

**THE GUJARAT GOODS AND SERVICES TAX (AMENDMENT)  
BILL, 2023.**

**GUJARAT BILL NO. 19 OF 2023.**

***A BILL***

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

It is hereby enacted in the Seventy-fourth Year of the Republic of India as follows: —

**1.** (1) This Act may be called the Gujarat Goods and Services Tax (Amendment) Act, 2023.

**Short title and commencement.**

(2) This section, sections 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, clause (b) of section 26 and section 28 shall be deemed to have come into force on the 31<sup>st</sup> July, 2023 and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

**Amendment  
of section 10  
of Guj. 25 of  
2017.**

**2.** In the Gujarat Goods and Services Tax Act, 2017 (hereinafter **Guj.25 of 2017.** referred to as “the principal Act”), in section 2,—

(a) after clause (80), the following clauses shall be inserted, namely:—

'(80A) "online gaming" means offering of a game on the internet or an electronic network and includes online money gaming;

(80B) "online money gaming" means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force;';

(b) after clause (102), the following clause shall be inserted, namely:—

'(102A) "specified actionable claim" means the actionable claim involved in or by way of—

- (i) betting;
- (ii) casinos;
- (iii) gambling;
- (iv) horse racing;
- (v) lottery; or
- (vi) online money gaming;';

(c) in clause (105), the following proviso shall be inserted at the end, namely:—

"Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable

claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims;"

(d) after clause (117), the following clause shall be inserted, namely:—

‘(117A) "virtual digital asset" shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961;’.

43 of 1961.

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

(a) in sub-section (2), in clause (d), the words " goods or" shall be deleted;

(b) in sub-section (2A), in clause (c), the words " goods or" shall be deleted.

**Amendment  
of section 10  
of Guj. 25 of  
2017.**

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

(i) in the second proviso, for the words "added to his output tax liability, along with interest thereon", the words and figures "paid by him along with interest payable under section 50" shall be substituted;

(ii) in the third proviso, after the words "made by him", the words " to the supplier" shall be inserted.

**Amendment  
of section 16  
of Guj. 25 of  
2017.**

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

(a) in sub-section (3), in the *Explanation*, for the words and figure "except those specified in paragraph 5 of the said Schedule", the following words, figures and brackets shall be substituted, namely:—

"except,—

(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and

(ii) the value of such activities or transactions as may be

**Amendment  
of section 17  
of Guj. 25 of  
2017.**

prescribed in respect of clause (a) of paragraph 8 of the said Schedule.";

(b) in sub-section (5), after clause (f), the following clause shall be inserted, namely:—

"(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;"

18 of 2013.

**Amendment  
of section 23  
of Guj. 25 of  
2017.**

6. In the principal Act, in section 23, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1<sup>st</sup> day of July, 2017, namely:—

"(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act."

**Amendment  
of section 24  
of Guj. 25 of  
2017.**

7. In the principal Act, in section 24,—

(a) in clause (xi), the word "and" occurring at the end, shall be deleted;

(b) after clause (xi), the following clause shall be inserted, namely:—

"(xia) every person supplying online money gaming from a place outside India to a person in India; and"

**Amendment  
of section 30  
of Guj. 25 of  
2017.**

8. In the principal Act, in section 30, in sub-section (1),—

(a) for the words "the prescribed manner within thirty days from the date of service of the cancellation order:", the words "such manner, within such time and subject to such conditions and restrictions, as may be prescribed." shall be substituted;

(b) the proviso shall be deleted.

**Amendment  
of section 37  
of Guj. 25 of  
2017.**

9. In the principal Act, in section 37, after sub-section (4), the following sub-section shall be added, namely:—

"(5) A registered person shall not be allowed to furnish the details

of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details."

- 10.** In the principal Act, in section 39, after sub-section (10), the following sub-section shall be added, namely:—

"(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return."

- 11.** In the principal Act, section 44 shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:—

"(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:

Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date of

**Amendment  
of section 39  
of Guj. 25 of  
2017.**

**Amendment  
of section 44  
of Guj. 25 of  
2017.**

furnishing the said annual return."

**Amendment  
of section 52  
of Guj. 25 of  
2017.**

12. In the principal Act, in section 52, after sub-section (14), the following sub-section shall be added, namely:—

"(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement."

**Amendment  
of section 54  
of Guj. 25 of  
2017.**

13. In the principal Act, in section 54, in sub-section (6), the words "excluding the amount of input tax credit provisionally accepted," shall be deleted.

**Amendment  
of section 56  
of Guj. 25 of  
2017.**

14. In the principal Act, in section 56, for the words "from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax", the words "for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed" shall be substituted.

**Amendment  
of section 62  
of Guj. 25 of  
2017.**

15. In the principal Act, in section 62, in sub-section (2),—

(a) for the words "thirty days", the words "sixty days" shall be substituted;

(b) the following proviso shall be added, namely:—

"Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest

under sub-section (1) of section 50 or to pay late fee under section 47 shall continue."

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| <p><b>16.</b> In the principal Act, for section 109, the following section shall be substituted, namely:-</p> <p><b>Appellate Tribunal.</b> <b>109.</b> Subject to the provisions of this Chapter, the Goods and Services Tax Appellate Tribunal constituted under the Central Goods and Services Tax Act, 2017 shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.</p> | <p><b>Substitution of section 109 of Guj. 25 of 2017.</b></p> |
| <p><b>17.</b> In the principal Act, section 110 shall be deleted.</p>  | <p><b>Deletion of section 110 of Guj. 25 of 2017.</b></p>     |
| <p><b>18.</b> In the principal Act, section 114 shall be deleted.</p>  | <p><b>Deletion of section 114 of Guj. 25 of 2017.</b></p>     |
| <p><b>19.</b> In the principal Act, in section 117,—</p> <p>(a) in sub-section (1), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;</p> <p>(b) in sub-section (5), in clauses (a) and (b), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted.</p>   | <p><b>Amendment of section 117 of Guj. 25 of 2017.</b></p>    |
| <p><b>20.</b> In the principal Act, in section 118, in sub-section (1), in clause (a), for the words “National Bench or Regional Benches”, the words “Principal Bench” shall be substituted.</p>   | <p><b>Amendment of section 118 of Guj. 25 of 2017.</b></p>    |
| <p><b>21.</b> In the principal Act, in section 119,—</p> <p>(a) for the words “National or Regional Benches”, the words “Principal Bench” shall be substituted;</p> <p>(b) for the words, “State Bench or Area Benches”, the words “State Benches” shall be substituted.</p>   | <p><b>Amendment of section 119 of Guj. 25 of 2017.</b></p>    |
| <p><b>22.</b> In the principal Act, in section 122, after sub-section (1A), the following sub-section shall be inserted, namely:—</p> <p>“(1B) Any electronic commerce operator who—</p>   | <p><b>Amendment of section 122 of Guj. 25 of 2017.</b></p>    |

(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher."

**Amendment  
of section  
132 of Guj.  
25 of 2017.**

**23.** In the principal Act, in section 132, in sub-section (1),—

(a) clauses (g), (j) and (k) shall be deleted;

(b) in clause (l), for the words, brackets and letters "clauses (a) to (k)", the words, brackets and letters "clauses (a) to (f) and clauses (h) and (i)" shall be substituted;

(c) in sub-clause (iii), for the words "any other offence", the words, brackets and letter "an offence specified in clause (b)," shall be substituted;

(d) in sub-clause (iv), the words, brackets and letters "or clause (g) or clause (j)" shall be deleted.

**Amendment  
of section  
138 of Guj.  
25 of 2017.**

**24.** In the principal Act, in section 138,—

(a) in sub-section (1), in the first proviso,—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;"

(ii) clause (b) shall be deleted;



(iii) for clause (c), the following clause shall be substituted, namely:—

"(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;"

(iv) clause (e) shall be deleted;

(b) in sub-section (2), for the words "ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher", the words "twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent. of the tax involved" shall be substituted.

**25.** In the principal Act, after section 158, the following section shall be inserted, namely:—

**Consent based sharing of information furnished by taxable person.**

**"158A.** (1) Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of sub-section (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—

(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;

(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;

(c) such other details as may be prescribed.

(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of—

**Insertion of new section 158A to Guj. 25 of 2017.**

(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and

(b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient, in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return."

**Amendment and retrospective exemption to certain activities and transactions in Schedule III of Guj. 25 of 2017.**

**26.** In the principal Act, in Schedule III, —

(a) in paragraph 6, for the words "lottery, betting and gambling" the words "specified actionable claims" shall be substituted.

(b) (1) in paragraphs 7 and 8 and the *Explanation 2* thereof (as inserted *vide* section 31 of Act 14 of 2018) shall be deemed to have been inserted therein with effect from the 1<sup>st</sup> day of July, 2017.

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

**Transitory provisions.**

**27.** The amendments made under this Act shall be without prejudice to provisions of any other law for the time being in force, providing for prohibiting, restricting or regulating betting, casino, gambling, horse racing, lottery or online gaming.

**Repeal and Saving.**

**28.** (1) The Gujarat Goods and Services Tax (Amendment) Ordinance, 2023 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

**Guj. Ord. 1 of 2023.**

## **STATEMENT OF OBJECTS AND REASONS**

The Gujarat Goods and Services Tax Act, 2017 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 Gujarat.

Various decisions have been taken by the Goods and Services Tax Council in its 48<sup>th</sup> and 49<sup>th</sup> meetings requiring amendments in the Goods and Services Tax Laws. Accordingly, the Central Goods and Services Tax Act, 2017 (12 of 2017) and the Integrated Goods and Services Tax Act, 2017 (13 of 2017) were amended by the Parliament by the Finance Act, 2023 (8 of 2023). With a view to implement the recommendations of the Goods and Services Tax Council as soon as possible and in order to maintain the uniformity in applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 (Guj. 25 of 2017), the Gujarat Goods and Services Tax (Amendment) Ordinance, 2023 (Guj. Ord. 1 of 2023) was promulgated to achieve the said objects as the Gujarat Legislative assembly was not in session, at that time.

In addition, the Goods and Services Tax Council in its 50<sup>th</sup> and 51<sup>st</sup> meetings considered representation from various associations on the issues regarding taxability of Casinos, Horse Racing and Online Gaming and recommended to make certain amendments in the Goods and Services Tax Laws to provide clarity regarding taxability of Casinos, Horse Racing and Online Gaming.

As the Legislative Assembly of the State of Gujarat was not in session at that time, the Gujarat Goods and Services Tax (Amendment) Ordinance, 2023 was promulgated to achieve the aforesaid objects.

The Bill seeks to amend the said Act to achieve the aforesaid objects and also seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain, in brief, the important provisions of the Bill:-

**Clause 1.-** This clause provides for the Short title and Commencement.

**Clause 2.-** This clause seeks to define the expressions "online

gaming", "online money gaming", "specified actionable claim" and "virtual digital asset". It further seeks to insert a proviso in the definition of "supplier" to provide clarity regarding "supplier" in case of supply of "specified actionable claim".

**Clause 3.-** This clause seeks to amend clause (d) of sub-section (2) and clause (c) of sub-section (2A) in section 10 of the Gujarat Goods and Services Tax Act, 2017 so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the composition levy.

**Clause 4.-** This clause seeks to amend second and third provisos in section 16 of the Gujarat Goods and Services Tax Act, 2017 to align the said sub-section with the return filing system provided in the said Act.

**Clause 5.-** This clause seeks to amend *Explanation* to sub-section (3) of section 17 of the Gujarat Goods and Services Tax Act, 2017 so as to restrict availment of input tax credit in respect of certain transactions specified in clause (a) of paragraph 8 of Schedule III of the said Act, as may be provided by rules, by including the value of such transactions in the value of exempt supply.

It also seeks to amend sub-section (5) so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013 (Central Act No. 18 of 2013).

**Clause 6.-** This clause seeks to amend sub-section (2) of section 23 of the Gujarat Goods and Services Tax Act, 2017, retrospectively with effect from 1<sup>st</sup> July 2017, to clearly provide for overriding effect over sub-section (1) of section 22 and section 24.

- Clause 7.-** This clause seeks to insert a new clause in section 24 of the Gujarat Goods and Services Tax Act, 2017 to provide for mandatory registration of the person for supplying online money gaming, from a place outside India to a person in India.
- Clause 8.-** This clause seeks to amend section 30 of Gujarat Goods and Services Tax Act, 2017 so as to provide the time limit and manner for revocation of cancellation of the registration with prescribed conditions and restrictions.
- Clause 9.-** This clause seeks to insert a new sub-section (5) in section 37 of the Gujarat Goods and Services Tax Act, 2017 so as to provide a time limit of three years upto which the details of outward supplies under sub-section (1) of the said section for a tax period can be furnished by a registered person. It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.
- Clause 10.-** This clause seeks to insert a new sub-section (11) in section 39 of the Gujarat Goods and Services Tax Act, 2017 so as to provide a time limit of three years upto which the return for a tax period can be furnished by a registered person. It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.
- Clause 11.-** This clause seeks to insert a new sub-section (2) in section 44 of the Gujarat Goods and Services Tax Act, 2017 so as to provide a time limit of three years upto which the annual return under sub-section (1) of the said section for a financial year can be furnished by a registered person. It

further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for a registered person or a class of registered persons, subject to certain conditions and restrictions.

**Clause 12.-** This clause seeks to insert a new sub-section (15) in section 52 of the Gujarat Goods and Services Tax Act, 2017 so as to provide a time limit of three years upto which the statement under sub-section (4) of the said section for a month can be furnished by an electronic commerce operator. It further seeks to empower the Government, on the recommendation of the Council, to extend by notification, the said time limit for an operator or a class of operators, subject to certain conditions and restrictions.

**Clause 13.-** This clause seeks to amend sub-section (6) of section 54 of the Gujarat Goods and Services Tax Act, 2017 by deleting reference to the provisionally accepted input tax credit so as to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the said Act.

**Clause 14.-** This clause seeks to amend section 56 of the Gujarat Goods and Services Tax Act, 2017 so as to provide by rules the manner of computation of period of delay for calculation of interest on delayed refunds.

**Clause 15.-** This clause seeks to amend sub-section (2) of section 62 of the Gujarat Goods and Services Tax Act, 2017 to extend the time period from thirty days to sixty days for withdrawal of the assessment order under sub-section (1) of section 62. It further seeks to insert a new proviso in order to provide for withdrawal of the assessment order under sub-section (1) of section 62 beyond the period of sixty days on payment of an additional late fee of hundred rupees each day of delay beyond sixty days of the service of the assessment order under sub-section (1) of section 62

along with interest under section 50 or to pay late fee under section 47.

- Clause 16.-** This clause seeks to substitute the existing section 109 of Gujarat Goods and Services Tax Act, 2017, in line with the amendment made in the Central Goods and Services Tax Act, 2017. The Appellate Tribunal shall be established by provisions of section 109 of the Central Goods and Services Tax Act, 2017 and the same shall be adopted under the Gujarat Goods and Services Tax Act, 2017.
- Clause 17.-** This clause seeks to delete section 110 of the Gujarat Goods and Services Tax Act, 2017. The existing section in the Gujarat Goods and Services Tax Act, 2017 provides for President and Members of Appellate Tribunal, their qualifications, appointment, conditions of service etc. Qualifications, appointment, conditions of service etc. for President and Members of Appellate Tribunal shall be established by provisions of section 110 of the Central Goods and Services Tax Act, 2017 and the same shall be adopted under the Gujarat Goods and Services Tax Act, 2017.
- Clause 18.-** This clause seeks to delete section 114 of the Gujarat Goods and Services Tax Act, 2017. The existing section 114 in the Gujarat Goods and Services Tax Act, 2017 provides for financial and administrative powers of the State President. The financial and administrative powers of President shall be established by provisions of section 114 of the Central Goods and Services Tax Act, 2017 and the same shall be adopted under the Gujarat Goods and Services Tax Act, 2017.
- Clause 19.-** This clause seeks to substitute the existing expression “State Benches or Area Benches” with the expression “State Benches” in section 117 of Gujarat Goods and Services Tax Act, 2017.
- Clause 20.-** This clause seeks to substitute the existing expression

“National Bench or Regional Benches” with the expression “Principal Bench” in section 118 of the Gujarat Goods and Services Tax Act, 2017.

**Clause 21.-** This clause seeks to substitute the existing expression “National Bench or Regional Benches” with the expression “Principal Bench” and the existing expression “State Benches or Area Benches” with the expression “State Benches” in section 119 of the Gujarat Goods and Services Tax Act, 2017.

**Clause 22.-** This clause seeks to insert a new sub-section (1B) in section 122 of the Gujarat Goods and Services Tax Act, 2017 so as to provide for penal provisions applicable to electronic commerce operators in case of contravention of provisions relating to supplies of goods or services made through them by unregistered persons or composition tax payers.

**Clause 23.-** This clause seeks to amend the existing sub-section (1) of section 132 of the Gujarat Goods and Services Tax Act, 2017 so as to decriminalise offences specified in clauses (g), (j) and (k) of the said sub-section and to increase the monetary threshold from one hundred lakh rupees to two hundred lakh rupees for launching prosecution for the offences under the said Act, except for the offences related to issuance of invoices without supply of goods or services or both.

**Clause 24.-** This clause seeks to amend the existing first proviso to sub-section (1) of section 138 of the Gujarat Goods and Services Tax Act, 2017 so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act. It further seeks to amend the existing sub-section (2) so as to rationalise the amount for compounding of various offences by reducing the minimum as well as maximum



amount for compounding.

- Clause 25.-** This clause seeks to insert a new section 158A in the Gujarat Goods and Services Tax Act, 2017 so as to provide for the manner and conditions for sharing of the information furnished by the registered person in his application for registration or in his return furnished or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be provided by rules, on the common portal with such other systems, as may be notified.
- Clause 26.-** This clause seeks to substitute "specified actionable claim" in paragraph 6 of Schedule III of the Act, for the present entries "lottery, betting and gambling", so as to provide clarity regarding taxability of actionable claims involved in or by way of casinos, horse racing and online gaming. It further seeks to amend the existing Schedule III of the Gujarat Goods and Services Tax Act, 2017 to give retrospective applicability to paragraphs 7 and 8 and Explanation 2 to the said Schedule with effect from the 1<sup>st</sup> day of July, 2017.
- Clause 27.-** This clause seeks to provide that the amendments made under this Act shall be without prejudice to provisions of any other law for the time being in force, providing for prohibiting, restricting or regulating betting, casino, gambling, horse racing, lottery or online gaming.
- Clause 28.-** This clause seeks to provide for repeal of Gujarat Ordinance No. 1 of 2023 and saving thereof.

**KANUBHAI DESAI,**

## MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects:-

- Clause 2.-** Sub-clause 2 of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining other than sections 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, clause (b) of section 26 and section 28 shall come into force.
- Clause 4.-** The Explanation in sub-section (3) of section 17 of the Gujarat Goods and Services Tax Act, 2017 which clarifies that the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III except certain activities or transactions specified therein. Clause (ii) of the said Explanation empowers the State Government to specify by rules the value of such activities or transactions in respect of clause (a) of paragraph 8 of Schedule III which are so excepted.
- Clause 5.-** Sub-section (2) of section 23 proposed to be substituted by this clause empowers the State Government, on the recommendation of the Council, to specify, by notification in *Official Gazette*, the conditions and restrictions subject to which the category of persons who may be exempted from obtaining registration under the Act.
- Clause 12.-** Section 56 of the Gujarat Goods and Services Tax Act, 2017 by substituting certain words therein which empowers the State Government to provide by rules the manner of computing the interest in respect of refund payable for the period of delay beyond sixty days from the date of receipt of application till the date of refund, subject to the conditions and restrictions specified therein.
- Clause 23.-** New section 158A of the Gujarat Goods and Services Tax Act, 2017 proposed to be inserted by this clause, Sub-section (1) of the said section empowers the State

Government to provide by rules the details to be shared and the manner in which and the conditions subject to which the details may be shared by the common portal with such other systems notified by the State Government.

The matters in respect of which rules may be made or notifications or order may be issued in accordance with the provisions of the Bill are the matters of procedure and administrative facet, and as such, it is not mentioned in the Memorandum of Delegated Legislation.

The delegation of legislative powers, as aforesaid, is necessary and is of normal character.

Dated the 5<sup>th</sup> September, 2023.

**KANUBHAI DESAI.**

*ANNEXURE***EXTRACT FROM THE GUJARAT GOODS AND SERVICES  
TAX ACT, 2017.****( Guj. 25 of 2017)****Definitions.****2.** In this Act, unless the context otherwise requires,-

(1) to (104) XXX XXX XXX

(105) "supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

(106) to (120) XXX XXX XXX

**Composition  
Levy.****10. (1)** XXX XXX XXX

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

(a) to (c) XXX XXX XXX

(d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

(e) and (f) XXX XXX XXX

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

(a) and (b)                      XXX                                      XXX                                      XXX

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

(d) and (e)                      XXX                                      XXX                                      XXX

(3) to (5)                        XXX                                      XXX                                      XXX

**16. (1)**                        XXX                                      XXX                                      XXX

(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,—

**Eligibility and conditions for taking input tax credit.**

(a) to (d)                        XXX                                      XXX                                      XXX

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) and (4)                        XXX                                      XXX                                      XXX

**Apportionment  
of credit and  
blocked credits.**

**17.** (1) and (2)                      XXX    XXX    XXX

(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.

*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.

(4) to (6)                      XXX    XXX    XXX

**Persons not  
liable for  
registration.**

**23.** (1)                      XXX    XXX    XXX

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

**Compulsory  
registration in  
certain cases.**

**24.** Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,-

(i) to (x)                      XXX    XXX    XXX

(xi) every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person; and

(xii)                      XXX    XXX    XXX

**Revocation of  
cancellation of  
registration.**

**30.** (1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order:

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

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

(2) and (3)                      XXX                      XXX                      XXX

**37.** (1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

**Furnishing details  
of outward  
supplies.**

Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of central tax shall be deemed to be notified by the Commissioner.

(2) and (3)                      XXX                      XXX                      XXX

**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,

**Annual return.**

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.

**Collection of  
tax at source.**

**52.** (1) to (3)                      XXX                                      XXX                                      XXX

(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.

(5) to (14)                              XXX                                      XXX                                      XXX



**54.** (1) to (5)                      XXX                                      XXX                                      XXX

**Refund of  
tax.**

(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero- rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) to (14)                              XXX                                      XXX                                      XXX

**56.** If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:

**Interest on  
delayed refunds.**

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

**Explanation.-** For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

**Assessment of non-filers of returns.**

**62.** (1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.

**Appellate Tribunal and Benches thereof.**

**109.** (1) Subject to the provisions of this Chapter, the Goods and Services Tax Tribunal constituted under the Central Goods and Services Tax Act shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.

(2) The constitution and jurisdiction of the State Bench and the Area Benches located in the State shall be in accordance with the provisions of section 109 of the Central Goods and Services Tax Act or the rules made thereunder.

**110.** The qualifications, appointment, salary and allowances, terms of office, resignation and removal of the President and Members of the State Bench and Area Benches shall be in accordance with the provisions of section 110 of the Central Goods and Services Tax Act.

**President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.**

**114.** The State President shall exercise such financial and administrative powers over the State Bench and Area Benches of the Appellate Tribunal in a State, as may be prescribed:

**Financial and administrative powers of State President.**

Provided that the State President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the State Bench or Area Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the State President.

**117.** (1) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.

**Appeal to High Court.**

(2) to (4)                      XXX                      XXX                      XXX

(5) The High Court may determine any issue which—

(a) has not been determined by the State Bench or Area Benches; or

(b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in subsection (3).

(6) to (9)                      XXX                      XXX                      XXX

**118.** (1) An appeal shall lie to the Supreme Court—

**Appeal to Supreme Court.**

(a) from any order passed by the National Bench or Regional Benches of the Appellate Tribunal; or

(b)                                      XXX                                      XXX                                      XXX

(2) and (3)                      XXX                                      XXX                                      XXX

**Sums due to be  
paid  
notwithstanding  
appeal, etc.**

**119.** Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

**Punishment  
for certain  
offences.**

**132.** (1) Whoever commits or causes to commit and retain the benefits arising out of, any of the following offences], namely:

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(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;

(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(e) evades tax or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

(f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;

(g) obstructs or prevents any officer in the discharge of his duties under this Act;

(h) acquires possession of, or in any way concerns himself in transporting,

removing, depositing, keeping, concealing, supplying, purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(j) tampers with or destroys any material evidence or documents;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section, shall be punishable—

(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be

punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) to (6)        XXX                                XXX                                XXX

Compounding  
of offences.

**138.** (1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case may be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to –

(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;

(b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;

(c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;

(d)                                XXX                                XXX                                XXX

(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and

(f)                                XXX                                XXX                                XXX

(2) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or five per cent. of the tax involved, whichever

is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.

(3)                   XXX                                   XXX                                   XXX

### SCHEDULE III

(See section 7(2)(a))

	<b>ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES</b>			
1. to 5.	XXX	XXX	XXX	
6.	Actionable claims, other than lottery, betting and gambling.			
7. and 8.	XXX	XXX	XXX	







**GUJARAT LEGISLATURE SECRETARIAT**

**GUJARAT BILL NO. 19 OF 2023.**

*A BILL*

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

**[ SHRI KANUBHAI DESAI,  
MINISTER FOR FINANCE]**

**(As published in the Gujarat Government  
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**D.M.Patel,  
Secretary,  
Gujarat Legislative Assembly.**

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