

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

TRADE CIRCULAR NO. 01/2019

DATED: 04.01.2019

Subject: Settlement of Dispute

The West Bengal Taxation Laws (Amendment) Act, 2018 (West Ben. Act XXIV of 2018), has brought about changes in the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, with effect from 19.12.2018, in terms of Notification No.2227-L dated 17.12.2018, read with Notification Nos. and 1834-F.T., 1835-F.T. and 1836-F.T., all dated 19.12.2018.

The amendments have enlarged the scope of settlement of 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:

1. The West Bengal Value Added Tax Act, 2003
2. The West Bengal Sales Tax Act, 1994
3. The Central Sales Tax Act, 1956
4. The Bengal Finance (Sales Tax) Act, 1941
5. The Bengal Raw Jute Taxation Act, 1941
6. The West Bengal Sales Tax Act, 1954
7. The West Bengal Motor Spirit Sales Tax Act, 1974, and
8. The West Bengal Tax on Entry of Goods into Local Areas Act, 2012

The amended West Bengal Sales Tax (Settlement of Dispute) Act/ Rules, relevant Notifications, application form for settlement (Form 1, Annexure 1 & 2) and link for generation of Reference No. to be used for filing the application for settlement are available under **Settlement of Dispute, 2018** tab on the website www.wbcomtax.gov.in

For settlement of dispute, a “**case pending**” as per Rule 2(a) means a case which is pending on the 31st day of October, 2018 under the aforesaid Acts, for which-

- (i) An audit, special audit or assessment has been made; or
- (ii) An appeal, revision or review petition has been filed; or
- (iii) A revision or review proceeding has been initiated; or
- (iv) A notice or order has been issued intimating the applicant for payment of tax, interest, late fee or penalty; or
- (v) A notice has been issued in any proceedings under the above Acts proposing payment of tax, interest, late fee or penalty

It may be mentioned here for the sake of clarity that arrear tax in dispute also includes such Entry Tax which is payable by a dealer/importer even if the applicant is not in possession of any notice/ order/ demand notice. (Annexure 2 to be submitted)

The application for settlement is to be filed in Form 1 before the appropriate designated authority (see Table 2) of the West Bengal Sales Tax (Settlement of Dispute) Rules, 1999, in respect of:

- (a) a case pending on the **31st October, 2018 in respect of any period ending on or before 30th June, 2017,**

- (b) a proceeding for recovery of arrears of dues which has been referred to a Certificate Officer under The Bengal Public Demands Recovery Act, 1913 or to a Tax Recovery Officer under the above Acts, on or before 31st March, 2014.

The dispute can be settled upon payment as shown in the table below:-

TABLE-1

Sl. No.	Dispute related to:	Amount to be paid for settlement:	
1	Arrear tax for non furnishing/ non-production of statutory Certificates/ Declarations	100% of remaining balance amount of arrear tax in dispute after adjusting Certificates/ Declarations in possession of applicant till the date of application, or the amount already paid towards such arrear, whichever is higher;	
2	Arrear entry tax*	100% of arrear tax in dispute or the amount already paid towards such arrear, whichever is higher;	
3	Arrear tax otherwise admitted in returns furnished or in writing before any Authority	100% of arrear tax in dispute or the amount already paid towards such arrear, whichever is higher;	
4	Any other arrear tax not covered by serial nos. 1, 2 and 3 above	Option for full payment at the time of application	Option for payment by Installment
		35% of arrear tax in dispute or the amount already paid towards such arrear, whichever is higher;	40% of arrear tax in dispute or the amount already paid towards such arrear, whichever is higher. (Proof of 15% of arrear tax in dispute and prayer for payment in installment to be furnished with application. Balance amount to be paid in maximum 3 installments from the month following the month when application made)
5	Any arrear interest related to arrear tax in dispute	Nil	
6	Any arrear late fee	Nil	
7	Any arrear penalty related to late payment or non-payment of any tax or for defaulting in furnishing return for the eligible period	Nil	
8	Any arrear penalty not covered by serial no. 7	50% of arrear penalty in dispute or the amount already paid towards such arrear, whichever is higher;	

*It may be mentioned here that a dealer/ importer is not liable to pay entry tax for any of the periods under settlement, if his turnover of import of specified goods does not exceed Rs.5 lakhs in a return period, subject to a maximum turnover of Rs.20 lakhs in a year [section 4(5)(b) of Entry Tax law].

Any application 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 was pending before the West Bengal Taxation Tribunal, High Court or Supreme Court on 31.10.2018 but final order is passed after 31.10.2018 but before the date of filing application for settlement, the copy of such order is to be furnished in lieu of order of granting leave.

The last date for filing application for settlement of dispute in a case pending is 31st March 2019

Procedure for filing application:

1. Go to website **www.wbcomtax.gov.in**
2. Click the tab “Settlement of Dispute, 2018”
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, 2018” tab and print acknowledgement. The Reference No. is to be quoted on Form 1.
7. Generate separate Reference No. for each case.
8. Submit the duly filled in and signed applications in Form 1 (in duplicate/ triplicate* as applicable) **manually** before the designated authority along with the documents mentioned therein (as per Sl.17 of Form 1), including print-out of acknowledgement of Reference No. (*Form 1 in triplicate is to be submitted in case dispute is pending in Appeal/ Revision/ Review.).

9. The last date for submitting Form 1 by hand or by registered or by speed post **is the 31st March 2019**. 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 entire dispute of a case and not a part of it. Separate applications are required to be made for each case.
11. Filled in Form 1, Annexure 1 & 2 and required documents are to be submitted before the designated authority as mentioned below:

TABLE-2

Sl. No.	As on 31.10.2018 Dispute Related to	Cases Related to	Designated Authority before whom SOD applications to be presented
(1)	(2)	(3)	(4)
1.	Appeal/Revision/ Review, other than case of penalty except penalty related to late payment of tax or late submission of return**	Circle	Senior Joint Commissioner/ Circle
		Large Taxpayer Unit	Special Commissioner Commercial Taxes/ Large Taxpayer Unit
2.	Penalty related to violation of provisions for movement of goods initiated by Bureau of Investigation/ Range/ Central Section	Bureau of Investigation/ Range/ Central Section	Senior Joint Commissioner or Joint Commissioner of Bureau of Investigation/Range/Central Section
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 cases where Appeal/Revision/Review applications have been disposed after 31.10.2018 but before filing application for settlement, such application shall be presented before designated authority referred to in column 4 of serial No. 1.

Settlement of disputes and issue of certificates:

1. On receipt of complete application in Form 1 along with annexure if applicable the designated authority within 15 working days shall issue provisional certificate in Form 2

2. If the designated authority finds discrepancy in Form 1 on scrutiny of Form 1, 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 3 months, the provisional certificate in Form 2 shall become the final certificate.
3. If the designated authority is satisfied that the applicant has rectified discrepancy in Form 1 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.
4. If applicant fails to comply with the requirement in Form 3, the application may be refused by the designated authority after expiry of time allowed in Form 3 but not exceeding 3 months.
5. The designated authority shall keep the appropriate assessing/appellate/revisional authority informed regarding settlement or refusal of case by issuing Form 4.

Sd/- 04/01/2019
(Smaraki Mahapatra)
Commissioner,
Commercial Taxes, W.B.

Memo No. 3CT/PRO
3C/PRO/2019

Date: 04.01.2019

Copy forwarded to the Additional Commissioner of Revenue/ISD for information and for uploading it on the official website of the Directorate for information of all concerned.

Sd/- 04/01/2019
(Adesh Kumar)
Special Commissioner of Revenue
Commercial Taxes, W.B. & PRO