

THE PUDUCHERRY GOODS AND SERVICES TAX
(AMENDMENT) BILL, 2022

(Bill No. 5 of 2022)

A

BILL

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

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

1. (1) This Act may be called the Puducherry Goods and Services Tax (Amendment) Act, 2022. Short title and commencement.

(2) Save as otherwise provided in this Act, sections 2 to 15 of this Act shall come into force on such date as the Government of Puducherry may, by notification in the Official Gazette, appoint.

Act No. 6 of 2017. 2. In the Puducherry Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 16, — Amendment of section 16.

(a) in sub-section (2),—

(i) after clause (b), the following clause shall be inserted, namely:—

“(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;”;

(ii) in clause (c), the words, figures and letter “or section 43A” shall be omitted;

(b) in sub-section (4), for the words and figures “due date of furnishing of the return under section 39 for the month of September”, the words “thirtieth day of November” shall be substituted.

Amendment of
section 29.

3. In the principal Act. in section 29, in sub-section (2), —

(a) in clause (b), for the words “returns for three consecutive tax periods”, the words “the return for a financial year beyond three months from the due date of furnishing the said return” shall be substituted;

(b) in clause (c), for the words “a continuous period of six months”, the words “such continuous tax period as may be prescribed” shall be substituted.

Amendment of
section 34.

4. In the principal Act, in section 34, in sub-section (2), for the word “September”, the words “the thirtieth day of November” shall be substituted.

Amendment of
section 37.

5. In the principal Act, in section 37,-

(a) in sub-section (1), —

(i) after the words “shall furnish, electronically,”, the words “subject to such conditions and restrictions and” shall be inserted;

(ii) for the words “shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed”, the words “shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies” shall be substituted;

(iii) the first proviso shall be omitted;

(iv) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted;

(v) in the third proviso, for the words “Provided also that”, the words “Provided further that” shall be substituted;

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

(c) in sub-section (3),-

(i) the words and figures “and which have remained unmatched under section 42 or section 43” shall be omitted;

(ii) in the first proviso, for the words and figures “furnishing of the return under section 39 for the month of September”, the words “the thirtieth day of November” shall be substituted;

(d) after sub-section (3), the following sub-section shall be inserted, namely:-

“(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if, the details of outward supplies for any of the previous tax periods has not been furnished by him:

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 under sub-section (1), even if, he has not furnished the details of outward supplies for one or more previous tax periods.”.

6. In the principal Act, for section 38, the following section shall be substituted, namely:—

Substitution of new section for section 38.

“38. (1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

Communication of details of inward supplies and input tax credit.

(2) The auto-generated statement under sub-section (1) shall consist of—

(a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and

(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under subsection (1) of section 37,-

(i) by any registered person within such period of taking registration as may be prescribed; or

(ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or

(iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or

(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or

(v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or

(vi) by such other class of persons as may be prescribed.”.

7. In the principal Act, in section 39,—

Amendment of
section 39.

(a) in sub-section (5), for the word “twenty”, the word “thirteen” shall be substituted;

(b) in sub-section (7), for the first proviso, the following proviso shall be substituted, namely: -

“Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,-

(a) an amount equal to 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; or

(b) *in lieu of* the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.”;

(c) in sub-section (9), -

(i) for the words and figures “Subject to the provisions of sections 37 and 38, if”, the word “Where” shall be substituted;

(ii) in the proviso, for the words “the due date for furnishing of return for the month of September or second quarter”, the words “the thirtieth day of November” shall be substituted;

(d) in sub-section (10), for the words “has not been furnished by him”, the following shall be substituted, namely:—

“or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:

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, even if, he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period.”.

Substitution of new section for section 41. 8. In the principal Act, for section 41, the following section shall be substituted, namely:—

Availment of input tax credit. “41. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

(2) The credit of input tax availed by a registered person under subsection (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may reavail the amount of credit reversed by him in such manner as may be prescribed.”.

Omission of sections 42, 43 and 43A. 9. In the principal Act, sections 42, 43 and 43A shall be omitted.

Amendment of section 47. 10. In the principal Act, in section 47, in sub-section (1), —

(a) the words “or inward” shall be omitted;

(b) the words and figures “or section 38” shall be omitted;

(c) after the words and figures “section 39 or section 45”, the words and figures “or section 52” shall be inserted.

11. In the principal Act, in section 48, in sub-section (2), the words and figures, “the details of inward supplies under section 38” shall be omitted. Amendment of section 48.

12. In the principal Act, in section 49,— Amendment of section 49.

(a) in sub-section (2), the words, figures and letter “or section 43 A” shall be omitted;

(b) in sub-section (4), after the words “subject to such conditions”, the words “and restrictions” shall be inserted;

(c) after sub-section (11), the following sub-section shall be inserted, namely:—

“(12) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.”.

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13. In the principal Act, in section 50, for sub-section (3), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:- Amendment of section 50.

“(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent, as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”.

Amendment of section 52. 14. In the principal Act, in section 52, in sub-section (6), in the proviso, for the words “due date for furnishing of statement for the month of September”, the words “thirtieth day of November” shall be substituted.

Amendment of section 54. 15. In the principal Act in section 54,—

(a) in sub-section (1), in the proviso, for the words and figures “the return furnished under section 39 in such”, the words “such form and” shall be substituted;

(b) in sub-section (2), for the words “six months”, the words “two years” shall be substituted;

(c) in sub-section (10), the words, brackets and figure “under sub-section (3)” shall be omitted;

(d) in the Explanation, in clause (2), after sub-clause (b), the following sub-clause shall be inserted, namely:—

“(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;”.

Amendment of notification issued under section 146 of the Puducherry Goods and Services Tax Act, 2017 read with section 20 of the Integrated Goods and Services Tax Act, 2017, retrospectively. 16. (1) The notification of the Commercial Taxes Secretariat, Government of Puducherry in G.O. Ms. No. 13, dated the 23rd January, 2018 published in the Gazette of Puducherry, Extraordinary Part I, No. 12, dated the 23rd January, 2018 issued on the recommendations of the Council, under section 146 of the Puducherry Goods and Services Tax Act, 2017 read with section 20 of the Integrated Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the First Schedule appended to this Act, on and from the date specified in column (3) of that Schedule.

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(2) For the purposes of sub-section (1), the Government of Puducherry shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if, the Government of Puducherry had the power to amend the said notification under section 146 of the Puducherry Goods and Services Tax Act, 2017 read with section 20 of the Integrated Goods and Services Tax Act, 2017, retrospectively, at all material times.

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17. (1) The notification of the Commercial Taxes Secretariat, Government of Puducherry in G.O. Ms. No. 12/A1/CT/2017, dated the 29th June 2017 published in the Gazette of Puducherry, Extraordinary Part I, No. 94, dated the 29th June, 2017, issued on the recommendations of the Council, under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Puducherry Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Second Schedule appended to this Act, on and from the date specified in column (3) of that Schedule.

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Amendment of
notification
issued under
sub-sections (1)
and (3) of
section 50,
sub-section (12)
of section 54
and section 56
of the
Puducherry
Goods and
Services Tax
Act, 2017,
retrospectively.

(2) For the purposes of sub-section (1), the Government of Puducherry shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if, the Government of Puducherry had the power to amend the said notification under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Puducherry Goods and Services Tax Act, 2017, retrospectively, at all material times.

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

18. (1) Notwithstanding anything contained in the notification of the Commercial Taxes Secretariat, Government of Puducherry in 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, issued on the recommendations of the Council, in exercise of the powers conferred under sub-section (1) of section 9 of the Puducherry Goods and Services Tax Act, 2017, no State tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive).

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(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.

Retrospective effect to notification issued under sub-section (2) of section 7 of the Puducherry Goods and Services Tax Act, 2017.

19. (1) Subject to the provisions of sub-section (2), the notification of the Commercial Taxes Secretariat, Government of Puducherry in G.O. Ms. No.25/2019-Puducherry GST (Rate), dated the 1st October, 2019 published in the Gazette of Puducherry, Extraordinary Part I, No. 168, dated the 1st October, 2019, issued on the recommendations of the Council, in exercise of the powers under sub-section (2) of section 7 of the Puducherry Goods and Services Tax Act, 2017, shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July, 2017.

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

THE FIRST SCHEDULE

[Sec section 16(1)]

Notification number and date (1)	Amendment (2)	Date of effect of Amendment (3)
Notification of the Commercial Taxes Secretariat, Government of Puducherry issued <i>vide</i> G.O. Ms. No. 13, dated the 23rd January, 2018 published in the Gazette of Puducherry, Extraordinary Part I, No. 12, dated the 23rd January, 2018.	In the said notification, in paragraph 1, for the words “furnishing of returns and computation and settlement of integrated tax”, the following shall be substituted, namely:— “furnishing of returns and computation and settlement of integrated tax and save as otherwise provided in the notification of the Commercial Taxes Secretariat, Government of Puducherry issued <i>vide</i> G.O. Ms. No. 65 dated the 31st December, 2019 published in the Gazette of Puducherry, Extraordinary Part I, No. 234, dated the 31st December, 2019, all functions provided under the Puducherry Goods and Services Tax Rules, 2017.”.	22nd June, 2017.

THE SECOND SCHEDULE

[Sec section 17(1)]

Notification number and date (1)	Amendment (2)	Date of effect of Amendment (3)
Notification of the Commercial Taxes Secretariat, Government of Puducherry issued <i>vide</i> G.O. Ms. No. 12/A1/CT/2017, dated the 29th June 2017 published in the Gazette of Puducherry, Extraordinary Part I, No. 94, dated the 29th June, 2017.	In the said notification, in the Table, against serial number 2, in column (3), for the figures "24", the figures "18" shall be substituted.	1st July, 2017.

STATEMENT OF OBJECTS AND REASONS

The Government of India has carried out certain amendments to the Central Goods and Services Tax Act, 2017 in the Finance Act, 2022 (Central Act No. 6 of 2022) as recommended by the GST Council and advised the State Governments and Union Territory Governments to carry out similar amendments in their respective State Goods and Services Tax Act.

2. Accordingly, to amend the Puducherry Goods and Services Tax Act, 2017 ("the Act"), the Puducherry Goods and Services Tax (Amendment) Bill, 2022 is proposed. The Bill *inter alia* seeks.—

(i) to provide for availment of input Tax credit with respect to a supply only if, such credit has not been restricted in the details communicated to the tax payer and also to provide for an extended time for a availment of input Tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year up to 30th November of the following financial year,

(ii) to provide for cancellation of registration, in case of person paying tax under composition if, the return for a financial year has not been furnished beyond three months from the due date of furnishing of the said return and in case of other registered person if, the returns are not furnished for such continuous tax period as may be prescribed,

(iii) to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year up to 30th November of the following financial year,

(iv) to provide for prescribing conditions and restrictions for furnishing the details of outward supply and the conditions and restrictions as well as manner and time for communication of the details of such outward supplies to concerned recipients and to do away with two-way communication process in return filing,

(v) to provide for an extended time up to 30th November of the following financial year for rectification of errors in respect of details of outward supplies furnished and also to provide for tax period-wise sequential filing of details of outward supplies,

(vi) to provide for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing,

(vii) to provide for the non-resident taxable person to furnish the return for a month within thirteen days after the end of the month or within seven days after the last day of the period of registration whichever is earlier,

(viii) to provide for payment of either the self-assessed tax or an amount determined in the manner as may be prescribed, by persons opting for “Quarterly Return and Monthly Payment”,

(ix) to provide for an extended time up to 30th November of the following financial year or the actual date of filing of relevant annual return, whichever is earlier, within which omissions or incorrect particular reported in the returns could be rectified,

(x) to provide for furnishing of details of outward supplies of a tax period as a condition for furnishing the return for the said tax period and also to empower the Government to notify the registered persons or class of registered persons who can file the return without furnishing of details of outward supplies subject to such conditions or restrictions as may be prescribed,

(xi) to do away with the concept of claim of eligible input tax credit on a provisional basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed,

(xii) to omit sections 42, 43 and 43A of the principal Act so as to do away with two-way communication process in return filing,

(xiii) to omit levy of late fee for delayed furnishing details of inward supplies as furnishing of details of inward supplies has been done away with and also to provide for levy of late fee for delayed filing of return by-commerce operators,

(xiv) to provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger and also for prescribing the maximum proportion of output tax liability, which may be discharged through the electronic credit ledger,

(xv) to provide for levy of interest on input tax credit wrongly availed and utilised and for prescribing manner of calculation of interest in such cases,

(xvi) to provide for the last date up to which the rectification of errors can be made in the return filed by the e-commerce operator,

(xvii) to provide for claim of refund of any balance in the electronic cash ledger in such form and manner as may be prescribed,

(xviii) to extend the time limit for claiming refund by specialized agencies of UNO or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulates or Embassy of foreign countries and other persons or class of persons notified by the Government, from six months to two years from the last date of quarter in which the supply was received,

(xix) to apply withholding of refund and deductions from the refund due for all types of refunds. if, there is any pending liability of the applicant and to provide for the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit,

(xx) to provide retrospective exemption froms tate tax in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period from the 1st day of July, 2017 up to the 30th day of September, 2019 (both day inclusive),

(xxi) to give retrospective effect to the notification relating to treatment of services by way of grant of alcoholic liquor license against consideration in the form of licence fee or application fee or by whatever name it is called as neither supply of goods nor supply of service, with effect from the 1st day of July, 2017,

(xxii) to notify www.gst.gov.in. retrospectively, with effect from 22nd June, 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under the Puducherry Goods and Services Tax Rules, 2017 other than e-way bill and e-invoicing, and

(xxiii) to notify interest rate of 18%, to be levied on the input tax credit wrongly availed and utilized, retrospectively, with effect from the 1st day of July, 2017.

3. The bill seeks to achieve the above objects.

N. RANGASAMY,
Chief Minister.

FINANCIAL MEMORANDUM

The proposed Puducherry Goods and Services Tax (Amendment) Bill, 2022 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the Union territory of Puducherry.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 seeks to amend clause (e) of sub-section (2) of section 29 of the Puducherry Goods and Services Tax Act, 2017 ("the Act") so as to provide by rules continuous tax periods for which return has not been furnished, which would make a registration liable for cancellation, in respect of any registered person, other than a person specified in clause (b) thereof.

Clause 6 seeks to substitute a new section for section 38 of the Act, Sub-section (1) seeks to empower the Government to make rules to specify other supplies as well as the manner, time, conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

Clause 8 seeks to substitute a new section for section 41 of the Act so as to do away with the concept of “claim” of eligible input tax credit on a “provisional” basis and to provide for availment of self-assessed input tax credit subject to such condition and restrictions as may be provided by rules.

Clause 12 seeks to amend section 49 of the Act to insert sub-section (12) so as to empower the Government to make rules to specify maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

Clause 13 seeks to substitute a new sub-section for sub-section (3) of section 50 of the Act so as to provide for levy of interest on input tax credit wrongly availed and utilised and to provide by rules the manner of calculation of interest in such cases.

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

3. The delegation of Legislative power is, therefore, of a normal character.

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

[Copy of Letter No. 0808/CM/OSD/PA/2022, dated 08-08-2022 from the Hon'ble Chief Minister Thiru N. Rangasamy, 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 (Amendment) Bill, 2022 recommend 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.
