

## DELHI LEGISLATIVE ASSEMBLY SECRETARIAT

## NOTIFICATION

Delhi, the 14th September, 2020

**F. No. 21/3/GST(A)/2020/LAS-VII/Leg./272.**—The following is published for General Information.—

**THE DELHI GOODS AND SERVICES TAX (AMENDMENT) BILL, 2020****BILL NO. 03 OF 2020**

(As introduced in the Legislative Assembly of the National Capital Territory of Delhi on 14 September, 2020)

**A****BILL**

Further to amend the Delhi Goods and Services Tax Act, 2017(3 of 2017)

BE it enacted by Delhi Legislature of the National Capital Territory of Delhi in the Seventy-first Year of the Republic of India as follows:-

**1. Short title and commencement:**-(i) This Act may be called the Delhi Goods and Services Tax (Amendment) Act, 2020.

(ii) It shall come into force on such date as the State Government may, by notification, in the Official Gazette, appoint.

**2. Amendment of section 2:**- :- In section 2 of the Delhi Goods and Services Tax Act, 2017 (3 of 2017) (hereinafter referred as the principal Act)), in clause (114), for clauses (c) and (d), the following clauses shall be substituted, namely:—

“(c) Dadra and Nagar Haveli and Daman and Diu;

(d) Ladakh;”.

**3. Amendment of section 10:**- In section 10 of the principal Act, in sub-section (2), in clauses (b), (c) and (d), after the words “of goods”, the words “or services” shall be inserted.

**4. Amendment of section 16:**- In section 16 of the principal Act, in sub-section (4), the words “invoice relating to such” shall be omitted.

**5. Amendment of section 29:**- In section 29 of the principal Act, in sub-section (1), for clause (c), the following clause shall be substituted, namely:—

“(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25:”.

**6. Amendment of section 30:**-In section 30 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;

(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).”.

**7. Amendment of section 31:**-In section 31 of the principal Act, in sub-section (2), for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Government may, on the recommendations of the Council, by notification,—

(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;

- (b) subject to the condition mentioned therein, specify the categories of services in respect of which—
  - (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
  - (ii) tax invoice may not be issued.”.

**8. Amendment of section 51:**—In section 51 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”.

(b) sub-section (4) shall be omitted.”.

**9. Amendment of section 122:**— In section 122 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.”.

**10. Amendment of section 132:**—In section 132 of the principal Act, in sub-section (1),—

- (i) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;
- (ii) for clause (c), the following clause shall be substituted, namely:—

“(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;”;

- (iii) in sub-clause (e), the words “, fraudulently avails input tax credit” shall be omitted.

**11. Amendment of section 140:**— In section 140 of the principal Act, with effect from the 1st day of July, 2017,—

- (a) in sub-section (1), after the words “existing law”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;
- (b) in sub-section (2), after the words “appointed day”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;
- (c) in sub-section (3), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted;
- (d) in sub-section (5), for the words “existing law”, the words “existing law, within such time and in such manner as may be prescribed” shall be substituted and shall be deemed to have been substituted;
- (e) in sub-section (6), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted;

**12. After section 168** of the Delhi Goods and Services Tax Act, 2017, the following section shall be inserted, namely:—

“168A. (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under this Act in respect of actions which may not be completed or complied with due to force majeure.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

**Explanation.**—For the purpose of this section, the expression “*force majeure*” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.”.

**13. Amendment of section 172:**— In section 172 of the principal Act, in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted.

**14. Amendment to Schedule II:**-In Schedule II to the principal Act, in paragraph 4, the words “whether or not for a consideration,” at both the places where they occur, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

**15. (1)** Notwithstanding anything contained in the notification of the Government of National Capital Territory of Delhi, in the Department of Finance ( Revenue-I) Notification number 01/2017-state Tax (Rate) , dated the 30<sup>th</sup> June, 2017, issued by the Lt. Governor of the National Capital Territory of Delhi, on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the principal Act,—

- (i) no state tax shall be levied or collected in respect of supply of fishmeal (falling under heading 2301), during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive);
- (ii) state tax at the rate of six per cent. shall be levied or collected in respect of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436), during the period commencing from the 1st day of July, 2017 and ending with the 31st day of December, 2018 (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.

### STATEMENT OF OBJECTS AND REASONS

The Delhi 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 Government of National Capital Territory of Delhi.

2. The GST Council in its 38<sup>th</sup> meeting held on 18<sup>th</sup> December, 2019, had recommended various amendments in the provisions of the Central Goods and Services Tax Act, 2017. Through the Finance Act, 2020 Central Government has amended the provisions of the Central Goods and Service Tax, 2017 on the basis of the recommendations made in the 38<sup>th</sup> GST Council meeting held on 18<sup>th</sup> December , 2019. In order to ensure uniformity between the CGST Act, 2017 and Delhi Goods and Services Tax, 2017 (3 of 2017), the Delhi Goods and Service Tax (Amendment ) Act, 2020 is required to be enacted by the State Legislation after making State specific modification, wherever necessary.

3. The salient features of the proposed Delhi Goods and Services (Amendment) Tax Bill, 2020 are as under:-

- i. to amend clause (114) of section 2 of the Delhi Goods and Services Act so as to align the definition of “Union territory” in line with the Jammu and Kashmir Reorganisation Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019.
- ii. to amend clauses (b), (c) and (d) of sub-section (2) of section 10 of the Delhi Goods and Services Act to harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub- section (2A) of the said Act.
- iii. to amend sub-section (4) of section 16 of the Delhi Goods and Services Act so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.
- iv. to amend clause (c) of sub- section (1) of section 29 of the Delhi Goods and Services Act so as to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25.
- v. to substitute the proviso to sub-section (1) of section 30 of the Delhi Goods and Services Act so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.
- vi. to amend section 31 of the Delhi Goods and Services Act so as to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.
- vii. to amend section 51 of the Delhi Goods and Services Act so as to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.
- viii. to insert a new sub-section (1A) in section 122 of the Delhi Goods and Services Act so as to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.

- ix. to amend section 132 of the Delhi Goods and Services Act so as to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable under sub-section (1) of section 69 and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.
- x. to amend section 140 of the Delhi Goods and Services Act relating to transitional arrangements for input tax credit, so as to prescribe the time limit and the manner for availing input tax credit against certain unavailed credit under the existing law. This amendment shall take effect retrospectively from the 1st day of July, 2017.
- xi. to insert a new Section 168A after Section 168 of Delhi Goods & Services Tax Act, 2017 so as to empower the Government, on the recommendations of the Council and by notifications, extent the time limit specified in or prescribed under this Act in respect of actions which may not be completed or complied with due to force majeure.
- xii. to amend section 172 of the Delhi Goods and Services Act so as to extend the time limit provided for removal of difficulties thereunder from three years to five years, with effect from the date of commencement of the said Act.
- xiii. to amend paragraph 4 of Schedule II to the Delhi Goods and Services Act so as to omit the words “whether or not for consideration” so as to give clarity to the meaning of the entries (a) and (b) of said paragraph. This amendment shall take effect retrospectively from the 1st day of July, 2017.
- xiv. to provide retrospective exemption from State tax on supply of fishmeal, during the period from the 1st day of July, 2017 up to 30th day of September, 2019 (both days inclusive).

It further seeks to retrospectively levy State tax at the reduced rate of six per cent. on supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of headings 8432, 8433 and 8436, during the period from the 1st day of July, 2017 up to 31st day of December, 2018 (both days inclusive).

It also seeks to provide that no refund shall be made of the tax which has already been collected.

4. The Bill seeks to achieve the above objectives.

MANISH SISODIA, Deputy Chief Minister/Finance Minister

#### FINANCIAL MEMORANDUM

The proposed Delhi Goods and Services Tax (Amendment) Bill, 2020 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of Delhi.

#### NOTES ON CLAUSES (For DGST(Amendment) Bill, 2020)

1. Clause 1 of the Bill provides for Short title and Commencement
2. Clause 2 of the Bill seeks to amend clause (114) of section 2 of the Delhi Goods and Services Act so as to align the definition of “Union territory” in line with the Jammu and Kashmir Reorganisation Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019.
3. Clause 3 of the Bill seeks to amend clauses (b), (c) and (d) of sub-section (2) of section 10 of the Delhi Goods and Services Act to harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub-section (2A) of the said Act..
4. Clause 4 of the Bill seeks to amend sub-section (4) of section 16 of the Delhi Goods and Services Act so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.
5. Clause 5 of the Bill seeks to amend clause (c) of sub-section (1) of section 29 of the Delhi Goods and Services Act so as to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25

6. Clause 6 of the Bill seeks to substitute the proviso to sub-section (1) of section 30 of the Delhi Goods and Services Act so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.
7. Clause 7 of the Bill seeks to amend section 31 of the Delhi Goods and Services Act so as to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.
8. Clause 8 of the Bill seeks to amend section 51 of the Delhi Goods and Services Act so as to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.
9. Clause 9 of the Bill seeks to insert a new sub-section (1A) in section 122 of the Delhi Goods and Services Act so as to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty
10. Clause 10 of the Bill seeks to amend section 132 of the Delhi Goods and Services Act so as to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable under sub-section (1) of section 69 and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.
11. Clause 11 of the Bill seeks to amend section 140 of the Delhi Goods and Services Act relating to transitional arrangements for input tax credit, so as to prescribe the time limit and the manner for availing input tax credit against certain unavailed credit under the existing law. This amendment shall take effect retrospectively from the 1st day of July, 2017.
12. To insert a new Section 168A after Section 168 of Delhi Goods & Services Tax Act, 2017 so as to empower the Government, on the recommendations of the Council and by notifications, extend the time limit specified in or prescribed under this Act in respect of actions which may not be completed or complied with due to force majeure.
13. Clause 12 of the Bill seeks to amend section 172 of the Delhi Goods and Services Act so as to extend the time limit provided for removal of difficulties thereunder from three years to five years, with effect from the date of commencement of the said Act.
14. Clause 13 of the Bill seeks to amend paragraph 4 of Schedule II to the Delhi Goods and Services Act so as to omit the words "whether or not for consideration" so as to give clarity to the meaning of the entries (a) and (b) of said paragraph. This amendment shall take effect retrospectively from the 1st day of July, 2017.
15. Clause 14 of the Bill seeks to provide retrospective exemption from State tax on supply of fishmeal, during the period from the 1st day of July, 2017 up to 30th day of September, 2019 (both days inclusive).

It further seeks to retrospectively levy State tax at the reduced rate of six per cent. on supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of headings 8432, 8433 and 8436, during the period from the 1st day of July, 2017 up to 31st day of December, 2018 (both days inclusive).

It also seeks to provide that no refund shall be made of the tax which has already been collected.

C. VELMURUGAN, Secy.