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LAW DEPARTMENT

NOTIFICATION

The 7th September, 2022

No.9860—I-Legis-24/2022/L.— The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 1st September, 2022 is hereby published for general information.

ODISHA ACT 10 OF 2022

THE ODISHA GOODS AND SERVICES TAX (AMENDMENT)

ACT, 2022

AN

ACT

FURTHER TO AMEND THE ODISHA GOODS AND SERVICES TAX ACT, 2017

BE it enacted by the Legislature of the State of Odisha in the Seventy-third Year of the Republic of India as follows:--

Short title and
Commencement.

1. (1) This Act may be called the Odisha Goods and Services Tax (Amendment) Act, 2022.

(2) Save as otherwise provided, the provisions of this Act shall come into force on such date as the State Government may, by notification, 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 of
Section 16.

2. In the Odisha Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in Section 16, —

Odisha Act 7
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 43A” shall be omitted; and

(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; and

(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) for sub-section(1), the following sub-section shall be substituted, namely:—

“(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of Section 10 or Section 51 or Section 52, shall furnish, electronically, subject to such conditions and restrictions and in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall, subject to such

conditions and restrictions, within such time and in such manner as may be prescribed:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner.”;

(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. ”.

Amendment of
Section 38.

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

“Communication of details of inwards supplies and input tax credit.

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.

(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.”.

Amendment
of Section 39.

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,—

- (i) 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
- (ii) in lieu of the amount referred to in clause (i), 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. ”.

Amendment of
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 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.”

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, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any registered person who fails to furnish the details of outward supplies required under Section 37 or returns required under Section 39 or Section 45 or Section 52 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.”.

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 43A” 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.”.

13 of 2017.

Amendment of Section 50.

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:—

“(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
Odisha Goods
and Services Tax
Act,
retrospectively.

16. (1) The notification of the Government of Odisha in the Finance Department No. 2270-FIN-CT1-TAX-0043/2017, dated the 25th January, 2018, published in the Extraordinary Issue No.115 of the *Odisha Gazette* dated the 25th January, 2018, bearing **S.R.O. No.51/2018** issued by the Government, on the recommendations of the Council, under section 146 of the principal Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in sub-section (2), on and from the 22nd June, 2017.

(2) In the notification referred to in sub-section (1), in paragraph 1, after the words “furnishing of returns and computation and settlement of integrated tax”, the words, commas and figures “ and save as otherwise provided in the notification No. 42546-FIN-CT1-TAX-0034-2017 dated the 20th December, 2019 published in the Extraordinary Issue No. 2292 dated the 20th December, 2019 bearing **S.R.O. No. 437/2019**, all functions provided under the Odisha Goods and Services Tax, Rules, 2017” shall be inserted.

(3) For the purposes of sub-section (1), the 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 principal Act, retrospectively, at all material times.

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

17. (1)The notification of the Government of Odisha in the Finance Department number 19825-FIN-CT1-TAX-0022-2017, dated the 29th June, 2017, published in the Extraordinary Issue No.1152 of the *Odisha Gazette* dated the 29th June, 2017,bearing S.R.O. No.314/2017 issued by the Government, 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 principal Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in sub-section (2), on and from the 1st July, 2017.

(2) In the notification referred to in sub-section (1), in the Table, against serial number 2, in column (3), for the figure “24”, the figure “18” shall be substituted.

(3) For the purposes of sub-section (1), the 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 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 principal Act, retrospectively, at all material times.

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

18. (1) Notwithstanding anything contained in the notification of the Government of Odisha in the Finance Department number 19829-FIN-CT1-TAX-0022-2017, dated the 29th June, 2017, published in the Extraordinary Issue No.1133 of the *Odisha Gazette* dated the 29th June, 2017, bearing **S.R.O. No.295/2017** issued by the Government on the recommendations of the Council, in exercise of the powers under sub-section (1) of Section 9 of the principal Act, 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.

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

19. (1) Subject to the provisions of sub-section (2), the notification of the Government of Odisha in the Finance Department No.33446-FIN-CT1-TAX-0043-2017, dated the 30th September, 2019, published in the Extraordinary Issue No.1893 of the *Odisha Gazette* dated the 30th September, 2019, bearing **S.R.O. No.335/2019** issued by the Government on the recommendations of the Council, in exercise of the powers under sub-section (2) of Section 7 of the principal Act, 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.

By Order of the Governor

PRAMOD KUMAR NANDA

Principal Secretary to Government (I/c)