

THE PUNJAB GOODS AND SERVICES TAX (AMENDMENT)
BILL, 2023

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

BE it enacted by the Legislature of the State of Punjab in the Seventy-fourth Year of the Republic of India, as follows:-

Short title and commencement .

1. (1) This Act may be called the Punjab Goods and Services Tax (Amendment) Act, 2023.

(2) Save as otherwise provided, the provisions of this Act shall come into force on such date as the Government of Punjab 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.

Amendment in section 2 of Punjab Act 5 of 2017.

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

(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 organizes 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;" and

(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;"

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

(a) in sub-section (1), after the second proviso, the explanation inserted vide the Punjab Goods and Services Tax (Amendment) Act, 2020 (Punjab Act No. 3 of 2020), shall be deemed to have been inserted with effect from the 1st day of February, 2019;

(b) in sub-section (2), in clause (d), the words "goods or" shall be omitted; and

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

Amendment in section 16 of Punjab Act 5 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; and

(ii) in the third proviso, after the words "made by him", the words "to the supplier" shall be inserted.

Amendment in section 17 of Punjab Act 5 of 2017.

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 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."; and

(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;"

Amendment in section 23 of Punjab Act 5 of 2017.

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 1st 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."

- Amendment in section 24 of Punjab Act 5 of 2017.
7. In the principal Act, in section 24,-
- (a) in clause (xi), the word "and" occurring at the end, shall be omitted; and
- (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".
- Amendment in section 30 of Punjab Act 5 of 2017.
8. In the principal Act, in section 30, in sub-section (1),—
- (a) for the words and sign "the prescribed manner within thirty days from the date of service of the cancellation order:", the words and signs "such manner, within such time and subject to such conditions and restrictions, as may be prescribed." shall be substituted; and
- (b) the proviso shall be omitted.
- Amendment in section 37 of Punjab Act 5 of 2017.
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 in section 39 of Punjab Act 5 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 in section 44 of Punjab Act 5 of 2017.

11. In the principal Act, the existing provision of 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 in section 52 of Punjab Act 5 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 in section 54 of Punjab Act 5 of 2017.

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

Amendment in section 56 of Punjab Act 5 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 in section 62 of Punjab Act 5 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; and
(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."

Amendment in section 109 of Punjab Act 5 of 2017.

16. In the principal Act, in section 109,-
(a) for the existing heading, the following heading shall be substituted, namely:-
"Constitution of Appellate Tribunal and Benches thereof."; and
(b) in sub-section (2), for the words "the State Bench and the Area Benches located in the State", the words "the State Benches" shall be substituted.

Amendment in section 110 of Punjab Act 5 of 2017.

17. In the principal Act, in section 110, for the words "the State Bench and Area Benches", the words "the State Benches" shall be substituted.

Substitution of section 114 of Punjab Act 5 of 2017.

18. In the principal Act, for section 114, the following section shall be substituted, namely:-

"114. The Vice-President shall exercise such financial and administrative powers over the State Benches of the Appellate Tribunal in a State, as may be prescribed."

Financial and Administrative powers of Vice-President.

Amendment in section 117 of Punjab Act 5 of 2017.

19. In the principal Act, in section 117,—

(a) in sub-section (1), for the words "State Bench or Area Benches", the words "State Benches" shall be substituted; and

(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.

Amendment in section 118 of Punjab Act 5 of 2017.

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.

Amendment in section 119 of Punjab Act 5 of 2017.

21. In the principal Act, in section 119,—

(a) for the words "National or Regional Benches", the words "Principal Bench" shall be substituted; and

(b) for the words "State Bench or Area Benches", the words "State Benches" shall be substituted.

Amendment in section 122 of Punjab Act 5 of 2017.

22. In the principal Act, in section 122, after sub-section (1A), the following sub-section shall be added, namely:—

"(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 in section 132 of Punjab Act 5 of 2017.

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

- (a) clauses (g), (j) and (k) shall be omitted;
- (b) in clause (1), 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 clause (iii), for the words "any other offence", the words, brackets and letter "an offence specified in clause (b)" shall be substituted; and
- (d) in clause (iv), the words, brackets and letters "or clause (g) or clause (j)" shall be omitted.

Amendment in section 138 of Punjab Act 5 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 omitted;

(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;" and

(iv) clause (e) shall be omitted; and

(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 in Punjab
Act 5 of 2017.

25. In the principal Act, after section 158, the following section shall be inserted, namely:—

"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:—

Consent based
sharing of
information
furnished by
taxable person.

(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."

Amendment in Schedule III to Punjab Act 5 of 2017.

26. In the principal Act, in Schedule III, in paragraph 6, for the words "lottery, betting and gambling", the words "specified actionable claims" shall be substituted.

Retrospective exemption to certain activities and transactions in Schedule III to Punjab Act 5 of 2017.

27. (1) In the principal Act, in Schedule III, paragraphs 7 and 8 and the *Explanation 2* thereof (as inserted vide Punjab Act No. 1 of 2019) shall be deemed to have been inserted therein with effect from the 1st 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.

Transitory provision.

28. 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.

STATEMENT OF OBJECTS AND REASONS

The Punjab Goods and Services Tax Act, 2017 (the Act) 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 State Government. With the objective of enhancing compliance under the GST regime, the provisions relating to taxation of specified actionable claim, compulsory registration of every person supplying online money gaming from a place outside India to a person in India are being inserted. Further, the provision relating to constitution of State Benches of the GST Appellate Tribunal is being incorporated. Taxpayers registered under composition scheme are being enabled to supply goods through electronic commerce operators. Further, certain offences are proposed to be de-criminalized. In order to implement the said changes, it is proposed to amend the Punjab Goods and Services Tax Act, 2017.

HARPAL SINGH CHEEMA,
Excise and Taxation Minister,
Punjab.

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FINANCIAL MEMORANDUM

The Bill proposes to amend Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), with a view to maintain uniformity with the provisions of the Central Goods and Services Tax Act, 2017, as amended by the Finance Act, 2023 and the Central Goods and Services Tax (Amendment) Act, 2023. There are provisions related to constitution of the State Benches of the GST Appellate Tribunal in the said Bill which may involve recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill.

CHANDIGARH:
THE 21ST NOVEMBER, 2023

RAM LOK KHATANA
SECRETARY.

N.B. – The above Bill was published in the Punjab Government Gazette (Extraordinary), dated the 21st November, 2023 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).