

Nagaland Goods and Services Tax (Fifth Amendment) Bill, 2021.

A

Bill

to further amend the Nagaland Goods and Services Tax Act, 2017 (Act No. 4 of 2017) to incorporate the amendments made to the CGST Act, 2017 to bring uniformity in the application of CGST and SGST Acts.

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

Short title and commencement. 1. (a) This Act may be called the Nagaland Goods and Services Tax (Fifth Amendment) Act, 2021.
(b) It shall extend to the whole of Nagaland.
(c) It shall come into force on such date as the State Government may, by notification appoint.

Amendment of Section 7. 2. In the Nagaland Goods and Services Tax Act, 2017 (hereinafter referred to as the Nagaland Goods and Services Tax 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 judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one such person to another;”.

Amendment of Section 16. 3. In section 16 of the Nagaland Goods and Services Tax Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

“(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;”

Amendment of Section 35. 4. In section 35 of the Nagaland Goods and Services Tax Act, sub-section (5) shall be omitted

Substitution of New Section for Section 44. 5. For section 44 of the Nagaland Goods and Services Tax Act, the following section shall be substituted, namely:—

“44. Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class 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.”.

Amendment of Section 50. 6. In section 50 of the Nagaland Goods and Services Tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July 2017, namely:—

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.”.

Amendment of Section 74. 7. In Section 74 of the Nagaland Goods and Services Tax Act, in *Explanation 1*, in clause (ii), for the words and figures “Sections 122, 125, 129 & 130”, the words and figures “Sections 122 and 125” shall be substituted.

- Amendment of Section 75. 8. In section 75 of the Nagaland Goods and Services Tax 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.’
- Amendment of Section 83. 9. In section 83 of the Nagaland Goods and Services Tax 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.”.
- Amendment of Section 107. 10. In section 107 of the Nagaland Goods and Services Tax 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.”.
- Amendment of Section 129. 11. In section 129 of the Nagaland Goods and Services Tax 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 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.”

Amendment of
Section 130.

12. In section 130 of the Nagaland Goods and Services Tax 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 on such goods” shall be substituted;
- (c) sub-section (3) shall be omitted

Substitution of
New Section for
Section 151.

13. For section 151 of the Nagaland Goods and Services Tax Act, the following section shall be substituted, namely:—

Power to call for
information.

“151. 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.”.

Amendment of
Section 152.

14. In section 152 of the Nagaland Goods and Services Tax 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.

Amendment to
Schedule II.

15. In Schedule II of the Nagaland Goods and Services Tax Act, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July 2017.

FINANCIAL MEMORANDUM

The introduction of the Nagaland Goods and Services Tax (Fifth Amendment) Bill, 2021 will not entail expenditure on the Consolidated Fund of the State as it can be implemented by the existing administrative set up.

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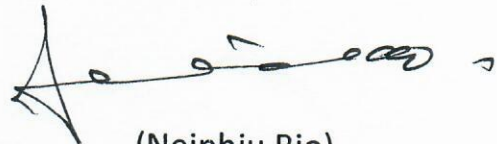
(Neiphiu Rio)
Chief Minister

STATEMENT OF OBJECTS AND REASONS

The Goods and Services Tax (GST) has been implemented with effect from 1st July 2017. The GST consists of the Central Goods and Services Tax and the State Goods and Services Tax. The Central Government has amended the Central Goods and Services Tax Act, 2017 through Finance Act No. 13 of 2021. State Governments have to affect corresponding amendment in the State Goods and Services Tax Act.

The Nagaland Goods and Services Tax (Fifth Amendment) Bill, 2021 will make the Nagaland Goods and Services Tax Act, 2017 more comprehensive.

The proposed Bill seeks to give effect to the above objects.

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(Neiphiu Rio)
Chief Minister