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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT GOODS AND SERVICES TAX (AMENDMENT)

BILL, 2019.

GUJARAT BILL NO. 31 OF 2019.

A BILL

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

It is hereby enacted in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Goods and Services Tax (Amendment) Act, 2019.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title
and
commencement.

Amendment
of section 2 of
Guj. 25 of
2017.

2. In the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred as “the principal Act”), in section 2, in clause (4), after the words “the Appellate Authority for Advance Ruling,”, the words “the National Appellate Authority for Advance Ruling,” shall be inserted.

Guj. 25 of
2017.

Amendment
of section 10
of Guj. 25 of
2017.

3. In the principal Act, in 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 added, 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, the registered persons 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, brackets and figure “under sub-section (1)” at both the places where they occur, the words, brackets, figure and letter “or sub-section (2A), as the case may be,” shall be inserted;
- (e) in sub-section (4), after the words, brackets 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, brackets and figure “under sub-section (1)”, the words, brackets, 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
of Guj. 25 of
2017.**

4. In the principal Act, in section 22, in sub-section (1), after the second proviso, the following 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 the principal Act, in section 25, after sub-section (6), the following sub-sections shall be inserted, namely:—

**Amendment
of section 25
of Guj. 25 of
2017.**

“(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 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.”.

6. In the principal Act, after section 31, the following new section shall be inserted, namely:—
- Facility of digital payment to recipient.**
- “31A.** 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.”.
- Insertion of new section 31A in Guj. 25 of 2017.**
7. In the principal Act, in section 39,-
- (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,
- Amendment of section 39 of Guj. 25 of 2017.**

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
of Guj. 25 of
2017.**

8. In the principal Act, in section 44, in sub-section (1), 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."

9. In the principal Act, in section 49, after sub-section (9), the following sub-sections shall be inserted, namely:—

**Amendment
of section 49
of Guj. 25 of
2017.**

- “(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 the principal Act, in section 50, in sub-section (1), the following proviso shall be inserted, namely:—

**Amendment
of section 50
of Guj. 25 of
2017.**

“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.”

**Amendment
of section 52
of Guj. 25 of
2017.**

- 11.** In the principal Act, in section 52,-
(a) in sub-section (4), 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.";

- (b) in sub-section (5), 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."

**Insertion of
new section
53A in Guj.
25 of 2017.**

- 12.** In the principal Act, after section 53, the following new section shall be inserted, namely:—

**Transfer
of certain
amounts.**

- "53A.** Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the Central Goods and Services Tax Act, 2017 or under the Integrated Goods and Services Tax Act, 2017 or under the Goods and Services Tax (Compensation to States) Act, 2017, 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."

12 of 2017.

13 of 2017.

15 of 2017.

13. In the principal Act, in section 54, after sub-section (8), the following sub-section shall be inserted, namely:—

Amendment
of section 54
of Guj. 25 of
2017.

"(8A) Where the Central Government has disbursed the refund of State tax, the Government shall transfer an amount equal to the amount so refunded, to the Central Government."

14. In the principal Act, in section 95,-

Amendment
of section 95
of Guj. 25 of
2017.

- (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" shall be inserted;

- (ii) after clause (e), the following clause shall be added, namely:—

'(f) "National Appellate Authority" means the National Appellate Authority for Advance Ruling referred to in section 101A.'

15. In the principal Act, after section 101, the following new sections shall be inserted, namely:—

Insertion
of new
sections
101A,
101B and
101C in
Guj. 25 of
2017.

National
Appellate
Authority for
Advance Ruling
under Central
Goods and
Service Tax Act,
shall be
Appellate
Authority under
this Act.

- "101A. 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 shall be deemed to be the National Appellate Authority for Advance Ruling under this Act."

Appeal to
National
Appellate
Authority.

- 101B. (1) Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting Advance

Rulings are given by the Appellate Authorities of two or more States 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 States in which such Advance Rulings 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.

Order of
National
Appellate
Authority.

- 101C.** (1) The National Appellate Authority may, after giving an opportunity of being heard to the applicant, the officer authorised by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, pass such order as it thinks fit, confirming or modifying the rulings appealed against.
- (2) If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority.
- (3) The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.
- (4) A copy of the Advance Ruling pronounced by the National Appellate Authority shall be duly signed by the Members and certified in such manner as may be prescribed and shall be sent to the applicant, the officer authorised by the Commissioner, the Board, the Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories and to the Authority or Appellate Authority, as the case may be, after such pronouncement.”.

16. In the principal Act, in section 102,—

- (a) after the words “Appellate Authority”, at both the places where they occur, the words “or the National Appellate Authority” shall be inserted;

Amendment
of section
102 of Guj.
25 of 2017.

- (b) after the words and figures “or section 101”, the words, figures and letter “or section 101C, respectively,” shall be inserted;
- (c) for the words “or the appellant”, the words “,appellant, the Authority or the Appellate Authority” shall be substituted.

**Amendment
of section
103 of Guj.
25 of 2017.**

17. In the principal Act, in 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, brackets and figure “in sub-section (1)”, the words, brackets, figure and letter “and sub-section (1A)” shall be inserted.

**Amendment
of section
104 of Guj.
25 of 2017.**

18. In the principal Act, in section 104, in sub-section (1),-

- (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” shall be inserted.

19. In the principal Act, in 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”, at the both places where they occur, the words “or the National Appellate Authority” shall be inserted.

**Amendment
of section
105 of Guj.
25 of 2017.**

20. In the principal Act, in 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.

**Amendment
of section
106 of Guj.
25 of 2017.**

21. In the principal Act, in section 171, after sub-section (3), the following shall be added, namely:—

“(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:

**Amendment
of section
171 of Guj.
25 of 2017.**

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
number
2/2017-State
Tax (Rate)
issued under
sub- section
(1) of
section 11 of
Gujarat
Goods and
Services Tax
Act.
retrospectivel**

22. (1) In the Government Notification, Finance Department No.(GHN-36)GST-2017/S.11(1)(1) -TH dated the 30th June, 2017, Notification No. 2/2017-State Tax (Rate), issued by the Government of Gujarat, on the recommendations of the Council, under sub-section (1) of section 11 of the Gujarat Goods and Services Tax Act, 2017, in the Schedule, S.No.103A shall deemed to have been inserted retrospectively with effect from the 1st day of July, 2017, namely:—

Guj. 25 of 2017.

(1)	(2)	(3)
“103A	26	Uranium Ore Concentrate”.

- (2) For the purposes of sub-section (1), the Gujarat 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 Gujarat 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.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Goods and Services Tax Act, 2017 (the Act) was enacted with a view to making a provision for levy and collection of tax and inter-State supply of goods or services or both by the Government.

The Act provides for certain provisions for smooth transition of existing tax payers to new goods and services tax regime. However, the new tax regime had faced certain difficulties, especially regarding threshold limit for registration, benefit of composition scheme to service sector and filing of returns and payment of tax under the Goods and Services Tax laws. In this regard, increase in threshold limit for registration to forty lakhs, alternative composition scheme for supplier of services the processed new return filing system, envisages quarterly filing of return and tax payment for small taxpayers along with minimum paperwork. In order to implement the above helpful action and also overcome to above difficulties, it is proposed to amend the Gujarat Goods and Services Tax Act, 2017.

The proposed Bill provides for the following, namely:-

- (i) to amend the section 2 of the Act to exclude the National Appellate Authority for Advance Ruling from the definition of adjudication authority.
- (ii) to amend section 10 of the Act to provide alternative composition scheme for supplier of services or mixed suppliers (not eligible for the earlier composition scheme) having an annual turnover in preceding financial year upto rupees fifty lakhs.
- (iii) to amend section 22 of the Act to provide for higher threshold exemption limit from rupees twenty lakhs to such amount not exceeding rupees forty lakhs in case of supplier who is engaged exclusively in the supply of goods.

- (iv) to insert a new section 31A in the Act, to provide that supplier shall mandatorily offer facility for digital payments to his recipient.
- (v) to amend section 49 of the Act to provide facility to the taxpayer to transfer an amount from one head to another in the electronic cash ledger.
- (vi) to insert a new section 53A in the Act to provide for transfer of amount in the electronic cash ledger between the Centre and States as a consequence of the new facility given to the tax payer under section 49.
- (vii) to amend section 54 of the Act, the Government of Gujarat shall transfer an amount equal to the amount to the Central Government of refund disbursed by the Central Government.
- (viii) to insert new sections 101A, 101B and 101C in the Act to provide for constitution of the National Appellate Authority for Advance Ruling under Central Goods and Services Tax Act which shall be Appellate Authority for this Act also, procedure to be followed and appeals to be disposed within a period of ninety days. It also provides that where the members differ on any point, it shall be decided by majority.
- (ix) to amend section 171 of the Act to insert new sub-section (2A) to empower the Authority specified under sub-section (2) thereof to impose penalty equivalent to ten per cent. of the profiteered amount.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

The following notes on clauses explain, in brief, some of the important provisions of the Bill.

- Clause 1.-** This clause provides for the Short title and Commencement.
- Clause 2.-** This clause seeks to amend clause (4) of section 2 of the Gujarat Goods and Services Tax Act to insert the words “the National Appellate Authority for Advance Ruling” in the definition of “adjudicating authority” so as to exclude that authority from the definition of adjudicating authority.
- Clause 3.-** This clause seeks to amend section 10 of the Gujarat Goods and Services Tax Act so as to provide alternative composition scheme for supplier of services or mixed suppliers (not eligible for the earlier composition scheme) having an annual turnover in preceding financial year upto rupees fifty lakhs.
- Clause 4.-** This clause seeks to amend section 22 of the Gujarat Goods and Services Tax Act so as to provide for higher threshold exemption limit from rupees twenty lakhs to such amount not exceeding rupees forty lakhs in case of supplier who is engaged exclusively in the supply of goods.
- Clause 5.-** This clause seeks to amend section 25 of the Gujarat Goods and Services Tax Act so as to provide for mandatory Aadhaar submission or authentication for persons who intend to take or have taken registration under the said Act in such manner as may be notified by the Government on the recommendations of the Council.

- Clause 6.-** This clause seeks to insert a new section 31A in the Gujarat Goods and Services Tax Act, to provide that supplier shall mandatorily offer facility for digital payments to his recipient.
- Clause 7.-** This clause seeks to amend section 39 of the Gujarat Goods and Services Tax Act so as to provide for furnishing of annual returns and for quarterly payment of tax by taxpayer who opts for composition levy and to provide for certain other category of tax payers, an option for quarterly and monthly payments under the proposed new return filing system.
- Clause 8.-** This clause seeks to amend section 44 of the Gujarat Goods and Services Tax Act so as to empower the Commissioner of State Tax to extend the due date for furnishing Annual return and reconciliation statement.
- Clause 9.-** This clause seeks to amend section 49 of the Gujarat Goods and Services Tax Act so as to provide facility to the taxpayer to transfer an amount from one head to another in the electronic cash ledger.
- Clause 10.-** This clause seeks to amend section 50 of the Gujarat Goods and Services Tax Act so as to provide for charging interest only on the net cash tax liability, except in those cases where tax is paid subsequent to initiation of any proceedings under section 73 or 74 of the Act.
- Clause 11.-** This clause seeks to amend section 52 of the Gujarat Goods and Services Tax Act so as to empower the Commissioner of State Tax to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

- Clause 12.-** This clause seeks to insert a new section 53A in the Gujarat Goods and Services Tax Act so as to provide for transfer of amount in the electronic cash ledger between the Centre and States as a consequence of the new facility given to the tax payer under section 49.
- Clause 13.-** This clause seeks to amend section 54 of the Gujarat Goods and Services Tax Act, the Government of Gujarat shall transfer to the Central Government an amount equal to the amount of refund disbursed by the Central Government.
- Clause 14.-** This clause seeks to amend clause (a) of section 95 of the Gujarat Goods and Services Tax Act so as to include "the National Appellate Authority for Advance Ruling" in the definition of "advance ruling". It also seeks to insert clause (f) in section 95 of the Gujarat Goods and Services Tax Act to define "National Appellate Authority".
- Clause 15.-** This clause seeks to insert new sections 101A, 101B and 101C in the Gujarat Goods and Services Tax Act.

The proposed new section 101A seeks to provide for constitution of the National Appellate Authority for Advance Ruling under Central Goods and Services Tax Act which shall be Appellate Authority for this Act also.

The proposed new section 101B seeks to provide for filing of appeals and the procedure to be followed for hearing appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more States or Union territories or both under sub-section (1) of section 101 or sub-section (3) of section 101 of the Act.

The proposed new section 101C seeks to provide that the National Appellate Authority shall pass order within a period of ninety days from the date of filing of the appeal. It also provides that where the members differ on any point, it shall be decided by majority.

Clause 16.- This clause seeks to amend section 102 of the Gujarat Goods and Services Tax Act so as to bring the National Appellate Authority within the ambit of that section to empower it to rectify its advance ruling.

Clause 17.- This clause seeks to amend section 103 of the Gujarat Goods and Services Tax Act so as to provide that the advance ruling pronounced by the National Appellate Authority shall be binding on the applicants, being distinct persons and all registered persons having the same Permanent Account Number and on the concerned officers or the jurisdictional officers in respect of the said applicants and the registered persons having the same Permanent Account Number. It also provides that the ruling shall be binding unless there is a change in law or facts.

Clause 18.- This clause seeks to amend section 104 of the Gujarat Goods and Services Tax Act to provide that advance ruling pronounced by the National Appellate Authority shall be void where the ruling has been obtained by fraud or suppression of material facts or misrepresentation of facts.

- Clause 19.-** This clause seeks to amend section 105 of the Gujarat Goods and Services Tax Act to provide that the National Appellate Authority shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of exercising its powers under the Act.
- Clause 20.-** This clause seeks to amend section 106 of the Gujarat Goods and Services Tax Act to provide that the National Appellate Authority shall have power to regulate its own procedure.
- Clause 21.-** This clause seeks to amend section 171 of the Gujarat Goods and Services Tax Act to insert new sub-section (2A) therein so as to empower the Authority specified under sub-section (2) thereof to impose penalty equivalent to ten per cent. of the profiteered amount.
- Clause 22.-** This clause seeks to amend in the Government Notification, Finance Department No.(GHN-36)GST-2017/S.11(1)(1) -TH dated the 30th June, 2017, Notification No. 2/2017-State Tax (Rate), issued under sub-section (1) of section 11 of the Gujarat Goods and Services Tax Act, 2017, so as to give retrospective exemption to "Uranium Ore Concentrate" from the levy of State tax from 1st July, 2017 to 14th November, 2017.

NITIN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3.- Sub-section (2A) of section 10 proposed to be inserted by this clause empowers the State Government on the recommendations of the Council to prescribe the rate not exceeding three per cent. of the turnover for the purpose of calculating the amount of tax.

Clause 4.- Proviso to sub-section (1) of section 22 proposed to be inserted by this clause empowers the State Government, on the recommendations of the Council, by notification to enhance the aggregate turnover from twenty lakh rupees to a higher amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods and subject to certain conditions and limitations as may be specified in the Act.

Clause 5.- Sub-sections (6A), (6B), (6C) and (6D) of section 25 proposed to be inserted by this clause empowers the Government to make rules on the recommendations of the Council to provide for the form and manner and the time within which a registered person shall undergo authentication or furnish proof of possession of Aadhaar number and in case such person is not assigned Aadhaar number, then the manner in which an alternate and viable means of identification may be offered to such person as may be specified in the notification.

Clause 6.- Section 31A proposed to be inserted by this clause empowers the State Government on the recommendations of the Council to make rules to provide for a class of registered person who shall provide prescribe mode of electronic payment to the recipient of the supply of goods or services or both and give option to the recipient to make payment in such mode, in the manner and subject to the conditions and restrictions as may be provided in such rules.

Clause 7.- Sub-sections (1), (2) and (7) of section 39 proposed to be substituted by this clause to provide for a new return system and empowers the State Government to make rules regarding the particulars to be furnished in the return, the such form, in such manner and time within which the return may be filed.

Clause 9.- Sub-sections (10) and (11) of section 49 proposed to be inserted by this clause empowers the State Government to prescribed by rules to provide for the Form, manner, conditions and restrictions for a registered person to transfer on the common portal any amount of tax, interest, penalty, fee or any amount available in the electronic cash ledger under this Act to the electronic cash ledger for integrated tax, Central tax, State tax.

Clause 12.- New section 53A proposed to be inserted by this clause empowers the State Government to prescribe by rules to transfer to the Central tax account an amount equal to the amount transferred from the electronic cash ledger in such manner and within the time provided by the rules.

Clause 15.- (1) Sub-section (3) of new section 101B proposed to be inserted by this clause empowers the State Government to prescribed by rules, the Form in which, the fees alongwith which and the manner of verification in which the appeal shall be made;

(2) sub-section (4) of new section 101C proposed to be inserted by this clause empowers the State Government to prescribed by rules to certify in such manner a copy of the advance ruling pronounced by the Members of the National Appellate Authority.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 28th November, 2019.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar.

K. M. LALA,

Dated the 28th November, 2019.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.