

Dated Lucknow, December 27, 2021

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Mal Aur Sewa Kar (Sanshodhan) Adhiniyam, 2021 (Uttar Pradesh Adhiniyam Sankhya 40 of 2021) as passed by the Uttar Pradesh Legislature and assented to by the Governor on December 27, 2021. The Rajya Kar Anubhag-2, is administratively concerned with the said Adhiniyam.

THE UTTAR PRADESH GOODS AND SERVICES TAX (AMENDMENT)

ACT, 2021

(U.P. Act no. 40 of 2021)

[As passed by the Uttar Pradesh Legislature]

AN

ACT

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

IT IS HEREBY enacted in the Seventy-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Uttar Pradesh Goods and Services Tax (Amendment) Act, 2021. Short title and commencement

(2) Save as otherwise provided, it shall come into force on such date as the State Government may, by notification in the *Gazette*, appoint:

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

Act.

Amendment of
section 7

2. In the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 7, in sub-section (1), after clause (a), the following clause shall be *inserted* and shall be deemed to have been *inserted* with effect from the 1st day of July 2017, namely:-

"(aa) the activities or transactions by a person other than an individual, to its members or constituents or *vice-versa*, for cash, deferred payment or other valuable consideration.

Explanation- For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, Tribunal or Authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one such person to another;"

Amendment of
section 16

3. In section 16 of the principal Act, in sub-section (2), after clause (a), the following clause shall be *inserted*, namely:-

"(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;"

Amendment of
section 35

4. In section 35 of the principal Act, sub-section (5) shall be *omitted*.

Amendment of
section 44

5. For section 44 of the principal Act, the following section shall be *substituted*, namely:-

"44. Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this 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 50

6. In section 50 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be *substituted* and shall be deemed to have been *substituted* with effect from the 1st day of July 2017, 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 payable on that portion of the tax which is paid by debiting the electronic cash ledger."

Amendment of
section 74

7. In section 74 of the principal Act, in *Explanation 1*, in clause (ii), for the words and figures "sections 122, 125, 129 and 130", the words and figures "sections 122 and 125" shall be *substituted*.

Amendment of
section 75

8. In section 75 of the principal Act, in sub-section (12), the following *Explanation* shall be *inserted*, namely :-

"Explanation—For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39."

Amendment of section 83

9. In section 83 of the principal Act, for sub-section (1), the following sub-section shall be *substituted*, namely :—

"(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so do to, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed."

Amendment of section 107

10. In section 107 of the principal Act, in sub-section (6), the following proviso shall be *inserted*, namely :—

"Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five percent of the penalty has been paid by the appellant."

Amendment of section 129

11. In section 129 of the principal Act,—

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be *substituted*, namely :—

"(a) on payment of penalty equal to two hundred percent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two percent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

(b) on payment of penalty equal to fifty percent of the value of the goods or two hundred percent of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five percent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;"

(ii) sub-section (2) shall be *omitted*;

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

"(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).";

(iv) in sub-section (4), for the words "No tax, interest or penalty", the words "No penalty" shall be *substituted*;

(v) for sub-section (6), the following sub-section shall be *substituted*, namely :—

"(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3) :

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less :

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

Amendment of
section 130

12. In section 130 of the principal Act,—

(a) in sub-section (1), for the words "Notwithstanding anything contained in this Act, if", the words "Where" shall be *substituted*;

(b) in sub-section (2), in the second proviso, for the words, brackets and figures "amount of penalty leviable under sub-section (1) of section 129", the words "penalty equal to hundred percent of the tax payable on such goods" shall be *substituted*;

(c) sub-section (3) shall be *omitted*.

Amendment of
section 151

13. For section 151 of the principal Act, the following section shall be *substituted*, namely :—

"151. The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein."

Amendment of
section 152

14. In section 152 of the principal Act,—

(a) in sub-section (1),—

(i) the words "of any individual return or part thereof" shall be *omitted*;

(ii) after the words "any proceedings under this Act", the words "without giving an opportunity of being heard to the person concerned" shall be *inserted*.

(b) sub-section (2) shall be *omitted*.

Amendment of
Schedule II

15. In Schedule II of the principal Act, paragraph 7 shall be *omitted* and shall be deemed to have been *omitted* with effect from the 1st day of July, 2017.

Repeal and Saving

16. (1) The Uttar Pradesh Goods and Services Tax (Amendment) Ordinance, 2021 is hereby repealed.

U.P.
Ordinance
no. 8 of 2021

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act as amended by the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act as if the provisions of this Act were in force at all material times.

STATEMENT OF OBJECTS AND REASONS

The Uttar Pradesh Goods and Services Tax Act, 2017 (U.P. Act no. 1 of 2017), hereinafter referred to as the "said Act", has been enacted to make provision for levy and collection of tax on intra-State supply of goods or services or both, by the State of Uttar Pradesh and the matters connected therewith or incidental thereto.

According to the provisions of Article 246 A(1) of the Constitution of India, both the Parliament and the State Legislature have the power to make laws for the imposition of Goods and Services Tax. On the recommendation of GST Council, certain amendments were made in the Central Goods and Services Tax Act, 2017 (Act no. 12 of 2017) vide the Finance Act, 2021 (Act no. 13 of 2021), which was enacted by the Parliament and received the assent of the President on 28th March, 2021.

In view of the above, it was decided to amend the said Act to incorporate the amendments made in the Central Goods and Services Tax Act, 2017 at the State level as well, with the view to maintain uniformity in the Central Act and the State Act.

Since the State Legislature was not in session and immediate legislative action was necessary to implement the aforesaid decision, the Uttar Pradesh Goods and Services Tax (Amendment) Ordinance, 2021 (U.P. Ordinance no. 8 of 2021) was promulgated by the Governor on 9th November, 2021.

This Bill is introduced to replace the aforesaid Ordinance.

By order,
ATUL SRIVASTAVA,
Pramukh Sachiv.