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THE ANDHRA PRADESH GAZETTE

PART IV-A EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 19] AMARAVATI, MONDAY, 19th SEPTEMBER, 2022.

ANDHRA PRADESH BILLS

ANDHRA PRADESH LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Andhra Pradesh Legislative Assembly on 19th September, 2022.

L. A. Bill No. 19 of 2022

A BILL FURTHER TO AMEND THE ANDHRA PRADESH GOODS AND SERVICES TAX ACT, 2017

Be it enacted by the Legislature of the State of Andhra Pradesh in the Seventy Third Year of the Republic of India as follows:-

1. This Act may be called the Andhra Pradesh Goods and Services Tax (Amendment) Act, 2022 Short title and commencement.
 - (2) Save as otherwise provided in this Act,-
 - (a) sections 2 to 15 shall come into force on such date as the Government may by notification in the Andhra Pradesh Gazette, appoint:
2. In the Andhra Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 16, - Amendment of section 16.
Act No.16 of 2017
 - (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 43 A” 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 added, 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 sub-section (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,-

(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. “.

8. In the principal Act, for section 41, the following section shall be substituted, namely :-

“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 sub-section (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 re-avail the amount of credit reversed by him in such manner as may be prescribed. “.

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

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

Substitution of
new section for
section 41.

Availment of
Input tax credit

Omission of
sections 42,43
and 43A.

Amendment of
section 47.

- (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.

Amendment of
Section 48

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 49.

12. In the principal Act, in 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(1 1), the following sub-section shall be added, 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.”.

Amendment of
section 50.

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

“(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 recommendation 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 sub-section (14), 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.”.

16. (1) The notification in Go.Ms.No.87, Revenue(CT-II) Department, dated 16.02.2018 issued by the Government of Andhra Pradesh on the recommendations of the Council, under section 146 of the Andhra Pradesh 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 Fifth Schedule, on and from the date specified in column (3) of that Schedule.

Amendment of notification issued under section 146 of Andhra Pradesh Goods and Services Tax Act read with section 20 of Integrated Goods and Services Tax Act retrospectively.

(2) For the purposes of sub-section (1), the State Government 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 State Government had the power to amend the said notification under section 146 of the Andhra Pradesh Goods and Services Tax Act, 2017 read with section 20 of the Integrated Goods and Services Tax Act, 2017, retrospectively, at all material times.

17. (1) The notification in Go.Ms.No.263, Revenue(CT-II)Department, dated 29.06.2017 issued by the Government of Andhra Pradesh 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 Andhra Pradesh 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 Sixth Schedule, on and from the date specified in column (3) of that Schedule.

Amendment of notification Issued under sub-section) and (3) of section 50, sub-section (12) of section 54 and section 56 of Andhra Pradesh Goods and Services Tax Act Retrospectively

(2) For the purposes of sub-section (1), the State Government 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 State Government 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 Andhra Pradesh Goods and Services Tax Act, 2017, retrospectively, at all material times.

18. (1) Notwithstanding anything contained in the notification in Go.Ms.No.258, Revenue(CT-II) Department, dated 29.06.2019 issued by the Government of Andhra Pradesh, on the recommendations of the Goods and Services Tax Council, in exercise of the powers under sub-section (1) of section 9 of the Andhra Pradesh 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).

(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.

19. (1) Subject to the provisions of sub-section (2), the notification in Go.Ms.No.460, Revenue(CT-II)Department, dated 06.11.2019 issued by the Government of Andhra Pradesh, on the recommendations of the Goods and Services Tax Council, in exercise of the powers under sub-section (2) of section 7 of the Andhra Pradesh 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.

(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.

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

Retrospective effect to notification issued under sub section (2) of Section 7 of Andhra Pradesh Goods and Services Tax Act.

STATEMENT OF OBJECTS AND REASONS

The Andhra Pradesh Goods and Services Tax Act, 2017 (Act No. 16 of 2017) came into effect from 01.07.2017. It provides for levy and collection of Taxes on Intra State supply of Goods and Services by the State Government. A Similar Act by name the Central Goods and Services Tax Act, 2017 (Central Act No. 12 of 2017) also came into effect from 01.07.2017 for the identical purpose of levy tax on intra state supply of Goods and Services by the Central Government. In the Past 5 years of implementation of the two Acts, it has been noticed that certain provisions of the Act need to be rationalized, for checking tax evasion or to reduce the compliance burden of the tax payers. Towards this end, the Government of India had already effected amendments to the Central Goods and Services Tax Act, 2017 through the Finance Act 2022 following the recommendations of the Goods and Services Tax Council. The State Government has to amend the Andhra Pradesh Goods and Services Tax Act, 2017 (Act No. 16 of 2017) also on similar lines.

Accordingly, the following Amendments to the Andhra Pradesh Goods and Services Tax Act, 2017 are proposed:

2. Section 16 of the APGST Act, 2017 is to be amended -

- So as to ensure that the eligibility of Input Tax Credit (ITC) to the recipient is only to the extent of credit not restricted in the details communicated to the recipient in GSTR 2B under section 38 of the APGST Act.
- To extend the time limit for 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 from September of the following financial year.

3. Section 29 of the APGST Act, 2017 is to be amended -

- so as to provide that the registration of a person is liable for cancellation where person paying tax under section 10 (person opting for payment of tax under composition scheme) has not furnished a return for a financial year beyond 3 months from the due date and person, other than those paying tax under section 10 (normal tax payer), has not furnished returns for such continuous tax periods as may be prescribed.

4. Section 34 of the APGST Act, 2017 is to be amended -

- so as to extend the time limit for issuance of credit notes in respect of any supply made in a financial year up to 30th day of November of the following financial year.
5. Section 37 of the APGST Act, 2017 is to be amended -
- so as to provide for prescribing conditions and restrictions for furnishing the details of outward supply in GSTR-I and for communication of the details of such outward supplies to concerned recipients in GSTR -2B so as to do away with two way communication process in return filing.
 - Provide for extension of time upto 30th day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1) of section 37 of the Andhra Pradesh Goods and Services Tax Act, 2017.
 - To provide for tax period wise sequential filing of details of outward supplies under sub-section (1) of section 37 of the APGST Act.
6. Section 38 of the APGST Act, 2017 is to be substituted -
- So as to dispense with the two way communication between the supplier and recipient with respect to verification, validation, modification and deletion of details of inward supplies and Input Tax Credit.
 - To ensure that the recipient cannot claim ITC more than available in the auto generated statement i.e., GSTR 2B which is static in nature for the specific tax period.
7. Section 39 of the APGST Act, 2017 is to be Amended -
- So as to provide that the nonresident taxable person shall furnish the return (GSTR -5) for a month by 13th day of the following month instead 20th day of the following month.
 - To provide for an extended time up to 30th day of November of the following financial year for rectification of errors in the return furnished under section 39 of the APGST Act, 2017.
8. Section 41 of the APGST Act, 2017 is to be substituted -
- so as to ensure the reversal of ITC utilized by the recipient, where the supplier has

failed to discharge the tax liability along with the interest. To provide for reclaiming the reversed ITC by the recipient on compliance of the supplier.

9. Sections 42,43 & 43 A of the APGST Act, 2017 are to be omitted -

- The provisions relating to matching and reversal, reclaim of ITC by way of two way communication between supplier and recipient which were introduced earlier were not implemented due to technical reasons. The concept of new return provided in section 43A was not notified. As the similar amendments are being brought in through other provisions in this Act, the same become redundant hence omitted.

10. Section 47 of the APGST Act, 2017 is to be Amended -

- So as to provide for levy of late fee for delayed filing of return under section 52 (GSTR-8) of the APGST Act, 2017.

11. Section 48 of the APGST Act, 2017 is to be Amended -

- Consequent to the amendment in section 38 of the APGST Act, 2017, sub-section (2) of section 48 is to be amended so as to remove reference to 'section 38' therefrom.

12. Section 49 of the APGST Act, 2017 is to be Amended -

- Consequent to the omission of section 43 A, the reference to section 43 A in sub section (2) of section 49 is removed.
- So as to prescribe restrictions for utilizing the amount available in the electronic credit ledger.

13. Section 50 of the APGST Act, 2017 is to be Amended -

- so as to provide for levy of interest w.e.f. 01.07.2017 on Input tax credit wrongly utilized, and to provide for prescribing the manner of calculation of interest in such cases.

14. Section 52 of the APGST Act, 2017 is to be Amended -

- So as to extend time limit upto 30th day of November of the following financial year from the month of September for rectification of errors in the statement furnished under section 52(4) of the APGST Act i.e., GSTR-8 filed by E-Commerce Operators.

15. Section 54 of the APGST Act, 2017 is to be Amended

- so as to explicitly provide that refund claim of any amount available in the electronic cash ledger shall be made in such form and manner as may be prescribed instead of claim in the monthly return.
- so as to provide the time limit for claiming refund of tax paid on inward supply of goods or services or both under section 55 (refund in case of special agencies like UNO, Embassies etc.,) of the Andhra Pradesh Goods and Services Tax Act, 2017 as two (2) years instead of 6 months from the last day of the quarter in which such supply was received.

16. To amend notification in Go.Ms .No. 87, Revenue (CT-II) Department, dated 16.02.2018 to notify www.gst.gov.in retrospectively w.e.f. 22.06.2017 as the common goods and services tax electronic portal for all functions other than those provided for E-Way bill and for generation of invoices.

17. To amend notification in Go.Ms.No.263, Revenue (CT-II) Department, dated 29.06.2017 to notify the rate of interest under sub-section (3) of section 50 of the APGST Act, 2017 as 18% retrospectively w.e.f. 01.07.2017.

18. To amend notification in Go.Ms.No.258, Revenue (CT-II) Department, dated 29.06.2019 to provide retrospective exemption from State Goods and Services Tax in respect of supply of unintended waste generated during the production of fish meal during the period from 01.07.2017 to 30.09.2019.

19. To amend notification in Go.Ms.No.460, Revenue (CT-II) Department, dated 06.11.2019 to give retrospective effect from 01.07.2017 to the “service by way of grant of alcoholic liquor license” as neither supply of goods nor a supply of service and further provide that no refund shall be made of tax which has been collected.

This Bill seeks to incorporate the aforesaid amendments in the enactment.

BUGGANA RAJENDRANATH
Minister for Finance, Planning, Commercial Taxes,
Skill Development & Training and Legislative Affairs.

FINANCIAL MEMORANDUM

The Andhra Pradesh Goods and Services Tax (Amendment) Bill, 2022 seeks to amend certain provisions of the Andhra Pradesh Goods and Services Tax Act, 2017 relating to input tax credit claims, filing of returns, cancellation of registrations, issue of credit and debit notes, levy of interest on wrongly availed input tax credit etc., in addition to giving retrospective effect to certain notifications. It does not change the rates of GST, and also does not involve any recurring or non-recurring expenditure from the consolidated fund of the State.

BUGGANA RAJENDRANATH

Minister for Finance, Planning, Commercial Taxes,
Skill Development & Training and Legislative Affairs.

**MEMORANDUM UNDER RULE 95 OF THE RULES OF PROCEDURE
AND CONDUCT OF BUSINESS IN THE ANDHRA PRADESH
LEGISLATIVE ASSEMBLY**

The Andhra Pradesh Goods and Services Tax (Amendment) Bill, 2022, after it is passed by the Legislature of the State, may be submitted to the Governor for his assent under article 200 of the Constitution of India.

BUGGANA RAJENDRANATH

Minister for Finance, Planning, Commercial Taxes,
Skill Development & Training and Legislative Affairs.

P. BALAKRISHNAMACHARYULU,

Secretary to State Legislature.