

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

**TRADE CIRCULAR NO. 02/2020
DATED: 03.03.2020**

Subject: Settlement of Dispute, 2020

The West Bengal Finance Act, 2020 (West Ben. Act II of 2020), has brought about changes in the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, with effect from 02.03.2020, in terms of Notification No. 231-L dated 02.03.2020, read with Notification Nos. and 330-F.T., and 331-F.T., both dated 02.03.2020.

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, 2020** 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 January, 2020 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 case pending on the **31st January, 2020 in respect of any period ending on or before 30th June, 2017**

including 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 January, 2020.

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:	
		Option for full payment at the time of application	Option for payment by Instalment
1	Arrear tax for non furnishing/ non-production of statutory Certificates/ Declarations	25% of remaining balance amount of arrear tax in dispute after adjusting Certificates/ Declarations in possession of applicant till the date of application (to be paid within 31.02.2020), or the amount already paid towards such arrear, whichever is higher.	25% on at least 50% of remaining balance amount of arrear tax in dispute after adjusting Certificates/ Declarations in possession of applicant till the date of application [to be paid along with application within 31.03.2020 PLUS 30% on the residual percentage of remaining balance amount of arrear tax in dispute after adjusting Certificates/ Declarations in possession of applicant till the date of application [to be paid in maximum six (06) monthly instalments from April, 2020]
		Option for full payment at the time of application	Option for payment by Instalment
2	Arrear Entry tax *	100% of arrear tax in dispute or the amount already paid towards such arrear, whichever is higher;	100% of 50% of arrear tax in dispute (to be paid along with application within 31.03.2020) PLUS 100% of residual 50% of arrear tax in dispute [to be paid in maximum six (06) monthly instalments from April, 2020 along with nominal interest @
		Option for full payment at the time of application	Option for payment by Instalment

			0.5% per month on the still remaining balance of arrear tax]
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
		25% of arrear tax in dispute or the amount already paid towards such arrear, whichever is higher	25% on at least 50% of arrear tax in dispute (to be paid along with application within 31.03.2020) PLUS 30% on the residual percentage of remaining balance amount of arrear tax in dispute [to be paid in maximum six (06) monthly instalments from April, 2020]
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	10% 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 on 31.01.2020 before the West Bengal Taxation Tribunal, High Court or Supreme Court but final order passed after 31.01.2020 but before filing application, the final 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 2020

Procedure for filing application:

1. Go to website www.wbcomtax.gov.in
2. Click the tab “Settlement of Dispute, 2020”
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, 2020” 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 2020**. 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 along with required documents is 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 related to violation of provisions for movement of goods **	Circle	Additional Commissioner/Senior Joint Commissioner/ Joint Commissioner /Circle
		Large Taxpayer Unit	Special Commissioner Commercial Taxes / Additional Commissioner/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/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 after 31.01.2020 but before filing SOD applications, the said applications to be presented before designated authority referred to in col. 3 of sl. no. 1.

12. **Application in respect of arrear tax, interest, late fee or penalty in dispute as referred to in clause (aa) of sub-section (1) of section 2.**

- (i) With regard to West Bengal Tax on Entry of Goods into Local Areas Act, 2012, arrear tax, interest, late fee or penalty as defined in clause (aa) of sub-section (1) of section 2 is different from the arrear tax, interest, late fee or penalty as defined in clause (a) of sub-section (1) of section 2 in respect of other Acts included within the meaning of the relevant act as defined in clause (e) of sub-section (1) of section 2. The carved out definition under clause (aa) of sub-section (1) of section 2 for Entry Tax only specifically spells out through an explanation appended to the said clause that tax referred to therein means the tax payable in accordance with the provisions of sub-section (1) of section 4 of the West Bengal Tax on Entry of Goods into Local Areas Act, 2012. Furthermore, it has not been linked to any proceeding as discussed in clause (a) of sub-section (1) of section 2.
- (ii) Hence, considering the above, all concerned are hereby informed that while making an application under the W.B.S.T. (Settlement of Dispute) Act, 1999 for entry tax as referred to in clause (aa) of sub-section (1) of section 2, the applicant will be required to pay arrear tax at the rate of one hundred *per centum* as given in clause (aa) of sub-section (1) of

section 7 in accordance with the provisions of sub-section (1) of section 4 of the West Bengal Tax on Entry of Goods into Local Areas Act, 2012, and not on the basis of tax assessed, or modified/confirmed by appellate, revisional or reviewing authority subject to the condition that the applicant files a Statement in the format given below along with Form 1 (Application for SOD). The applicant may avail the benefit of instalments as specified in serial No. 2 of **Table -1**.

STATEMENT

Information relating to arrear tax, interest, late fee and penalty in dispute under the West Bengal Tax on Entry of Goods into Local Areas Act, 2012

Period to

Sl. No.	Particulars	Amount (₹)
1.	Turnover of import of specified goods	
2.	Less: Deduction under section 4 other than the deductions prescribed in Rules	
3.	Less: Deduction as per rule 6 of the West Bengal Tax on Entry of Goods into Local Areas Rules, 2012	
4.	Less: Deduction as per rule 7 of the West Bengal Tax on Entry of Goods into Local Areas Rules, 2012	
5.	Less: Any other deduction	
6.	Taxable turnover of import on which tax is payable [1-2-3-4-5]	
7.	Tax payable [1% of 6]	
8.	Less: tax paid by the applicant as it is evident from challan produced (excluding any amount paid for settlement)	
9.	Tax remaining unpaid by the applicant [7-8]	
10.	Interest in dispute	
11.	Late fee in dispute	
12.	Penalty in dispute	

The above particulars are true and correct to the best of my knowledge and belief.

I agree to produce the relevant documents, forms, certificates etc. relating to my claim of deduction on demand by the appropriate designated authority.

Date.....

Signature of the applicant.....

Place

Name.....

Status.....

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. In case of any Application which involves payment in instalments, Form 2 shall be issued within fifteen working days of receipt of proof of the final instalment.
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 inform the appropriate assessing/appellate/revisonal authority as the case may be regarding settlement of case in Form 4 ordinarily within 7 days from order of settlement/refusal.

Sd/-
(Devi Prasad Karanam)
Commissioner, Commercial Taxes, W.B.

Memo No.- 80 CT/PRO
3C/PRO/2020

Date: 03.03.2020

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

Sd/-
(Nabanita Pal)
Addl. CCT, W.B. & PRO