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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, 2023.

#### GUJARAT BILL NO. 19 OF 2023.

#### A BILL

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

It is hereby enacted in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Goods and Services Tax (Amendment) Act, 2023.
- (2) This section, sections 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, clause (b) of section 26 and section 28 shall be deemed to have come into force on the 31<sup>st</sup> July, 2023 and the remaining provisions 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 10 of Guj. 25 of 2017.**

**2.** In the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as "the principal Act"), in section 2,—

**Guj. 25 of 2017.**

(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), the following proviso shall be inserted at the end, namely:—

"Provided that a person who organises 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.**

**Amendment of section 10 of Guj. 25 of 2017.**

**3.** In the principal Act, in section 10,—

(a) in sub-section (2), in clause (d), the words " goods or" shall be deleted;

(b) in sub-section (2A), in clause (c), the words " goods or" shall be deleted.

**Amendment of section 16 of Guj. 25 of 2017.**

**4.** In the principal Act, in section 16, 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.
5. In the principal Act, in section 17,—
- (a) in sub-section (3), in the *Explanation*, for the words and figure "except those specified in paragraph 5 of the said Schedule", the following words, figures and brackets shall be substituted, namely:—
- "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.
6. In the principal Act, in section 23, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1<sup>st</sup> day of July, 2017, namely:—
- "(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."
7. In the principal Act, in section 24,—
- (a) in clause (xi), the word "and" occurring at the end, shall be deleted;
- (b) after clause (xi), the following clause shall be inserted, namely:—
- "(xia) every person supplying online money gaming from a place outside India to a person in India; and"
8. In the principal Act, in section 30, in sub-section (1),—
- (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 deleted.
9. In the principal Act, in section 37, after sub-section (4), the following sub-section shall be added, namely:—
- "(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."
- Amendment of section 17 of Guj. 25 of 2017.**
- Amendment of section 23 of Guj. 25 of 2017.**
- Amendment of section 24 of Guj. 25 of 2017.**
- Amendment of section 30 of Guj. 25 of 2017.**
- Amendment of section 37 of Guj. 25 of 2017.**

**Amendment of section 39 of Guj. 25 of 2017.**

- 10.** In the principal Act, in section 39, after sub-section (10), the following sub-section shall be added, namely:—

"(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 of Guj. 25 of 2017.**

- 11.** In the principal Act, section 44 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 the 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 of Guj. 25 of 2017.**

- 12.** In the principal Act, in section 52, 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 of Guj. 25 of 2017.**

- 13.** In the principal Act, in section 54, in sub-section (6), the words "excluding the amount of input tax credit provisionally accepted," shall be deleted.

**Amendment of section 56 of Guj. 25 of 2017.**

- 14.** In the principal Act, in section 56, 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 of Guj. 25 of 2017.**

- 15.** In the principal Act, in section 62, in sub-section (2),—
- (a) for the words "thirty days", the words "sixty days" shall be substituted;
- (b) 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."

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|----------------------------|--|--|
| 16.                        | In the principal Act, for section 109, the following section shall be substituted, namely:-  | <b>Substitution of section 109 of Guj. 25 of 2017.</b> |
| <b>Appellate Tribunal.</b> | <b>109.</b> Subject to the provisions of this Chapter, the Goods and Services Tax Appellate 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.   |  |
| <b>12 of 2017.</b>         |  |  |
| 17.                        | In the principal Act, section 110 shall be deleted.  | <b>Deletion of section 110 of Guj. 25 of 2017.</b>     |
| 18.                        | In the principal Act, section 114 shall be deleted.  | <b>Deletion of section 114 of Guj. 25 of 2017.</b>     |
| 19.                        | In the principal Act, in section 117,—   | <b>Amendment of section 117 of Guj. 25 of 2017.</b>    |
|                            | (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.   |  |
| 20.                        | In the principal Act, in section 118, in sub-section (1), in clause (a), for the words "National Bench or Regional Benches", the words "Principal Bench" shall be substituted.   | <b>Amendment of section 118 of Guj. 25 of 2017.</b>    |
| 21.                        | In the principal Act, in section 119,—   | <b>Amendment of section 119 of Guj. 25 of 2017.</b>    |
|                            | (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.  |  |
| 22.                        | In the principal Act, in section 122, after sub-section (1A), the following sub-section shall be inserted, namely:—  | <b>Amendment of section 122 of Guj. 25 of 2017.</b>    |
|                            | "(1B) Any electronic commerce operator who—  |  |
|                            | (i) 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;  |  |
|                            | (ii) 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  |  |
|                            | (iii) 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 of Guj. 25 of 2017.**

- 23.** In the principal Act, in section 132, in sub-section (1),—
- (a) clauses (g), (j) and (k) shall be deleted;
  - (b) in clause (l), 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 sub-clause (iii), for the words "any other offence", the words, brackets and letter "an offence specified in clause (b)," shall be substituted;
  - (d) in sub-clause (iv), the words, brackets and letters "or clause (g) or clause (j)" shall be deleted.

**Amendment of section 138 of Guj. 25 of 2017.**

- 24.** In the principal Act, in section 138,—
- (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 deleted;
    - (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 deleted;
  - (b) in sub-section (2), for the words "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", 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 new section 158A to Guj. 25 of 2017.**

- 25.** In the principal Act, after section 158, 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 purposes 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."

26. In the principal Act, in Schedule III, —

- (a) in paragraph 6, for the words "lottery, betting and gambling" the words "specified actionable claims" shall be substituted.
- (b) (1) in paragraphs 7 and 8 and the *Explanation 2* thereof (as inserted *vide* section 31 of Act 14 of 2018) shall be deemed to have been inserted therein with effect from the 1<sup>st</sup> day of July, 2017.
- (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.

**Amendment and retrospective exemption to certain activities and transactions in Schedule III of Guj. 25 of 2017.**

27. The amendments made under this Act shall be without prejudice to 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 provisions.**

**Guj. Ord. 1 of 2023.**

28. (1) The Gujarat Goods and Services Tax (Amendment) Ordinance, 2023 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

**Repeal and Saving.**

### STATEMENT OF OBJECTS AND REASONS

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

Various decisions have been taken by the Goods and Services Tax Council in its 48<sup>th</sup> and 49<sup>th</sup> meetings requiring amendments in the Goods and Services Tax Laws. Accordingly, the Central Goods and Services Tax Act, 2017 (12 of 2017) and the Integrated Goods and Services Tax Act, 2017 (13 of 2017) were amended by the Parliament by the Finance Act, 2023 (8 of 2023). With a view to implement the recommendations of the Goods and Services Tax Council as soon as possible and in order to maintain the uniformity in applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 (Guj. 25 of 2017), the Gujarat Goods and Services Tax (Amendment) Ordinance, 2023 (Guj. Ord. 1 of 2023) was promulgated to achieve the said objects as the Gujarat Legislative assembly was not in session, at that time.

In addition, the Goods and Services Tax Council in its 50<sup>th</sup> and 51<sup>st</sup> meetings considered representation from various associations on the issues regarding taxability of Casinos, Horse Racing and Online Gaming and recommended to make certain amendments in the Goods and Services Tax Laws to provide clarity regarding taxability of Casinos, Horse Racing and Online Gaming.

As the Legislative Assembly of the State of Gujarat was not in session at that time, the Gujarat Goods and Services Tax (Amendment) Ordinance, 2023 was promulgated to achieve the aforesaid objects.

The Bill seeks to amend the said Act to achieve the aforesaid objects and also seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain, in brief, the important provisions of the Bill:-

- Clause 1.-** This clause provides for the Short title and Commencement.
- Clause 2.-** This clause seeks to define the expressions "online gaming", "online money gaming", "specified actionable claim" and "virtual digital asset". It further seeks to insert a proviso in the definition of "supplier" to provide clarity regarding "supplier" in case of supply of "specified actionable claim".
- Clause 3.-** This clause seeks to amend clause (d) of sub-section (2) and clause (c) of sub-section (2A) in section 10 of the Gujarat Goods and Services Tax Act, 2017 so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the composition levy.
- Clause 4.-** This clause seeks to amend second and third provisos in section 16 of the Gujarat Goods and Services Tax Act, 2017 to align the said sub-section with the return filing system provided in the said Act.
- Clause 5.-** This clause seeks to amend *Explanation* to sub-section (3) of section 17 of the Gujarat Goods and Services Tax Act, 2017 so as to restrict availment of input tax credit in respect of certain transactions specified in clause (a) of paragraph 8 of Schedule III of the said Act, as may be provided by rules, by including the value of such transactions in the value of exempt supply.
- It also seeks to amend sub-section (5) so as to provide that input tax credit shall not be available in respect of 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 (Central Act No. 18 of 2013).
- Clause 6.-** This clause seeks to amend sub-section (2) of section 23 of the Gujarat Goods and Services Tax Act, 2017, retrospectively with effect from 1<sup>st</sup> July 2017, to clearly provide for overriding effect over sub-section (1) of section 22 and section 24.
- Clause 7.-** This clause seeks to insert a new clause in section 24 of the Gujarat Goods and Services Tax Act, 2017 to provide for mandatory registration of the person for supplying online money gaming, from a place outside India to a person in India.
- Clause 8.-** This clause seeks to amend section 30 of Gujarat Goods and Services Tax Act, 2017 so as to provide the time limit and manner for revocation of cancellation of the registration with prescribed conditions and restrictions.



- Clause 9.-** This clause seeks to insert a new sub-section (5) in section 37 of the Gujarat Goods and Services Tax Act, 2017 so as to provide a time limit of three years upto which the details of outward supplies under sub-section (1) of the said section for a tax period can be furnished by a registered person. It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.
- Clause 10.-** This clause seeks to insert a new sub-section (11) in section 39 of the Gujarat Goods and Services Tax Act, 2017 so as to provide a time limit of three years upto which the return for a tax period can be furnished by a registered person. It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.
- Clause 11.-** This clause seeks to insert a new sub-section (2) in section 44 of the Gujarat Goods and Services Tax Act, 2017 so as to provide a time limit of three years upto which the annual return under sub-section (1) of the said section for a financial year can be furnished by a registered person. It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.
- Clause 12.-** This clause seeks to insert a new sub-section (15) in section 52 of the Gujarat Goods and Services Tax Act, 2017 so as to provide a time limit of three years upto which the statement under sub-section (4) of the said section for a month can be furnished by an electronic commerce operator. It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for an operator or a class of operators, subject to certain conditions and restrictions.
- Clause 13.-** This clause seeks to amend sub-section (6) of section 54 of the Gujarat Goods and Services Tax Act, 2017 by deleting reference to the provisionally accepted input tax credit so as to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the said Act.
- Clause 14.-** This clause seeks to amend section 56 of the Gujarat Goods and Services Tax Act, 2017 so as to provide by rules the manner of computation of period of delay for calculation of interest on delayed refunds.
- Clause 15.-** This clause seeks to amend sub-section (2) of section 62 of the Gujarat Goods and Services Tax Act, 2017 to extend the time period from thirty days to sixty days for withdrawal of the assessment order under sub-section (1) of section 62. It further seeks to insert a new proviso in order to provide for withdrawal of the assessment order under sub-section (1) of section 62 beyond the period of sixty days on payment of an additional late fee of hundred rupees each day of delay beyond sixty days of the service of the assessment order under sub-section (1) of section 62 along with interest under section 50 or to pay late fee under section 47.

- Clause 16.-** This clause seeks to substitute the existing section 109 of Gujarat Goods and Services Tax Act, 2017, in line with the amendment made in the Central Goods and Services Tax Act, 2017. The Appellate Tribunal shall be established by provisions of section 109 of the Central Goods and Services Tax Act, 2017 and the same shall be adopted under the Gujarat Goods and Services Tax Act, 2017.
- Clause 17.-** This clause seeks to delete section 110 of the Gujarat Goods and Services Tax Act, 2017. The existing section in the Gujarat Goods and Services Tax Act, 2017 provides for President and Members of Appellate Tribunal, their qualifications, appointment, conditions of service etc. Qualifications, appointment, conditions of service etc. for President and Members of Appellate Tribunal shall be established by provisions of section 110 of the Central Goods and Services Tax Act, 2017 and the same shall be adopted under the Gujarat Goods and Services Tax Act, 2017.
- Clause 18.-** This clause seeks to delete section 114 of the Gujarat Goods and Services Tax Act, 2017. The existing section 114 in the Gujarat Goods and Services Tax Act, 2017 provides for financial and administrative powers of the State President. The financial and administrative powers of President shall be established by provisions of section 114 of the Central Goods and Services Tax Act, 2017 and the same shall be adopted under the Gujarat Goods and Services Tax Act, 2017.
- Clause 19.-** This clause seeks to substitute the existing expression “State Benches or Area Benches” with the expression “State Benches” in section 117 of Gujarat Goods and Services Tax Act, 2017.
- Clause 20.-** This clause seeks to substitute the existing expression “National Bench or Regional Benches” with the expression “Principal Bench” in section 118 of the Gujarat Goods and Services Tax Act, 2017.
- Clause 21.-** This clause seeks to substitute the existing expression “National Bench or Regional Benches” with the expression “Principal Bench” and the existing expression “State Benches or Area Benches” with the expression “State Benches” in section 119 of the Gujarat Goods and Services Tax Act, 2017.
- Clause 22.-** This clause seeks to insert a new sub-section (1B) in section 122 of the Gujarat Goods and Services Tax Act, 2017 so as to provide for penal provisions applicable to electronic commerce operators in case of contravention of provisions relating to supplies of goods or services made through them by unregistered persons or composition tax payers.
- Clause 23.-** This clause seeks to amend the existing sub-section (1) of section 132 of the Gujarat Goods and Services Tax Act, 2017 so as to decriminalise offences specified in clauses (g), (j) and (k) of the said sub-section and to increase the monetary threshold from one hundred lakh rupees to two hundred lakh rupees for launching prosecution for the offences under the said Act, except for the offences related to issuance of invoices without supply of goods or services or both.
- Clause 24.-** This clause seeks to amend the existing first proviso to sub-section (1) of section 138 of the Gujarat Goods and Services Tax Act, 2017 so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act. It further seeks to

amend the existing sub-section (2) so as to rationalise the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.

- Clause 25.-** This clause seeks to insert a new section 158A in the Gujarat Goods and Services Tax Act, 2017 so as to provide for the manner and conditions for sharing of the information furnished by the registered person in his application for registration or in his return furnished or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be provided by rules, on the common portal with such other systems, as may be notified.
- Clause 26.-** This clause seeks to substitute "specified actionable claim" in paragraph 6 of Schedule III of the Act, for the present entries "lottery, betting and gambling", so as to provide clarity regarding taxability of actionable claims involved in or by way of casinos, horse racing and online gaming. It further seeks to amend the existing Schedule III of the Gujarat Goods and Services Tax Act, 2017 to give retrospective applicability to paragraphs 7 and 8 and Explanation 2 to the said Schedule with effect from the 1<sup>st</sup> day of July, 2017.
- Clause 27.-** This clause seeks to provide that the amendments made under this Act shall be without prejudice to 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.
- Clause 28.-** This clause seeks to provide for repeal of Gujarat Ordinance No. 1 of 2023 and saving thereof.

**KANUBHAI DESAI,**

#### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

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

- Clause 2.-** Sub-clause 2 of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining other than sections 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, clause (b) of section 26 and section 28 shall come into force.
- Clause 4.-** The Explanation in sub-section (3) of section 17 of the Gujarat Goods and Services Tax Act, 2017 which clarifies that the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III except certain activities or transactions specified therein. Clause (ii) of the said Explanation empowers the State Government to specify by rules the value of such activities or transactions in respect of clause (a) of paragraph 8 of Schedule III which are so excepted.
- Clause 5.-** Sub-section (2) of section 23 proposed to be substituted by this clause empowers the State Government, on the recommendation of the Council, to specify, by notification in *Official Gazette*, the conditions and restrictions subject to which the category of persons who may be exempted from obtaining registration under the Act.

**Clause 12.-** Section 56 of the Gujarat Goods and Services Tax Act, 2017 by substituting certain words therein which empowers the State Government to provide by rules the manner of computing the interest in respect of refund payable for the period of delay beyond sixty days from the date of receipt of application till the date of refund, subject to the conditions and restrictions specified therein.

**Clause 23.-** New section 158A of the Gujarat Goods and Services Tax Act, 2017 proposed to be inserted by this clause, Sub-section (1) of the said section empowers the State Government to provide by rules the details to be shared and the manner in which and the conditions subject to which the details may be shared by the common portal with such other systems notified by the State Government.

The matters in respect of which rules may be made or notifications or order may be issued in accordance with the provisions of the Bill are the matters of procedure and administrative facet, and as such, it is not mentioned in the Memorandum of Delegated Legislation.

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

Dated the 5<sup>th</sup> September, 2023.

**KANUBHAI DESAI.**

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

**K. M. LALA,**

Gandhinagar,

Secretary to the Government of Gujarat,

Dated the 6<sup>th</sup> September, 2023. Legislative and Parliamentary Affairs Department.

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