

NAGALAND GOODS AND SERVICES TAX (AMENDMENT) ACT, 2018

The Nagaland Gazette PART-V NOTIFICATION 15, November, 2018 Dated Kohima, 26th Oct, 2018. No. LAW/ACT/6-22/2018 :: The Nagaland Goods and Services Tax (Amendment) Act, 2018 (Act No. 6 of 2018) duly assented by the Hon'ble Governor of Nagaland on 03/10/2018 is published herewith for general information. IMTIAKUM Deputy Secretary to the Govt. of Nagaland. An Act further to amend the Nagaland Goods and Services Tax Act, 2017, BE it enacted by the Legislature of Nagaland in the Sixty-ninth Year of the Republic of India as follows:— 1. (1) This Act may be called the Nagaland 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 State Government 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. 2. In section 2 of the Nagaland Goods and Services Tax Act, 2017 (herein after referred to as the principal Act),— (a) in clause (i) 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; (b) in clause (16) for the words "Central Board of Excise and Customs", the words, Central Board of Indirect Taxes and Customs" shall be substituted, in clause (i) for sub-clause the following sub-clause shall be substituted, namely:— "(i) activities of a club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club: and"; clause (18) shall be omitted; (e) in clause (35), for the word, brackets and letter "clause (b)" shall be substituted: (f) in clause (69), in Sub-clause after the word and figures "article 371" the words, figures and letter "and article 37M" shall be inserted, (g) in clause (102), the following 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;'. 3. In section 7 of the principal Act, with effect from the 1st day of July, 2017— (a) in sub-section — in clause after the words "or furtherance of business;" , the word "and" shall be inserted and shall always be deemed to have been inserted; (ii) in clause (c), after the words "a consideration", the "and" shall be omitted and shall always be deemed to have been omitted; (iii) clause shall be omitted and shall always be deemed to have been omitted; (b) after sub-section () the following 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 they shall be treated either as supply of goods or supply of services as referred to in Schedule 11.0, (c) in subsection for the brackets and figures "sub-sections (I) and (2) ", the words, brackets, figures and letter (IA) and be substituted- 4. In section 9 of the principal Act, for sub-section the following sub-section shall be substituted, namely:— 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."

5. In section 10 of the principal Act,—(a) in sub-section (I) — (i) 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 10 20 40 15, November, 2018 The Nagaland Gazette, Part-V -s 10 20 30 40 45 under sub-section (I) of section 9, an amount of tax calculated at such rate" shall be substituted; (ii) in the proviso, for the words "one crore rupees", the words "one crore and fifty lakh rupees" shall be substituted; (iii) after the proviso, the following 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 YI), of value not exceeding ten per cent. of turnover in the State in the preceding financial year or five lakh rupees, whichever is higher. (b) in sub-section for Clause (a), the following clause shall be substituted, save as provided in subsection he is not engaged in the supply of

services;" - 6. In section 12 Of the principal Act, in sub-section (2), in clause the words, brackets and figure "sub-section (I) of •e shall be omitted

7. In section 13 Of the principal Act, in sub-section (2), the words, brackets and figure "sub-section (2) of" occurring at both the places, shall be omitted. 8. In section 16 of the principal Act, in subsection (a) in clause 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 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,' (8) in clause for the and figures "section the words, figures and letter "section or section *SA" shall be substituted, 9. In section of the principal Act— sub-section the following Explanation shall be inserted, namely— ' 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. (8) in sub-section for clauses (g) and the following clauses shall be substituted, namely— 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; 99 Of section 12 Amendment of section Amendment of section Amendment 100 Amendment Of section 20 *Amendment Of section 22. The Nagaland Gazette, Part-V (aa) vessels and aircraft except when they are used— 15, November, 2018 (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: (O) 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— (T) in the manufacture of such motor vehicles, vessels or aircraft; or (IT) 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— food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, teasing, renting or hiring of motor vehicles, vessels or aircraft referred to 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." 10. In section 20 of the principal Act, 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. 11. In section 22 of the principal Act,— (a) after subsection the following proviso shall be inserted, namely:— "Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified."; 101 15, November, 2018 The Nagaland Gazette, Part-V (b) in the Explanation, in clause (lit), after the word "Constitution" the words " except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, and Uttarakhand" shall be inserted," 12. In section 24 Of the principal Act, in clause after the "commerce operator". Amendment the words and figures is required to collect tax at source under section 52" shall be inserted. 102 200Y 20 25 30 35 40 13. In section 25 of the principal Act.— of section 25 (a) in sub-section after the proviso and before the Explanation, the following 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 to apply for a separate registration as distinct from his place of business located outside the Special Economic Zone in the same State."; (b) in sub-section (2). for the proviso, the following 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," 14. In section 29 of the principal Act.— (a) in the marginal heading after the word "Cancellation". the words "or suspension" shall be inserted; (b) in sub-section (1), after clause the following proviso shall be inserted namely;— "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." (c) in sub-section (2), after the proviso, the following 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." 15. In section 34 Of the principal Act,— (a) in sub-section (Amendment of 29. Amendment (z) for the words a tax invoice has", the words "Where one or more tax invoices have" shall be substituted; (ii) for the words "Sa credit note", the words "one or more credit notes for supplies made in a financial year" shall be substituted, (b) in sub-section (D for the words "Where a tax invoice has". the words "Where one or more tax invoices have" shall be substituted; (ii) for the words "a debit note", the words "one or more debit notes for supplies made in a financial year" shall be substituted, 16, In section 35 of the principal Act. in sub-section following proviso shall Amendment of 3S, 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." 102 of section 39 Insncien of section 43A Ptocedute fOt fut•mshang and availing input tax credit, The Nagaland Gazette, Part-V 17, In section 39 of the principal Act,— (a) in sub-section 15, November, 2018 (O for the words "in such fom and manner as may be prescribed", the words "in such form. manner and within such time as may be prescribed" shall be substituted; 5 (it) the words "on or before the twentieth day of the month succeeding such calendar month or part thereof" shall be omitted; (ii;) the following 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 iO return for every quarter or part thereof, subject to such conditions and sareguards as may be specified therein." (b) in sub-section (7), the following 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 pan thereof as per the retum on or before the tast date on which he is required to furnish such return. subject to such conditions and safeguards as may be specified therein.", (c) in sub-section (i) for the words "in the return to be furnished for the month or quarter 20 during which such omission or incorrect particulars are noticed", the words "ih such form and manner as may be perscribed" shall be substituted; (ii) 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

18. After section 43 of the principal Act, the following section shall be inserted.— 25 "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, 30 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 33 (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. 40 (S) 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 45

outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished. 15, November, 2018 The Nagaland Gazette, Part-V 10 15 25 3S 45 (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 persons— (i) within six months of taking registration; (ii) 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."

19. In section 48 of the principal Act, in sub-section after the word and figures "section 45", the words "and to perform such other functions" shall be inserted. 20, In section 49 of the principal Act,— (a) in sub-section (2), for the word and figures "Section 41", the words. figures and letter "section 41 or section 43 A" shall be substituted; (b) in sub-section (i) in clause the following proviso shall be inserted, namely:— "Provided that the input tax credit on account Of State tax shall be utilised towards pa} ment 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:" in clause the follow ing proviso shall be inserted, namely— "Provided that the input tax credit on account Of Union territory tax shall utilised pa:, ment of integrated tax only where the balance of the input tax credit account of central tax is not available for payment of integrated taxp 21. After section 49 the principal Act. the following sections Shall be inserted. namely:— *'49A. Netwi:hstandiræ anything contained in section 49, the input tax credit on account of State tax shall =tiised towards payment of integrated er State as the case may be, only after the input tax credit on account of integrated tax has first been utilised fully toss ards such payment. 49B, anything contained in this Chapter and subject to the provisions clause arc of sub-section (S) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax on account of integrated tax, central tax, State tax or Union territory tax. as the case bet towards payment Of any such tax." 22. In section 52 of the print:pa! Act. in sub-section (9), for the word and figures "section 37". the •sords and figures "section 37 or section 399 shall be substituted, 23. In section 54 of the principal Act,— (a) in sub-section in clause (a), for the words "zero-rated supplies". the words "export" and "exports" shall respectively be substituted: (b) in the Explanation. in clause 103 Arnndmcnt Of section 4S Of section 49 Of sections 49B Utilhsation of Input tax credrt subgeci to certam conditions Oroet of Of input credit Amendment of section 52. Amendment of section 54. 15, November, 2018 104 of section 79, Amendment of Amendment of sectton 12. Amendment of segViOn S 20 The Nagaland Gazette, Part-V (i) in sub-clause (c), in item (O, aner the words "foreign exchange", the words "or in Indian rupees wherever pemilted by the Reserve Bank of India" shall be inserted; (iD for sub-clause (e). the following sub-clause Shall be substituted, 5 namely:— in the case Of refund of unutilised input tax credit under clause (iD Of the first proviso to sub-section the due date for furnishing of return under 5ction 39 for the period in which such claim for refund arises;". 24, In section 79 of the principal Act, after subsection (4), the following Explanation shall be inserted. namely— 'Exptcnation.—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.' , 25. tn section 107 of the principal Act. in sub-section (6), in clause after the IS words esarising from the said orders". the words "subject to a maximum of twenty-five crore rupees," shall be inserted

26. In section 112 of the principal Act.in sub-section in clause (b), after the words "arising from the said order," the words "subject to a maximum Of fifty crore 20 rupees," shall be inserted, 27. In section 129 Of the principal Act. in sub-section for the words "seven days", the words "fourteen days" shall be substituted, 28. In section 143 of the principal Act, in sub-section in clause after the proviso, the following proviso shall be inserted, namely:— "Protided further that the period Ofone year and three may. on sufficient cause being shown, be extended hy the for a furthet penod not exceedtng one year and two years respectively"

29. In Schedule I of the principal Act.in paragraph 4, for the words "taxable person". the word "person" shall be substitutedy 30. In Schedule of the principal Act. in the heading, after the word "ACTIVITIES", the words ••OR TRANSACTIONS" Shal! be inserted and shall always be deemed to have been inserted "s ith effect from the 1st day of July, 2017. 31- In Schedule It! of the principal Act. (i) after paragraph 6, the following paragraphs shall be inserted. namely— Amendment 143 Amendment bf Schedule I Amendment

of Schedule 11, Amendment Schedule 25 Supply or goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India. 8 i a) Supply of warehoused goods to any person before clearance for home consumption; Supply Of good' the consignment to any other person, by endorsement Of documents of title to the goods, after the goods have been dispatched from the place of origin located outside India but before clearance for home consumption.". the shall be interpreted as I and after Explanation as so numbered. the following Explanation shall be inserted, namely:} the purposes of paragraph 8. the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act 1962

