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AMARAVATI, TUESDAY, 23rd OCTOBER, 2018.

**ANDHRA PRADESH ACTS, ORDINANCES AND
REGULATIONS Etc.,**

The following Act of the Andhra Pradesh Legislature received the assent of the Governor on the 19th October, 2018 and the said assent is hereby first published on the 23rd October, 2018 in the Andhra Pradesh Gazette for general information :-

ACT No. 23 of 2018

AN ACT 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 Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Andhra Pradesh Goods and Services Tax (Amendment) Act, 2018.

Short title and Commencement.

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

2. In section 2 of the Andhra Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act),-

Amendment of Section 2.

(a) in clause (4), for the words "the Appellate Authority and the Appellate Tribunal", the expression, "the Appellate Authority, the

Act No. 16 of 2017.

Appellate Tribunal and the Authority referred to in sub-section (2) of section 171" shall be substituted;

(b) in clause (16), for the words "central board of excise and customs", the words, "Central Board of Indirect taxes and customs" shall be substituted.

(c) in clause (17), for sub-clause (h), the following sub-clause shall be substituted, namely:-

"(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and;"

(d) clause (18) shall be omitted;

(e) in clause (35), for the expression, "clause (c)", the expression "clause (b)" shall be substituted;

(f) in clause (69), in sub-clause (f), after the expression "article 371", the expression "and article 371 J" shall be inserted;

(g) in clause (102), the following *Explanation* shall be inserted, namely:-

'*Explanation.*—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;'

Amendment of
Section 7.

3. In section 7 of the principal Act, with effect from the 1st day of July, 2017.-

(a) in sub-section (1).-

(i) in clause (b), after the words "or furtherance of business;", the word "and" shall be inserted and shall always be deemed to have been inserted;

(ii) in clause (c), after the words "a consideration", the word "and" shall be omitted and shall always be deemed to have been omitted:

(iii) clause (d) shall be omitted and shall always be deemed to have been omitted;

(b) after sub-section (1), the following sub-section shall be inserted, and shall always be deemed to have been inserted, namely:—

“(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.”;

(c) in sub-section (3), for the expression “sub-sections (1) and (2)”, the expression “sub-sections (1), (1A) and (2)” shall be substituted.

4. In section 9 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of
Section 9.

(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”.

5. In section 10 of the principal Act.—

Amendment of
Section 10.

(a) in sub-section (1) —

(i) for the words “in lieu of the tax payable by him, an amount calculated at such rate”, the expression “in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate” shall be substituted;

(ii) in the proviso, for the words “one crore rupees”, the words “one crore and fifty lakh rupees” shall be substituted;

(iii) after the proviso, the following proviso shall be added, namely:—

“Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent of turnover in the State in the preceding financial year or five lakh rupees, whichever is higher.”;

(b) in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

“(a) save as provided in sub-section (1), he is not engaged in the supply of services;”.

- Amendment of Section 12. 6. In section 12 of the principal Act, in sub-section (2), in clause (a), the expression "sub-section (1) of" shall be omitted.
- Amendment of Section 13. 7. In section 13 of the principal Act, in sub-section (2), in clauses (a) and (b), the expression "sub-section (2) of" occurring at both the places, shall be omitted.
- Amendment of Section 16. 8. In section 16 of the principal Act, in sub-section (2),—
 (a) in clause (b), for the *Explanation*, the following *Explanation* shall be substituted, namely:—
 "*Explanation.*—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—
 (i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
 (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.";
 (b) in clause (c), for the expression "section 41", the expression "section 41 or section 43A" shall be substituted.
- Amendment of Section 17. 9. In section 17 of the principal Act,—
 (a) in sub-section (3), the following *Explanation* shall be inserted, namely:—
 "*Explanation.*—For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.";
 (b) in sub-section (5), for clauses (a) and (b), the following clauses shall be substituted, namely:—
 "(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—
 (A) further supply of such motor vehicles; or
 (B) transportation of passengers; or
 (C) imparting training on, driving such motor vehicles;

(aa) vessels and aircraft except when they are used—

(i) for making the following taxable supplies, namely:—

(A) further supply of such vessels or aircraft; or

(B) transportation of passengers; or

(C) imparting training on navigating such vessels; or

(D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) service of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged—

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both —

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Amendment of
Section 35.

16. In section 35 of the principal Act, in sub-section (5), the following proviso shall be inserted, namely:—

“Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor- General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”.

Amendment of
Section 39.

17. In section 39 of the principal Act,—

(a) in sub-section (1),—

- (i) for the words “in such form and manner as may be prescribed”, the words “in such form, manner and within such time as may be prescribed” shall be substituted;
- (ii) the words “on or before the twentieth day of the month succeeding such calendar month or part thereof” shall be omitted;
- (iii) the following proviso shall be inserted, namely:—

“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.”;

(b) in sub-section (7), the following proviso shall be inserted, namely:—

“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.”;

(c) in sub-section (9),—

- (i) for the words “in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed”, the words “in such form and manner as may be prescribed” shall be substituted.
- (ii) in the proviso, for the words “the end of the financial year”, the words “the end of the financial year to which such details pertain” shall be substituted.

18. After section 43 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 43A.

"43A. (i) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.

Procedure for furnishing return and availing input tax credit.

(2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.

(3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.

(4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent, of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.

(5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.

(6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.

(7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.

(8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—

(i) within six months of taking registration;

(ii) who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount, shall be such as may be prescribed.”.

Amendment of section 48.

19. In section 48 of the principal Act, in sub-section (2), after the expression “section 45”, the words “and to perform such other functions” shall be inserted.

Amendment of section 49.

20. In section 49 of the principal Act,—

(a) in sub-section (2), for the expression “section 41”, the expression “section 41 or section 43 A” shall be substituted;

(b) in sub-section (5),—

(i) in clause (c), the following proviso shall be inserted, namely:—

“Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”;

(ii) in clause (d), the following proviso shall be inserted, namely:—

“Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax.”.

Insertion of new sections 49A and 49B.

21. After section 49 of the principal Act, the following sections shall be inserted, namely:—

Utilisation of input tax credit subject to certain conditions.

“49A. Notwithstanding anything contained in section 49, the input tax credit on account of State tax shall be utilised towards payment of integrated tax or State tax as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully towards such payment.

Order of utilisation of input tax credit.

49B. Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, state tax as the case may be, towards payment of any such tax.”

22. In section 52 of the principal Act, in sub-section (9), for the expression "section 37" the expression "section 37 or section 39" shall be substituted. Amendment of section 52.
23. In section 54 of the principal Act,—
 (a) in sub-section (8), in clause (a), for the words "zero-rated supplies", the words "export" and "exports" shall respectively be substituted;
 (b) in sub-section (14), in the *Explanation*, in clause (2),—
 (i) in sub-clause (c), in item (i), after the words "foreign exchange", the words "or in Indian rupees wherever permitted by the Reserve Bank of India" shall be inserted;
 (ii) for sub-clause (e), the following sub-clause shall be substituted, namely:—
 "(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;"
24. In section 79 of the principal Act, after sub-section (4), the following *Explanation* shall be inserted, namely:—
 '*Explanation.*—For the purposes of this section, the word person shall include "distinct persons" as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.'
25. In section 107 of the principal Act, in sub-section (6), in clause (b), after the words "arising from the said order," the words "subject to a maximum of twenty-five crore rupees," shall be inserted. Amendment of section 107.
26. In section 112 of the principal Act, in sub-section (8), in clause (b), after the words "arising from the said order," the words "subject to a maximum of fifty crore rupees," shall be inserted. Amendment of section 112.
27. In section 129 of the principal Act, in sub-section (6), for the words "seven days", the words "fourteen days" shall be substituted. Amendment of section 129.
28. In section 143 of the principal Act, in sub-section (1), in clause (b), after the proviso, the following proviso shall be inserted, namely:—
 "Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Chief Commissioner for a further period not exceeding one year and two years respectively."

- Amendment of Schedule I. **29.** In Schedule I of the principal Act, in paragraph 4, the word “taxable “, shall be omitted.
- Amendment of Schedule II. **30.** In Schedule II of the principal Act, in the heading, after the word “ACTIVITIES”, the words “OR TRANSACTIONS” shall be inserted and shall always be deemed to have been inserted with effect from the 1st day of July, 2017.
- Amendment of Schedule III. **31.** In Schedule III of the principal Act, —
- (i) after paragraph 6, the following paragraphs shall be inserted, namely:—
- “7. Supply of goods from a place outside India to another place outside India without such goods entering into India.
8. (a) Supply of warehoused goods to any person before clearance for home consumption;
- (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”;
- (ii) the existing *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be added, namely:—
- Central Act No. 52 of 1962. *‘Explanation 2.—For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.’*

DUPPALA VENKATARAMANA,
Secretary to Government,
Legal and Legislative Affairs and Justice,
Law Department.