

12 दिसम्बर 2019

सं० एल०जी०-01-16/2019-8873/लेज—बिहार विधान मंडल द्वारा यथापारित और महामहिम राज्यपाल द्वारा दिनांक 10 दिसम्बर 2019 को अनुमत बिहार माल और सेवा कर (संशोधन) अधिनियम, 2019 का निम्नलिखित अंग्रेजी अनुवाद बिहार राज्यपाल के प्राधिकार से इसके द्वारा प्रकाशित किया जाता है, जिसे भारतीय संविधान के अनुच्छेद-348 के खंड (3) के अधीन उक्त अधिनियम का अंग्रेजी भाषा में प्राधिकृत पाठ समझा जायेगा ।

बिहार-राज्यपाल के आदेश से,
मदन किशोर कौशिक,
सरकार के सचिव।

[Bihar Act 21, 2019]
**THE BIHAR GOODS AND SERVICES TAX (AMENDMENT)
ACT, 2019**
AN
ACT

further to amend the Bihar Goods and Services Tax Act, 2017(Bihar Act 12 of 2017).

BE It enacted by the Legislature of the State of Bihar in the Seventieth Year of the Republic of India as follows :-

1. Short title and commencement.-(1) This Act may be called the Bihar Goods and Services Tax (Amendment) Act, 2019.

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

2. Amendment of section 2.- In section 2 of the Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in clause (4), after the words “the Appellate Authority for Advance Ruling,”, the words “the National Appellate Authority for Advance Ruling,” shall be inserted.

3. Amendment of section 10.- In section 10 of the principal Act,-

(a) in sub-section (1), after second proviso, the following *Explanation* shall be inserted, namely :-

“*Explanation.*- For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in State.”;

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

(i) in clause (d), the word “and” occurring at the end shall be omitted;

(ii) in clause (e), for the word “Council:”, the words “Council; and” shall be substituted;

(iii) after clause (e), the following clause shall be inserted, namely:-

“(f) he is neither a casual taxable person nor a non-resident taxable person.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:-

“(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent. of the turnover in State, if he is not-

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;

(b) engaged in making any inter-State outward supplies of goods or services;

(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.”;

(d) in sub-section (3), after the words, brackets and figure “under sub-section (1)” at both the places where they occur, the words, brackets, figure and letter “or sub-section (2A), as the case may be,” shall be inserted.

(e) in sub-section (4), after the words, brackets and figure “of sub-section (1)”, the words, brackets, figure and letter “or, as the case may be, sub-section (2A)” shall be inserted.

(f) in sub-section (5), after the words, brackets and figure “under sub-section (1)”, the words, brackets, figure and letter “or sub-section (2A), as the case may be,” shall be inserted.

(g) after sub-section (5), the following *Explanations* shall be inserted, namely:—

Explanation 1.—For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.—For the purposes of determining the tax payable by a person under this section, the expression “turnover in State” shall not include the value of following supplies, namely:—

(i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and

(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.’.

4. Amendment of section 22.— In section 22 of the principal Act, in sub-section (1), after the second proviso, the following shall be inserted, namely:—

“Provided also that the Government may, on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”.

5. Amendment of section 25.— In section 25 of the principal Act, after sub-section (6), the following sub-sections shall be inserted, namely:—

“(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or such part of the State, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.”.

6. Insertion of new section 31A.— After section 31 of the principal Act, the following section shall be inserted, namely:—

“**31A. Facility of digital payment to recipient** - The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.”.

7. Amendment of section 39.— In section 39 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit

availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

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

(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.”;

(b) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, 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, in such form and manner, and within such time, as may be prescribed:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.”.

8. Amendment of section 44.— In the principal Act, in section 44, in sub-section (1), the following provisos shall be inserted, namely:—

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered 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.”.

9. Amendment of section 49.— In section 49 of the principal Act, after sub-section (9), the following sub-sections shall be inserted, namely:—

“(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).”.

10. Amendment of section 50.— In section 50 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”.

11. Amendment of section 52.- In section 52 of the principal Act,—

(a) in sub-section (4), the following provisos shall be inserted, namely:—

“Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered 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) in sub-section (5), the following provisos shall be inserted, namely:—

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered 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.”.

12. Insertion of new section 53A.- After section 53 of the principal Act, the following section shall be inserted, namely:—

“**53A. Transfer of certain amounts** - Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger for central tax or integrated tax or cess, the Government shall, transfer to the central tax account or integrated tax account or cess account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.”.

13. Amendment of section 54.- In section 54 of the principal Act, after sub-section (8), the following sub-section shall be inserted with effect from 1st day of September, 2019, namely:—

“(8A) Where the Central Government has disbursed the refund of the State tax, the Government shall transfer an amount equal to the amount so refunded, to the Central Government.”.

14. Amendment of section 95.- In section 95 of the principal Act,-

(i) in clause (a),-

(a) after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted;

(b) after the words and figures “of section 100”, the words, figures and letter “or of section 101C” shall be inserted;

(ii) after clause (e), the following clause shall be inserted, namely:-

“(f) “National Appellate Authority” means the National Appellate Authority for Advance Ruling referred to in section 101A.”.

15. Insertion of new sections 101A, 101B and 101C.- After section 101 of the principal Act, the following sections shall be inserted, namely:-

“**101A. Constitution of National Appellate Authority for Advance Ruling-** Subject to the provisions of this Chapter, for the purposes of this Act, the National Appellate Authority for Advance Ruling constituted under section 101A of the Central Goods and Services Tax Act, 2017 shall be deemed to be the National Appellate Authority for Advance Ruling under this Act.

101B. Appeal to National Appellate Authority.-

(1) Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting advance rulings are given by the Appellate Authority constituted under section 99 and the Appellate Authority of any other State or States or of a Union territory or Union territories or both under sub-

section (1) or sub-section (3) of section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in section 25 aggrieved by such advance ruling, may prefer an appeal to National Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicants, concerned officers and jurisdictional officers:

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.— For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings sought to be appealed against.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

101C. Order of National Appellate Authority.-

(1) The National Appellate Authority may, after giving an opportunity of being heard to the applicant, the officer authorised by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, pass such order as it thinks fit, confirming or modifying the rulings appealed against.

(2) If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority.

(3) The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.

(4) A copy of the advance ruling pronounced by the National Appellate Authority shall be duly signed by the Members and certified in such manner as may be prescribed and shall be sent to the applicant, the officer authorised by the Commissioner, the Board, the Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories and to the Authority or Appellate Authority, as the case may be, after such pronouncement.”

16. Amendment in section 102.- In section 102 of the principal Act, in the opening portion,-

(a) after the words “Appellate Authority”, at both the places where they occur, the words “or the National Appellate Authority” shall be inserted;

(b) after the words and figures “or section 101”, the words, figures and letter “or section 101C respectively,” shall be inserted;

(c) for the words “or the appellant”, the words “, appellant, the Authority or the Appellate Authority” shall be substituted.

17. Amendment in section 103.- In section 103 of the principal Act,-

(i) after sub-section (1), the following sub-section shall be inserted, namely:-

“(1A) the Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on-

(a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.”;

(b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.”;

(ii) in sub-section (2), after the words, brackets and figure “in sub-section (1)”, the words, brackets, figure and letter “and sub-section (1A)” shall be inserted.

18. Amendment in section 104.- In section 104 of the principal Act, in sub-section (1),-

(a) after the words “Authority or the Appellate Authority”, the words “or the National Appellate Authority” shall be inserted;

(b) after the words and figures “of section 101”, the words, figures and letter “or under section 101C” shall be inserted.

19. Amendment in section 105.- In section 105 of the principal Act,-

(a) for the heading, the following heading shall be substituted, namely:-

“Powers of Authority, Appellate Authority and National Appellate Authority.”;

(b) in sub-section (1), after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted;

(c) in sub-section (2), after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted.

20. Amendment in section 106.- In section 106 of the principal Act,-

(a) for the heading, the following heading shall be substituted, namely:-

“Procedure of Authority, Appellate Authority and National Appellate Authority.”;

(b) after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted.

21. Amendment in section 171.- In section 171 of the principal Act, after sub-section (3), the following shall be inserted, namely:-

“(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion

that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.- For the purposes of this section, the expression “profiteered” shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.”

22. Amendment in section 174.- In section 174 of the principal Act, with effect from the 1st day of July, 2017, after sub-section (1) the following new sub-section (1A) shall be inserted and shall always be deemed to have been inserted-

"(1A) Notwithstanding anything to the contrary contained in sub-section (1)-

(a) nothing contained in the proviso to clause (c) of sub-section (1) shall apply to notification number S.O 391, dated 10th November, 2011 issued by the Commercial Taxes Department, Government of Bihar, Patna, and

(b) the validity of notification number S.O 391, dated 10th November, 2011 issued by the Commercial Taxes Department, Government of Bihar, Patna is extended till the 30th day of June, 2017."

23. Amendment in notification no. 545 issued under sub-section (1) of section 11 of Bihar Goods and Services Tax Act, retrospectively. - In the notification of the Commercial Taxes Department notification No. 02/2017-State Tax (Rate), dated the 29th June, 2017, published in the Bihar Gazette, Extraordinary, vide number 545, dated the 29 June, 2017, issued by the State Government on the recommendations of the Council, under sub-section (1) of section 11 of the Bihar Goods and Services Tax Act, 2017, in the Schedule, after S.No.103 and the entries relating thereto, the following S.No. and the entries shall be inserted and shall deemed to have been inserted retrospectively with effect from the 1st day of July, 2017, namely:-

(1)	(2)	(3)
“103A	26	Uranium Ore Concentrate”.

(2) 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 sub-section (1) with retrospective effect as if the Government had the power to amend the said notification under sub-section (1) of section 11 of the said Act, retrospectively, at all material times.

(3) No refund shall be made of all such tax which has been collected, but which would not have been so collected, if the notification referred to in sub-section (1) had been in force at all material times.

By Order of the Governor of Bihar,
Madan Kishore Kaushik,
Secretary to the Government.

अधीक्षक, सचिवालय मुद्रणालय,
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