्राप्त हुई; अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक ११ अगस्त, २०२३ को प्रथमबार प्रकाशित की गई.]

मध्यप्रदेश माल और सेवा कर अधिनियम को और संशोधित करने हेतु अधिनियम.

भारत गणराज्य के चौहत्तरवें वर्ष में मध्यप्रदेश विधान-मण्डल द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

१. (१) इस अधिनियम का संक्षिप्त नाम मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२३ है.

संक्षिप्त नाम और प्रारंभ

(२) यथा उपबंधित के सिवाय इस अधिनियम के उपबंध उस तारीख को प्रवृत्त होंगे जो राज्य सरकार राजपत्र में अधिसूचना द्वारा नियत करे:

परन्तु यह कि इस अधिनियम के भिन्न-भिन्न उपबंधों के लिए भिन्न-भिन्न तारीखें नियत की जा सकेंगी.

२. मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) की धारा १० में,—

धारा १० का संशोधन.

(क) उप-धारा (२) में, खण्ड (घ) में, शब्द "माल या" का लोप किया जाए;

(ख) उप-धारा (२क) में, खण्ड (ग) में, शब्द "माल या" का लोप किया जाए.

३. मूल अधिनियम की धारा १६ में उप-धारा (२) में,—

धारा १६ का संशोधन.

(एक) दूसरे परन्तुक में, शब्द "उस पर के ब्याज के साथ, ऐसी रीति में, जो विहित की जाए, उसके आऊटपुट कर दायित्व में जोड़ दिया जाएगा" के स्थान पर, शब्द और अंक, "धारा ५० के अधीन देय ब्याज के साथ, उसके द्वारा भुगतान किया जायेगा" स्थापित किया जाए;

(दो) तीसरे परन्तुक में, शब्द "उसके द्वारा" के पश्चात्, शब्द "प्रदायकर्ता को" जोड़े जाए.

४. मूल अधिनियम की धारा १७ में,—

धारा १७ का संशोधन.

(क) उप-धारा (३) में, स्पष्टीकरण के स्थान पर, निम्नलिखित स्पष्टीकरण स्थापित किया जाए, अर्थात्:—

"स्पष्टीकरण.—इस उपधारा के प्रयोजनों के लिए, अभिव्यक्ति "छूट-प्राप्त प्रदाय के मूल्य" में

अनुसूची-तीन में विनिर्दिष्ट कार्यकलाप या संव्यवहार का मूल्य सम्मिलित नहीं होगा, सिवाय,—

- (एक) उक्त अनुसूची के पैरा ५ में विनिर्दिष्ट क्रियाकलाप या संव्यवहार का मूल्य; और
- (दो) उक्त अनुसूची के पैरा ८ के खण्ड (क) के संबंध में विहित क्रियाकलाप या संव्यवहार का मूल्य.”;
- (ख) उप-धारा (५) में, खण्ड (च) के पश्चात्, निम्नलिखित खण्ड अंतःस्थापित किया जाए, अर्थात्:—

“(चक) एक कराधेय व्यक्ति द्वारा प्राप्त माल या सेवाएं या दोनों, जो कंपनी अधिनियम, २०१३ (२०१३ का १८) की धारा १३५ में निर्दिष्ट कार्पोरेट सामाजिक उत्तरदायित्व के अधीन उसके दायित्वों से संबंधित गतिविधियों के लिए उपयोग किया जाता है या उपयोग किए जाने के लिए आशयित हैं;”.

धारा २३ का संशोधन.

५. मूल अधिनियम की धारा २३ में, उप-धारा (२) के स्थान पर, निम्नलिखित उप-धारा स्थापित की जाए और १ जुलाई, २०१७ से स्थापित की गई समझी जाए, अर्थात्:—

“(२) धारा २२ की उप-धारा (१) या धारा २४ में अन्तर्विष्ट किसी प्रतिकूल बात के होते हुए भी, सरकार परिषद् की सिफारिशों पर, अधिसूचना द्वारा, ऐसी शर्तों और निर्बंधनों के अध्यधीन रहते हुए, जो उसमें निर्दिष्ट किए जाएं, उन व्यक्तियों की श्रेणी निर्दिष्ट कर सकती हैं जिन्हें इस अधिनियम के अधीन रजिस्ट्रीकरण प्राप्त करने से छूट दी जा सकती है.”.

धारा ३० का संशोधन.

६. मूल अधिनियम की धारा ३० में, उप-धारा (१) में,—

(क) शब्द “रद्दकरण आदेश की तारीख की तारीख से तीस दिन के भीतर ऐसे अधिकारी को विहित रीति से”, के स्थान पर, शब्द “ऐसी रीति, ऐसे समय के भीतर और ऐसी शर्तों एवं निर्बंधनों के अध्यधीन रहते हुए, जैसी कि विहित की जाएं, स्थापित किए जाएं.

(ख) परन्तुक का लोप किया जाए.

धारा ३७ का संशोधन.

७. मूल अधिनियम की धारा ३७ में, उप-धारा (४) के पश्चात्, निम्नलिखित नई उप-धारा जोड़ी जाए, अर्थात्:—

“(५) एक पंजीकृत व्यक्ति को उप-धारा (१) के अधीन किसी कर अवधि के लिए, उक्त विवरण प्रस्तुत करने की नियत तिथि से तीन वर्ष की कालावधि की समाप्ति के पश्चात् जावक पूर्ति का विवरण प्रस्तुत करने की अनुमति नहीं दी जाएगी:

परन्तु यह कि सरकार, परिषद् की सिफारिशों पर, अधिसूचना द्वारा, ऐसी शर्तों और निर्बंधनों के अध्यधीन रहते हुए, जो उसमें विनिर्दिष्ट किए जाएं, एक पंजीकृत व्यक्ति या पंजीकृत व्यक्तियों के एक वर्ग को उप-धारा (१) के अधीन उक्त विवरण प्रस्तुत करने की देय तिथि से तीन वर्ष की उक्त अवधि की समाप्ति के पश्चात् भी एक कर अवधि के लिए जावकपूर्ति का विवरण प्रस्तुत करने की अनुमति दे सकेगी.”.

८. मूल अधिनियम की धारा ३९ में, उप-धारा (१०) के पश्चात्, निम्नलिखित उप-धारा जोड़ी जाए, धारा ३९ का अर्थात्:— संशोधन.

“(११) एक पंजीकृत व्यक्ति को विवरणी प्रस्तुत करने की देय तिथि से तीन वर्ष की अवधि की समाप्ति के पश्चात् उक्त कर अवधि के लिए विवरणी प्रस्तुत करने की अनुमति नहीं दी जाएगी:

परन्तु यह कि सरकार, परिषद् की सिफारिशों पर, अधिसूचना द्वारा, ऐसी शर्तों और निर्बंधनों के अध्यधीन रहते हुए, जो उसमें विनिर्दिष्ट किए जाएं, एक पंजीकृत व्यक्ति या पंजीकृत व्यक्तियों के एक वर्ग को विवरण प्रस्तुत करने की उक्त देय तिथि से तीन वर्ष की अवधि समाप्ति के पश्चात् भी एक कर अवधि के लिए उक्त विवरणी प्रस्तुत करने की अनुमति दे सकती है.”

९. मूल अधिनियम की धारा ४४ को उसकी उप-धारा (१) के रूप में पुनर्क्रमांकित किया जाए, और इस प्रकार पुनर्क्रमांकित उप-धारा (१) के पश्चात्, निम्नलिखित उप-धारा जोड़ी जाए, अर्थात्:— धारा ४४ का संशोधन.

“(२) एक पंजीकृत व्यक्ति को वार्षिक विवरणी प्रस्तुत करने की देय तिथि से तीन वर्ष की अवधि की समाप्ति के पश्चात् उक्त वित्तीय वर्ष के लिए उप-धारा (१) के अधीन वार्षिक विवरणी प्रस्तुत करने की अनुमति नहीं दी जाएगी:

परन्तु यह कि सरकार, परिषद् की सिफारिशों पर, अधिसूचना द्वारा, ऐसी शर्तों और निर्बंधनों के अध्यधीन रहते हुए, जो उसमें विनिर्दिष्ट किए जाएं, एक पंजीकृत व्यक्ति या पंजीकृत व्यक्तियों के एक वर्ग को एक वित्तीय वर्ष के लिए उप-धारा (१) के अंतर्गत वार्षिक विवरणी प्रस्तुत करने के लिए, उक्त वार्षिक विवरणी प्रस्तुत करने की देय तिथि से तीन वर्ष की अवधि की समाप्ति के पश्चात् भी उक्त वार्षिक विवरणी प्रस्तुत करने की अनुमति दे सकेगी.”

१०. मूल अधिनियम की धारा ५२ में, उप-धारा (१४) के पश्चात्, निम्नलिखित उप-धारा जोड़ी जाए, धारा ५२ का अर्थात्:— संशोधन.

“(१५) प्रचालक को उप-धारा (४) के अधीन एक विवरणी प्रस्तुत करने की नियत तारीख से तीन साल की अवधि समाप्त होने के पश्चात् उक्त विवरणी प्रस्तुत करने की अनुमति नहीं दी जाएगी:

परन्तु यह कि सरकार, परिषद् की सिफारिशों पर, अधिसूचना द्वारा, ऐसी शर्तों और निर्बंधनों के अध्यधीन रहते हुए, जैसा कि उसमें निर्दिष्ट किया जाए एक प्रचालक या प्रचालकों के एक वर्ग को उक्त विवरण प्रस्तुत करने की देय तिथि से तीन वर्ष की उक्त अवधि की समाप्ति पर भी उप-धारा (४) के अधीन एक विवरण प्रस्तुत करने की अनुमति दे सकेगी.”

११. मूल अधिनियम की धारा ५४ में, उप-धारा (६) में शब्द “जिसके अंतर्गत अंतिमतः स्वीकृत इनपुट कर प्रत्यय की रकम नहीं है,” का लोप किया जाए. धारा ५४ का संशोधन.

१२. मूल अधिनियम की धारा ५६ में, शब्द “उक्त धारा के अधीन आवेदन प्राप्ति की तारीख से साठ दिन के अवसान के पश्चात् की तारीख से ऐसे कर का प्रतिदाय करने की तारीख तक”, के स्थान पर शब्द “इस तरह के आवेदन की प्राप्ति की तारीख से, ऐसे कर का प्रतिदाय करने की तारीख तक साठ दिनों से अधिक विलंब की अवधि के लिये, ऐसी रीति में तथा ऐसी शर्तों एवं निर्बंधनों के अध्यधीन रहते हुए, जैसा विहित किया जाये, के अनुसार गणना की जाकर” स्थापित किए जाएं. धारा ५६ का संशोधन.

धारा ६२ का संशोधन.

१३. मूल अधिनियम की धारा ६२ में, उप-धारा (२) में,—

- (क) शब्द “तीस दिन” के स्थान पर, शब्द “साठ दिन” स्थापित किए जाएं.
- (ख) पूर्ण विराम के स्थान पर, कॉलन स्थापित किया जाए और उसके पश्चात् निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात्:—

“परन्तु यह कि जहां पंजीकृत व्यक्ति उप-धारा (१) के अधीन निर्धारण आदेश की तामीली से साठ दिनों के भीतर एक विधिमान्य विवरणी प्रस्तुत करने में विफल रहता है, वह साठ दिनों से अधिक के विलंब के प्रत्येक दिन के लिए एक सौ रुपये अतिरिक्त विलंब शुल्क के भुगतान पर उक्त निर्धारण आदेश की तामीली के साठ दिनों की एक और अवधि के भीतर इसे प्रस्तुत कर सकता है. यदि वह ऐसी विस्तारित अवधि के भीतर विधिमान्य विवरणी प्रस्तुत करता है, तो उक्त निर्धारण आदेश का प्रतिसंहरण किया गया समझा जाएगा, किन्तु धारा ५० की उप-धारा (१) के अधीन ब्याज का भुगतान या धारा ४७ के अधीन विलंब शुल्क का भुगतान करने के दायित्वाधीन रहेगा.”.

धारा १०९ के स्थान पर नई धारा का स्थापन.

१४. मूल अधिनियम की धारा १०९ के स्थान पर निम्नलिखित धारा स्थापित की जाए, अर्थात्:—

अपील अधिकरण और उसकी न्यायपीठों का गठन.

“१०९. इस अध्याय के उपबंधों के अध्यधीन रहते हुए, केन्द्रीय माल और सेवा कर अधिनियम, २०१७ के अधीन गठित माल और सेवा कर अधिकरण इस अधिनियम के अधीन अपीलीय प्राधिकरण या पुनरीक्षण प्राधिकारी द्वारा पारित आदेशों के खिलाफ अपील की सुनवाई के लिए अपीलीय अधिकरण होगा.”.

धारा ११० का लोप.

१५. मूल अधिनियम की धारा ११० का लोप किया जाए.

धारा ११४ का लोप.

१६. मूल अधिनियम की धारा ११४ का लोप किया जाए.

धारा ११७ का संशोधन.

१७. मूल अधिनियम की धारा ११७ में,—

- (क) उप-धारा (१) में, शब्द “राज्य पीठ या अपील अधिकरण की क्षेत्रीय पीठों” के स्थान पर, शब्द “राज्य पीठ” स्थापित किए जाएं;
- (ख) उप-धारा (५) में, खण्ड (क) और (ख) में, शब्द “राज्य पीठ या क्षेत्रीय पीठ” के स्थान पर, शब्द “राज्य पीठ” स्थापित किए जाएं.

धारा ११८ का संशोधन.

१८. मूल अधिनियम की धारा ११८ में, उप-धारा (१) में, खण्ड (क) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

“(क) अपील अधिकरण की प्रमुख पीठ द्वारा पारित किसी आदेश के विरुद्ध; या”.

धारा ११९ का संशोधन.

१९. मूल अधिनियम की धारा ११९ में,—

- (क) शब्द “राष्ट्रीय या प्रांतीय पीठों” के स्थान पर, शब्द “प्रमुख पीठ” स्थापित किए जाएं;

(ख) शब्द “राज्य पीठों या क्षेत्रीय पीठों” के स्थान पर, शब्द “राज्य पीठ” स्थापित किए जाएं.

२०. मूल अधिनियम की धारा १२२ में, उप-धारा (१क) के पश्चात्, निम्नलिखित उप-धारा अंतःस्थापित की जाए, अर्थात्:—

धारा १२२ का संशोधन.

“(१ख) कोई भी इलेक्ट्रॉनिक वाणिज्य प्रचालक जो,—

- (क) ऐसी पूर्ति करने के लिए इस अधिनियम के अधीन जारी अधिसूचना द्वारा रजिस्ट्रीकरण से छूट प्राप्त व्यक्ति के अलावा किसी अपंजीकृत व्यक्ति द्वारा इसके माध्यम से माल या सेवाओं या दोनों की पूर्ति की अनुमति देता है;
- (ख) किसी ऐसे व्यक्ति द्वारा वस्तुओं या सेवाओं या दोनों की अंतर्राज्यिक पूर्ति की अनुमति देता है जो ऐसी अंतर्राज्यिक पूर्ति करने के लिए पात्र नहीं हैं; या
- (ग) इस अधिनियम के अधीन रजिस्ट्रीकरण प्राप्त करने से छूट प्राप्त व्यक्ति द्वारा इसके माध्यम से प्रभावित माल की किसी भी जावकपूर्ति का, धारा ५२ की उप-धारा (४) के अधीन प्रस्तुत किए जाने वाले विवरण में सही विवरण प्रस्तुत करने में विफल रहता है, तो वह दस हजार रुपये का जुर्माना, या यदि ऐसी आपूर्ति धारा १० के अधीन कर का भुगतान करने वाले व्यक्ति के अलावा किसी अन्य पंजीकृत व्यक्ति द्वारा की गई हों, में सम्मिलित कर की राशि के बराबर राशि, दोनों में जो भी अधिक हो का भुगतान करने के लिए दायी होगा.”

२१. मूल अधिनियम की धारा १३२ में, उप-धारा (१) में,—

धारा १३२ का संशोधन.

- (क) खण्ड (छ), (ज) और (ट) का लोप किया जाए;
- (ख) उपखण्ड (ठ) में, (एक) शब्द, कोष्ठक और अक्षर “खण्ड (क) से (ट)”, के स्थान पर, शब्द, कोष्ठक और अक्षर “खण्ड (क) से (च) और खण्ड (ज) और (झ)” स्थापित किए जाएं;
- (दो) उपखण्ड (तीन) में, शब्द “जहां” के पश्चात्, शब्द, कोष्ठक और अक्षर “खण्ड (ख) में निर्दिष्ट अपराध में” स्थापित किए जाएं;
- (तीन) उपखण्ड (चार) में, शब्द, कोष्ठक और अक्षर “या खण्ड (छ) या खण्ड (ज)” का लोप किया जाए.

२२. मूल अधिनियम की धारा १३८ में,—

धारा १३८ का संशोधन.

- (क) उप-धारा (१) में, पहले परंतुक में,—
 - (एक) खण्ड (क) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—
 - “(क) एक व्यक्ति जिसे धारा १३२ की उप-धारा (१) के खण्ड (क) से (च), (ज), (झ) और (ठ) में विनिर्दिष्ट किसी अपराध के संबंध में एक बार प्रशमित होने के लिए अनुज्ञात किया गया था;”;
 - (दो) खण्ड (ख) का लोप किया जाए.

(तीन) खण्ड (ग) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात्:—

“(ग) व्यक्ति जो धारा १३२ की उप-धारा (१) के खण्ड (ख) के अधीन अपराध कारित करने का अभियुक्त है;

(चार) खण्ड (ड) का लोप किया जाए;

(ख) उप-धारा (२) में, शब्द “दस हजार रुपये या अंतर्वलित कर के पचास प्रतिशत, इनमें से जो भी अधिक हो, से कम नहीं होने और अधिकतम रकम तीस हजार रुपये या कर के एक सौ पचास प्रतिशत, इनमें से जो भी अधिक हो, से कम नहीं होने”, के स्थान पर, “शब्द अंतर्वलित कर का पच्चीस प्रतिशत और अधिकतम राशि अंतर्वलित कर के एक सौ प्रतिशत से अधिक नहीं होने” स्थापित किए जाएं.

नई धारा १५८ए का अंतःस्थापन.

कराधेय व्यक्ति द्वारा प्रस्तुत जानकारी का सहमति आधारित साझा करना.

२३. मूल अधिनियम की धारा १५८ के पश्चात्, निम्नलिखित धारा अंतःस्थापित की जाए, अर्थात्:—

“१५८ए (१) धारा १३३, १५२ और १५८ में अन्तर्विष्ट किसी बात के होते हुए भी, परिषद् की सिफारिशों और उप-धारा (२) के उपबंधों के अधीन एक पंजीकृत व्यक्ति द्वारा प्रस्तुत निम्नलिखित विवरण सामान्य पोर्टल द्वारा ऐसी अन्य प्रणालियों के साथ, जो सरकार द्वारा अधिसूचित की जाए, ऐसी रीति में और ऐसी शर्तों के अध्वधीन रहते हुए, जो विहित की जाएं, साझा किया जा सकता है, अर्थात् :—

(क) धारा २५ के अधीन पंजीकरण के लिए आवेदन में या धारा ३९ या धारा ४४ के अधीन दाखिल विवरणी में प्रस्तुत विवरण;

(ख) बीजक तैयार करने के लिए सामान्य पोर्टल पर अपलोड किए गए विवरण, धारा ३७ के अधीन प्रस्तुत जावकपूर्ति का विवरण और धारा ६८ के अधीन दस्तावेजों के निर्माण के लिए सामान्य पोर्टल पर अपलोड किए गए विवरण;

(ग) ऐसे अन्य विवरण जो विहित किये जाएं.

(२) उप-धारा (१) के अधीन विवरण साझा करने के प्रयोजनों के लिए, सहमति प्राप्त की जाएगी,—

(क) उप-धारा (१) के खण्ड (क), (ख) और (ग) के अधीन प्रस्तुत विवरण के संबंध में पूर्तिकार की; और

(ख) उप-धारा (१) के खण्ड (ख) के अधीन प्रस्तुत विवरण और उप-धारा (१) के खण्ड (ग) के अधीन जहां इस तरह के विवरण में प्राप्तकर्ता की पहचान की जानकारी शामिल है के संबंध में, प्राप्तकर्ता की—

ऐसे प्रपत्र और रीति में सहमति प्राप्त की जाएगी जैसी कि विहित की जाए.

(३) तत्समय प्रवृत्त किसी विधि में अन्तर्विष्ट किसी अन्य बात के होते हुए भी, इस धारा के अधीन साझा की गई जानकारी के परिणामस्वरूप उत्पन्न होने वाली किसी भी देयता के संबंध में सरकार या सामान्य पोर्टल के विरुद्ध कोई कार्रवाई नहीं की जायेगी और प्रासंगिक पूर्ति पर या संबंधित विवरणी के अनुसार कर का भुगतान करने की देयता पर कोई प्रभाव नहीं पड़ेगा.”

अनुसूची-तीन में संशोधन.

२४. मूल अधिनियम की अनुसूची-तीन में, पैराग्राफ ७ और ८ और उसके स्पष्टीकरण २ (२०१९ के अधिनियम २ की धारा ३८ द्वारा जोड़े गए के अनुसार) को जुलाई, २०१७ के पहले दिन से वहां जोड़ा गया माना जाएगा.

(२) एकत्र किए गए सभी करों का, जो इस तरह एकत्र नहीं किया गया होता, यदि उप-धारा (१) सभी भौतिक समयों पर लागू होती, कोई रिफंड नहीं किया जाएगा.

भोपाल, दिनांक 11 अगस्त 2023

क्र. 13505-167-इक्कीस-अ(प्रा.)—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, 2023 (क्रमांक 21 सन् 2023) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. पी. गुप्ता, अवर सचिव.

MADHYA PRADESH ACT

No. 21 OF 2023

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2023

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MADHYA PRADESH ACT

No. 21 OF 2023

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2023

[Received the assent of the Governor on the 10th August, 2023; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary", dated the 11th August, 2023.]

An Act further to amend the Madhya Pradesh Goods and Services Tax Act.

Be it enacted by the Madhya Pradesh Legislature in the Seventy-fourth years of the Republic of India as follows :—

Short title and commencement.

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

(2) Save as otherwise provided, the provisions of this Act 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 10.

2. In the Madhya Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), 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.

Amendment of Section 16.

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.

4. In Section 17 of the principal Act, in sub-section (3),—

(a) for the Explanation, the following explanation shall be substituted, namely :—

"Explanation.—For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III,

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);".

5. In Section 123 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 day of July, 2017, namely :—

Amendment of Section 23.

"(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.

(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.

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

Amendment of Section 37.

"(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 new sub-section shall be added, namely :—

Amendment of Section 39.

"(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."

Amendment of Section 44.

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

"(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 be 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.

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.

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 omitted.

Amendment of Section 56.

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.

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) for the full stop, colon shall be substituted and thereafter 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 :—	Amendment of Section 109.
"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."	Constitution of Appellate Tribunal and Benches thereof.
15. Section 110 of the Principal Act shall be deleted.	Deletion Section 110.
16. Section 114 of the Principal Act shall be deleted.	Deletion Section 114.
17. In Section 117 of the Principal Act,—	Amendment of 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), in clauses (a) and (b), for the words "State Bench or Area Benches", the words "State Benches" shall be substituted.	
18. In Section 118 of the Principal Act, in sub-section (1), in clause (a), for the words "National Bench or Regional Bench", the words "Principal Bench" shall be substituted.	Amendment of Section 118.
19. In Section 119 of the principal Act,—	Amendment of 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.	
20. In Section 122 of the Principal Act, after sub-section (1A) , the following sub-section shall be inserted, namely :—	Amendment of Section 122.
"(1B) Any electronic commerce operator who,—	
(a) 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 ;	
(b) 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	
(c) 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.

21. In Section 132 of the Principal Act, in sub-section (1),—

- (a) clauses (g), (j) and (k) shall be omitted;
- (b) in clause (1), 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 omitted.

Amendment of Section 138.

22. 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 omitted;
 - (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 omitted;
- (b) in sub-section (2), for the words "ten thousand rupees of 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 Section 158A.

23. 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 purpose 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."

24 (1) In Schedule III to the Principal Act, paragraphs 7 and 8 and the Explanation 2 thereof (as inserted vide section 38 of Act 2 of 2019) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.

**Amendment of
Schedule III.**

(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.

इसे वेबसाईट www.govtpressmp.nic.in से भी डाउन लोड किया जा सकता है.



मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 76]

भोपाल, सोमवार, दिनांक 11 मार्च 2024—फाल्गुन 21, शक 1945

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 11 मार्च 2024

क्र. 4411-58-इक्कीस-अ(प्रा.).—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 7 मार्च, 2024 को राज्यपाल महोदय की अनुमति प्राप्त हो चुकी है, एतद्द्वारा सर्वसाधारण की जानकारी के लिये प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. पी. गुप्ता, अवर सचिव.

मध्यप्रदेश अधिनियम

क्रमांक ३ सन् २०२४

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२४

विषय-सूची

धाराएं :

१. संक्षिप्त नाम तथा प्रारंभ.
२. धारा २ का संशोधन.
३. धारा २४ का संशोधन.
४. अनुसूची ३ का संशोधन.
५. संक्रमणकालीन उपबंध.
६. निरसन तथा व्यावृत्ति.

मध्यप्रदेश अधिनियम

क्रमांक ३ सन् २०२४

मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम , २०२४

[दिनांक ७ मार्च, २०२४ को राज्यपाल की अनुमति प्राप्त हुई; अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक ११ मार्च, २०२४ को प्रथम बार प्रकाशित की गई.]

मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ को और संशोधित करने हेतु अधिनियम.

भारत गणराज्य के पचहत्तरवें वर्ष में मध्यप्रदेश विधान-मण्डल द्वारा निम्नलिखित रूप में यह अधिनियमित हो:—

संक्षिप्त नाम तथा प्रारंभ.

१. (१) इस अधिनियम का संक्षिप्त नाम मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, २०२४ है.

(२) यह मध्यप्रदेश राजपत्र में इसके प्रकाशन की तारीख से प्रवृत्त होगा.

धारा २ का संशोधन.

२. मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ (क्रमांक १९ सन् २०१७) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) की धारा २ में,—

(क) खण्ड (८०) के पश्चात्, निम्नलिखित खण्ड अंतःस्थापित किए जाएं, अर्थात्:—

“(८०क) “ऑनलाइन गेम खेलना” से इंटरनेट या इलैक्ट्रॉनिक नेटवर्क पर गेम की प्रस्थापना अभिप्रेत है और इसके अंतर्गत ऑनलाइन धनीय गेम खेलना भी है;

(८०ख) “ऑनलाइन धनीय गेम खेलना” से ऐसा ऑनलाइन गेम खेलना अभिप्रेत है, जिसमें खिलाड़ी किसी आयोजन में, जिसमें गेम, स्कीम, प्रतिस्पर्धा या कोई अन्य क्रियाकलाप या प्रक्रिया भी है, धन या धन के मूल्य, जिसके अंतर्गत आभासी डिजिटल आस्तियां भी हैं, को जीतने की प्रत्याशा में, धन या धन के मूल्य का संदाय या जमा करता है, जिसके अंतर्गत आभासी डिजिटल आस्तियां भी हैं, चाहे इसका परिणाम या निष्पादन कौशल, अवसर या दोनों पर आधारित हो या नहीं, तथा चाहे वह तत्समय प्रवृत्त किसी अन्य विधि के अधीन अनुज्ञेय हो या नहीं;”;

(ख) खण्ड (१०२) के पश्चात् निम्नलिखित खण्ड अंतःस्थापित किया जाए, अर्थात्:—

“(१०२क) “विनिर्दिष्ट अनुयोज्य दावे” से,—

(एक) दांव लगाने;

(दो) कैसिनो;

(तीन) द्यूतक्रीड़ा;

(चार) घुड़दौड़;

(पांच) लाटरी; या

(छह) ऑनलाइन धनीय गेम खेलना, में अंतर्वलित या उनके माध्यम से अनुयोज्य दावा अभिप्रेत है;”;

(ग) खण्ड (१०५) में, अंत में, पूर्ण विराम के स्थान पर कोलन स्थापित किया जाए और उसके पश्चात् निम्नलिखित परन्तुक अंतःस्थापित किया जाए, अर्थात्:—

“परन्तु कोई व्यक्ति, जो प्रत्यक्ष या अप्रत्यक्ष रूप से, विनिर्दिष्ट अनुयोज्य दावों की पूर्ति की व्यवस्था या प्रबंध करता है, जिसके अंतर्गत वह व्यक्ति भी है, जो ऐसी पूर्ति के लिए डिजिटल या इलैक्ट्रॉनिक प्लेटफार्म का स्वामी है, या उसका प्रचालन या प्रबंधन करता है, ऐसे अनुयोज्य दावों का पूर्तिकार समझा जाएगा, चाहे ऐसे अनुयोज्य दावे, उसके द्वारा या उसके माध्यम से पूर्ति किए जाते हों और चाहे ऐसे अनुयोज्य दावों की पूर्ति के लिए धन या धन के मूल्य, जिसके अंतर्गत आभासी डिजिटल आस्तियां भी हैं, में प्रतिफल, उसको या उसके माध्यम से संदत्त या हस्तांतरित किए जाते हैं या किसी भी रीति में उसको दिए जाते हैं, और इस अधिनियम के सभी उपबंध विनिर्दिष्ट अनुयोज्य दावों के ऐसे पूर्तिकार को लागू होंगे, मानो वह ऐसे अनुयोज्य दावों की पूर्ति करने के संबंध में कर का संदाय करने के लिए दायी पूर्तिकार हो;”;

(घ) खण्ड (११७) के पश्चात्, निम्नलिखित खण्ड अंतःस्थापित किया जाए, अर्थात्:—

“(११७क) “आभासी डिजिटल आस्ति” का वही अर्थ होगा, जो आयकर अधिनियम, १९६१ (१९६१ का ४३) की धारा २ के खण्ड (४७क) में समनुदेशित है;”;

३. मूल अधिनियम की धारा २४ में, खण्ड (ग्यारह) में, अंत में, “और” का लोप किया जाए, उसके पश्चात्, निम्नलिखित खण्ड अंतःस्थापित किया जाए, अर्थात्:—

धारा २४ का संशोधन.

“(ग्यारह क) भारत से बाहर किसी स्थान से भारत में किसी व्यक्ति को ऑनलाइन धनीय गेम खेलने की पूर्ति करने वाला प्रत्येक व्यक्ति; और”

४. मूल अधिनियम की अनुसूची ३ में, पैरा ६ में, शब्द “लाटरी, दांव और द्यूत” के स्थान पर, शब्द “विनिर्दिष्ट अनुयोज्य दावों” स्थापित किए जाएं.

अनुसूची ३ का संशोधन.

५. इस अधिनियम के अधीन किए गए संशोधन, दांव लगाने, कैसिनो, द्यूतक्रीड़ा, घुड़दौड़, लाटरी या ऑनलाइन गेम खेलने को प्रतिषिद्ध, निर्बंधित या विनियमित करने का उपबंध करने वाली तत्समय प्रवृत्त किसी अन्य विधि के उपबंध पर प्रतिकूल प्रभाव नहीं डालेंगे.

संक्र मणकालीन उपबंध.

६. (१) मध्यप्रदेश माल और सेवा कर (संशोधन) अध्यादेश, २०२४ (क्रमांक २ सन् २०२४) एतद्द्वारा निरसन किया जाता है.

निरसन तथा व्यावृत्ति.

(२) उक्त अध्यादेश के निरसन के होते हुए भी, उक्त अध्यादेश के अधीन की गई कोई बात या की गई कोई कार्रवाई इस अध्यादेश के तत्स्थानी उपबंध के अधीन की गई बात या की गई कार्रवाई समझी जाएगी.

भोपाल, दिनांक 11 मार्च 2024

क्र. 4411-58-इक्कीस-अ(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश माल और सेवा कर (संशोधन) अधिनियम, 2024 (क्रमांक 3 सन् 2024) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. पी. गुप्ता, अवर सचिव.

MADHYA PRADESH ACT

No 3 OF 2024

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2024

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MADHYA PRADESH ACT

No 3 OF 2024

THE MADHYA PRADESH GOODS AND SERVICES TAX (AMENDMENT) ACT, 2024

[Received the assent of the Governor on the 7th March, 2024; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 11th March, 2024.]

An Act further to amend the Madhya Pradesh Goods and Service Tax Act, 2017.

Be it enacted by the Madhya Pradesh Legislature in the Seventy-fifth years of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Madhya Pradesh Goods and Services Tax (Amendment) Act, 2024.

(2) It shall come into force from the date of its publication in the Madhya Pradesh Gazette.

Amendment of Section 2.

2. In section 2 of the Madhya Pradesh Goods and Service Tax Act, 2017 (No. 19 of 2017) (hereinafter referred to as the principal Act),—

(a) after clause (80), the following clauses shall be inserted, namely :—

“(80A) “online gaming” means offering of a game on the internet or an electronic network and includes online money gaming;

(80B) “online money gaming” means online gaming in which players pay or deposit money or money’s worth, including virtual digital assets, in the expectation of winning money or money’s worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force;”;

(b) after clause (102), the following clause shall be inserted namely:—

“(102A) “specified actionable claim” means the actionable claim involved in or by way of,—

- (i) betting;
- (ii) casinos;
- (iii) gambling
- (iv) horse racing;
- (v) lottery; or
- (vi) online money gaming;”;

(c) in clause (105), at the end, for the full stop, the colon shall be substituted and thereafter, the following proviso shall be inserted, namely:—

“Provided that a person who organizes or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money’s worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims;”;

(d) after clause (117), the following clause shall be inserted, namely:—

“(117A) “virtual digital asset” shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961 (43 of 1961);”;

3. In section 24 of the principal Act, in clause (xi), the word “and” occurring at the end, shall be omitted and thereafter the following clause shall be inserted, namely:—

Amendment of section 24.

“(xia) every person supplying online money gaming from a place outside India to a person in India; and”.

4. In Schedule III of the principal Act, in paragraph 6, for the words “lottery, betting and gambling” the words “specified actionable claims” shall be substituted.

Amendment of Schedule III.

5. The amendments made under this Act shall be without prejudice to the provisions of any other law for the time being in force, providing for prohibiting, restricting or regulating betting, casino, gambling, horse racing, lottery or online gaming.

Transitory provision.

6. (1) The Madhya Pradesh Goods and Service Tax (Amendment) Ordinance, 2024 (No. 1 of 2024) is hereby repealed.

Repeal and saving.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.

इसे वेबसाइट www.govtpress.nic.in से भी डाउन लोड किया जा सकता है.



मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 247]

भोपाल, गुरुवार, दिनांक 22 अगस्त 2024—श्रावण 31, शक 1946

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 22 अगस्त 2024

क्र. 12691-159-इक्कीस-अ(प्रा.)- मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 21 अगस्त 2024 को राज्यपाल महोदय की अनुमति प्राप्त हो चुकी है, एतद्वारा, सर्वसाधारण की जानकारी के लिये प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. पी. गुप्ता, अवर सचिव,

मध्यप्रदेश अधिनियम

क्रमांक 99 सन् २०२४

मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) अधिनियम, २०२४

विषय सूची

धाराएं :

१. संक्षिप्त नाम तथा प्रारंभ.
२. धारा २ का संशोधन.
३. धारा २० का प्रतिस्थापन.
४. नई धारा १२२क का अंतः स्थापन.

मध्यप्रदेश अधिनियम

क्रमांक 99 सन् २०२४

मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) अधिनियम, २०२४

[दिनांक २१ अगस्त, २०२४ को राज्यपाल की अनुमति प्राप्त हुई, अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक २२ अगस्त, २०२४ को प्रथमबार प्रकाशित की गई.]

मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ को और संशोधित करने हेतु अधिनियम.

भारत गणराज्य के पचहत्तरवें वर्ष में मध्यप्रदेश विधान-मण्डल द्वारा निम्नलिखित रूप से यह अधिनियमित हो:-

संक्षिप्त नाम तथा प्रारंभ.

१. (१) इस अधिनियम का संक्षिप्त नाम मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) अधिनियम, २०२४ है.

(२) इस अधिनियम के उपबंध ऐसी तारीख से प्रवृत्त होंगे, जैसी कि राज्य सरकार, राजपत्र में अधिसूचना द्वारा, नियत करे:

धारा २ का संशोधन.

२. मध्यप्रदेश माल और सेवा कर अधिनियम, २०१७ (क्रमांक १६ सन् २०१७) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) की धारा २ में खण्ड (६१) के स्थान पर, निम्नलिखित खण्ड स्थापित किया जाए, अर्थात् :-

“(६१) “इनपुट सेवा वितरक” से माल या सेवाओं या दोनों के ऐसे पूर्तिकार का कार्यालय अभिप्रेत है, जो इनपुट सेवाओं की प्राप्ति के मद्दे, जिसके अंतर्गत धारा ६ की उपधारा (३) या उपधारा (४) के अधीन कर से दायी सेवाओं के संबंध में बीजक सम्मिलित हैं या धारा २५ में निर्दिष्ट सुभिन्न व्यक्तियों के निमित्त कर बीजक प्राप्त करता है और धारा २० में उपबंधित रीति में ऐसे बीजकों के संबंध में इनपुट कर प्रत्यय वितरित करने के लिए दायी है;”.

धारा २० का प्रतिस्थापन.

३. मूल अधिनियम की धारा २० के स्थान पर, निम्नलिखित धारा प्रतिस्थापित की जाए, अर्थात्:-

इनपुट सेवा वितरक द्वारा प्रत्यय के वितरण की रीति.

“२०. (१) माल या सेवाओं या दोनों के पूर्तिकार का कोई कार्यालय, जो इनपुट सेवाओं की प्राप्ति के मद्दे कर बीजक प्राप्त करता है, जिसके अंतर्गत धारा ६ की उपधारा (३) या उपधारा (४) के अधीन कर से दायी सेवाओं के संबंध में बीजक सम्मिलित हैं या धारा २५ में निर्दिष्ट सुभिन्न व्यक्तियों के निमित्त कर बीजक प्राप्त करता है, से धारा २४ के खंड (viii) के अधीन इनपुट सेवा वितरक के रूप में रजिस्ट्रीकृत होने की अपेक्षा होगी और वह ऐसे बीजकों के संबंध में इनपुट कर प्रत्यय का वितरण करेगा.

(२) इनपुट सेवा वितरक उसके द्वारा प्राप्त बीजकों पर राज्य कर प्रत्यय या प्रभारित एकीकृत कर का, जिसके अंतर्गत धारा ६ की उपधारा (३) या उपधारा (४) के अधीन उसी राज्य में रजिस्ट्रीकृत सुभिन्न व्यक्ति द्वारा संदत्त कर उद्ग्रहण के अधीन सेवाओं के संबंध में राज्य या एकीकृत कर के प्रत्यय को उक्त इनपुट सेवा वितरक के रूप में ऐसी रीति में और ऐसे समय के भीतर तथा ऐसे निर्बंधनों और शर्तों के अधीन रहते हुए, जो विहित की जाएं, वितरण करेगा.

(३) राज्य कर के प्रत्यय का राज्य कर या एकीकृत कर के रूप में और एकीकृत कर का एकीकृत कर या राज्य कर के रूप में एक ऐसा दस्तावेज जारी करके, जिसमें इनपुट कर प्रत्यय की रकम अंतर्विष्ट होगी, ऐसी रीति में, जो विहित की जाए, वितरण किया जाएगा;”.

नई धारा १२२क का अंतः स्थापन.

४. मूल अधिनियम की धारा १२२ के पश्चात्, निम्नलिखित धारा अंतः स्थापित की जाए, अर्थात्:-

विशेष प्रक्रियानुसार माल के विनिर्माण में उपयोग की जाने वाली कतिपय मशीनों को रजिस्टर कराने में असफल रहने के लिए शास्ति.

“१२२क. (१) इस अधिनियम में अंतर्विष्ट किसी बात के होते हुए भी, जहां कोई व्यक्ति, जो किसी ऐसे माल के विनिर्माण में लगा है, जिसके संबंध में धारा १४८ के अधीन मशीनों के रजिस्ट्रीकरण के संबंध में कोई विशेष प्रक्रिया अधिसूचित की गई है, उक्त विशेष प्रक्रिया के उल्लंघन में कार्य करता है, तो वह किसी ऐसी शास्ति के अतिरिक्त, जो अध्याय १५ के अधीन या इस अध्याय के किन्हीं अन्य उपबंधों के अधीन उसके द्वारा संदत्त की गई है या संदेय है, प्रत्येक ऐसी मशीन के लिए, जो ऐसे रजिस्ट्रीकृत नहीं है, एक लाख रुपए की रकम के बराबर किसी शास्ति के लिए दायी होगा.

(२) प्रत्येक ऐसी मशीन, जो ऐसे रजिस्ट्रीकृत नहीं है, उपधारा (१) के अधीन शास्ति के अतिरिक्त, अभिग्रहण और अधिहरण के लिए दायी होगी :

परंतु ऐसी मशीन का अधिहरण नहीं किया जाएगा, जहां,-

(क) इस प्रकार अधिरोपित शास्ति का संदाय कर दिया गया है; और

(ख) ऐसी मशीन का रजिस्ट्रीकरण, शास्ति के आदेश की संसूचना की प्राप्ति से तीन दिन के भीतर, विशेष प्रक्रिया के अनुसार किया गया है;”.

भोपाल, दिनांक 22 अगस्त 2024

क्र. 12691-159-इक्कीस-अ(प्रा.)- भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश माल और सेवा कर (द्वितीय संशोधन) अधिनियम, 2024 (क्रमांक 17 सन् 2024) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,

आर. पी. गुप्ता, अवर सचिव.

MADHYA PRADESH ACT

NO. 17 OF 2024

THE MADHYA PRADESH GOODS AND SERVICES TAX (SECOND AMENDMENT) ACT, 2024

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Sections :

1. Short title and commencement.
2. Amendment of Section 2.
3. Substitution of Section 20.
4. Insertion of new Section 122A.

MADHYA PRADESH ACT

NO. 17 OF 2024

**THE MADHYA PRADESH GOODS AND SERVICES TAX
(SECOND AMENDMENT) ACT, 2024**

[Received the assent of the Governor on the 21st August, 2024; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 22nd August, 2024.]

An Act further to amend the Madhya Pradesh Goods and Service Tax Act, 2017.

Be it enacted by the Madhya Pradesh Legislature in the Seventy-fifth year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Madhya Pradesh Goods and Services Tax (Second Amendment) Act, 2024.
- (2) The provisions of this Act shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint.

Amendment of Section 2.

2. The Madhya Pradesh Goods and Service Tax Act, 2017 (No. 19 of 2017) (hereinafter referred to as the principal Act), in Section 2, for clause (61), the following clause shall be substituted, namely :-

“(61) “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of Section 9, for or on behalf of distinct person referred to in Section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in Section 20 ;”.

Substitution of Section 20.

3. For Section 20 of the principal Act, the following section shall be substituted, namely :-

Manner of distribution of credit by Input Service Distributor.

" 20. (1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of Section 9, for or on behalf of distinct persons referred to in Section 25, shall be required to be registered as Input Service Distributor under clause (viii) of Section 24 and shall distribute the input tax credit in respect of such invoices.

(2) The Input Service Distributor shall distribute the credit of State tax or integrated tax charged on invoices received by him, including the credit of State or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub section (4) of Section 9 paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions, as may be prescribed.

(3) The credit of State tax shall be distributed as State tax or integrated tax and integrated tax as integrated tax or State tax, by way of issue of a document containing the amount of input tax credit, in such manner, as may be prescribed .".

4. After Section 122 of the principal Act, the following section shall be inserted, namely :-

**Insertion of
new Section
122A.**

"122A. (1) Notwithstanding anything contained in this Act, where any person, who is engaged in the manufacture of goods in respect of which any special procedure relating to registration of machines has been notified under Section 148, acts in contravention of the said special procedure, he shall, in addition to any penalty that is paid or is payable by him under Chapter XV or any other provisions of this Chapter, be liable to pay a penalty equal to an amount of Rupees One Lakh for every machine not so registered.

**Penalty for
failure to register
certain machines
used in manufac-
ture of goods as
per special
procedure.**

(2) In addition to the penalty under sub-section (1), every machine not so registered shall be liable for seizure and confiscation :

Provided that such machine shall not be confiscated where,-

- (a) the penalty so imposed is paid; and
- (b) the registration of such machine is made in accordance with the special procedure within three days of the receipt of communication of the order of penalty."