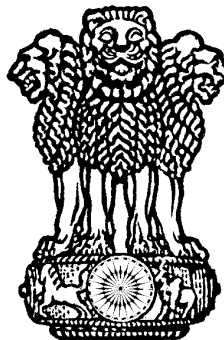


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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL**LAW DEPARTMENT****Legislative****NOTIFICATION**

No. 1373-L.— 6th December, 2024.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 21 of 2024**THE WEST BENGAL GOODS AND SERVICES TAX
(AMENDMENT) BILL, 2024.****A
BILL**

to amend the West Bengal Goods and Services Tax Act, 2017.

WHEREAS it is expedient to amend the West Bengal Goods and Services Tax Act, 2017, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XXVIII of 2017.

It is hereby enacted in the Seventy-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and
commencement.

1. (1) This Act may be called the West Bengal Goods and Services Tax (Amendment) Act, 2024.

*The West Bengal Goods and Services Tax
(Amendment) Bill, 2024.*

(Clause 2.)

(2) Save as otherwise provided, this section shall come into force with immediate effect, and the other provisions of this Act shall come into force on such date, with prospective or retrospective effect as required, as the State Government may, by notification in the *Official Gazette*, appoint and 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 of
West Ben. Act
XXVIII of 2017.

2. In the West Bengal Goods and Services Tax Act, 2017,—

(1) in section 2, for clause (61), the following clause shall be substituted, namely:—

‘(61) “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20;’;

(2) in section 9, in sub-section (1), after the words “alcoholic liquor for human consumption”, the words “and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption” shall be inserted;

(3) in section 10, in sub-section (5), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(4) after section 11, the following section shall be inserted, namely:—

“Power not to
recover Goods
and Services
Tax not levied
or short-levied
as a result of
general practice.

11A. Notwithstanding anything contained in this Act, if the Government is satisfied that—

- (a) a practice was, or is, generally prevalent regarding levy of State tax (including non-levy thereof) on any supply of goods or services or both; and
- (b) such supplies were, or are, liable to,—
 - (i) State tax, in cases where according to the said practice, State tax was not, or is not being, levied, or
 - (ii) a higher amount of State tax than what was, or is being, levied, in accordance with the said practice,

the Government may, on the recommendation of the Council, by notification in the *Official Gazette*, direct that the whole of the State tax payable on such supplies, or, as the case may be, the State tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the State tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.”;

(5) in section 13, in sub-section (3),—

- (i) in clause (b), for the words “by the supplier:”, the words “by the supplier, in cases where invoice is required to be issued by the supplier; or” shall be substituted;

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(Clause 2.)

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

“(c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient.”;

(iii) in the first proviso, after the words, brackets and letter “or clause (b)”, the words, brackets and letter “or clause(c)” shall be inserted;

(6) in section 16, with effect from the 1st day of July, 2017, after sub-section(4), the following sub-sections shall be inserted, namely:—

“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.

(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where avilment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—

(i) filed up to thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later.”;

(7) in section 17, in sub-section (5), in clause (i), for the words and figures “sections 74, 129 and 130”, the words and figures “section 74 in respect of any period up to Financial Year 2023-24” shall be substituted;

(8) for section 20, the following section shall be substituted, namely:—

“Manner of distribution of credit by Input Service Distributor. 20. (1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, shall be required to be registered as Input Service Distributor under clause (viii) of section 24 and shall distribute the input tax credit in respect of such invoices.

(2) The Input Service Distributor shall distribute the credit of State tax or integrated tax charged on invoices received by him, including the credit of State or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of section 9 paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.

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(Amendment) Bill, 2024.*

(Clause 2.)

(3) The credit of State tax shall be distributed as State tax or integrated tax and integrated tax as integrated tax or State tax, by way of issue of a document containing the amount of input tax credit, in such manner as may be prescribed.”;

(9) in section 21, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(10) in section 30, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.”;

(11) in section 31, in sub-section (3),—

(a) in clause (f), after the words and figure “of section 9 shall”, the words “, within the period as may be prescribed,” shall be inserted;

(b) after clause (g), the following *Explanation* shall be inserted, namely:—

Explanation. —For the purposes of clause (f), the expression “supplier who is not registered” shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.’;

(12) in section 35, in sub-section (6), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(13) in section 39, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for every calendar month of the deductions made during the month in such form and manner and within such time as may be prescribed:

Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.”;

(14) in section 49, in sub-section (8), in clause (c), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(15) in section 50, in sub-section (1), in the proviso, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(16) in section 51, in sub-section (7), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(17) in section 54,—

(a) in sub-section (3), the second proviso shall be omitted;

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(Amendment) Bill, 2024.*

(Clause 2.)

- (b) after sub-section (14) and before the *Explanation*, the following sub-section shall be inserted, namely:—

“(15) Notwithstanding anything contained in this section, no refund of unutilised input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods is subjected to export duty.”;

- (18) in section 61, in sub-section (3), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

- (19) in section 62, in sub-section (1), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

- (20) in section 63, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

- (21) in section 64, in sub-section (2), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

- (22) in section 65, in sub-section (7), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

- (23) in section 66, in sub-section (6), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

- (24) in section 70, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) All persons summoned under sub-section (1) shall be bound to attend, either in person or by an authorised representative, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.”;

- (25) in section 73,—

- (i) in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period up to Financial Year 2023-24,” shall be inserted;

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

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.”;

- (26) in section 74,—

- (i) in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period up to Financial Year 2023-24,” shall be inserted;

- (ii) after sub-section (11) and before *Explanation 1*, the following sub-section shall be inserted, namely:—

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.”;

- (iii) the *Explanation 2* shall be omitted;

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(Amendment) Bill, 2024.*

(Clause 2.)

(27) after section 74, the following section shall be inserted, namely:—

“Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onward.

74A. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder:

Provided that no notice shall be issued, if the tax which has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised in a financial year is less than one thousand rupees.

(2) The proper officer shall issue the notice under sub-section (1) within forty-two months from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within forty-two months from the date of erroneous refund.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The penalty in case where any tax which has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised,—

- (i) for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, shall be equivalent to ten per cent. of tax due from such person or ten thousand rupees, whichever is higher;
- (ii) for the reason of fraud or any wilful-misstatement or suppression of facts to evade tax shall be equivalent to the tax due from such person.

(6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(7) The proper officer shall issue the order under sub-section (6) within twelve months from the date of issuance of notice specified in sub-section (2):

Provided that where the proper officer is not able to issue the order within the specified period, the Commissioner, or an officer authorised by the Commissioner senior in rank to the proper officer but not below the rank of Joint Commissioner of State

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(Clause 2.)

tax, may, having regard to the reasons for delay in issuance of the order under sub-section (6), to be recorded in writing, before the expiry of the specified period, extend the said period further by a maximum of six months.

(8) The person chargeable with tax where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, may,—

- (i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information shall not serve any notice under sub-section (1) or the statement under sub-section (3), as the case may be, in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;
- (ii) pay the said tax along with interest payable under section 50 within sixty days of issue of show cause notice, and on doing so, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The person chargeable with tax, where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, may,—

- (i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;
- (ii) pay the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within sixty days of issue of the notice, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded;
- (iii) pay the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within sixty days of communication of the order, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded.

(10) Where the proper officer is of the opinion that the amount paid under clause (i) of sub-section (8) or clause (i) of sub-section (9) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

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(Amendment) Bill, 2024.*

(Clause 2.)

(11) Notwithstanding anything contained in clause (i) or clause (ii) of sub-section (8), penalty under clause (i) of sub-section (5) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

(12) The provisions of this section shall be applicable for determination of tax pertaining to the Financial Year 2024-25 onwards.

Explanation 1.—For the purposes of this section,—

- (i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;
- (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 this section, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded.

Explanation 2.—For the purposes of this Act, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing by the proper officer.”;

(28) in section 75,—

- (a) in sub-section (1), after the word and figures “section 74”, the words, brackets, figures and letter “or sub-sections (2) and (7) of section 74A” shall be inserted;
- (b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where any Appellate Authority or Appellate Tribunal or court concludes that the penalty under clause (ii) of sub-section (5) of section 74A is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the penalty shall be payable by such person, under clause (i) of sub-section (5) of section 74A.”;
- (c) for sub-section (10), the following sub-section shall be substituted, namely:—

“(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within the period specified in sub-section (10) of section 73 or in sub-section (10) of section 74 or in sub-section (7) of section 74A.”;
- (d) in sub-section (11), after the word and figures “section 74”, the words, brackets, figures and letter “or sub-section (7) of section 74A” shall be inserted;
- (e) in sub-section (12), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;
- (f) in sub-section (13), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

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(Amendment) Bill, 2024.*

(Clause 2.)

(29) in section 104, in sub-section (1), in the *Explanation*, after the word and figures “section 74”, the words, brackets, figures and letter “or sub-sections (2) and (7) of section 74A” shall be inserted;

(30) in section 107,—

- (a) in sub-section (6), in clause (b), for the word “twenty-five”, the word “twenty” shall be substituted;
- (b) in sub-section (11), in the second proviso, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(31) in section 112,—

- (a) with effect from the 1st day of August, 2024, in sub-section (1), after the words “from the date on which the order sought to be appealed against is communicated to the person preferring the appeal”, the words “; or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act, whichever is later.” shall be inserted;
- (b) with effect from the 1st day of August, 2024, in sub-section (3), after the words “from the date on which the said order has been passed”, the words “; or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later,” shall be inserted;
- (c) in sub-section (6), after the words, brackets and figure “after the expiry of the period referred to in sub-section (1)”, the words, brackets and figure “or permit the filing of an application within three months after the expiry of the period referred to in sub-section (3)” shall be inserted;
- (d) in sub-section (8), in clause (b),—
 - (i) for the words “twenty per cent.”, the words “ten per cent.” shall be substituted;
 - (ii) for the words “fifty crore rupees”, the words “twenty crore rupees” shall be substituted;

(32) in section 122, with effect from the 1st day of October, 2023, in sub-section (1B), for the words “Any electronic commerce operator who”, the words and figures “Any electronic commerce operator, who is liable to collect tax at source under section 52,” shall be substituted;

(33) after section 122, the following section shall be inserted, namely:—

“Penalty for failure to register certain machines used in manufacture of goods as per special procedure.

122A. (1) Notwithstanding anything contained in this Act, where any person, who is engaged in the manufacture of goods in respect of which any special procedure relating to registration of machines has been notified under section 148, acts in contravention of the said special procedure, he shall, in addition to any penalty that is paid or is payable by him under Chapter XV or any other provisions of this Chapter, be liable to pay a penalty equal to an amount of one lakh rupees for every machine not so registered.

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(Amendment) Bill, 2024.*

(Clause 2.)

(2) In addition to the penalty under sub-section (1), every machine not so registered shall be liable for seizure and confiscation:

Provided that such machine shall not be confiscated where—

- (a) the penalty so imposed is paid; and
- (b) the registration of such machine is made in accordance with the special procedure within three days of the receipt of communication of the order of penalty.”;

(34) in section 127, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(35) after section 128, the following section shall be inserted, namely:—

“Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods. 128A. (1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,—

- (a) a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or
- (b) an order passed under sub-section (9) of section 73, and where no order under sub-section (11) of section 107 or sub-section (1) of section 108 has been passed; or
- (c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of section 113 has been passed,

pertaining to the period from 1st July, 2017 to 31st March, 2020, or a part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and penalty under this Act, shall be payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed:

Provided that where a notice has been issued under sub-section (1) of section 74, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75, the said notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:

Provided further that the conclusion of the proceedings under this sub-section, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of section 112 or an appeal is filed by an officer of State tax

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(Clause 2.)

under sub-section (1) of section 117 or under sub-section (1) of section 118 or where any proceedings are initiated under sub-section (1) of section 108, against an order referred to in clause (b) or clause (c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso, shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order:

Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.

(2) Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.

(3) Nothing contained in sub-section (1) shall be applicable in respect of cases where an appeal or writ petition filed by the said person is pending before the Appellate Authority or Appellate Tribunal or a court, as the case may be, and has not been withdrawn by the said person on or before the date notified under sub-section (1).

(4) Notwithstanding anything contained in this Act, where any amount specified under sub-section (1) has been paid and the proceedings are deemed to be concluded under the said sub-section, no appeal under sub-section (1) of section 107 or sub-section (1) of section 112 shall lie against an order referred to in clause (b) or clause (c) of sub-section (1), as the case may be.”;

(36) in section 171,—

(a) in sub-section (2), the following proviso and *Explanation* shall be inserted, namely:—

‘Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Explanation.— For the purposes of this sub-section, "request for examination" shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.’;

(b) the *Explanation* shall be renumbered as *Explanation 1* thereof, and after *Explanation 1* as so renumbered, the *Explanation* shall be inserted, namely:—

‘*Explanation 2.*— For the purposes of this section, the expression “Authority” shall include the “Appellate Tribunal”.’;

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(Amendment) Bill, 2024.*

(Clauses 3, 4.)

Amendment of
Schedule III.

3. In Schedule III to the West Bengal Goods and Services Tax Act, 2017, after paragraph 8 and before *Explanation 1*, the following paragraphs shall be inserted, namely:—

West Ben. Act
XXVIII of 2017.

“9. Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.

10. Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.”.

No refund of tax
paid or input tax
credit reversed.

4. No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had sub-section (6) of section 2 of this Act been in force at all material times.

STATEMENT OF OBJECTS AND REASONS.

The Bill, namely the West Bengal Goods and Services Tax (Amendment) Bill, 2024, seeks to make amendments in the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), on the recommendations of the Goods and Services Tax Council, in its 50th, 52nd and 53rd meeting mainly to provide relief, to remove the major inconveniences caused to the taxpayers, especially micro and small entrepreneurs and traders and seeks *inter alia*—

(1) to substitute the definition of Input Service Distributor (ISD) in clause (61) of section 2;

(2) to amend sub-section (1) of section 9, so as not to levy State tax on supply of un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption;

(3) to insert a new section 11 A, so as to empower the Government to regularise non-levy or short levy of State tax where the Government is satisfied that such non-levy or short levy was a result of general practice;

(4) to amend sub-section (3) of section 13 so as to specify the time of supply of services where tax is liable to be paid under the reverse charge mechanism and where the invoice is required to be issued by the recipient of services;

(5) to insert a new sub-section (5) in section 16 so as to carve out an exception to the existing sub-section (4) and to provide that in respect of an invoice or debit note for the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up

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to the thirtieth day of November, 2021, and to insert a new sub-section (6) in the said section so as to allow the availment of input tax credit in respect of an invoice or debit note in a return filed for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, filed within thirty days of the date of order of revocation of cancellation of registration, subject to the condition that the time-limit for availment of credit in respect of the said invoice or debit note should not have already expired under sub-section (4) of the said section on the date of order of cancellation of registration.

The aforesaid amendments by way of insertion of sub-sections (5) and (6) to section 16 are proposed to be made effective from the 1st day of July, 2017.

Further, it is proposed that where the tax has been paid or the input tax credit has been reversed, no refund of the same shall be admissible;

(6) to amend sub-section (5) of section 17, so as to restrict the non-availability of input tax credit in respect of tax paid under section 74 of the said Act only for demands up to the Financial Year 2023-24 and also to remove the references to sections 129 and 130 in the said sub-section since the said references have become redundant subsequent to amendments in sections 129 and 130 w.e.f. 01.01.2022;

(7) to substitute section 20, so as to make the Input Service Distributor (ISD) mechanism for distribution of input tax credit mandatory;

(8) to insert a new proviso in sub-section (2) of section 30, so as to empower the Government to prescribe conditions and restrictions for revocation of cancellation of registration by way of prescription in rules;

(9) to amend clause (f) of sub-section (3) of section 31, so as to empower the Government to prescribe the time period for issuance of invoice by the recipient in case of reverse charge mechanism supplies by rules and also to insert an *Explanation* in sub-section (3) of the said section so as to specify that a supplier registered solely for the purposes of tax deduction at source under section 51 of the said Act shall not be considered as a registered person for the purpose of clause (f) of sub-section (3) of section 31 of the said Act;

(10) to substitute sub-section (3) of section 39, so as to mandate the electronic furnishing of return for each month in the form, manner and time as may be prescribed, by a registered person required to deduct tax at source, irrespective of whether any deduction has been made in the said month or not;

(11) to omit the second proviso to sub-section (3) of section 54 and to insert a new sub-section (15) in section 54, so as to provide that no refund of unutilized input tax credit or of integrated tax shall be allowed in cases of zero rated supply of goods where such goods are subjected to export duty;

(12) to insert a new sub-section (1A) in section 70, so as to enable an authorised representative to appear on behalf of the summoned person before the proper officer in compliance of summons issued by the said officer;

(13) to insert a new sub-section (12) in section 73, so as to restrict the applicability of the said section for determination of tax pertaining to the period up to the Financial Year 2023-24 and to make consequential amendment in the marginal heading of the said section;

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(14) to insert a new sub-section (12) in section 74, so as to restrict the applicability of the said section for determination of tax pertaining to the period up to the Financial Year 2023-24 and to make consequential amendment in the marginal heading of the said section;

(15) to insert a new section 74A, so as to provide for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to the Financial Year 2024-25 onwards.

It provides for the same limitation period for issuing demand notices and orders in respect of demands from the Financial Year 2024-25 onwards, irrespective of whether the charges of fraud, wilful misstatement, or suppression of facts are invoked or not, while keeping a higher penalty, for cases involving fraud, wilful misstatement, or suppression of facts;

(16) to insert a new sub-section (2A) in section 75 so as to provide for redetermination of penalty demanded in a notice invoking penal provisions under clause (ii) of sub-section (5) of the proposed section 74A of the said Act to redetermine the penalty as per clause (i) of the sub-section (5) of the said section, in cases where the charges of fraud, wilful misstatement, or suppression of facts are not established;

(17) to amend sub-section (6) of section 107 so as to reduce the maximum amount of pre-deposit for filing appeal before the Appellate Authority from rupees twenty-five crores to rupees twenty crores in State tax;

(18) to amend sub-sections (1) and (3) of section 112 so as to empower the Government to notify the date for filing appeal before the Appellate Tribunal and provide a revised time limit for filing appeals or application before the Appellate Tribunal;

It is proposed to make the said amendments effective from the 1st day of August, 2024.

It also seeks to amend sub-section (6) of the said section so as to enable the Appellate Tribunal to admit appeals filed by the department within three months after the expiry of the specified time limit of six months.

Further, it seeks to amend sub-section (8) of the said section to reduce the maximum amount of pre-deposit for filing appeals before the Appellate Tribunal from the existing twenty per cent. to ten per cent. of the tax in dispute and also to reduce the maximum amount payable as pre-deposit from rupees fifty crores to rupees twenty crores in State tax;

(19) to amend sub-section (1B) of section 122 so as to restrict the applicability of the said sub-section to electronic commerce operators, who are required to collect tax at source under section 52 of the said Act;

The said amendment is proposed to be made effective from the 1st day of October, 2023, when the said sub-section had come into force;

(20) to insert a new section 122A so as to introduce penalty provision for contravention of the provisions of the Special procedure as notified for the manufacturer of goods such as pan masala, tobacco etc.;

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(21) to insert a new section 128A so as to provide for conditional waiver of interest and penalty in respect of demand notices issued under section 73 of the said Act for the Financial Years 2017-18, 2018-19 and 2019-20, except the demand notices in respect of erroneous refund;

Further, it is proposed that in cases where interest and penalty have already been paid in respect of any demand for the said financial years, no refund shall be admissible for the same;

(22) to amend sub-section (2) of section 171 so as to empower the Government to notify the date from which the Anti-profiteering Authority shall not accept any application for anti-profiteering cases.

An Explanation is also proposed to be inserted so as to include the reference of "Appellate Tribunal" in the expression "Authority" under the said section to enable the Government to notify the Appellate Tribunal to act as an Authority to handle anti-profiteering cases;

(23) to amend Schedule III to the West Bengal Goods and Services Tax Act, so as to provide that the activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements shall be treated as neither supply of goods nor supply of services, provided that the lead insurer pays the tax liability on the entire amount of premium paid by the insured.

It also proposes to provide that the services by the insurer to the reinsurer, for which the ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, shall be treated as neither supply of goods nor supply of services, provided that tax liability on the gross reinsurance premium inclusive of reinsurance commission or the ceding commission is paid by the reinsurer;

(24) to make consequential amendments in sections 10(5), 21, 35(6), 49(8), 50(1), 51(7), 61(3), 62(1), 63, 64(2), 65(7), 66(6), 75(1), 75(10), 75(11), 75(12), 75(13), 104(1), 107(11) and 127 due to the proposed insertion of section 74A.

2. The Bill has been framed with the above objects in view.

3. There is no financial implication involved in giving effect to the provisions of the Bill.

KOLKATA:
The 6th December, 2024.

CHANDRIMA BHATTACHARYA,
Member-in-charge.

By order of the Governor,

PRADIP KUMAR PANJA,
*Pr. Secy. to the Govt. of West Bengal,
Law Department.*