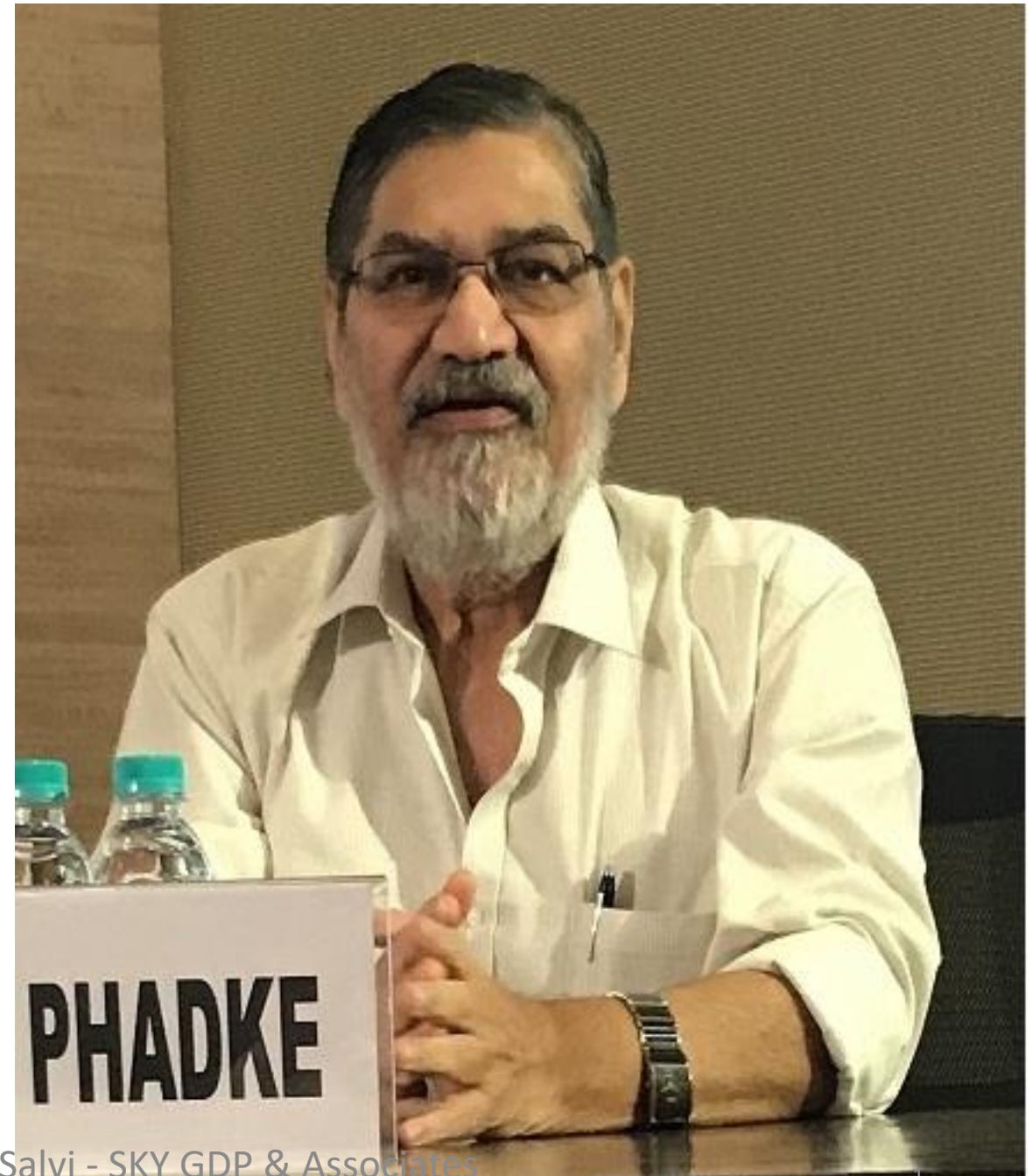


AMNESTY SCHEME

Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fees Act 2023

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AMNESTY SCHEME – 2023 SYNOPSIS

Important Definitions

Eligibility

Waiver

Payment Options

Conditions

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Definitions

(1) In this Act, unless the context otherwise requires,-

*(c) “**applicant**” means a **person who is liable to pay arrears of tax**, interest, penalty or late fee levied or leviable under the Relevant Act or any other person including financial institution who desires to avail the benefit of settlement by complying with the conditions under this Act;*

*(d) “**arrears**” means the outstanding amount of tax, interest, penalty or late fee, as the case may be,-*

*(i) payable by an assessee as per any **statutory order** under the Relevant Act; or*

*ii) **admitted in the return** or, as the case may be, the revised return filed under the Relevant Act, and which has not been paid either wholly or partly;*

Definitions

*(iii) determined and recommended to be payable by the auditor, in the **audit report** submitted as per section 61 of the Value Added Tax Act, whether the notice under section 32 or 32A of the Value Added Tax Act, has been issued or not, and such arrears of tax, interest, penalty or late fee, pertains to specified period and it also includes the interest payable on the admitted tax under the Relevant Act for the specified period ;*

*(f) “**designated authority**” means an authority appointed u/s 3 of this Act ;*

*(i) “**Government**” or “State Government” means the Government of Maharashtra ;*

*(m) “**return dues**” means the amount of tax, interest or late fee, admitted in the **return or the revised return filed** under the Relevant Act in respect of the specified period, but which has **remained un-paid** either wholly or partly at any time on or **before the 31st October 2023;***

Definitions

- (k) “**Relevant Act**” means the following Acts (Including Rules & Notifications), namely :*
- (i) the Central Sales Tax Act, 1956 ;*
 - (ii) the Bombay Sales of Motor Spirit Taxation Act, 1958;*
 - (iii) the Bombay Sales Tax Act, 1959 ;*
 - (iv) the Maharashtra Purchase Tax on Sugarcane Act, 1962 ;*
 - v) the Mah. State Tax on Professions, Trades, Callings and Employments Act, 1975*
 - (vi) the Mah. Sales Tax on the Transfer of Right to use any Goods for any Purpose Act, 1985 ;*
 - (vii) the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 ;*
 - (viii) the Maharashtra Tax on Luxuries Act, 1987 ;*
 - (ix) the Mah. Sales Tax on Works Contract (Re-enacted) Act, 1989 ;*
 - (x) the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002; and*
 - (xi) the Maharashtra Value Added Tax Act, 2002 ;*

Definitions

- (l) “**requisite amount**” means an amount required to be paid by the applicant under this Act and shall be the aggregate of the amount paid during the period specified in clause (b) of the Table given in sub-section (2) of section 10 of this Act towards,-*
- (i) the amount of un-disputed tax, and*
 - (ii) the amount of disputed tax, interest, penalty, late fee, **whether levied or not**, as determined under sections 8 and 9 of the Act and as specified in Annexure-A or Annexure-B appended to the Act ;*
- (n) “**specified period**” any period ending on or before the 30/6/2017 ;*
- (o) “**statutory order**” any order passed under the Relevant Act, raising the demand of tax, interest, penalty or late fee payable by the applicant ;*

Definitions

- (g) “**disputed tax**” means the tax other than un-disputed tax as defined in cl. (q) ;*
- (q) “**un-disputed tax**” means,-*
 - (i) the taxes **collected separately** under the Relevant Act ; or*
 - (ii) the taxes **shown payable in the return** or the revised return under the Relevant Act; or*
 - (iii) an amount claimed by the dealer as deductions as per **rule 57** of the Value Added Tax Rules or similar rules under other Relevant Act ; or*
 - (iv) an amount **forfeited** under the statutory order or **excess tax collection** shown in the return, revised return or Audit report, or*
 - (v) any amount of tax determined and recommended to be **payable by the auditor, in the audit report** submitted as per sec. 61 of MVAT Act, and **accepted** by the assessee, either wholly or partly ; or*
 - (vi) the tax deducted at source (**TDS**) by the employer under the **MVAT** Act ; or*

Definitions

- (vii) the **tax collection** made under section 31A of the MVAT Act ;*
- (viii) the tax **payable by the enrollment certificate holder** under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 ;*
- (ix) the **tax deducted by the employer** under the Maharashtra State Tax on Professions, 1975*
- (x) the amount of **disallowed set-off under rules 52A or 52B** of the Value Added Tax Rules, which is eligible to be claimed in the subsequent period ;*

Set-off under MVAT Act is available at the time of purchase of the goods. However, in the set of contingencies specified for the purposes of rules 52A(mega units) and 52B (mobile handsets, aerated water & tobacco) the set-off is available in the month in which the goods are resold. If the set-off is disallowed due to goods not being resold or goods lying in stock, then the

Payment & Waiver

- *set-off disallowed in respect of such goods is eligible to be claimed in the month in which the goods are resold. Thus, there is no permanent loss on account of any disallowance of set-off under these rules. Hence, set-off disallowed under rules 52A or 52B which is eligible to be claimed in the subsequent period is treated as un-disputed tax.*

IMP to remember -

*The interest and late fee determined and recommended to be payable by the auditor and accepted by dealer is not included under un-disputed tax and accordingly **Waiver** is allowable for amount of interest and late fee*

Definitions

Few Examples of Disputed Tax –

- *Tax payable due to non-production or disallowance of Declarations and correspondingly tax payable at higher rate of tax;*
- *Disallowance or reduction of Set-off due to mismatch or other reason;*
- *Disallowance of claims for branch transfer / high-seas sales /tax-free sales /export /deemed export /sale in transit/goods return/resale under Bombay Sales Tax Act.*
- *Enhancement of Sales Turnover on estimated basis;*
- *Tax payable due to dispute regarding tax rate applicable, provided the differential tax is not collected from customer;*
- *Profession Tax payable by Employer if Profession Tax is not deducted from Wages and Salaries.*
- *Claim of labour charges disallowed in assessment and taxed under Relevant Act*
- *Tax levied on service tax portion in case of works contract dealer paying tax under composition scheme.*

Scheme Operational Period

Period during which the application form is to be submitted –

*The Form should be submitted between the period **01-05-2023 to 14-11-2023**.*

*In case an application has paid requisite amount within the time but could not apply within the time, then the **delay up to 30 days** may be **condoned** by the designated authority after recording the reasons for delay i.e in such cases the application can be made up to 14-12-2023.*

Eligibility for Settlement

- Where the **assessment and penalty orders** are passed separately, the applicant shall not be eligible to opt to settle only the penalty amount as per the order imposing penalty, as penalty is associated with levy of tax or disallowance of certain claims. In such cases, the applicant would mandatorily be required to opt for **settlement of both arrears as per assessment order and penalty order**. The above shall also apply to stand alone **interest orders** passed under the Relevant Act. However, **where a penalty is not associated with levy of tax or disallowance of various claims**, the applicant **may opt for such standalone penalty order**. For example, penalty levied for non-furnishing or late or incomplete filing of audit report under section 61 of the MVAT Act.
- In order to opt for settlement of these dues, the applicant would have to **calculate the interest payable from the due date of the return to the date of payment**.

Eligibility for Settlement

- *The tax recommended to be paid in the **audit report** and accepted by the dealer is to be treated as **un-disputed tax**. As for the balance **amount of tax which is not accepted by the dealer**, the applicant would have to first **ascertain the nature of the said tax to classify it as an un-disputed or disputed tax under the Settlement Act**.*
- *In case the balance additional tax liability as recommended by the auditor and not accepted by the dealer is on account of any of the contingencies described in the definition of ‘un-disputed tax’, the same would have to be treated as ‘**un-disputed tax**’. If the balance additional tax liability is on account of any other contingencies i.e., not covered under the definition of “un-disputed tax”, then, it would have to be treated as ‘**disputed tax**’.*

Eligibility for Settlement

*4. (1) An applicant, can be **registered or unregistered** under the Relevant Act, shall be eligible to make an **application for settlement** of arrears of tax, interest, penalty or late fee in respect of the specified period, whether such arrears are **disputed in appeal under the Relevant Act or not**.*

*(2) Even if the applicant, has **availed benefits** under any of the **Amnesty Schemes**, as declared by the Government under any Government Resolution or under the Maharashtra Settlement of Arrears in Disputes Act, **2016** or the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, **2019 or 2022**, shall also be eligible to make an application under this Act.*

(3) For the settlement under this Act, the applicant shall comply with conditions stated in section 11.

Eligibility for Settlement

*Liability to pay tax is **continuous**, such **unregistered person** would be required to obtain the registration under the Relevant Act. For example, an unregistered dealer dealing in the six commodities i.e., **petroleum crude**, high speed diesel, petrol, natural gas, aviation turbine fuel and **alcoholic liquor** for human consumption under the MVAT Act (where such business continued after the 1st July 2017) and who desires to settle the arrears in respect of any period ending on 30th June 2017 then he would be required to obtain registration under the MVAT Act.*

Eligibility for Settlement

Cases litigated by the State, also eligible for settlement.

*5. The applicant can apply for the settlement of the **tax, interest, penalty or late fee** disputed by the Department even though there are **no outstanding dues** as per any statutory order made by the Tribunal or the Hon'ble Court for such demand disputed by the Department.*

In such cases, once the amount disputed by the said Department is settled under this Act, there shall be no refund or adjustment of the amount so paid or there shall be no recovery of the waiver already granted under this Act.

Eligibility for Settlement

Adjustment of amt. paid before 30-04-2023 and determination of arrears of tax, interest, penalty or late fee, if any, eligible for settlement.

*6. (1) (a) any payment made in respect of a **statutory order** either in the appeal or otherwise, on or before the **30th April 2023**, shall be adjusted as follows: a) the amount of un-disputed tax then b) disputed tax, thereafter, c) the interest and the balance if any towards d) the penalty and the late fee, sequentially ;
(b) The unpaid balance remaining after adjusting amount as above for the specified period, if any, as on the 1st May 2023 or any **demand raised** for the specified period by any statutory order during the period from **1st May 2023 to 31st October 2023**, shall be considered for the settlement under this Act.*

Even where the dealer has shown amount paid as tax or interest or penalty or late fee, it would be adjusted in the above sequence only.

Eligibility for Settlement

6. (2) The provisions of foregoing clauses in respect of adjustment of amount paid and determination of arrears shall be **applicable mutatis mutandis to the return dues** or, to dues as per the recommendations made in respect of tax, interest or late fee by the auditor in the **Audit report**.

Write off in respect of certain amounts.

7. (1) **Any arrears determined as per any statutory order** for the specified period, as on the 1st May 2023, which are rupees **two Lakh or less per financial year** under the Relevant Act shall be written off.

(2) The post assessment interest on such written off dues shall stand waived.

(3) To get the benefit of this provision, **dealer is not required to make application** for waiver of these amounts. The Department shall **suo-moto write off** these amounts. The concerned Joint Commissioner of State Tax to pass the necessary orders of write off. ~~The intimation about write-off of dues would be sent to the dealer by 30th June 2022 by the concerned designated officer.~~

Calculation of amount of arrears or Amount Due

Following points should be remembered for calculation of amount due:

- 1. It is necessary to find out the amount due separately for each kind of arrears i.e., undisputed Tax, disputed tax, interest and penalty as the requisite amt. & amt. of waiver depends on the category of arrears according annex. A & B of sec. 10.*
- 2. **Tax:** whether it is undisputed or disputed shall be determined by taking into consideration the definition as per sec. 2 (q) & (g) resp. of this act.*
- 3. **Interest:** a) The interest as per statutory order shall be taken into consideration as **post assessment interest of statutory dues is not payable.***
b) In case of return dues interest amount shown payable in return shall be ignored but we must take into consideration the interest payable calculated as per sec. 30(2) of MVAT act, which is 1.25% p.m. of amt. due till Nov. 2015 and thereafter 1.25% p.m. for 1st month, 1.5% p.m. for next two month & 2% p.m. thereafter till amount is paid. The interest shall be calculated day wise.
C) In case of audit dues, the interest shown by auditor shall be ignored and interest calculated on amount due as per sec. 30(3) which is same as per 30(2)

Example of Eligible Amount Calculation -

1) The auditor has shown dues of Tax Rs. 150000 & Interest 90000 for FY 16-17
The dealer has accepted tax of 100000 & Interest of 60000. Rs. 1,00,000 were paid before 31-3-2022. How the amount paid will be adjusted & amt. due calculated?

Undisputed Tax- amt. paid is adj. 1,00,000 Balance amt. due Zero

Disputed Tax - amt. adjusted nil balance of arrears 50,000

Interest - amt. adjusted nil balance of arrears See note below

The balance tax not accepted and paid by dealer is correctly treated as disputed tax.

Note: The interest shown payable by auditor is not considered but calculated as per Sec. 30(3) on 50,000 amount due till date of payment i.e., from 01-10-2016 to say 31/05/2023 i.e. date of payment

2) The appeal was filed against order showing tax dues 2,50,000 + Interest 1,50,000 + Penalty 50,000/- The amount paid in appeal - was undisputed tax 1,00,000/- + 10% of disputed tax 15,000/- What will be the amount available for amnesty?

Disputed tax 1,50,000 Less 15,000/- 1,35,000

Interest 1,50,000

Penalty 50,000

Calculation of Amount Due on Return

*Return dues is fully undisputed tax as amount of tax is admitted in return. For Int payable, calculate the interest payable from the **due date of the return to the date of actual payment of the tax dues**, ignoring the interest shown payable in the return. The interest so calculated as shown in the following Table –*

1.25% for first month (21-5-16 to 20-6-16) 3% for next two months (21-6-16 to 20-8-16) 2% p.m. for balance period (21-8-16 to 20-5-22)

<i>Return Period</i>	<i>Tax payable as per Return</i>	<i>Interest shown in the Return</i>	<i>Total as per Return</i>	<i>Due date of the return</i>	<i>Date of payment of Tax to settle the return dues</i>	<i>Actual Interest Payable</i>
<i>Dec.2015</i>	<i>20000</i>	<i>1800</i>	<i>21800</i>	<i>21/01/2016</i>	<i>31/05/2023</i>	<i>35477</i>
<i>Jan.2016</i>	<i>80000</i>		<i>80000</i>	<i>21/02/2016</i>	<i>31/05/2023</i>	<i>140253</i>
<i>Feb.2016</i>	<i>30000</i>	<i>3000</i>	<i>33000</i>	<i>21/03/2016</i>	<i>31/05/2023</i>	<i>52015</i>
<i>Mar.2016</i>	<i>30000</i>		<i>30000</i>	<i>21/04/2016</i>	<i>21/05/2022</i>	<i>51395</i>
Total	160000	4800	164800			279140

Payment & Waiver

Determination of requisite amount and extent of waiver.

8. (1) The requisite amount payable towards the settlement of arrears shall be determined as follows:

- (a) The payment to be made and amount which will be waived of such undisputed tax, disputed tax, interest, penalty or late fee **for One Time Payment option or Installment option**, shall be as specified in **section 10**, in Annexure-A or Annexure-B, as the case may be;*
- (b) Where arrears determined as per section 6, of tax, interest, penalty or late fee as per any **statutory order** is of **rupees fifty lakh or less** and if, the applicant opts for payment of a **lump sum amount** under One Time Payment option, then the extent of lump sum payment and applicable waiver shall be as specified in Annexure-A or Annexure-B, as the case may be.*

Payment & Waiver

8. (2) The **payment** of the requisite amount as determined under this section shall be made in the form of Challan prescribed under the Relevant Act or, in **Form-MTR-6** prescribed under the Value Added Tax Rules as the case may be, and shall be made on or before **last date applicable** to the option opted by the applicant.

(3) The payment made on any account on or **before the 30th April 2023** shall **not be considered** as a payment towards the requisite amount.

(4) Under any circumstances, the applicant shall **not be entitled to any waiver in respect of un-disputed tax**.

(5) The applicant shall be entitled to the waiver of disputed tax, interest, penalty or late fee, to the extent as prescribed in Annexure-A or Annexure-B, as the case may be.

Annexure-A
(see sections 8 and 9)

(for the periods commencing on or after the 1st April 2005 and ending on or before the 30th June 2017)

Sr. No.	Amount	One Time Payment Option		Installment option	
		Amt. to be paid	Amt. of Waiver	Amt. to be paid	Amt. of Waiver
(a)	(b)	(c)	(d)	(e)	(f)
1)	Un-disputed Tax.	100 %	NIL	100%	Nil
2)	Disputed Tax.	50%	50%	56%	44%
3)	Interest payable as per Relevant Act or interest payable as per any statutory order or returns or revised returns.	15%	85%	15%	85%
4)	Penalty as per any statutory order.	5%	95%	5%	95%
5)	Post assessment interest or penalty or both but not levied up to the date of application by the dealer.	0%	100%	0%	100%
6)	Late fee payable in respect of returns filed on or before the 31st October 2023.	5%	95%	5%	95%

Annexure-A
(see sections 8 and 9)

(for the periods commencing on or after the 1st April 2005 and ending on or before the 30th June 2017)

Sr. No.	Amount	One Time Payment Option		Installment option	
		Amt. to be paid	Amt. of Waiver	Amt. to be paid	Amt. of Waiver
(a)	(b)	(c)	(d)	(e)	(f)
OR					
7)	Where amount of arrears as per any statutory order is of Rs. 50 Lakh or less, applicant may opt for lump sum payment <i>instead of determining requisite amount as per Sr. No.s (1) to (4) and (6) above.</i>	20%	80%	NA	NA

Annexure-B
(see sections 8 and 9)
(for the periods ending on or before the 31st March 2005)

Sr. No.	Amount	One Time Payment Option		Instalment option	
		Amt. to be paid	Amt. of Waiver	Amt. to be paid	Amt. of Waiver
(a)	(b)	(c)	(d)	(e)	(f)
1)	Un-disputed Tax.	100%	NIL	100%	Nil
2)	Disputed Tax.	30%	70%	34%	66%
3)	Interest payable	10%	90%	10%	90%
4)	Penalty as per any statutory order.	5%	95%	5%	95%
5)	Post assessment interest or penalty leviable but not levied up-to application.	0%	100%	0%	100%
OR					
6)	Where amount of arrears as per any statutory order is of Rs. 50 Lakh or less, applicant may opt for lump sum payment instead of determining requisite amount as per Sr. No.s (1) to (4) above.	20%	80%	NA	NA

Lump-sum Payment scheme

- *Payment of Requisite amount under **one time payment scheme** or **Lump-sum Payment Scheme** is to be done between 01-05-2023 to 31-10-2023.*
- **Lump-sum payment scheme:**
- *The dealer is eligible to opt for this scheme only if the statutory dues as per order after adjusting part payment in appeal or otherwise are equal to or less than Rs. 50 Lakhs.*
- *For example, if as per assessment order demand is for Rs. 15 lakh and dealer has paid undisputed tax of 6 lakh and one lakh while filing appeal the statutory dues will be 8 lakh and the dealer will be entitled for lump-sum payment scheme.*
- *The dealer opting for this scheme shall pay 20% flat of the total dues irrespective of disputed, un-disputed tax, interest etc.*
- *The 80% of statutory dues will waived off.*

Installment Scheme

- ***This scheme** is available to dealers whose arrear amt. **exceeds Rs. 50 Lakh.***
- ***Minimum 25%** of requisite amount to be paid between the period **01-05-2023 to 31-10-2023**; and*
- *Remaining requisite amount to be paid in three equal quarterly installments from date of application so that all installments shall be paid within 9 months from the date of application.*
- *The last installment is mandatorily to be **paid within 9 months** from the date of application (app. Date 10-10-23 then 1st instalment on 10-01-24/ 2nd on or before 10-04-24 & 3rd on or before 10-07-24)*

Delay or short payment of the requisite amount in time –

- *If any installment is paid beyond the due date, interest at the **rate of 12%** per annum will be payable;*
- *In case all installments are not paid within nine months, proportionate benefit shall be granted.*

Installment Scheme

In All the Cases

- *If requisite amount is short paid, **proportionate benefit** shall be granted.*
- *The balance arrears remaining unsettled after considering the proportionate benefit shall be recovered as an arrears under the Relevant Act.*
- *No application shall be rejected merely on the ground of short payment.*
- *Part payment made while filing an appeal under the Relevant Act during the period from 1st May 2023 to 31st October 2023 shall not be treated as requisite amount for settlement of arrears as the part payment made under the Relevant Act is for the purpose of filing an appeal and not as a requisite amount for the settlement of dues.*

Comparison of Lumpsum and one time payment scheme

<i>Arrears Type</i>	<i>Arrears as on 1st May 2023</i>	<i>Requisite Amt. payable as per Annex. - A</i>		<i>Amount of Waiver</i>	<i>Requisite amount 20%</i>	<i>Waiver granted</i>
		<i>%</i>	<i>Amt</i>			
<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)</i>
			<i>(b) x (c)</i>	<i>(Note 1)</i>	<i>(d) - (e)</i>	<i>(f) / (c)</i>
<i>Un-disputed Tax</i>	<i>200000</i>	<i>100%</i>	<i>200000</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Disputed Tax</i>	<i>200000</i>	<i>50%</i>	<i>100000</i>	<i>100000</i>	<i>0</i>	<i>0</i>
<i>Interest</i>	<i>300000</i>	<i>15%</i>	<i>45000</i>	<i>255000</i>	<i>0</i>	<i>0</i>
<i>Penalty</i>	<i>100000</i>	<i>5%</i>	<i>5000</i>	<i>95000</i>	<i>0</i>	<i>0</i>
<i>Post assessment interest or penalty</i>		<i>0%</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Total</i>	<i>800000</i>		<i>350000</i>	<i>450000</i>	<i>160000</i>	<i>640000</i>

Comparison of Lumpsum and one time payment scheme

<i>Arrears Type</i>	<i>Arrears as on 1st May 2023</i>	<i>Requisite Amt payable as per Annx - A</i>		<i>Amount of Waiver</i>	<i>Requisite amount 20%</i>	<i>Waiver granted</i>
		<i>%</i>	<i>Amt</i>			
<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)</i>
			<i>(b) x (c)</i>	<i>(Note 1)</i>	<i>(d) - (e)</i>	<i>(f) / (c)</i>
<i>Un-disputed Tax</i>	<i>Nil</i>	<i>100%</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Disputed Tax</i>	<i>Nil</i>	<i>50%</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Interest</i>	<i>200000</i>	<i>15%</i>	<i>30000</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Penalty</i>	<i>50000</i>	<i>5%</i>	<i>2500</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Post assessment interest or penalty</i>		<i>0%</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
<i>Total</i>	<i>250000</i>		<i>32500</i>	<i>217500</i>	<i>50000</i>	<i>200000</i>

Requisite Amount if entry tax is payable

A statutory order under the Tax on Entry Act is a prerequisite for applicability of the provisions of section 9 of the Settlement Act. However, a corresponding statutory order for the same period under the MVAT Act or the Bombay Sales Tax Act, 1959 is not a mandatory requirement.

Requisite amount in respect of the applicant who is liable to pay entry tax under Tax on the entry of Goods into Local Arrears Act, Will be –

- a) Determined in Statutory Order or*
- b) The amount reduced or denied under Rule 53 (Reduction of set off) or Rule 54, (set off not available) respectively, from the set off allowable under MVAT Rules or under corresponding rules under Bombay Sales Tax Rules, **Whichever is Less.***

Example - Requisite Amount if entry tax is payable –

*A dealer imported steel bars, angles, joints etc. of Rs. 10,00,000/- during the year 2011-12 and **assessment order is passed** levying tax plus int and penalty as below-*

- Entry Tax @5% on Rs. 10,00,000/-* *Rs. 50,000/-*
- Interest levied* *Rs. 25,000/-*
- Penalty Levied* *Rs. 50,000/-*

Requisite Amount if entry tax is payable

Requisite Amount if entry tax is payable – Example

*a) If the dealer has used those imported goods for the **construction of immovable property**, the set-off is denied u/r 54 of MVAT Rules and thus requisite amount in respect of tax payable will be -*

- Entry Tax @5% on Rs. 10,00,000/- Rs. 50,000/-*
- Set-off denied u/r 54(h) of MVAT Rules Rs. 50,000/-*
- Requisite amount payable (lower of above) Rs. 50,000/-*

*b) If the dealer has used those imported goods for the **Furniture**, the set-off is reduced u/r 53(7A) of MVAT Rules and thus requisite amount in respect of tax payable will be –*

- Entry Tax @5% on Rs. 10,00,000/- Rs. 50,000/-*
- Set-off reduce u/r 53(7A) of MVAT Rules @ 3% Rs. 30,000/-*
- Requisite amount payable (lower of above) Rs. 30,000/-*

Requisite Amount if entry tax is payable

Requisite Amount if entry tax is payable – Example

*c) If the dealer has used those imported goods for the **plant and machinery**, no reduction/denial of the set-off will be done u/r 53 or 54 of MVAT Rules and thus requisite amount in respect of tax payable will be -*

- Entry Tax @5% on Rs. 10,00,000/- Rs. 50,000/-*
- Set-off reduced/denied u/r 53 or 54 of MVAT Rules Rs. Nil*
- Requisite amount payable (lower of above) Rs. Nil*
- With respect to the **interest levied as per any Statutory Order** will be considered for determining the requisite amount and waiver amount in accordance with Annexure-A or Annexure-B depending upon period.*
- Similarly, with respect to the **penalty levied as per any Statutory Order** will be considered for determining the requisite amount and waiver amount. In accordance with Annexure-A or Annexure-B depending upon period.*

Short Payment & Payment & Waiver

8. (6) If the applicant makes the payment which is less than the requisite amount as determined under this section then, the designated authority shall compute the proportionate amount of waiver admissible under the option opted by the applicant, in proportion to the requisite amount paid by the applicant :

Provided that, the amount so paid shall first be adjusted towards the un-disputed tax and the amount remaining, if any, after such adjustment shall then be adjusted towards the disputed tax, interest, penalty and late fee, proportionately.

(7) No application shall be rejected merely on the ground that the payment made by the applicant during the period as per option opted by the applicant under this Act is less than the requisite amount.

Calculation if Requisite Amount short paid

Calculation of Waiver in case requisite amount is paid short –

- *Where payment made by the applicant is less than the requisite amount in accordance with the provisions of the Act, the amount of waiver will be admissible in proportion the requisite amount paid by the applicant.*
- *In the case of Short payment of requisite amount, requisite amount paid shall first be adjusted towards the un-disputed tax in full as **No Waiver** in respect of un-disputed tax is allowed. The remaining amount shall thereafter be adjusted proportionately towards the disputed tax, interest, penalty or late fee.*

Calculation - When Requisite Amount paid is short

Example –

- The applicant has arrears of Rs.2 lakh undisputed tax +Rs. 9 lakh disputed tax + 3 lakh int. & Rs. 1 lakh penalty i.e.15 lakh as on 30th April 23 for the period 2014-15.
- He is required to pay requisite amount of Rs.7,00,000/- as per applicable % in accordance with Annexure-A. (Shown in next slide)
- However he could pay only Rs.5,00,000/- till 31st October 2023 and submitted the application for waiver.
- **Adjustment of amt. paid & Calculation of waiver not granted :**
 - Un-disputed tax will be adjusted first i.e. Rs. 2,00,000/-
 - The balance of paid amount after adjusting undisputed tax will be 3 lakh [5lakh – 2lakh]
 - The balance paid amount will be distributed in proportion of requisite amount payable.
 - The amount paid is 60%, of requisite amount (3lakh/5lakh*100) (**Ref. Column e**) apply this ratio to find out proportionate amount paid towards disputed tax, int., penalty.
 - The short paid requisite amount will be found out. (**Ref. Column f**)
 - The waiver not granted is found out by applying ratio of % of requisite amount to amount short paid. (**Ref. Column g**)

Calculation if Requisite Amount short paid

Calculation of Waiver in case requisite amount is paid short –

As the requisite amount paid is short than required amount, he will be granted proportionate benefit as shown in the Table below –

Arrears Type	Arrears as on 1/4/22	Requisite Amt payable as per Annx - A			Share of Amt. paid by dealer	Requisite Amt. short paid	Waiver not granted
		%	Req. Amt	Wav. Amt			
(a)	(b)	(c)	(d)	(d 1)	(e)	(f)	(g)
			$(b) \times (c)$		(Note 1)	$(d) - (e)$	$(f) / (c)\%$
Un-disputed Tax	200000	100%	200000	0	200000	0	0
Disputed Tax	900000	50%	450000	450000	270000	180000	360000
Interest	300000	15%	45000	255000	27000	18000	120000
Penalty	100000	5%	5000	95000	3000	2000	40000
Post assessment interest or penalty		0%	0		0	0	0
Total	1500000		700000	800000	500000	200000	520000

The amount short paid is only 2,00,000/- but reduction in waiver is Rs. 5,20,000/-

Procedure to be Followed

- *The applicant shall make a Application for the settlement of Arrears between **1st May 2023 to 14th November 2023**.*
- *Every application shall be accompanied by the proof of payment of full requisite amount in case of One Time Payment option and minimum 25% of requisite amount in case of Installment option & other documents mentioned in Application form.*
- ***Form-I** is notified as application for settlement of arrears of Tax, Interest, Penalty or Late Fee payable as per **Statutory Order**.*
- ***Form-IA** is notified as application for settlement of arrears of Tax, Interest, Penalty or Late Fee payable for other than Statutory Order i.e. return dues and audit report dues.*

Procedure to be Followed

Where Appeal is pending before the Appellate Authority or Tribunal or Court –

- If an appeal is pending before any appellate authority or tribunal or court against any statutory order, the same should be withdrawn fully and un-conditionally by applicant.*
- Every application shall be accompanied by ack. for Appeal Withdrawal Application [FORM II notified] with and if appeal withdrawal order is issued, such order.*
- The acknowledgement shall be treated as sufficient proof towards the withdrawal of appeal. However, Appellate authority including Tribunal is required to pass order allowing the withdrawal of appeal as desired by the appellant.*

Where the GST Department has filed reference or an appeal before the Maharashtra Sales Tax Tribunal or the Courts -

- a) If GST Department has filed reference or an appeal before the Maharashtra Sales Tax Tribunal or the Courts, the demands disputed by the said Department including tax, interest, penalty or late fee it may be considered for the settlement of arrears by the applicant and on application by applicant it will treated as withdrawn.*

Contd...

Procedure to be Followed

- b) Once the amount disputed by the said Department is settled under this Act,*
- There shall be no refund or adjustment of the amount so paid; or*
 - There shall be no recovery of the waiver already granted under this Act.*

If sett-off or Refund under VAT adjusted against CST or Entry Tax –

- Where excess set-off or refund under Value Added Tax Act is adjusted against liability under the Central Sales Tax Act, 1956 or the Tax on Entry Act and*
- Where such adjustment of set-off or refund reduced or denied in the assessment under the Value Added Tax Act, in order to settle dues under the Central Sales Tax Act, 1956 or the Tax on the Entry Act*
- Appeal filed under the Value Added Tax Act needs to be withdrawn fully and unconditionally along with appeal under the Central Sales Tax Act, 1956 or the Tax on the Entry Act, as the case may be.*

Procedure for Settlements

- A. *The applicant shall make a Application for the settlement of Arrears in **Form-I** or **Form-IA** and **submit electronically on MGSTD portal**.*
- B. *A separate application for each class of arrears under the Relevant Act, separately for each financial year, to be submitted.*
- *Payable as per any **statutory order** under the Relevant Act;*
 - *Admitted in the **return or revised return** filed and payable;*
 - *Determined and recommended to be payable by auditor in the **Audit Report** submitted and accepted by the assessee.*

Note – return or revised return

- *Where an applicant desires to settle the arrears of return dues, he should submit a separate application for each of such return or revised return under each Relevant Act.*
- *However, where an applicant desires to settle the arrears of return dues in respect of more than one return or revised return pertaining to financial year, then he may submit a single application for a financial year.*
- ***Separate Application** needs to be submitted **for each class of arrears and for each period**.*

Procedure for Settlements - Attachments

- ***Proof of payment*** of the requisite amount as determined;
- ***Copy of statutory order*** or return or revised return or audit report recommendations or the notice in relation to the initiation of any proceedings against which settlement is sought for;
- ***Original order of withdrawal of Appeal*** or in case the said order is not received the ***acknowledgement*** of request letter submitted for withdrawal of Appeal to the designated authority with Form I;
- ***Copies of Challans*** of payment of amount paid after the date of order or against the outstanding dues in other cases till 30th April 2023
- *In the case of payment by installment option, communicate payment of all installments with challan copies. [FORM VII notified]*

Instructions - Verification of Application

- Designated Authority will **verify correctness** of particulars furnished in application and documents submitted with records with reference to the records available with assessing or any other authority.
- On Verification, if it is noticed that the said application is **incorrect or incomplete or requisite amount paid is deficient**, then the designated authority shall issue **defect notice**, as far as possible, **within 15 days** from the date of receipt of application and intimate the defects [only once allowed].
- The applicant **within 15 days** of the receipt of defect notice **shall correct** the defects and make payment, if short paid, and submit the details. However **payment, if any, made after 31st October, 2023 shall not be considered as payment of requisite amount.**
- If the designated authority is satisfied regarding correctness and completeness of application, he will compute requisite amount and extent of waiver considering requisite amount paid.

Instructions - Verification of Application

- *If the designated authority is satisfied that the applicant has paid the requisite amount, he will **pass and order** (Form III notified) and*
- *Provide copy of the same to applicant **within 3 months** from last date specified for payment of requisite amount under One Time Payment option or last installment of requisite amount under installment option.*
- *Where the **applicant fails to correct defects** communicated, the designated authority may after giving opportunity of being heard and recording reasons in writing pass appropriate order giving **proportionate benefit** as may be available.*
- *applicant shall be discharged of his liability to the extent of the amount of waiver specified in the order of settlement*

Order for Settlements

*On **rejection of such application** and if the applicant had withdrawn the appeal to apply for settlement, then the said original **appeal** under the Relevant Act shall be **reinstated** on application made in this behalf to the appellate authority under the Relevant Act subject to the provisions of section 14.*

***Rectification 13(3)** the designated authority may, on its own motion or on application of the applicant, **within six months from the date of the receipt of the order** of settlement by the applicant, rectify any error apparent from the record :*

*Provided that, the application for rectification shall be **made within sixty days** from the date of the receipt of the order of settlement by the applicant :*

*Provided further that, no order **adversely affecting** the applicant shall be passed without giving him a **reasonable opportunity of being heard**.*

Appeal

Appeal against order passed under this Act.

14. (1) *An appeal against any order passed under this Act shall lie to,—*

(a) the concerned Deputy Commissioner of State Tax (Administration), if the order is passed by the authority subordinate to him;

(b) the concerned Joint Commissioner of State Tax (Administration), if the order is passed by the Deputy Commissioner of State Tax;

(c) the concerned Additional Commissioner of State Tax, if the order is passed by the Joint Commissioner of State Tax.

*(2) The appeal shall be filed **within sixty days from the date of receipt of any order** passed under this Act and any appeal filed thereafter shall not be entertained.*

(3) The appellate authority as specified in sub-sec (1) of this section shall, after making such further enquiry, as may be necessary, pass such order, as it thinks just and proper.

*(4) There shall be **no second appeal against an order passed** under sub-section (3) of this section.*

Review of order passed under this Act.

15. (1) Any order passed under this Act may be reviewed by the **Commissioner**, on his own motion, at any time **within twelve months** from the date of service of order.

(2) After noticing any error in such order, in so far as it is prejudicial to the interest of revenue, the Commissioner may serve on the applicant a notice and pass an order to the best of his judgment, where necessary within the time limit prescribed in sub-section (1).

Bar on reopening of settled cases under Relevant Act.

16. Subject to other provisions of this Act, an order of settlement issued under this Act shall be conclusive as to the settlement of arrears covered under that order, and the matter covered by such order of settlement shall not be re-opened in any proceeding of review or revision or any other proceedings under the Relevant Act, except any proceedings on account of specific observations made by the Comptroller and Auditor General of India.

Revocation of order of settlement.

17. (1) Notwithstanding anything contained in section 16, the designated authority can Revoke the Settlement Order

- ***Benefit has obtained by suppressing any material information or particulars or by furnishing any incorrect or false information, or***
- ***suppression of material facts or concealment of any particulars is found in the search and seizure***
- ***For the reasons to be recorded in writing and after giving an opportunity of being heard***
- ***Within Two years from the end of the FY in which order of settlement has been served***

Revocation of order of settlement.

17. (2) If an order of settlement is revoked under sub-section (1), the assessment, re-assessment, rectification, revision, review or appeal, as the case may be, under the Relevant Act, covered by such order of settlement, shall, notwithstanding anything contained in sections 11 and 16, stand revived or reinstated immediately upon such revocation, and such assessment, re-assessment, rectification, revision, review or appeal, as the case may be, shall be decided in accordance with the provisions of the Relevant Act, as if no order of settlement of the arrears of tax, interest, penalty or late fee has ever been made. However, where the period of limitation for re-assessment, rectification, revision or review under the Relevant Act is expiring within two years from the date of the order of revocation then, the re-assessment, rectification, revision or review under the Relevant Act shall be made by the respective authorities within two years from the date of the order of such revocation.

No refund under this Act.

18. Under no circumstances, the applicant shall be entitled to get the refund of any amount paid under this Act :

Provided that, in case the order of settlement is revoked or rejected under the provisions of this Act, the amount paid by the applicant under this Act shall be treated to have been paid under the Relevant Act.

Power of Commissioner under this Act.

19. (1) The Commissioner may, from time to time, **issue instructions and directions** as he may deem fit to the designated authorities, for carrying out the purposes of this Act.

(2) The Commissioner may, by an order, **prescribe the forms** for the purpose of this Act and the **manner in which the form shall be submitted.**

Power to remove difficulty.

20. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no order shall be made after the expiry of a period of one year from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Mistake makes us human.
Failure makes us stronger.
Hope keeps us going.
Love keeps us alive.

QUOTEDIARY.NET

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Namaskar



Disclaimer:

*Speaker is responsible for what he speaks but not **for what you understand.***

*MVAT and other indirect tax laws are old and not in force after 30-6-2017, therefore please **finalize your view/opinions at your own good/peril before opting for the scheme. Decide and take steps as early as possible as time available is less.** For all your actions **the person executing it should be held responsible.***

We have taken great care & exercised professional diligence while presenting the information to you but please feel free to bring to our notice any error or omission that you may notice for the benefit of others in future.

Thank You

**Any questions ask
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