



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**GOODS AND SERVICES TAX (AMENDMENT)
ACT, No. 11 OF 1998**

[Certified on 31st March, 1998]

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Goods and Services Tax (Amendment)
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L.D.—O. 43/97.

AN ACT TO AMEND THE GOODS AND SERVICES TAX
ACT, No. 34 OF 1996

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Goods and Services Tax (Amendment) Act, No 11 of 1998, and shall come into operation on such date as the Minister may appoint by Order published in the Gazette.

Short title.

2. Section 2 of the Goods and Services Tax Act, No. 34 of 1996 (hereinafter referred to as the “principal enactment”) is hereby amended by the repeal of subsection (3) of that section and the substitution therefor of the following subsection:—

Amendment of
section 2 of Act,
No. 34 of 1996.

“(3) The tax on importation of goods shall be charged, levied and collected as if it were a customs duty and as if all goods imported into Sri Lanka are dutiable and liable to customs duty. These provisions shall not be applicable to any goods entered into customs bonded area in terms of the Customs Ordinance :

Provided however, that the Director-General of Customs may defer the payment of the tax due on any goods imported by a registered person who imports goods to be used for the purposes of manufacture and exports the goods so manufactured, or any other person referred to in subsection (6) of section 22, for a period not exceeding forty-five days or such other period not exceeding ninety days as may be determined by the Minister by notification published in the Gazette, from the date of importation of such goods, subject to the furnishing of a bank guarantee or a corporate guarantee which covers the amount of the tax due on the goods so imported.”.

2 *Goods and Services Tax (Amendment)*
 Act, No. 11 of 1998

Amendment of
section 4 of the
principal
enactment.

3. Section 4 of the principal enactment is amended as follows :—

- (1) by the insertion immediately after subsection (1) of that section of the following subsection :—

“(1A) Notwithstanding the provisions of paragraph (d) of subsection (1), where an invoice is issued in respect of goods supplied within ten days from the date of delivery of such goods, the time of supply of such goods shall be deemed to be the time at which the invoice was issued.” ;

- (2) by the insertion immediately after subsection (2) of that section of the following subsection:—

“(2A) Notwithstanding the provisions of paragraph (a) of subsection (2), when an invoice is issued in respect of services supplied within ten days from the date of performance of such service, the time of supply of such service shall be deemed to be the time at which the invoice was issued.” ;

- (3) in paragraph (a) of subsection (3) of that section by the substitution for the words “under an agreement” of the words “under an agreement entered into on or after the appointed date” ;

- (4) by the addition at the end of that section of the following subsection :—

“(4) Where the Commissioner-General has directed any registered person to account for tax on a payment basis under section 23, the time of supply of goods and services supplied by such person shall be the time at which the payment in respect of such supply is received.”.

Amendment of
section 5 of the
principal
enactment.

4. Section 5 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section by the substitution for the words and figures “any tax chargeable under this Act, and any excise duty payable under the Excise (Special Provisions) Act, No. 13 of 1989”, of the words “any tax chargeable under this Act,” ;

- (2) in paragraph (i) of subsection (5) of that section by the substitution for the words "by a person after the time" of the words "by a person at the time" ;
- (3) in subsection (10) of that section by the substitution for the words "shall be the amount paid for such ticket or the amount deposited", of the words "shall be the amount paid for such ticket less the tax payable under this Act or the amount deposited less the tax payable under this Act" ; and
- (4) by the addition at the end of that section of the following subsections:—

"(11) Where goods or services are supplied under an agreement entered into on or before 23rd December, 1996 not being a hire purchase agreement and which is not reviewable the value of such supply shall be the consideration for such supply as stipulated in such agreement less the tax determined by the Commissioner-General as being attributable to such consideration.

(12) Where any goods supplied under a lease agreement is subsequently transferred to the lessee at the expiry of the period of the lease, for a consideration not exceeding ten *per centum* of the total consideration of the lease agreement, such consideration shall be considered a part of the consideration of the lease agreement."

5. Section 6 of the principal enactment is hereby amended as follows:—

Amendment of
section 6 of the
principal
enactment.

- (1) in paragraph (b) of subsection (1) of that section by the substitution, for the words "and any cess", of the words and figures "any cess and any excise duty payable under the Excise (Special Provisions) Act, No. 13 of 1989" ;
- (2) by the repeal of subsection (2) of that section.

4 *Goods and Services Tax (Amendment)*
 Act, No. 11 of 1998

Amendment of
section 7 of the
principal
enactment.

6. Section 7 of the principal enactment is hereby amended in paragraph (b) of subsection (1) of that section as follows:—

(1) in sub-paragraph (iii) of that paragraph by the substitution for the words "for use outside Sri Lanka", of the words "for use outside Sri Lanka ; and" ;

(2) by the addition immediately after sub-paragraph (iii) of that paragraph, of the following new paragraph :—

"(iv) international transportation (including transshipment) of goods or passengers."

Amendment of
section 10 of the
principal
enactment.

7. Section 10 of the principal enactment is hereby amended in subsection (1) of that section by the repeal of paragraphs (a), (b) and (c) of that subsection and the substitution therefor of the following paragraphs :—

"(a) at the end of any taxable period of one month or three months, as the case may be, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka in that taxable period of one month or three months, as the case may be, has exceeded five hundred thousand rupees ; or

(b) in the twelve months period then ending, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka has exceeded one million and eight hundred thousand rupees ; or

(c) at any time there are reasonable grounds to believe that the total value of his taxable supplies in Sri Lanka of goods or services or goods and services in the succeeding one month or three months taxable period, as the case may be, is likely to exceed five hundred thousand rupees or in the succeeding twelve months period is likely to exceed one million and eight hundred thousand rupees :

Provided however that where the Commissioner-General is of opinion that the supply of goods relate to an isolated transaction, the value of such supply may be excluded in calculating the total value of taxable supplies for the purposes of this section."

8. Section 11 of the principal enactment is hereby amended in the proviso to subsection (1) of that section by the substitution for the words and figures "section 10 or section 12" of the words and figures "section 10 or section 12 or is deemed to be a registered person under subsection (1) of section 75".

Amendment of
section 11 of the
principal
enactment.

9. Section 13 of the principal enactment is hereby amended in paragraph (a) of that section by the substitution for the words and figures "section 10 or section 12", of the words and figures "section 10 or section 12 or is deemed to be a registered person under subsection (1) of section 75".

Amendment of
section 13 of the
principal
enactment.

10. Section 15 of the principal enactment is hereby amended in subsection (3) of that section by the substitution for the words "certificate at conspicuous place" of the words "certificate at a conspicuous place".

Amendment of
section 15 of the
principal
enactment.

11. Section 16 of the principal enactment is hereby amended as follows:—

Amendment of
section 16 of the
principal
enactment.

- (1) in subsection (1) of that section by the repeal of all the words from "eight successive taxable periods following the date of registration" to the end of that subsection and the substitution therefor of the following :—

"a period of twenty-four months following the date of registration where such registered person has ceased to carry on or carry out a taxable activity or the total value of his supplies during any taxable period within such period does not exceed the value set out in section 10.";

- (2) in subsection (3) of that section by the substitution for the words and figures "any person registered under section 10 or section 12 where the Commissioner-General is of the opinion", of the words "any person, where he is of the opinion".

Amendment of
section 20 of the
principal
enactment.

12. Section 20 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section by the substitution for the words "shall issue to another registered person to whom a supply is made", of the words "shall issue to the person to whom such supply is made";

(2) in subsection (2) of that section—

(a) by the repeal of paragraph (b) of that subsection and the substitution therefor of the following paragraph:—

"(b) the name and address of the person to whom the supply was made :"; and

(b) in paragraph (f) of that subsection, by the substitution for the words and figures "the amount of any excise duty payable under the Excise (Special Provisions) Act, No. 13 of 1989 any national" of the words "the amount of any national";

(3) by the repeal of subsection (6) of that section and the substitution therefor of the following:—

"(6) Notwithstanding the provisions of section 2, where a registered person makes a taxable supply, the value of which does not exceed two thousand rupees such registered person may issue a tax invoice setting out the following:—

(a) the name, address and the registration number of the supplier;

(b) the date on which the tax invoice was issued and its serial number;

(c) the date of supply and the description of goods or services supplied;

(d) the quantity or volume of the supply;

(e) the consideration inclusive of the tax for the supply and the relevant rate of tax."

13. Section 21 of the principal enactment is hereby amended as follows:—

Amendment of
section 21 of the
principal
enactment.

- (1) in subsection (1) of that section by the substitution for the words "fifteen days", of the words "last day of the month";
- (2) by the repeal of subsection (2) of that section;
- (3) by the repeal of subsection (12) of that section and the substitution therefor of the following subsection:—

"(12) Except where the Commissioner - General, imposes a penalty under subsection (10), every person who contravenes the provisions of subsection (1) or subsection (3) shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding fifty thousand rupees or to an imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment."

14. Section 22 of the principal enactment is hereby amended as follows:—

Amendment of
section 22 of the
principal
enactment.

- (1) in subsection (2) of that section by the substitution for the words "any output tax that is due to him", of the words "any output tax that is due to him:

Provided however, any person adopting a payment basis of accounting, is entitled to claim credit on so much of his input tax as is allowable under this Act, only in respect of a supply for which the payment has been made by such person";

- (2) in subsection (4) of that section by the substitution for the words "the expiration of one month", of the words " the expiration of two months";
- (3) by the repeal of the proviso to subsection (4) of that section and the substitution therefor of the following proviso :—

Goods and Services Tax (Amendment)
Act, No. 11 of 1998

"Provided however, that where in a taxable period—

- (a) the value of zero rated supplies was not less than fifty *per centum* of the total taxable supplies for that taxable period, such part of the excess of the input tax (inclusive of any excess brought forward from a preceding taxable period) as is equivalent to the proportion that the zero rated supplies bear to the total taxable supplies ; or
- (b) there is an excess of input tax, in the case of a person who has entered into an agreement with the Board of Investment of Sri Lanka during the period referred to in item (XXVII) or (XXVIII) of the Schedule to this Act ; or
- (c) there is an excess of input tax, in the case of a person referred to in subsection (6),

such part of the excess or such excess, as the case may be, shall be refunded, subject to the provisions of section 58, not later than one month after the end of the taxable period or from the date of the receipt of the return for such taxable period, in which the excess arose, whichever is later. In the event of a failure to pay such refund within such period, interest on such refund shall be payable from the date on which the refund becomes due to the date of payment thereof at such rate as may be prescribed under section 59."

- (4) in paragraph (1) of subsection (5) of that section by the substitution for the words "for the transportation of any goods;", of the words "for the transportation of any goods or motor vehicle forming part of any stock in trade of any taxable activity";

- (5) by the addition immediately after subsection (5) of that section of the following subsections:—

"(6) Where any registered person has proved to the satisfaction of the Commissioner-General that such person has commenced any business in Sri Lanka, and undertakes to make the taxable supplies in respect of such business within a period of thirty months from the date of such commencement, the Commissioner-General may allow credit for input tax in respect of such business subject to such conditions as may be specified by him.

(7) Notwithstanding the provisions of section 33, any refund in excess of the amount due, or any excess amount of input tax claimed shall be assessed by an Assessor on the registered person to whom the refund has been made or making such claim, as the case may be, and such amount shall be deemed to be tax in default on the first day of the taxable period in which the excess of input tax first arose resulting in such refund or excessive claim in excess as the case may be."

15. Section 25 of the principal enactment is hereby amended as follows :—

Amendment of
section 25 of the
principal
enactment.

- (1) in subsection (1) of that section by the substitution, for the words "a supply made to a registered person", of the words "a supply made to another person"; and
- (2) in paragraph (b) of subsection (2) of that section by the substitution, for the words "the supply was made shall pay", of the words "the supply was made shall if such person is a registered person pay".

Amendment of
section 26 of the
principal
enactment.

16. Section 26 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section by the substitution for the words "not later than the fifteenth day of", of the words "not later than the last day of" ;
- (2) by the repeal of both the provisos to that section.

Amendment of
section 27 of the
principal
enactment.

17. Section 27 of the principal enactment is hereby amended in paragraph (b) of subsection (1) of that section, by the substitution for the words "fifteenth day", wherever those words appear in that paragraph, of the words "last day".

Amendment of
section 30 of the
principal
enactment.

18. Section 30 of the principal enactment is hereby amended by the substitution for the words "avoid the payment of tax he shall", of the words "avoid the payment of tax or where the supply relates to a transaction between associated persons he shall".

Amendment of
section 33 of the
principal
enactment.

19. Section 33 of the principal enactment is hereby amended by the substitution for the words "has furnished a return in respect of that period", of the words "has furnished a return as provided in section 21 in respect of that period".

Amendment of
section 48 of the
principal
enactment.

20. Section 48 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section by the substitution for the words "whether such officer is responsible or not for such default", of the words "as if such officer is responsible for such default unless he proves the contrary to the satisfaction of Commissioner-General" ;
- (2) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection :—

"(2) Where an unincorporated body of persons has not paid any tax on or before the due date, it shall be lawful to proceed under all or any of the provisions of this Chapter against any partner or office-bearer of such unincorporated body of persons as if he is responsible for such default unless he proves the contrary to the satisfaction of the Commissioner-General, notwithstanding anything in any other written law."

21. Section 57 of the principal enactment is hereby amended as follows :—

Amendment of
section 57 of the
principal
enactment.

- (1) by renumbering of that section as subsection (1) of that section ;
- (2) by the addition immediately after the renumbered subsection (1) of the following subsection :—

“(2) Where an unincorporated body of persons is dissolved and where any tax to which such unincorporated body is liable, cannot be recovered then every person who was a partner or office - bearer of that unincorporated body at any time during the period in respect of which such tax is payable shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of the tax cannot be attributed to any gross neglect, malfeasance or breach of duty on his part in relation to the affairs of such unincorporated body and the provisions of this Act relating to collection and recovery of tax shall apply accordingly.”

22. Section 58 of the principal enactment is hereby amended as follows :—

Amendment of
section 58 of the
principal
enactment.

- (1) in the proviso to subsection (1) of that section by the repeal of paragraphs (i) and (ii) of that proviso and the substitution therefor of the following paragraphs—

“(i) a registered person who makes zero rated supplies ; or

(ii) any registered person referred to in paragraph (b) of the proviso to subsection (4) of section 22 ;

(iii) any registered person referred to in subsection (6) of section 22”;

- (2) in subsection (3) of that section—

(a) by the substitution in paragraph (a) thereof for the words “any taxable period or a month in a taxable period”, of the words “any taxable period” ;

12 *Goods and Services Tax (Amendment)*
Act, No. 11 of 1998

- (b) by the substitution in paragraph (b) thereof for the words "any taxable period or in a month in a taxable period has not furnished a return for any taxable period or a month in a taxable period", of the words "any taxable period has not furnished a return".

Amendment of
section 59 of the
principal
enactment.

23. Section 59 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words "by the Minister from time to time." of the words "by the Minister from time to time :

Provided however, no such interest shall be payable where there was a delay on the part of the registered person in complying with any requirement made by the Assessor in respect of any records of the registered person."

Repeal of Chapter
XI of the principal
enactment.

24. Chapter XI of the principal enactment is hereby repealed.

Amendment of
section
68 of the principal
enactment.

25. Section 68 of the principal enactment is hereby amended by the repeal of paragraph (f) of that section.

Amendment of
section
71 of the principal
enactment.

26. Section 71 of the principal enactment is hereby amended in subsection (4) of the section by the substitution for the words "a Deputy Commissioner of Inland Revenue" of the words "a Deputy Commissioner of Inland Revenue or a Senior Assessor of Inland Revenue."

Insertion of new
sections 71A and
71B in the
principal
enactment.

27. The following new sections are hereby inserted immediately after section 71 and shall have effect as sections 71A and 71B respectively of the principal enactment.

"Goods and
Services Tax
Refund Fund.

71A. (1) There shall be established a Fund called the Goods and Services Tax Refund Fund (hereinafter referred to as "the Fund").

(2) There shall be credited to the Fund—

- (a) a sum of Rupees one hundred million which shall be paid out of the Consolidated Fund to the Fund ;
- (b) twenty five *per centum* of the Goods and Services Tax collected every month commencing from the appointed date, on or before the fifteenth day of the month immediately succeeding that month.

(3) There shall be paid out of the Fund all refunds required to be paid in accordance with the provisions of this Act.

(4) (i) The Commissioner-General or any other officer of the Department of Inland Revenue authorised by him in that behalf in writing shall administer the Fund.

(ii) Regulations may be made as regards the manner and mode in which the refunds may be made.

Rewards to
informants.

71a. The Commissioner-General may pay, from sums appropriated for that purpose by Parliament, such sums of money as he considers reasonable in the circumstances of the case, to any individual who provides information which results in the assessment of the tax payable by any other person and the collection of tax from such person".

28. Section 75 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section by the substitution for the words "exceeds two hundred thousand rupees", of the words "exceeds five hundred thousand rupees";

Amendment of
section 75 of the
principal
enactment.

- (2) in subsection (2) of that section by the substitution for the words "for the period specified in subsection (1)" of the words "for any taxable period after the appointed date";
- (3) by the addition immediately after subsection (3) of that section of the following subsection:—

"(4) Where it is proved to the satisfaction of the Commissioner-General that any registered person has paid turnover tax under section 12 of the Turnover Tax Act, No. 69 of 1981 in respect of goods imported into Sri Lanka by such person before the appointed date and such goods are supplied by such person in the course of making taxable supplies which are not within section 3, on or after the appointed date, such turnover tax paid or part thereof attributable to such taxable supply shall be deemed to be input tax credit for the purposes of section 22, if such turnover tax or a part thereof is not given credit for or refundable under sections 47, 48, 48A, and 48B of the Turnover Tax Act, No. 69 of 1981 or not refunded under section 49 of the said Act".

Amendment of
 section 76 of the
 principal
 enactment.

29. Section 76 of the principal enactment is hereby amended as follows:—

- (1) by the insertion immediately after the definition of "Assessor" of the following definition:—

"associated persons" means—

- (a) any two or more companies which consist of the same shareholders or are managed and controlled by the same Directors; or
- (b) any company and any shareholder, where such shareholder or the spouse or child of such shareholder or any trustee of such shareholder or any trustee of the spouse or

the child of such shareholder hold jointly or severally twenty five *per centum* or more of the paid up capital or twenty five *per centum* or more of the nominal value of the allotted shares of that company; or

- (c) any two individuals one of whom is the spouse or child of the other or is a trustee for such spouse or child; or
 - (d) a partnership and an individual where such individual is related to any partner of such partnership;
 - (e) a joint venture and any person who is related to a member of such joint venture; or
 - (f) any two persons one of whom is a trustee for the other;
 - (g) any two individuals related to each other;
- (2) by the repeal of the definitions respectively of "open market value" and "taxable period" and the substitution therefor, of the following definitions :—

"open market value" in relation to the value of a supply of goods or services at any date means the consideration in money less any tax charged under this Act, excluding the national security levy payable under the National Security Levy Act, No. 52 of 1991, which a similar supply would generally fetch, if supplied in similar circumstances at that date in Sri Lanka, being a supply freely offered and made between persons who are not associated persons;

"taxable period" means—

- (a) a period of one month—
 - (i) where the value of taxable supplies of any person has exceeded rupees thirty million during the preceding twelve months; or

- (ii) where the value of taxable supplies of any person for the period of the succeeding twelve months is estimated to exceed rupees thirty million; or
 - (iii) where the total turn over of any person under the Turn Over Tax Act, No. 69 of 1981 has exceeded rupees thirty million during four consecutive quarters ending six months immediately preceding the appointed date;
 - (iv) where any person makes zero rated supplies;
 - (v) where any person has entered into an agreement with the Board of Investment of Sri Lanka referred to in items (XXVII) or (XXVIII) of the Schedule;
 - (vi) where any person has commenced a business and undertakes to comply with the requirements of subsection (6) of section 22;
- (b) a period of three months commencing respectively on the first day of January, the first day of April, the first day of July and the first day of October of each year in respect of a registered person who is not referred to in paragraph (a) or a person who makes zero rated supplies and who opts to submit quarterly return on approval by the Commissioner-General;

Amendment of the
 Schedule to the
 principal
 enactment.

30. The Schedule to the principal enactment is hereby amended as follows :—

- (1) in item (i) of that Schedule, by the substitution for the words "supply of coconuts, desiccated coconuts, coconut fibre, coconut poonac, copra, rubber" of the words "supply or import of coconuts, desiccated coconuts, coconut poonac, unprocessed forestry products";
- (2) in item (ii) of that Schedule by the substitution for the words "The import" of the words "the supply or import";

- (3) by the repeal of item (iv) of that Schedule and the substitution therefor of the following item :—
- “(iv) The supply or import of bread of any description”;
- (4) in item (vi) of that Schedule, by the substitution for the words “The supply” of the words “The supply or import”;
- (5) in item (xii) of that Schedule, by the substitution for the words “and liquid petroleum gas” of the words “liquid petroleum, gas and petrol” ;
- (6) in item (xv) of that Schedule, by the substitution for the words “The import” of the words “The supply or import” ;
- (7) in item (xix) of that Schedule, by the substitution for the words “Republic of Sri Lanka” of the words “Republic of Sri Lanka or of a Provincial Council”;
- (8) in item (xxii) of that Schedule, by the substitution for the words “The import” of the words “The supply or import” ;
- (9) by the repeal of item (xxv) of that Schedule;
- (10) in item (xxvi) of that Schedule, by the substitution for the words and figures “upto 75 kwh. per consumer” of the words and figures “upto 90 kwh. per consumer”;
- (11) by the repeal of item (xxix) of that Schedule;
- (12) by the repeal of item (xxx) of that Schedule, and by the substitution therefor of the following item :—
- (xxx) The supply, in Sri Lanka, of architectural, engineering, quantity surveying or construction management services by a non resident person within the meaning of the Inland Revenue Act, No. 28 of 1979, to a company with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17

of the Board of Investment of Sri Lanka Law, No. 4 of 1978, on or before the appointed date, if the total cost of the project to which such agreement relates is not less than US \$ 50 million or its equivalent;

(13) by the addition at the end of that Schedule of the following items :—

(xxxii) The supply, lease or rent of residential accommodation;

(xxxiii) The supply or import of timber;

(xxxiv) The supply of all health care services provided by medical institutions or professionally qualified persons providing such care;

(xxxv) The supply of hotel accommodation to tourists during the period of two years commencing from the appointed date;

(xxxvi) the supply of inbound services to tourists by travel agents registered with the Tourist Board established by Ceylon Tourist Board, Act, No. 10 of 1966 during the period of two years commencing from the appointed date ;

(xxxvii) The supply and import of pearls, diamonds, natural or synthetic precious or semi-precious stones, diamond and other powder, precious metals or metals clad with precious metal, and gold coins;

- (xxxviii) The supply and import of machinery, Medical and Surgical instrument, apparatus and accessories including medical and dental equipment and ambulances for the provision of Health Services.

31. In the event of any inconsistency between the Sinhala and Tamil texts of this Act the Sinhala Text shall prevail.

Sinhala text to prevail in case of inconsistency.

Annual subscription of English Bills and Acts of the Parliament Rs. 885 (Local), Rs. 1,180 (Foreign), payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, No. 32, TRANSWORKS HOUSE, LOTUS ROAD, COLOMBO 01 before 15th December each year in respect of the year following.