



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

ASSAM LEGISLATIVE ASSEMBLY SECRETARIAT

NOTIFICATION

The 26th September, 2018

No. LLE.45/2018/628.- The following Bills introduced before the House **on 26th September, 2018** together with the Statement of Objects and Reasons are to be published under Rule 71 of the Rules of Procedure and Conduct of Business in Assam Legislative Assembly for General information.

**THE ASSAM TAXATION
(ON SPECIFIED LANDS) (AMENDMENT) BILL, 2018**

A

BILL

further to amend the Assam Taxation (On Specified Lands) Act, 1990.

Preamble

Whereas it is expedient further to amend the Assam Taxation (On Specified Lands) Act, 1990, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act XII
of 1990

It is hereby enacted in the Sixty-ninth Year of the Republic of India as follows:-

**Short title, extent
and commencement**

1. (1) This Act may be called the Assam Taxation (On Specified Lands) (Amendment) Act, 2018.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

**Amendment of
section 5**

2. In the principal Act, in section 5, in clause (a), in sub-clause (ii), for the words "ten paise", the word "nil" shall be substituted.

**Deletion of sections
6A and 6B**

3. In the principal Act, sections 6A and 6B, respectively, shall be deleted.

Savings

4. Notwithstanding the deletion of sections 6A and 6B of the principal Act under the foregoing provision of section 3, any action, thing or proceeding, as the case may be, which could have been validly taken, done or continued for the levy, collection or imposition of penalty etc. in respect of any tax at any time under the provisions so deleted or any other provisions of the principal Act corresponding thereto, but had not been taken, done or continued before the commencement of this Amendment Act, may be taken, done or continued, as if the provisions of sections 6A and 6B have not been deleted in respect of any such action, thing or proceeding, as the case may be.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend certain provisions of the Assam Taxation (On Specified Lands) Act, 1990 to implement the announcement made in Part II of the Budget Speech for the fiscal 2018-19 by the Hon'ble Finance Minister.

2. Some of the important amendments which are proposed to be made are explained broadly as follows:

(i) Clause 2 seeks to amend sub-clause (ii) of clause (a) of section 5 to exempt the tax from 10 paise per kg. of green tea leaf produced by a small tea growers, whose area of specified lands does not exceed 40 hectares.

(ii) Clause 3 and 4 seeks to omit sections 6A and 6B of the said Act relating to provisions for deduction of tax at source which are rendered redundant in view of the proposed exemption.

3. The Bill seeks to achieve above objects.

HIMANTA BISWA SARMA,

Minister, Finance.

M. K. DEKA,

Principal Secretary,

Assam Legislative Assembly.

FINANCIAL MEMORANDUM

The Bill proposes to amend the Assam Taxation (On Specified Lands) Act, 1990.

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.

MEMORANDUM OF DELEGATED LEGISLATION

The Bill does not involve the delegation of any legislative power to any agency subordinate to it in the bill.

THE ASSAM TAXATION (ON SPECIFIED LANDS) (AMENDMENT) BILL, 2018

Existing provision	Proposed Amended provision
<p>5. Rate of tax- The rate of tax under section 3, shall be as follows:-</p> <p>(a) in case of a tea estate, for every kilogram of the annual productivity of such tea estate shall be-</p> <p>(i) Deleted;</p> <p>(ii) ten paise, -if the aggregate area of specified lands held by a person does not exceed forty hectares;</p> <p>(iii) forty paise, -- if the aggregate area of specified lands held by a person exceeds forty hectares;</p> <p>(iv) Notwithstanding anything contained in clause (iii), if the specified lands exceeding forty hectares falls in Barak Valley the rates of tax under section 3 for every kilogram of the annual productivity of the estate shall be thirty five paise.</p> <p>6A. Deduction of tax at source.- Every person engaged in the manufacture of tea and responsible for making any payment or discharging any liability on account of any amount purported to be the full or part payment of sale price or consideration for purchase of green tea leaf shall, at the time of credit to the account of or payment to the seller of such amount in cash, by cheque, by adjustment or in any manner, whatsoever, deduct tax calculated at the rate of 10 paise per kilogram and deposit the same in the State Exchequer in such manner as may be prescribed.</p> <p>6B. Tax deducted at source number to be obtained by the Purchaser of Green Tea Leaves.-</p> <p>(1) Every purchaser of green tea leaves who is liable to deduct and deposit tax as per provision of section 6A of the Act shall obtain a tax deduction number from such authority and in such manner as may be prescribed. The number shall be quoted in such documents, statements and returns as may be prescribed.</p> <p>(2) The person making any deduction of tax under section 6A and paying it into Government account shall issue to the payee a certificate of tax deduction and payment in such form and manner and within such time as may be prescribed.</p> <p>(3) Any deduction made in accordance with the provision of section 6A and credited into Government Account shall be treated as</p>	<p>5. Rate of tax- The rate of tax under section 3, shall be as follows:-</p> <p>(a) in case of a tea estate, for every kilogram of the annual productivity of such tea estate shall be-</p> <p>(i) Deleted;</p> <p>(ii) nil, -if the aggregate area of specified lands held by a person does not exceed forty hectares;</p> <p>(iii) forty paise, -- if the aggregate area of specified lands held by a person exceeds forty hectares;</p> <p>(iv) Notwithstanding anything contained in clause (iii), if the specified lands exceeding forty hectares falls in Barak Valley the rates of tax under section 3 for every kilogram of the annual productivity of the estate shall be thirty five paise.</p> <p>6A. shall be omitted</p> <p>6B. shall be omitted</p>

payment of tax on behalf of the owner from whose bills and invoices, the deduction has been made and credit shall be given to him for the amount so deducted on the production of the certificate prescribed in this regard, towards the amount of tax finally assessed or determined as being payable by the concerned owner in the assessment for the relevant year.	
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M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.

**THE ASSAM GOODS AND SERVICES TAX
(AMENDMENT) BILL, 2018**

**A
BILL**

further to amend the Assam Goods and Services Tax Act, 2017.

Preamble

Whereas it is expedient to amend the Assam Goods and Services Act, 2017, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

**Assam
Act
XXVIII
of 2017**

It is hereby enacted in the Sixty-ninth Year of the Republic of India as follows: -

Short title and commencement.

1. (1) This Act may be called the Assam Goods and Services Tax (Amendment) Act, 2018.
- (2) Save as otherwise provided, the provisions of this Act shall come into force on such date as the Government of Assam 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 of section 2.

2. In the principal Act, in section 2, —
- (1) in clause (4), for the words “the Appellate Authority and the Appellate Tribunal”, the words, brackets and figures “the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171” shall be substituted;
- (2) in clause (16), for the words “Central Board of Excise and Customs”, the words “Central Board of Indirect Taxes and Customs” shall be substituted;
- (3) 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”;
- (4) clause (18) shall be omitted;

- (5) in clause (35), for the word, brackets and letter "clause (c)", the word, brackets and letter "clause (b)" shall be substituted;
- (6) in clause (69), in sub-clause (f), after the word and figures "article 371", the words, figures and letter "and article 371J" shall be inserted;
- (7) in clause (102), the following new 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 the principal Act, in section 7, with effect from the 1st day of July, 2017,—

- (1) in sub-section (1), —
 - (a) 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;
 - (b) in clause (c), after the words “a consideration”, the word “and” shall be omitted and shall always be deemed to have been omitted and the punctuation mark “;”, shall be substituted with punctuation mark “.”;
 - (c) clause (d) shall be omitted and shall always be deemed to have been omitted;
- (2) after sub-section (1), the following new 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.”;
- (3) in sub-section (3), for the words, brackets and figures “sub-sections (1) and (2)”, the words, brackets, figures and letter “sub-sections (1), (1A) and (2)” shall be substituted.

Amendment of section 9.

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

“(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.”.

Amendment
of section 10.

5. In the principal Act, in section 10, —

(1) in sub-section (1), —

(a) for the words “in lieu of the tax payable by him, an amount calculated at such rate”, the words, brackets and figures “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;

(b) in the proviso, for the words “one crore rupees, as may be recommended by the Council.”, the words “one crore and fifty lakh rupees as may be recommended by the Council.” shall be substituted;

(c) in the proviso, for the punctuation mark “.”, the punctuation mark “:” shall be substituted and thereafter the following new proviso shall be inserted, 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.”;

(2) 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 the principal Act, in section 12, in sub-section (2), in clause (a), the words, brackets and figure “sub-section (1) of” shall be omitted.

Amendment
of section 13.

7. In the principal Act, in section 13, in sub-section (2), the words, brackets and figure “sub-section (2) of” occurring at both the places, shall be omitted.

Amendment
of section 16.

8. In the principal Act, in section 16, in sub-section (2), —

(1) 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.”;

(2) in clause (c), for the word and figures “section 41”, the words, figures and letter “section 41 or section 43A” shall be substituted.

Amendment
of section 17.

9. In the principal Act, in section 17, —

(1) in sub-section (3), the following new *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.”;

(2) 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) services 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:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”.

Amendment
of section 20.

10. In the principal Act, in section 20, in the *Explanation*, in clause (c), for the words and figures “under entry 84,” the words, figures and letter “under entries 84 and 92A” shall be substituted.

Amendment
of section 22.

11. In the principal Act, in section 22, ---

(1) in sub-section (1), ---

- (a) for the word “ten” the word “twenty” shall be substituted;
- (b) for the punctuation mark “.”, the punctuation mark “:” shall be substituted and thereafter the following new provisos shall be inserted, namely: -----

“Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees:

Provided further that where such person makes taxable supplies of goods or services or both from a special category State in respect of which the Central Government has enhanced the aggregate turnover referred to in the first proviso, he shall be liable to be registered if his aggregate turnover in a financial year exceeds the amount equivalent to such enhanced turnover.”;

- (2) in the *Explanation*, in clause (iii), after the word “Constitution”. the words “except the State of Jammu and Kashmir and the States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand” shall be inserted.”.

**Amendment
of section 24.**

12. In the principal Act, in section 24, in clause (x), after the words “commerce operator”, the words and figures “who is required to collect tax at source under section 52” shall be inserted.

**Amendment
of section 25.**

13. In the principal Act, in section 25,—
(1) in sub-section (1), in the proviso for the punctuation mark “.”, the punctuation mark “:” shall be substituted and thereafter before the *Explanation*, the following new proviso shall be inserted, namely:—

“Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the State”;

- (2) in sub-section (2), for the proviso, the following new proviso shall be substituted, namely:—

“Provided that a person having multiple places of business in the State may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.”.

**Amendment of
section 29.**

14. In the principal Act, in section 29, —
(1) in the marginal heading after the word “Cancellation”, the words “or suspension” shall be inserted;
(2) in sub-section (1), in clause (c), for the punctuation mark “.”, the punctuation mark “:” shall be substituted and thereafter, the following new proviso shall be inserted, namely:—

**Central
Act 28
of 2005**

“Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.”;

- (3) in sub-section (2), in the proviso, for the punctuation mark “.”, the punctuation mark “:” shall be substituted and thereafter the following new proviso shall be inserted, namely:—

“Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.”.

**Amendment
of section 34.**

15. In the principal Act, in section 34, —

- (1) in sub-section (1), —

- (a) for the words “Where a tax invoice has”, the words “Where one or more tax invoices have” shall be substituted;
- (b) for the words “a credit note”, the words “one or more credit notes for supplies made in a financial year” shall be substituted;

- (2) in sub-section (3), —

- (a) for the words “Where a tax invoice has”, the words “Where one or more tax invoices have” shall be substituted;
- (b) for the words “a debit note”, the words “one or more debit notes for supplies made in a financial year” shall be substituted.

**Amendment
of section 35.**

16. In the principal Act, in section 35, in sub-section (5), for the punctuation mark “.”, the punctuation mark “:” shall be substituted and thereafter the following new 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 the principal Act, in section 39, —

- (1) in sub-section (1), —

- (a) 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;

- (b) the words "on or before the twentieth day of the month succeeding such calendar month or part thereof" shall be omitted;
- (c) for the punctuation mark ".", the punctuation mark ":" shall be substituted and thereafter the following new 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.";

- (2) in sub-section (7), for the punctuation mark ".", the punctuation mark ":" shall be substituted and thereafter the following new 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.";

- (3) in sub-section (9), —

- (a) 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;
- (b) 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.

Insertion of
new section
43A.

- 18. In the principal Act, after section 43, the following new section shall be inserted, namely: —

“Procedure 43A.(1) 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.

- (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, —
 - (a) Within six months of taking registration:
 - (b) 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 the principal Act, in section 48, in sub-section (2), after the word and figures "section 45", the words "and to perform such other functions" shall be inserted.
- Amendment of section 49.** 20. In the principal Act, in section 49, ---
- (1) in sub-section (2), for the word and figures "section 41", the words, figures and letter "section 41 or section 43A" shall be substituted;
- (2) in sub-section (5), ---
- (a) in clause (c), for the punctuation mark ";", the punctuation mark ":" shall be substituted and thereafter the following new 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;"
- (b) in clause (d), for the punctuation mark ";", the punctuation mark ":" shall be substituted and thereafter the following new 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. In the principal Act, after section 49, the following new 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 utilised 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 or Union territory tax, as the case may be, towards payment of any such tax.”.

- Amendment of section 52.** 22. In the principal Act, in section 52, in sub-section (9), for the word and figures “section 37”, the words and figures “section 37 or section 39” shall be substituted.
- Amendment of section 54.** 23. In the principal Act, in section 54, —
- (1) in sub-section (8), in clause (a), for the words “zero-rated supplies”, the words “export” and “exports” shall respectively be substituted;
- (2) in the *Explanation*, in clause (2), —
- (a) 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;
- (b) for sub-clause (c), 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;”.
- Amendment of section 79.** 24. In the principal Act, in section 79, in sub-section (4), for the punctuation mark “.”, the punctuation mark “:” shall be substituted and thereafter the following new *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.”.
- Amendment of section 107.** 25. In the principal Act, in section 107, 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 112.** 26. In the principal Act, in section 112, 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 129** 27. In the principal Act, in section 129, in sub-section (6), for the words “seven days” occurring at both the places, the words “fourteen days” shall be substituted.

- Amendment of section 143.** 28. In the principal Act, in section 143, in sub-section (1), in clause (b), in sub-clause (ii), for the punctuation mark “.”, the punctuation mark “:” shall be substituted and thereafter the following new 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 Commissioner for a further period not exceeding one year and two years respectively.”.
- Amendment of Schedule I.** 29. In the principal Act, in Schedule I, in paragraph 4, for the words “taxable person”, the word “person” shall be substituted.
- Amendment of Schedule II.** 30. In the principal Act, Schedule II, 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 the principal Act, in Schedule III, —
- (1) after paragraph 6, the following new 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.”;
- (2) The existing *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—
- “*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.”.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend certain provisions of the Assam Goods and Services Tax Act, 2017 pursuant to the recommendations of the GST Council and also in harmonization with the amendments made in the Central GST Act.

2. The Bill proposes to amend sections 2, 7, 9, 10, 12, 13, 16, 17, 20, 22, 24, 25, 29, 34, 35, 39, 48, 49, 52, 54, 79, 107, 112, 129 and 143 of the Assam Goods and Services Tax Act, 2017 and also to amend Schedule I, Schedule II and Schedule III of the said Act. The Bill further proposes to insert new sections 43A, 49A and 49B in the said Act.

3. Some of the important amendments which are proposed to be made are explained broadly as follows:

(i) Clause 5 seeks to amend section 10 of the Assam Goods and Services Tax Act, 2017 in order to raise the ceiling for composition scheme from existing one crore rupees to one crore and fifty lakh rupees and also to allow composition taxpayers to supply services for a value not exceeding ten per cent of turnover or five lakh rupees, whichever is higher.

(ii) Clause 11 seeks to amend section 22 of the Act to increase the threshold turnover for registration from existing ten lakh rupees to twenty lakh rupees for taxpayers in Assam, which will provide substantial relief to small and marginal dealers of the State from the compliance requirement of taking registration, filing of returns and payment of taxes.

(iii) Clause 17 seeks to amend section 39 of the Act to provide for prescribing the procedure for quarterly filing of returns with monthly payment of taxes.

4. The Bill seeks to achieve above objects.

HIMANTA BISWA SARMA,
Minister, Finance.

M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.

FINANCIAL MEMORANDUM

The Bill proposes to amend certain provisions of the Assam Goods and Services Tax Act, 2017.

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.

MEMORANDUM OF DELEGATED LEGISLATION

The Bill does not involve the delegation of any legislative power to any agency subordinate to it in the Bill.

THE ASSAM GOODS AND SERVICES (AMENDMENT) BILL, 2018
Existing Provision

2. Definition- In this Act, unless the context otherwise requires,-

(4) “adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Commissioner, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;

(16) “Board” means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

(17) “business” includes –

(h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and

(18) “business vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

Explanation — For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—

(a) the nature of the goods or services;

(b) the nature of the production processes;

(c) the type or class of customers for the goods or services;

(d) the methods used to distribute the goods or supply of services; and

(e) the nature of regulatory environment, (wherever applicable), including, banking, insurance, or public utilities;

(35) “cost accountant” means a cost accountant as defined in clause (c) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959;

(69) “local authority” means—

(f) a Development Board constituted under article 371 of the Constitution; or

(72) “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

7. Scope of Supply-

(1) For the purposes of this Act, the expression “supply” includes—

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendation of the Council, specify, by notification, the transactions that are to be treated as –

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

9. Levy and Collection-

(4) The State tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient 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 the supply of such goods or services or both.

10. Composition Levy-

(1) 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, 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, an amount calculated at such rate as may be prescribed, but not exceeding,-

- (a) one per cent. of the turnover in State in case of a manufacturer,
 - (b) two and a half per cent. of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
 - (c) half per cent. of the turnover in State in case of other suppliers,
- subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.

(2) The registered person shall be eligible to opt under sub-section (1), if-

- (a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;

12. Time of supply of goods-

(2) The time of supply of goods shall be the earlier of the following dates, namely:-

- (a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or

13. Time of supply of services-

(2) The time of supply of services shall be the earliest of the following dates, namely: -

- (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
- (b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

16. Eligibility and conditions for taking Input tax credit-

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,-

- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
- (b) he has received the goods or services or both.

Explanation.— For the purposes of this clause, it shall be deemed that the registered person has received the goods 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;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply;

17. Apportionment of credit and blocked credits-

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

- (a) motor vehicles and other conveyances except when they are used-
 - (i) for making the following taxable supplies, namely:-
 - (A) further supply of such vehicles or conveyances; or
 - (B) transportation of passengers; or

- (C) imparting training on driving, flying, navigating such vehicles or conveyances;
- (ii) for transportation of goods;
- (b) the following supply of goods or services or both:-
- (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category 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;
- (iii) rent-a-cab, life insurance and health insurance except where -
- (A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or
- (B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and
- (iv) travel benefits extended to employees on vacation such as leave or home travel concession.

20. Manner of distribution of credit by Input Service Distributor-

Explanation— For the purposes of this section, --

- (c) the term "turnover", in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

22. Persons liable for registration-

- (1) Every supplier making a taxable supply of goods or services or both in the State, shall be liable to be registered under this Act if his aggregate turnover in a financial year exceeds ten lakh rupees.

Explanation. — For the purposes of this section,—

- (iii) the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution.

24. Compulsory registration in certain cases-

- (x) every electronic commerce operator;

25. Procedure for Registration-

- (1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

Explanation.— Every person who makes a supply from the territorial waters of India shall obtain registration in the State where the nearest point of the appropriate baseline is located in the State.

- (2) A person seeking registration under this Act shall be granted a single registration:

Provided that a person having multiple business verticals in the State may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

29. Cancellation of registration-

- (1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under subsection (3) of section 25, is no longer liable to be registered under section 22 or section 24.

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- (b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
- (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

34. Credit and debit notes-

(1) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

(3) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed.

35. Accounts and other records-

(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

39. Furnishing of Returns-

(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, in such form and manner as may be prescribed, 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 as may be prescribed on or before the twentieth day of the month succeeding such calendar month or part thereof.

(7) Every registered person, who is required to furnish a return under subsection (1) or sub-section (2) 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.

(9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) subsection (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

45. Goods and services tax practitioners-

(2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed.

49. Payment of tax, interest, penalty and other amounts-

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.

(5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of -

(c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

(d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

52. Collection of tax at source-

(2) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

54. Refund of tax-

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to -

(a) refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;

Explanation. - For the purposes of this section, -

(2) "relevant date" means -

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of -

(i) receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(e) in the case of refund of unutilised input tax credit under subsection (3), the end of the financial year in which such claim for refund arises;

79. Recovery of tax.

(2) Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

107. Appeals to Appellate Authority-

(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.

112. Appeals to Appellate Tribunal-

(8) No appeal shall be filed under sub-section (1), unless the appellant has paid-

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of the section 107, arising from the said order, in relation to which the appeal has been filed.

129. Detention, Seizure and release of goods and conveyances in transit-

(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

143. Job work procedure-

(1) A registered person (hereafter in this section referred to as the "principal") may, under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job-worker for job work and from there subsequently send to another job worker and likewise, and shall,-

(b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business except in a case-

- (i) where the job worker is registered under section 25; or
- (ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

SCHEDULE I

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods—

- (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal

4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

SCHEDULE II

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. Transfer

- (a) any transfer of the title in goods is a supply of goods;
- (b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
- (c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

2. Land and Building

- (a) any lease, tenancy, easement, licence to occupy land is a supply of services;
- (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services.

4. Transfer of business assets

- (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;

(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

(i) the business is transferred as a going concern to another person; or

(ii) the business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of services

The following shall be treated as supply of service, namely:-

(a) renting of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

Explanation – For the purposes of this clause—

(1) the expression “competent authority” means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following namely—

(i) an architect registered with the Council of Architecture constituted under the architects Act, 1972; or

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression “construction” includes additions, alterations, replacements or remodeling of any existing civil structure;

(a) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(b) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

(a) works contract as defined in clause (119) of section 2; and

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) where such supply or service is for cash, deferred payment or other valuable consideration.

7. Supply of Goods

The following shall be treated as supply of goods, namely :—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

SCHEDULE III**ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES**

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than lottery, betting and gambling.

Explanation – For the purposes of paragraph 2 the term “court” includes District Court, High Court and Supreme Court.

M. K. DEKA,
Principal Secretary,
Assam Legislative Assembly.