

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015

TRADE CIRCULAR NO. 01/2023
DATED: 17.04.2023

Subject: Settlement of Dispute, 2023

The West Bengal Finance Act, 2023 (West Ben. Act I of 2023) (hereinafter referred to as the WB Finance Act, 2023), has brought about changes in the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, with effect from 15.04.2023, in terms of Notification No. 258-L dated 17.03.2023, read with Notification No. 485-F.T., dated 28.03.2023. The West Bengal Sales Tax (Settlement of Dispute) Rules, 1999 has also been amended vide Notification No. 552-F.T., dated 05.04.2023 w.e.f. 15.04.2023.

The definition of **“arrear tax, penalty, late fee or interest in dispute”** has been amended so that **only the arrear in dispute, as reduced by any deposit/payment already made by a taxpayer or any amount recovered against a particular case would be amenable for settlement.** The definition of “arrear tax, penalty, late fee or interest in dispute” as amended by the WB Finance Act, 2023 is as under:–

“arrear tax, penalty, late fee or interest in dispute” means,–

- (i) tax, by whatever name called, which is payable by an assessee under the relevant Act, or
- (ii) penalty imposed or which can be imposed upon an assessee due to late payment or non-payment of tax as mentioned in sub-clause (i), or for default in furnishing return in accordance with the provisions of the relevant Act, or
- (iii) penalty imposed or which can be imposed upon an assessee in cases other than cases mentioned in sub-clause (ii) in accordance with the provisions of the relevant Act; or
- (iv) late fee which is payable by an assessee under the relevant Act, or
- (v) interest which is payable by an assessee under the relevant Act,

which, as the case may be, is in dispute in any proceeding including audit, special audit, assessment, appeal, revision or review or for recovery of arrears of dues, reduced by, any deposit already made as per provisions of the relevant Act for entertainment of any appeal or revision thereunder, and/or any amount already paid, whether by way of deposit, security or otherwise, in terms of any order passed by any court or tribunal, or otherwise, and/or any amount recovered through any recovery proceedings including any garnishee proceeding, under the relevant Act, and pending before any authority on the 10th day of February, 2023. [sec. 2(1)(a)]

In terms of amended SOD Rules, any deposit made/amount paid/ amount recovered prior to the coming into force of section 3 of the WB Finance Act, 2023 is required to be deducted from any

disputed amount of tax/penalty/late fee/interest to arrive at the arrear tax/penalty/late fee/interest in dispute. Noteworthy it is that section 3 of the WB Finance Act, 2023 came into force w.e.f. 15.04.2023. **So, any deposit made/amount paid/ amount recovered relating to a case till 14.04.2023 shall be liable to be deducted to arrive at the arrear tax/penalty/late fee/interest in dispute, and any payment made on or from 15.04.2023** may be considered as payment for the purpose of settlement of such case.

The definition of “applicant” has also been amended to enable **a transporter or carrier or a transporting agent** to apply for settlement of any case.

Any case having arrear tax, penalty, late fee or interest arising out of any proceeding including audit, special audit, assessment, appeal, revision, review or for recovery of arrear dues under any of the following Acts can be settled on payment of a very nominal amount:

- (i) The West Bengal Value Added Tax Act, 2003
- (ii) The West Bengal Sales Tax Act, 1994
- (iii) The Central Sales Tax Act, 1956
- (iv) The Bengal Finance (Sales Tax) Act, 1941
- (v) The Bengal Raw Jute Taxation Act, 1941
- (vi) The West Bengal Sales Tax Act, 1954
- (vii) The West Bengal Motor Spirit Sales Tax Act, 1974, and
- (viii) The West Bengal Tax on Entry of Goods into Local Areas Act, 2012

For settlement of dispute, a “**case pending**” as per Rule 2(a) means a case relating to any period ending on or before **30.06.2017** which is pending on the **10th day of February, 2023** under the aforesaid Acts, for which–

- An audit, special audit or assessment has been made; or
- An appeal, revision or review petition has been filed; or
- A revision or review proceeding has been initiated; or
- A notice or order has been issued intimating the applicant for payment of tax, interest, late fee or penalty; or
- A notice has been issued in any proceedings under the above Acts proposing payment of tax, interest, late fee or penalty; or
- A proceeding for recovery of arrears of dues which has been referred to a CO/TRO, on or before 10th day of February, 2023.

It is clarified that where a notice has been issued centrally by ISD via email or otherwise till 10.02.2023 intimating for payment of tax, interest, late fee or penalty, such cases shall also be eligible for settlement of dispute.

It may be mentioned here that in case of arrear Entry Tax which is payable by a dealer/importer, a case may be considered as pending even if the applicant is not in possession of any notice/order provided he furnished Annexure 2 of Form-1 in connection thereto.

Any case pending before the West Bengal Taxation Tribunal, High Court or Supreme Court can also be settled provided leave is sought from the Tribunal or respective Court and submitted before the designated authority on or after the date of submission of Form-1 but not later than 2 months from the date of application or such further time as may be allowed by designated authority upon prayer. Further, if a case stands pending as on 10.02.2023 before the West Bengal Taxation Tribunal, High Court or Supreme Court but final order is/was passed after 10.02.2023 but before filing application, the final order so passed is to be furnished in lieu of the order of granting leave.

The application for settlement is to be filed in Form-1 before the **appropriate designated authority** (see Table 2) in respect of a case pending on the **10th day of February, 2023 relating to any period ending on or before 30th June, 2017.**

The last date for filing application for settlement of dispute is 31st May 2023.

Amounts to be paid for settlement of dispute are detailed in the Table below [Payment to be made on and from 15.04.2023 till submission of the application]

TABLE-1

Sl. No.	Dispute related to:	Amount to be paid for settlement:
A	Any arrear tax/penalty/late/interest as defined in section 2(1)(a) (other than Entry Tax)	
1.	Arrear tax for non furnishing/ non-production of statutory Certificates/ Declarations	15% of remaining balance amount of arrear tax in dispute after adjusting Certificates / Declarations in possession of applicant till the date of application.
2.	Any other arrear tax not covered by serial nos. 1	15% of arrear tax in dispute
3.	Arrear tax otherwise admitted in returns furnished or in writing before any Authority	100% of arrear tax admitted
4.	Any arrear interest related to 1, 2 and 3 above	Nil
5.	Any arrear late fee	Nil
6.	Any arrear penalty related to late payment or non-payment of any tax or for defaulting in furnishing return for the eligible period	Nil
7.	Any arrear penalty not covered by serial no. 6	2% of arrear penalty in dispute or Rs.15000/-, whichever is lower

B	Any arrear tax/penalty/late/interest as defined in section 2(1)(a) relating to Entry Tax	
1.	Arrear Entry tax	50% of arrear tax in dispute
2.	Arrear interest relating to Entry tax	NIL
3.	Arrear late fee relating to Entry tax	NIL
4.	Arrear penalty relating to Entry tax	NIL

Examples of some calculations of arrear tax and penalty in dispute, and amount payable for settlement:

Example-I

Calculation of arrear tax in dispute and amount payable for settlement			
<i>[Say, demand of Rs.10,000/- was made in assessment which was disputed in full by the taxpayer in appeal. Now, for the purpose of SOD, tax is required to be paid as under]</i>			
Amount of Tax in dispute other than Form/certificate	Tax deposited @ 15% in appeal	Arrear tax in dispute [1-2]	Amount of tax to be paid for filing SOD [15% of Arrear tax in dispute]
(1)	(2)	(3)	(4)
10,000	1,500	8,500	1,275

Example-II

Calculation of arrear tax in dispute and amount payable for settlement						
<i>[Say, demand was made in assessment for non-production of 'C' Forms which was disputed in full in appeal. Now, the taxpayer has obtained further "C" Forms after assessment]</i>						
Turnover of sales etc. (excluding tax) for which 'C' Forms were not produced in assessment	Tax demanded for non-furnishing of 'C' Forms (full rate of tax is 14.5%) Differential rate: (14.5-2) = 12.5%	Amount paid (15% of the tax demanded) for filing appeal	Turnover of sales etc. for which 'C' Forms have been received after assessment (statement to be furnished)	Remaining balance of tax in dispute for non-furnishing of 'C' Forms [(1) - (4)] X 12.5%	Remaining balance of arrear tax in dispute [(5) - (3)]	Tax to be paid for SOD [15% of (6)]
(1)	(2)	(3)	(4)	(5)	(6)	(7)
4000	500	75	3000	125	50	7.5

Example-III

Calculation of arrear Penalty (other than return related penalty) in dispute and amount payable for settlement				
Amount of Penalty as per order/disputed in appeal	Penalty paid/recovered till 14.04.2023	Deposited as per order of Tribunal till 14.04.2023	Arrear penalty in dispute	Amount to be paid for SOD
(1)	(2)	(3)	(4)	(5)
2,00,000	10,000	30,000	1,60,000	3,200

Example-IV

Calculation of arrear Entry Tax in dispute, and amount payable for settlement			
Entry tax as per order etc./disputed in appeal etc	Entry tax paid/deposited till 14.04.2023	Arrear Entry tax in dispute	Amount of tax to be paid for filing SOD [50% of Arrear tax in dispute]
(1)	(2)	(3)	(4)
100	20	80	40

Stepwise procedure for filing application:

1. Go to website www.wbcomtax.gov.in
2. Click the tab “SOD 2023” available under VAT/WBST/CST tab.
3. Download application in Form-1 (along with Annexure 1 & 2). Fill it up and ascertain tax/penalty liability, as applicable for SOD.
4. All payments are to be made online through the Government Receipt Portal System (GRIPS). For making payments on the Directorate’s website go to e-services > e-payment > GRIPS > Revenue Payment > select Department as “Directorate of Commercial Taxes” > select service as “Commercial Taxes other than Profession Tax” > select user type “SOD” along with appropriate Act, period and case No.(if any). For those who are unregistered, type “**unregistered**” in space for R.C. No. However, for making payment towards the Bengal Finance (Sales Tax) Act, 1941, the Bengal Raw Jute Taxation Act, 1941, the West Bengal Sales Tax Act, 1954, West Bengal Motor Spirit Sales Tax Act, 1974 and the West Bengal Sales Tax Act, 1994 option ‘SST’ is to be selected.
5. Make payment and print challan.
6. Generate **Reference No.** from the link provided in the “Settlement of Dispute, 2023” tab and print acknowledgement. The Reference No. is to be quoted on Form-1. (as per guidelines provided in the website)

7. Generate separate Reference No. for each case.
8. Submit the duly filled in and signed applications in Form-1 (in duplicate) **manually** before the designated authority along with the challan and other documents mentioned therein (as per Sl.19 of Form-1), including print-out of acknowledgement of Reference No. Wherever applicable, a copy of the such application is required to be submitted to the appellate/revisonal/reviewing authority before whom the case is pending.
9. The last date for submitting Form-1 is **the 31st May, 2023**. If application is sent by Registered or Speed Post, the day on which such application is received by the designated authority shall be treated as the day of its presentation.
10. An application in Form-1 will cover only one case under the relevant Act and shall cover the entire dispute of a case and not a mere part of it. Separate applications are required to be made for each case.
11. Filled in Form-1, Annexure 1 & 2, as the case may be, along with required documents is to be submitted before the designated authority as mentioned below:

TABLE-2

Sl. No.	As on 10.02.2023 Dispute Related to	Cases Related to	Designated Authority
(1)	(2)	(3)	(4)
1.	Appeal/Revision/ Review other than case of penalty related to violation of provisions for movement of goods*	Circle	Additional Commissioner/ Senior Joint Commissioner/ Joint Commissioner of a Circle
		Large Taxpayer Unit	Special Commissioner / Additional Commissioner/ Senior Joint Commissioner of the Large Taxpayer Unit
2.	Penalty related to violation of provisions for movement of goods	Bureau of Investigation/ Range/ Central Section	Senior Joint Commissioner or Joint Commissioner of Bureau of Investigation and Zones of BOI
3.	All other cases other than Sl. no.1 & 2 above	Charge	Assessing Authority of the Charge who has jurisdiction over the applicant
		Large Taxpayer Unit	Assessing Authority of the Large Taxpayer Unit who has jurisdiction over the applicant

* In those cases where Appeal/Revision/Review applications have been disposed of after 10.02.2023 but before filing SOD applications, the said applications to be presented before designated authority referred to in col. 3 of sl. no. 1.

Settlement of disputes and issue of certificates:

- (i) On receipt of the complete application in Form I along with the copy of duly receipted challan showing payment of the amount payable for settlement, the designated authority shall issue provisional certificate in Form 2 within 15 working days of the date of receipt of the application.
- (ii) If upon scrutiny of Form I, the designated authority finds any discrepancy or there is short payment of tax/penalty as applicable, he may issue notice in Form 3 within a period of 3 months following the month in which application in Form 1 is received. If no Form 3 is issued within such 3 months, the provisional certificate in Form 2 shall become final.
- (iii) If the designated authority is satisfied that the applicant has rectified discrepancy in Form 1 or its annexures or has paid the balance amount of tax/penalty as applicable as per notice in Form 3, he shall issue Form 3A whereupon the dispute shall be deemed to have been settled.
- (iv) If the applicant fails to comply with the requirement in Form 3 or where the designated authority finds the reply not to be satisfactory, the application may be refused by the designated authority, for reasons to be recorded in writing, after expiry of time allowed in Form 3. On such refusal, the amount paid for settlement shall be refunded.
- (v) If a certificate of settlement is revoked or an application for settlement is refused, the appeal, revision or review shall stand revived.
- (vi) The designated authority shall inform the appropriate assessing/appellate/revisional authority, as the case may be, regarding (i) making of an application by an applicant under section 5 or (ii) passing of any order by the designated authority under section 8 or revocation of any certificate of settlement under section 12, in Form 4.

Sd/-

(Khalid Aizaz Anwar, IAS)
Commissioner,
Commercial Taxes, W.B.

Memo No.- 45 CT/PRO
3C/PRO/2023

Date: 17.04.2023

Copy forwarded to the Special Commissioner/ISD for information and for uploading it on the official websites of the Directorate for information of all concerned.

Sd/-

(Nabanita Pal)
Spl. CCT, W.B. & PRO