

The Goa Value Added Tax (Eleventh Amendment) Bill, 2019

(Bill No. 9 of 2019)

A

Bill

further to amend the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005).

Be it enacted by the Legislative Assembly of Goa, in the Seventieth Year of Republic of India as follows: —

1. Short title and commencement. — (1) This Act may be called the Goa Value Added Tax (Eleventh Amendment) Act, 2019.

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

Provided that different dates may be appointed for different provisions of this Act.

2. Amendment of section 2. — In section 2 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) (hereinafter referred to as the “principal Act”), in clause (i), for the words “*Commissioner of Commercial Taxes*”, the words “*Commissioner of State Tax*” shall be substituted.

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

(i) in sub-section (1), the expression “*or under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000)*” shall be omitted;

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

“(2) After adjustment under sub-section (1), the excess input tax credit of a registered dealer other than those covered under sub-section (3), proportionate to the closing stock at the end of financial year, shall be reversed and such amount shall be carried forward to the succeeding financial year as input tax credit corresponding to the opening stock.”;

(iii) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) After adjustment under sub-section (1) and (2) the excess input tax credit of a registered dealer other than those covered under sub-section (3) shall lapse.”;

(iv) for sub-section (2B), the following sub-section shall be substituted, namely:—

“(2B) Notwithstanding anything contained in sub-sections (2) and (2A) after adjustment under sub-section (1), the excess of input tax credit as on the 30th day of June, 2017, in case of a dealer, —

(a) *dealing in goods not covered under clause (p) of section 2, and*
(b) *who has not applied for carry forward of unutilized / excess input tax credit by filing application under the provisions of section 140 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) and the rules made there under, shall be refunded in the prescribed manner and subject to the following conditions:—*

(i) *dealer should have completed migration in accordance with section 139 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017);*

(ii) *he should have filed all returns in accordance with the provisions of sections 37, 38, 39 and 44 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) for the period commencing from 1st July, 2017 till the date of submitting application for refund, as may be applicable; and*

(iii) *dealer should not have any outstanding liability towards payment of tax, cess, interest, late fee, penalty, etc. under the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017), the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017), the Integrated Goods and Services Tax Act, 2017 (Central Act 13 of 2017) and the Goods and Services Tax (Compensation to States) Act, 2017 (Central Act 15 of 2017) as on the date of filing the application for refund claim under this sub-section.”.*

(v) sub-section (2C) shall be omitted.

4. Substitution of section 13. — For section 13 of the principal Act, the following section shall be substituted, namely: —

“ 13. Tax Authorities. — (1) *The Government shall, by notification, published in the Official Gazette appoint following officers for the purposes of this Act, namely:—*

- (a) *Commissioner of State Tax;*
- (b) *Special Commissioner of State Tax;*
- (c) *Additional Commissioners of State Tax;*
- (d) *Deputy Commissioners of State Tax;*
- (e) *State Tax Officers;*
- (f) *Assistant State Tax Officers;*
- (g) *State Tax Inspectors; and*
- (h) *any other officer as it may deem fit:*

Provided that the designation of the officers appointed under this Act as specified in column (2) of the table below shall be as specified in the corresponding entries in column

(3) of said table, from the date of commencement of the Goa Value Added Tax (Eleventh Amendment) Act, 2019.

TABLE

(1)	(2)	(3)
(i)	Commissioner of Commercial Taxes	Commissioner of State Tax
(ii)	Additional Commissioners of Commercial Taxes	Additional Commissioners of State Tax
(iii)	Assistant Commissioners of Commercial Taxes	Deputy Commissioners of State Tax
(iv)	Commercial Tax Officers	State Tax Officers
(v)	Assistant Commercial Tax Officers	Assistant State Tax Officers
(vi)	Commercial Tax Inspectors	State Tax Inspectors

(2) The Commissioner shall have jurisdiction over the entire State and the Special Commissioner, if any, appointed, shall have jurisdiction over the entire State, or as directed by the Government by notification in the Official Gazette. All other officers shall have jurisdiction over the entire State or over such local areas as the Government may specify by notification in the Official Gazette.

(3) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on the Commissioner by or under this Act, and the Special Commissioner and an Additional Commissioner, if any, appointed, shall, save as otherwise directed by the Commissioner by notification in the Official Gazette, have and exercise within their respective jurisdiction all the powers and perform all the duties, conferred or imposed on the Commissioner, by or under this Act.

(4) Deputy Commissioners, other officers and persons, shall, within their respective jurisdiction, exercise such of the powers and perform such of the duties of the Commissioner under this Act, as the Commissioner may subject to such conditions and restrictions delegate to them either generally, or as respects any particular matter or class of matters by an order notified in the Official Gazette.

(5) The Government may, subject to such restrictions and conditions, if any, as it may impose, by notification in the Official Gazette, delegate to the Commissioner the powers (not being powers relating to the appointment of Special Commissioner, Additional Commissioner or Deputy Commissioner or other Officers) conferred on the Government by this section.

(6) No person shall be entitled to call in question, in any proceeding, any jurisdiction including the territorial jurisdiction of any officer appointed under sub-section (1), after the expiry of thirty days from the date of receipt by such person of any notice under this

Act, issued by such officer. If, within the period aforesaid, a separate application in writing in the prescribed form raising an objection as to the jurisdiction of any such officer is made to him, the officer shall refer the question to the Commissioner, who shall after giving the person raising the objection, a reasonable opportunity of being heard, make an order determining the question.

(7) All officers appointed under sub-section (1) shall be subordinate to the Commissioner; and the subordination of officers other than the Commissioner, and of persons, amongst themselves shall be such as may be prescribed.”.

5. Amendment of section 18. — In section 18 of the principal Act, in sub-section (3), after the words “*engaged in business*”, the words “*of dealing in goods*” shall be inserted.

6. Substitution of section 39. — For section 39 of the principal Act, the following section shall be substituted, namely: —

“ 39. Revision by Commissioner. — The Commissioner may on his own motion, call for and examine the records of any proceedings under this Act and if he considers that any order passed therein or any decision taken by any authority, other than Tribunal or High Court is erroneous or is prejudicial to the interest of the revenue, after giving the assessee or interested person an opportunity of being heard, pass such order as he deems fit:

Provided, the Commissioner shall not pass any order under this section after expiry of five years from the date of such order.” .

7. Insertion of new section 39A. — After section 39 of the principal Act, the following section shall be inserted, namely:—

“ 39A. Review by Authorities.— (1) Subject to such rules as may be prescribed, any order passed under this Act or the rules framed there under by any authority appointed under section 13 of this Act may be reviewed by the authority passing it upon an application or on its own motion.

(2) No order shall be reviewed under this section after the expiry of one year from the date of passing of such order.

(3) Any person may file a review application to the concerned authority within thirty days from the date of receipt of order by him.

(4) Where the concerned authority is satisfied that the person has reasonable cause for not filing review application within the time specified in sub-section (3), he may accept the review application, provided it is filed within 120 days from the date of receipt of order by him.

(5) *The review application shall be made in the prescribed form and shall specify in detail the grounds upon which it is made.*

(6) *No review under this section shall be entertained by the Authority, unless such review is accompanied by a satisfactory proof of the payment of whole of the undisputed amount of tax, interest and penalty and ten percent of the disputed amount of tax, interest and penalty that may be due.*

(7) *When any authority reviews any of his order or rejects any review application, the copy of the final order allowing or dismissing the review application shall be submitted to the Additional Commissioner and the Commissioner.”.*

8. Amendment of section 55.— In section 55 of the principal Act, in sub-section (1), the expression “*plus an amount equal to simple interest @ 18% per annum or at such rate as the Government may specify by notification, from time to time, on the tax payable for the return period*” shall be omitted.
