

# **The Goa Value Added Tax (Twelfth Amendment) Bill, 2020**

(Bill No. 22 of 2020)

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BILL

further to amend the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005).

BE it enacted by the Legislative Assembly of Goa, in the *Seventy-first Year* of Republic of India as follows: -

**1. Short title and commencement.** — (1) This Act may be called the Goa Value Added Tax (Twelfth Amendment) Act, 2020.

(2) It shall come into force at once except sections 2, 3 and 4, which shall be deemed to have come into force on the 1st day of April, 2005.

**2. Amendment of section 10.** — In section 10 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) (hereinafter referred to as the “principal Act”), in sub-section (3), for the expression “shall be refunded in the prescribed manner within 3 months from the date of filing of application claiming the refund”, the expression “shall upon an application made by such exporter be refunded in such manner within a period of ninety days from the date of the sanction order of such authority, as prescribed” shall be substituted.

**3. Amendment of section 29.** — In section 29 of the principal Act, after sub-section (9), the following sub-section shall be inserted, namely:—

“(10) Where any order passed under this section, results in refund of any amount of tax, interest or penalty and no appeal, review or revision is filed against such order within the time limit specified in this Act, the Appropriate Assessing Authority shall after expiry of time limit for filing of appeal, review or revision shall submit the complete proposal for sanction of refund, within a period of 90 days from the date of expiry of such period to the sanctioning authority as prescribed.”.

**4. Amendment of Section 33.** — In section 33 of the principle Act, for sub-section (2), the following sub-sections shall be substituted, namely:-

“When any amount refundable to any dealer or person under an order made under any provisions of this act, including refund admissible to an exporter under sub-section (3) of section 10, is not refunded within a period of ninety days, —

(a) where the amount to be refunded does not exceed rupees fifty thousand, from the date of order of refund; or

(b) where the amount to be refunded exceed rupees fifty thousand, from the date of,—

(i) sanction of amount refundable by the sanctioning authority as prescribed; or

(ii) sanction of amount refundable by the sanctioning authority to an exporter under sub-section (3) of section 10,

the authority shall pay such person simple interest at the rate of eight percent per annum on the said amount from the date immediately following the day of expiry of the said ninety days to the day of refund:

Provided that the interest calculable shall be on the balance of the amount remaining after adjusting out of the refundable amount any tax, penalty or other amount due under this Act, for any year by the person on the date from which such interest is calculable.”;

**5. Validation:-** Notwithstanding anything contained in any judgement, order, decree or direction of any Court, Tribunal or other authority to the contrary, no interest on refund shall be paid or payable under the provisions of the principal Act before the date of commencement of the Goa Value Added Tax(Twelfth Amendment) Act, 2020 and every action taken or things done including non-payment of interest on refund shall be deemed to be in accordance with the provisions of the principal Act as amended by this Act, and shall be valid and shall be deemed to have always been validity done and accordingly,—

a) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority,

for payment of interest on refund under the provisions of the principal Act before its amendment under this Act;

- b) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the payment of interest on refund under the provisions of the principal Act before its amendment under this Act.

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## **Statement of Objects and Reasons**

The bill seeks to suitably amend the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005), in light of the recent judgment of the honorable High Court based on the interpretation of section 33 of Goa Value added Tax Act, 2005 read with Rule 30 of the Goa Value Added Tax Rules, 2005, which is different from the interpretation/intentions of the Government of said provisions of the Act, regarding payment of interest on refund of Tax.

The Advocate General in its opinion tendered to the Government has suggested certain amendment to the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) in order to do away with the effect of such an interpretation and to save revenue of the State.

The Bill seeks to retrospectively bring into effect the amendments of the proposed bill notwithstanding contained in any order, judgment, decree, directions of any authority, tribunal or court or any other instrument having force of law and shall apply to all cases from the date of enactment of the Goa Value Added Tax (Act 9 of 2005).

The Bill seeks to fix the time limit of giving refund from 3 months from the date of the order of the sanctioning authority in case of an application for refund under sub-section (3) of section 10.

The Bill also seeks to insert sub-section (10) to section 29 so as to fix time limit for assessing authority to submit refund proposal to competent sanctioning Authority

Further the Bill seeks to amend sub-section (2) of section 33 so as to fix the time limit of giving refund from 90 days from the date of the order of the sanctioning authority in case of an application for refund under sub-section (3) of section 10.

This Bill seeks to achieve the above object.

## **FINANCIAL MEMORANDUM**

The proposed Goa Value Added Tax (Twelfth Amendment) Bill, 2020 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the State.

### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 2 of the Bill empowers the Government to make rules for prescribing the manner of, and the authority for, refunding the excess input tax credit.

Clause 4 of the Bill empowers the Government to form rules for prescribing the authority to issue sanction order.

Assembly Hall,  
Porvorim, Goa.  
\_\_\_\_\_, 2020

**SHRI PRAMOD P. SAWANT**  
Hon. Chief Minister/Finance Minister

Assembly Hall,  
Porvorim, Goa.  
\_\_\_\_\_, 2020

**Namrata Ulman**  
Secretary to the Legislative Assembly of Goa

**Governor's Recommendation under article 207 of the  
Constitution of India**

In pursuance of article 207 of the Constitution of India, I, Satya Pal Malik, the Governor of Goa hereby recommend the introduction and consideration of the Goa Value Added Tax (Twelfth Amendment) Bill, 2020, by the Legislative Assembly of Goa.

RAJ BHAVAN

SATYA PAL MALIK

Date:    /    /2020.

Governor of Goa

## ANNEXURE

### EXTRACTS FROM THE GOA Value added tax Act, 2005

(Goa Act 9 of 2005)

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#### **10. Input Tax Credit Exceeding Tax Liability.-**

(3) In case of exporter selling goods outside the territory of India, the excess input tax credit, if any, admissible as per provision of this Act, proportionate to the goods exported and carried over at the end of any quarter shall be refunded in the prescribed manner within 3 months from the date of filing of application claiming the refund.

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#### **29. Assessment.-**

9) Where, the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act or has failed to file a return as required by section 24, the Commissioner shall proceed to assess, to the best of his judgement, wherever necessary, the amount of tax due from the dealer in respect of such period and all subsequent periods and, in making such assessment, he shall give the dealer reasonable opportunity of being heard; and if he is satisfied that the default is without reasonable cause, direct the dealer to pay by way of penalty, in addition to tax assessed, a sum not exceeding the amount of tax assessed.

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#### **33. Refund and Payment of Interest on Amount Refundable.-**

(2) When any amount refundable to any dealer or person under an order made under any provisions of this Act, including refund admissible to an exporter under sub-section (3) of section 10, is not refunded within ninety days –  
(a) of the date of such order is made by any authority; or

(b) the date of receipt of the order by the authority, if such order is made by any other authority; or

(c) of the date of receipt of application for refund under sub-section (3) of section 10,

the authority shall pay such person simple interest at the rate of eight percent per annum on the said amount from the day immediately following the day of expiry of the said ninety days to the day of refund:

Provided that the interest calculable shall be on the balance of the amount remaining after adjusting out of the refundable amount any tax, penalty or other amount due under this Act, for any year by the person on the date from which such interest is calculable.

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