

THE PUDUCHERRY GOODS AND SERVICES TAX
(SECOND AMENDMENT) BILL, 2020
(Bill No. 5 of 2020)

A

BILL

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

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

Short title and
commencement.

1. (1) This Act may be called the Puducherry
Goods and Services Tax (Second Amendment)
Act, 2020.

(2) Save as otherwise provided, sections
2 to 14 of this Act shall come into force on such
date as the Government of Puducherry may, by
notification in the Official Gazette, appoint.

Amendment of
section 2.

2. In section 2 of the Puducherry Goods and Services Tax Act, 2017 (hereinafter referred as the principal Act), in clause (114), for the existing sub-clauses (c) and (d), the following sub-clauses shall be substituted, namely:--

Act
No. 6
of
2017.

“(c) Dadra and Nagar Haveli and Daman
and Diu;

(d) Ladakh;”.

Amendment of
section 10.

3. In section 10 of the principal Act, in
sub-section (2), in clauses (b), (c) and (d), after
the words “of goods”, the words “or services”
shall be inserted.

4. In section 16 of the principal Act, in sub-section (4), the words “invoice relating to such” shall be omitted. Amendment of section 16.

5. In section 29 of the principal Act, in sub-section (1), for the existing clause (c), the following clause shall be substituted, namely:— Amendment of section 29.

“(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25:”.

6. In section 30 of the principal Act, in sub-section (1), for the existing proviso, the following proviso shall be substituted, namely:— Amendment of section 30.

“Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;

(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).”.

7. In section 31 of the principal Act, in sub-section (2), for the existing proviso, the following proviso shall be substituted, namely:— Amendment of section 31.

“Provided that the Government may, on the recommendations of the Council, by notification,—

(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;

(b) subject to the condition mentioned therein, specify the categories of services in respect of which—

(i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(ii) tax invoice may not be issued.”.

Amendment of section 51.

8. In section 51 of the principal Act,—

(a) for the existing sub-section (3), the following sub-section shall be substituted, namely:—

“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”;

(b) sub-section (4) shall be omitted.”.

Amendment of section 122.

9. In section 122 of the principal Act, after the existing sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.”.

Amendment of section 132.

10. In section 132 of the principal Act, in sub-section (1),—

(i) for the existing words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;

(ii) for the existing clause (c), the following clause shall be substituted, namely:--

“(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;”;

(iii) in the existing clause (e), the words”, fraudulently avails input tax credit” shall be omitted.

11. In section 140 of the principal Act, with effect from the 1st day of July, 2017,—

Amendment of section 140.

(a) in sub-section (1), after the words “existing law”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;

(b) in sub-section (2), after the words “appointed day”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;

(c) in sub-section (3), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted;

(d) in sub-section (5), for the words “existing law”, the words “existing law, within such time and in such manner as may be prescribed” shall be substituted and shall be deemed to have been substituted;

(e) in sub-section (6), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted.

Insertion of new section 168A. 12. After section 168 of the principal Act, the following section shall be inserted with effect from the 31st day of March, 2020, namely:—

Power of Government to extend time limit in special circumstances. “168A. (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to force majeure.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

Explanation.— For the purposes of this section, the expression “force majeure” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.”.

Amendment of section 172. 13. In section 172 of the principal Act, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted.

Amendment of Schedule II. 14. In Schedule II to the principal Act, in paragraph 4 (a) and (b), the existing words “whether or not for a consideration,” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

15. (1) Notwithstanding anything contained in the notification of the Commercial Taxes Secretariat, Government of Puducherry issued *vide* G.O. Ms. No. 1/2017-Puducherry GST (Rate), dated the 29th June, 2017 [published in the Gazette of Puducherry, Extraordinary Part-I, No. 95, dated the 29th June, 2017] by the Government on the recommendations of the Council, in exercise of the powers conferred under sub-section (1) of section 9 of the principal Act,—

Retrospective exemption from, levy and collection of, State tax in certain cases.

(i) no State tax shall be levied or collected in respect of supply of fishmeal (falling under heading 2301), during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive);

(ii) State tax at the rate of six per cent. shall be levied or collected in respect of supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436), during the period commencing from the 1st day of July, 2017 and ending with the 31st day of December, 2018 (both days inclusive).

(2) No refund shall be made of all such tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

STATEMENT OF OBJECTS AND REASONS

The Puducherry Goods and Services Tax Act, 2017 was enacted by Act No. 6 of 2017 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.

2. The GST Council in its 38th meeting held on 18th December, 2019 recommended amendments in the GST Law to provide for revenue augmentation measures, trade facilitation and simplification measures and enforcement measures. In order to carry out the amendments as recommended by the GST Council, amendments are proposed in the Puducherry Goods and Services Tax Act, 2017.

3. The proposed Puducherry Goods and Services Tax (Second Amendment) Bill, 2020, *inter alia*, provides for the following, namely:—

(i) to align the definition of “Union territory” in line with the Jammu and Kashmir Reorganisation Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union territories) Act, 2019.

(ii) to harmonise the conditions for eligibility for opting to pay composition tax.

(iii) to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.

(iv) to provide for cancellation of registration of taxpayers who have got voluntary registration.

(v) to empower the jurisdictional tax authorities to extend the period for filing application for revocation of cancellation of registration.

(vi) to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.

(vii) to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.

(viii) to make the beneficiary of certain transactions which are declared as offence under the Act and at whose instance such transactions are conducted, liable for penalty.

(ix) to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable offence and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.

(x) to prescribe the time limit and the manner for availing input tax credit of unavailed credit under the existing law, retrospectively from the 1st day of July, 2017.

(xi) to empower the Government, on the recommendations of the Council, by notification, to extend the time limit specified in, or prescribed or notified under, the Act in respect of actions which cannot be completed or complied with due to force majeure.

(xii) to extend the time limit provided for removal of difficulties from three years to five years.

(xiii) to amend provisions relating to “transfer of business entries” in Schedule II of the Act which deals with activities to be treated as supply of goods and supply of services, so as to bring in clarity.

(xiv) to provide retrospective exemption from State tax on supply of fishmeal, during the period from the 1st day of July, 2017 up to 30th day of September, 2019.

(xv) to retrospectively levy State tax at the reduced rate of six percent. on supply of pulley, wheels and other parts used as parts of agricultural machinery.

4. The Bill seeks to achieve the above objects.

V. NARAYANASAMY,
Chief Minister.

FINANCIAL MEMORANDUM

The proposed Puducherry Goods and Services Tax (Second Amendment) Bill, 2020 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the Union territory of Puducherry.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill seeks to amend section 31 of the Puducherry Goods and Services Tax Act, 2017. Sub-section (2) of the said section empowers the Government to make rules to provide for the time and manner of issuing tax invoice.

Clause 8 of the Bill seeks to amend section 51 of the said Act. Sub-section (3) of the said section empowers the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.

Clause 11 of the Bill seeks to amend section 140 of the said Act with retrospective effect to empower the Government to make rules to provide for the time limit and the manner for availing input tax credit against certain unavailed credit under the existing law.

2. The matters in respect of which the rules may be made are in accordance with the provisions of the Bill and are matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself.

3. The powers delegated are of normal and not of an exceptional character.

ADMINISTRATOR'S RECOMMENDATION UNDER
SUB-SECTION (1) OF SECTION 23 OF THE GOVERNMENT
OF UNION TERRITORIES ACT, 1963

[Copy of the Letter No. 13-240/CM/2020, dated 16-07-2020
from Thiru V. Narayanasamy, Hon'ble Chief Minister to
the Hon'ble Speaker, Legislative Assembly, Puducherry.]

The Lieutenant-Governor, Puducherry, having been informed of the subject matter of the proposed Puducherry Goods and Services Tax (Second Amendment) Bill, 2020 providing to amend the Puducherry Goods and Services Tax Act, 2017 (Act No. 6 of 2017), recommends under sub-section (1) of section 23 of the Government of Union Territories Act, 1963 (Central Act 20 of 1963), the introduction in and consideration by the Legislative Assembly of the said Bill.
