

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

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BILL

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

-third 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, 2022.

(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 16 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 16, -

(a) in sub-section (2),-

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

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

(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 in section 29 of Punjab Act 5 of 2017.

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 in section 34 of Punjab Act 5 of 2017. 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 in section 37 of Punjab Act 5 of 2017.

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; and
- (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; and
- (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.”.

Substitution of section 38 of Punjab Act 5 of 2017.

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

“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
in section 39
of Punjab
Act 5 of
2017.

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; and
 - (ii) in the proviso, for the words “the due date for furnishing of return for the month of September or second quarter”, the words “the thirtieth day of November” shall be substituted;
- (d) in sub-section (10), for the words “has not been furnished by him”, the following shall be substituted, namely:—

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

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period.”

- Substitution of section 41 of Punjab Act 5 of 2017. 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.”
- Omission of sections 42, 43 and 43 A of Punjab Act 5 of 2017. 9. In the principal Act, sections 42, 43 and 43A shall be omitted.
- Amendment in section 47 of Punjab Act 5 of 2017 10. In the principal Act, in section 47, in sub-section (1),—
- (a) the words “or inward” shall be omitted;

- (b) the words and figures "or section 38" shall be omitted; and
 (c) after the words and figures "section 39 or section 45", the words and figures "or section 52" shall be inserted.

Amendment in section 48 of Punjab Act 5 of 2017. 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 in section 49 of Punjab Act 5 of 2017. 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 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 in section 50 of Punjab Act 5 of 2017. 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 in section 52 of Punjab Act 5 of 2017. 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 in section 54 of Punjab Act 5 of 2017. 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 amount 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 Punjab Goods and Services Tax Act, 2017 retrospectively.

16. (1) The Government of Punjab, Department of Excise and Taxation Notification No. S.O.17/ P.A.5/ 2017/ S.146/ C.A.13/2017/S.20/2018, dated the 27th February, 2018 issued by the State Government on the recommendations of the Council, under section 146 of the Punjab 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.

(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 Punjab Goods and Services Tax Act, 2017 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 Punjab Goods and Services Tax Act, 2017 retrospectively.

17. (1) The Government of Punjab, Department of Excise and Taxation Notification No. S.O. 24/P.A.5/2017/Ss. 50, 54 and 56/2017, dated the 30th June, 2017 issued by the State 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 Punjab 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.

(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 Punjab Goods and Services Tax Act, 2017 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 Government of Punjab, Department of Excise and Taxation Notification No. S.O.16/P.A.5/2017/S.9/2017, dated the 30th June, 2017 issued on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the Punjab 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.

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

19. (1) Subject to the provisions of sub-section (2), the Government of Punjab, Department of Excise and Taxation Notification No. S.O.123/P.A.5/2017/S.7/2019, dated the 24th day of October, 2019 issued by the State Government, on the recommendations of the Council, in exercise of the powers under sub-section (2) of section 7 of the Punjab 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 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.

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. The Act provides for certain provisions for smooth transition of existing tax payers to new goods and services tax regime. In order to enhance compliance under the GST regime, the provisions relating to availment of Input Tax Credit are proposed to be streamlined. To facilitate the taxpayers, retrospective amendment is being carried out to provide for levy of interest on input tax credit wrongly availed and utilised. The provisions relating to refund are being smoothened and those related to furnishing of return are being rationalized. 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.



FINANCIAL MEMORANDUM

The bill proposes to amend sections 16, 29, 34, 37, 47, 48, 49, 50, 52, and 54, substitution of sections 38 and 41 and omission of sections 42, 43 and 43A of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No. 5 of 2017), with a view to maintain the uniformity and applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Punjab Goods and Services Tax Act, 2017. Thus there is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.

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 30TH SEPTEMBER, 2022

SURINDER PAL
SECRETARY.

N.B. – The above Bill was published in the Punjab Government Gazette (Extraordinary), dated the 30th September, 2022 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).