

**KARNATAKA LEGISLATIVE ASSEMBLY****FIFTEENTH LEGISLATIVE ASSEMBLY****TENTH SESSION****THE KARNATAKA GOODS AND SERVICES TAX (AMENDMENT) BILL, 2021
(LA Bill No. 36 of 2021)**

A Bill further to amend the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act 27 of 2017).

Whereas, it is expedient further to amend the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act 27 of 2017), for the purpose hereinafter appearing;

Be it enacted by Karnataka State Legislature in the Seventy second year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Goods and Services Tax (Amendment) Act, 2021.

(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 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. Amendment of section 7.- In the Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 7, 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:-

“(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 purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgement, 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 *inter se* shall be deemed to take place from one such person to another;”.

3. Amendment of section 16.- 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;”.

4. Amendment of section 35.- In section 35 of the principal Act, sub-section (5) shall be omitted.

5. Substitution of new section for section 44.- For section 44 of the principal Act, the following section shall be substituted, namely:-

“44. Annual return.- 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 of 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.”.

6. Amendment of section 50.- 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.”.

7. Amendment of section 74.- In section 74 of the principal Act, in Explanation 1, in clause (ii), for the words and figures “sections 122, 125, 129 and 130”, the words and figures “sections 122 and 125” shall be substituted.

8. Amendment of section 75.- 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. Amendment of section 83.- In section 83 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

“(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. Amendment of section 107.- In section 107 of the principal Act, in sub-section (6), the following proviso shall be inserted, namely:-

“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. Amendment of section 129.- In section 129 of the principal Act,-

(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 the payment of such penalty;”;

(ii) sub-section (2) shall be omitted;

(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 of 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.”.

12. Amendment of section 130.-In section 130 of the principal Act,-

(a) in sub-section (1), for the words “Notwithstanding anything contained in this Act, if ”, the word “Where” shall be substituted;

(b) 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 of such goods” shall be substituted;

(c) sub-section (3) shall be omitted.

13. Substitution of new section for section 151.- For section 151 of the principal Act, the following section shall be substituted, namely:-

“**151. Power to call for information.**-The Commissioner or an officer authorized 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.”.

14. Amendment of section 152.-In section 152 of the principal Act,-

(a) in sub-section(1),-

- (i) the words “of any individual return or part thereof ” shall be omitted;
- (ii) after the words “any proceedings under this Act”, the words “without giving an opportunity of being heard to the person concerned” shall be inserted;

(b) sub-section (2) shall be omitted.

15. Amendment to Schedule II.- In Schedule II of 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.

STATEMENT OF OBJECTS AND REASONS

The Karnataka Goods and Services Tax Act, 2017 was enabled 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 Karnataka.

It is considered necessary to amend the Karnataka Goods and Services Tax Act, 2017 (Karnataka Act No 27 of 2017) to,-

(1) insert clause (aa), in section 7, in sub-section (1), after clause (a) of the Karnataka Goods and Services Tax Act (hereinafter referred to as principal Act), so as the activities or transactions, by a person other than an individual, to its members or constituents or vice-versa, shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one such person to another. This amendment shall take effect retrospectively from the 1st day of July, 2017;

(2) insert clause (aa), in section 16, in sub-section (2), after clause (a) so as in the statement of outward supplies has been furnished by the supplier and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;

(3) omit sub-section (5), in section 35;

(4) substitute the section 44 so as to ease the furnishing of 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.

(5) substitute the proviso to sub-section (1) of section 50 so as the interest on tax payable in respect of supplies made during a tax period 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. This amendment shall take effect retrospectively from the 1st day of July, 2017;

(6) substitute in section 74, the words and figures “sections 122, 125, 129 and 130” by the words and figures “sections 122 and 125”;

(7) insert Explanation in section 75, in sub-section (12) so that 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;

(8) substitute sub-section (1) in section 83, so as for the purpose of protecting the interest of the Government revenue the Commissioner 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 be prescribed;

(9) insert proviso in section 107, in sub-section (6), so 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;

(10) (i) substitute clause (a) and clause (b), in section 129, so as to impose penalty for goods and exempted goods if the owner of the goods comes forward for payment or does not come forward for payment of penalty;

(ii) omit sub-section (2) in section 129;

(iii) substitute sub-section (3) in section 129, so as to impose penalty on detaining of goods and procedure;

(iv) so as to substitute in sub-section (4) of section 129, the words “No tax, interest or penalty”, by the words “No penalty”;

(v) substitute sub-section (6) in section 129, so as to impose penalty on detained or seized goods procedure;

(11) (i) in sub-section(1) in section 130, so as to substitute for the words “Notwithstanding anything contained in this Act if”, by the word “Where”;

(ii) in sub-section(2) in section 130, so as to substitute for the words in the second proviso, for the words, brackets and figures “amount of penalty leviable for under sub-section (1) of section 129”, by the words “penalty equal to hundred per cent. of the tax payable of such goods;

(iii) so as to omit sub-section(3) in section 130;

(12) substitute in section 151 of the principal Act so as the Commissioner or an officer authorized by him 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;

(13) (i) in sub-section (1) in section 152 of the principal Act , to omit the words “of any individual return or part thereof” and after the words “any proceedings under this Act” to insert “without giving opportunity of being heard to the person concerned”;

(ii) omit sub-section (2) in section 152;

(14) omit paragraph 7 in schedule II, this amendment shall be deemed to have been omitted with effect from the 1st day of July, 2017.

Hence the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed Legislative measure

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5:	Section 44 proposed to be substituted by clause 5 empowers the State Government to make rules to prescribe the time within which and in such form and in such manner the annual return for the every financial year shall be furnished electronically.
Clause 9:	Sub-section (1) of section 83 proposed to be substituted by clause 9 empowers the State Government to make rules to prescribe the manner in which attach provisionally, any property including Bank Account belonging to the taxable person or any person specified in sub-section (1A) of section 122.
Clause 11:	Sub-section (6) of section 129 proposed to be substituted by clause 11 empowers the State Government to make rules to prescribe such manner and with in such time the goods or conveyance detained or seized shall be sold or disposed of.

The proposed delegation of Legislative power is normal in character.

BASAVARAJ BOMMAI

Chief Minister

M.K. VISHALAKSHI

Secretary (I/c)

Karnataka Legislative Assembly

**Extract from the Karnataka Goods and Services Tax Act, 2017
(Karnataka Act no.27 of 2017)**

XXX

XXX

XXX

7. Scope of supply.- (1) For the purposes of this Act, the expression “supply” includes –

(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;

XXX

XXX

XXX

16. Eligibility and conditions for taking input tax credit.-

XXX

XXX

XXX

(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;

XXX

XXX

XXX

35. Accounts and other records.-

XXX

XXX

XXX

(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.

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.

XXX

XXX

XXX

44. Annual return.- (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.

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.

(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. 1. Inserted by Act 23 of 2019 w.e.f. 01.01.2020

Explanation.- For the purposes of this section, it is hereby declared that the annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the 31st December 2019 and the annual return for the period from the 1st April, 2018 to the 31st March, 2019 shall be furnished on or before the 31st March, 2020]1

XXX

XXX

XXX

50. Interest on delayed payment of tax.- (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.

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.

XXX

XXX

XXX

74. 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.-

XXX

XXX

XXX

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; 71

(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.

XXX

XXX

XXX

75. General provisions relating to determination of tax.-

XXX

XXX

XXX

(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.

XXX

XXX

XXX

83. Provisional attachment to protect revenue in certain cases.- (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.

XXX

XXX

XXX

107. Appeals to Appellate Authority.-

XXX

XXX

XXX

(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, subject to a maximum of twenty-five crore rupees, in relation to which the appeal has been filed.

XXX

XXX

XXX

129. Detention, seizure and release of goods and conveyances in transit.- (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,-

(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;

(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 fourteen 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 fourteen days may be reduced by the proper officer.

XXX

XXX

XXX

130. Confiscation of goods or conveyances and levy of penalty.- (1) Notwithstanding anything contained in this Act, if any person –

(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 97

(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 subsection (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

XXX

XXX

XXX

151. Power to collect statistics.- (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.

(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.

XXX

XXX

XXX

152. Bar on disclosure of information.- (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.

(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.

XXX

XXX

XXX

SCHEDULE II

XXX

XXX

XXX

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.

XXX

XXX

XXX