

DISCLAIMER

While every care has been taken to provide accurate copy of the West Bengal Sales Tax (Settlement of Dispute) Rules, 1999 incorporating the subsequent amendments, the Directorate of Commercial Taxes, West Bengal will not be responsible for any typographical or any other error/ inaccuracy in the said rule.

For authoritative version of the provisions, reference may be made to the relevant notifications.

THE WEST BENGAL SALES TAX (SETTLEMENT OF DISPUTE) RULES, 1999

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[As amended by notification No. 331-F.T., dated 2nd March, 2020]

Notification No. 1749-F.T., dated 16th June, 1999.—In exercise of the power conferred by section 15 of the West Bengal Sales Tax (Settlement of Dispute) Act, 1999 (West Ben. Act IV of 1999), the Governor is pleased hereby to make the following rules:—

1. Short title and commencement. – (1) These rules may be called the West Bengal Sales Tax (Settlement of Dispute) Rules, 1999.

(2) They shall come into force on the 1st day of July, 1999.

2. Definitions.—In these rules, unless there is anything repugnant in the subject or context,—

(a) “case pending” means a case which is pending ¹[on the 31st day of January, 2020] under the relevant Act, before any authority under that Act, for which—

(i) 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 proceeding proposing payment of tax, interest, late fee or penalty, or

(ii) a proceeding for recovery of arrears of dues has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913, or to a Tax Recovery Officer under the relevant Act, ²[on or before the 31st day of January, 2020],

and includes a case in respect of arrear tax, interest, late fee or penalty in dispute relating to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2, whether or not the applicant is in possession of any evidence of a notice or order issued;

(b) “appropriate designated authority”, in relation to any particular applicant, means such designated authority within whose jurisdiction the place of business of such applicant is situated or was situated before the business of the applicant ceased to exist or was discontinued;

1. Subs. by Notification No. -F.T., dated 03.2020 for “on the 31st day of October, 2018”.

2. Subs. by Notification No. -F.T., dated 03.2020 for “on or before the 31st day of March, 2014”.

³[(bb) "revision pending", for the purpose of section 4A, means any application relating to any arrear tax, interest, late fee or penalty in dispute pending before the West Bengal Taxation Tribunal, or the High Court, or the Supreme Court, on the 31st day of January, 2020 relating to any period upto the 30th day of June, 2017;

(c) "section" means a section of the Act;

(d) "the Act" means the West Bengal Sales Tax (Settlement of Dispute) Act, 1999 (West Ben. Act IV of 1999).

(2) Words and expressions used in these rules and not defined, but defined in the Act or in the relevant Act, shall have the meanings respectively assigned to them in the Act or in the relevant Act, as the case may be.

3. Manner and form of application for settlement. –(1) An application referred to in section 5 shall be made by an applicant in duplicate in Form 1 to the appropriate designated authority using the reference number generated upon furnishing electronically the basic information relating to settlement of dispute through the website of the Directorate of Commercial Taxes, West Bengal, i.e., www.wbcomtax.gov.in:

Provided that in a case where the provisions of sub-section (4) of section 5 apply, the application in Form 1 shall be made by the applicant in triplicate to the appropriate designated authority.

(2) The application in Form 1 shall be duly filled in and signed by the proprietor or, in the case of a partnership firm, by one of its partners or, in the case of a Hindu undivided family, by the Karta of such family or, in the case of a company, by the Managing Director, Director or principal officer of such company or, in the case of Government, by a duly authorised officer or, in the case of any other association of persons, by the President, Secretary, or the principal officer of such association or, in the case the business has ceased to exist or has been discontinued prior to the date of coming into force of the Act, by any person who would have been competent to fill in and sign the application on behalf of the applicant if such business had not ceased to exist or had not been discontinued, or the legal heir, successor, assignee or nominee of the dealer, the occupier of a jute-mill or the shipper of jute, as the case may be, who used to carry on such business.

4. Particulars to be furnished in the application for settlement. –(1) An application in Form 1 shall contain, *inter alia*, the following particulars:–

(a) the name of the applicant;

(b) the trade name of the business;

(c) the address of the principal place of business;

(d) the full postal address at which communication may be made;

(e) the number of the certificate of registration, if any, under the relevant Act to which the application relates;

(f) the period in respect of the case pending to which the application relates;

(ff) the period in respect of initiation for assessment of tax or issuance of notice for intimation about non-payment of tax or interest or late fee or penalty in case of the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2;

3. Subs. by Notification No. -F.T., dated 03.2020 for the following:–

“(bb) "revision pending", for the purpose of section 4A, means any application relating to any arrear tax, interest, late fee or penalty in dispute pending before the West Bengal Taxation Tribunal, or the High Court, or the Supreme Court, on the 31st day of October, 2018 relating to any period upto the 30th day of June, 2017, other than a proceeding for recovery of arrears of dues which has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913) or to a Tax Recovery Officer under the relevant Act, after the 31st day of March, 2014;”.

- (g) the particulars of the case pending, namely: –
- (i) the designation of the authority before whom the case is pending,
 - (ii) the date of order or notice or intimation or presentation of the memorandum in respect of the case so pending before such authority,
 - (iii) the Case No./Memo. No., if any,
 - (iv) certificate / TRO Case No. & date of a case referred to CO/TRO;
- (gg) the particulars of the application pending before the Tribunal or the High Court or the Supreme Court;
- (h) the particulars of the arrear tax, penalty, interest or late fee in dispute;
- (i) [omitted]
- (j) particulars of any amount of arrear tax, penalty, interest or late fee in dispute paid by the applicant before making the application under section 5;
- (k) the particulars of revision pending in respect of the same period where this application is made in accordance with the provisions of sub-section (4) of section 5, in respect of the appeal pending for such period;
- (l) a prayer in the format provided in Annexure 1 to Form 1 for granting instalment for payment of remaining balance as referred to in ⁴[item (B) of sub-clause (i) or item (B) of sub-clause (ii), of clause (a), or proviso to sub-clause (i) of clause (aa), of sub-section (1) of section 7, as the case may be,] of the Act;
- (m) a Declaration in the format provided in Annexure 2 to Form 1 to the effect that the applicant is not in possession of any Notice/Order/Demand Notice in respect of Entry Tax.

(2) The application in Form 1 shall be verified by the applicant in the manner provided in such form, and shall be presented along with a printout of the reference number generated upon furnishing electronically the basic information relating to settlement of dispute as referred to in sub-rule (1) of rule 3 and the other documents mentioned in Form 1:

Provided that the copy of the order of leave as referred to in sub-section (1) of section 4A shall be submitted before the designated authority on or after the date of submission of Form 1 but not later than two months from the date of application or such further time as may be allowed by the concerned authority upon prayer:

Provided further that where a case was pending on ⁵[the 31st day of January, 2020] before the West Bengal Taxation Tribunal, or the High Court or the Supreme Court against which the final order has been passed after ⁵[the 31st day of January, 2020] but before the date of application, a copy of such final order shall be furnished in lieu of order granting leave as referred to in sub-section (1) of section 4A:

Provided also that if an applicant opts to pay the amount in instalments as referred to in item (B) of sub-clause (ii) of clause (a) of sub-section (1) of section 7, he shall furnish a prayer in Annexure 1 appended to Form 1 for granting such instalment:

4. Subs. by Notification No. -F.T., dated 03.2020 for "item (B) of sub-clause (ii) of clause (a) of sub-section (1) of section 7".

5. Subs. by Notification No. -F.T., dated 03.2020 for "the 31st day of October, 2018".

⁶[Provided also that if an applicant opts to pay the amount in instalments as referred to in item (B) of sub-clause (i) or item (B) of sub-clause (ii), of clause (a), or proviso to sub-clause (i) of clause (aa), of sub-section (1) of section 7, as the case may be, he shall furnish a prayer in Annexure I appended to Form 1 for granting such instalment and shall pay the amount in instalments along with the interest payable, if any, while making payment of such monthly instalments.]

5. Presentation of application for settlement. – (1) An application for settlement in respect of a case pending shall be presented by the applicant or by an agent duly authorised by him to the appropriate designated authority as may be authorised by the Commissioner of Commercial Taxes, West Bengal for such purpose, either by hand or by registered post or speed post.

(2) If an application for settlement is sent by registered post or speed post, the day on which such application is received by the office of the authority referred to in sub-rule (1) shall be treated as the day of its presentation.

6. Scrutiny of application and issue of notice in case of any discrepancy or short payment.–(1) Where the designated authority is satisfied that the applicant has given all the requisite information in the application made under section 5 and that such application is in order and such applicant has made payment of the amount required to be made for settlement, such authority shall issue a provisional certificate in Form 2 within fifteen working days of receipt of the application made under section 5 along with the copy of duly receipted challan showing payment of such amount.

(2) Where, upon scrutiny of the application made under section 5, it appears to the designated authority that there is any discrepancy in such application or there is any short payment of the amount payable for settlement, such authority shall issue a notice in Form 3, requiring the applicant to rectify the discrepancy or to make payment of the balance amount payable for settlement within fifteen days from the date of receipt of such notice.

(3) Where the appropriate designated authority is satisfied that the applicant has rectified the discrepancy in the application or that the applicant has paid the amount required to be paid in terms of the notice issued under sub-rule (2), such authority shall signify to the applicant his satisfaction in Form 3A and thereupon the dispute shall be deemed to have been settled.

(4) If the applicant to whom a notice is issued under sub-rule (2), fails to rectify the discrepancy or make payment of the amount short paid, such application may be refused by the designated authority in accordance with the provisions of sub-section (2) of section 8, after expiry of the time allowed for rectification or payment under the said sub-rule or after expiry of such further time not exceeding three months, as may be allowed by such authority.

7. [Omitted.]

6. Subs. by Notification No. -F.T., dated 03.2020 for the following:–

“Provided also that in a case in respect of arrear tax, penalty, late fee or interest in dispute relating to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2, if the applicant is not in possession of any notice or order he shall furnish the additional information in Annexure 2 appended to Form 1.”.

8. Form and manner of, and time for, certain information to be sent to the authorities under the relevant Act. –(1) The appropriate designated authority shall keep the appropriate appellate or revisional authority, and the appropriate assessing authority, under the relevant Act informed of the matters referred to in clause (a), clause (b) or clause (c) of section 13:

Provided that in a case where the provisions of sub-section (4) of section 5 apply, the appropriate designated authority shall keep both the appropriate appellate authority and the appropriate revisional authority under the relevant Act informed of the matters referred to in this sub-rule.

(2) The appropriate designated authority shall send information to the authorities under the relevant Act in respect of the matters, referred to in sub-rule (1), in Form 4 ordinarily within seven days from the date on which–

- (a) an application under section 5 is received from an applicant, or
- (b) any order is passed by the designated authority under section 8, or
- (c) any certificate of settlement is revoked under sub-section (1) of section 12.

9. Transitional Provision. – Notwithstanding anything contrary contained in law in force before the 16th day of January, 2009 any application for settlement in respect of any appeal or revision pending to the appropriate Deputy Commissioner before the said date, shall, on or after the said date be disposed of by the Senior Joint Commissioner, having jurisdiction.