



# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष २, अंक २९(२)]

मंगळवार, एप्रिल २६, २०१६/वैशाख ६, शके १९३८

[ पृष्ठे ६, किंमत : रुपये २७.००

असाधारण क्रमांक ४९

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Settlement of Arrears in Disputes Act, 2016 (Mah. Act No. XVI of 2016), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

N. J. JAMADAR,  
Secretary and R.L.A. to Government,  
Law and Judiciary Department.

### MAHARASHTRA ACT No. XVI OF 2016.

*(First Published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 26th April 2016).*

An Act to provide for settlement of arrears in dispute under various Acts administered by the Sales Tax Department and the matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for settlement of arrears in dispute under the Bombay Sales of Motor Spirit Taxation Act, 1958 (since repealed), the Bombay Sales Tax Act, 1959 (since repealed), the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985 (since repealed), the Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989 (since repealed), the Central Sales Tax Act, 1956, the Maharashtra Purchase Tax on Sugarcane Act, 1962, the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, the Maharashtra Tax on Luxuries Act,

1987, the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002 ; it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows :—

Mah. IV  
of 2003.  
Mah. IX  
of 2005.

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Maharashtra Settlement of Arrears in Disputes Act, 2016.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on the date of publication in the *Official Gazette*.

Definitions.

**2.** (1) In this Act, unless the context otherwise requires,—

(1) “appellate authority” means the authorities specified in section 8 of this Act ;

(2) “arrears in dispute” includes,—

(i) tax, by whatever name called, under the relevant Act;

(ii) interest payable by an applicant under the relevant Act;

(iii) penalty imposed upon the applicant under the relevant Act, in respect of any statutory order pertaining to any period ending on or before the 31st March 2012, against which appeal is filed and stay in full or part has been granted by the appellate authority under the relevant Act or, as the case may be, by the Tribunal or Court, not later than 30th September 2016 ;

(3) “applicant” means a person, who is liable to pay tax under the relevant Act and also includes any person who desires to avail the benefit of settlement by complying with the conditions under this Act ;

(4) “order of settlement” means an order issued under this Act for settlement of arrears in dispute under the relevant Act ;

(5) “Commissioner” means a officer appointed as the Commissioner of Sales Tax under sub-section (1) of section 10 of the Maharashtra Value Added Tax Act, 2002 ;

Mah. IX  
of 2005.

(6) “designated authority” means an authority specified in sub-section (2) of section 3 of this Act ;

(7) “relevant Act” means,—

(a) the Central Sales Tax Act, 1956 ;

74 of  
1956.

(b) the Bombay Sales of Motor Spirit Taxation Act, 1958 ;

Bom. LXV  
of 1958.

(c) the Bombay Sales Tax Act, 1959 ;

Bom. LI  
of 1959.

(d) the Maharashtra Purchase Tax on Sugarcane Act, 1962 ;

Mah. IX  
of 1962.

(e) the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 ;

Mah. XVI  
of 1975.

(f) the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985 ;

Mah.  
XVIII of  
1985.

(g) the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 ;

Mah.  
XLII of  
1987.

Mah. XLI  
of 1987.

(h) the Maharashtra Tax on Luxuries Act, 1987 ;

Mah.  
XXXVI of  
1989.

(i) the Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989 ;

Mah. IV  
of 2003.

(j) the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 ;

Mah. IX  
of 2005.

(k) the Maharashtra Value Added Tax Act, 2002,

and includes the rules made or notifications issued thereunder ;

(8) “requisite amount” means an amount required to be paid as specified under section 6 of this Act;

(9) “statutory order” means any order passed under the relevant Act, raising tax, interest or penalty payable by the applicant.

(2) Words and expressions used in this Act, but not defined herein shall have the same meanings as assigned to them under the relevant Act.

**3. (1)** The State Government hereby appoints Commissioner of Sales Tax as the Commissioner under this Act, for the purposes of this Act.

Designated  
authority.

Mah. IX  
of 2005.

(2) The officers mentioned in sub-section (2) of section 10 of the Maharashtra Value Added Tax Act, 2002, shall be the designated authorities for the purposes of this Act. The subordination of the said officers shall be as per rule 5 of the Maharashtra Value Added Tax Rules, 2005.

(3) The Commissioner may, by notification in the *Official Gazette*, delegate such powers to the designated authorities as specified in sub-section (2) and such authorities shall, within their jurisdiction, exercise the powers over such area or areas, as notified, from time to time.

**4. (1)** The applicant who desires to settle the arrears in dispute shall submit the application to the designated authority, upto the 30th September 2016 in such form and in such manner, along with the proof of payment of requisite amount as per sub-section (1) or (2) of section 6 of this Act.

Conditions for  
settlement.

(2) A separate application shall be made by an applicant for each statutory order, under each of the relevant Act.

(3) The applicant shall produce the proof of withdrawal of appeal, if any, as per section 5.

(4) The applicant shall pay the full amount of undisputed arrears under the relevant Act in respect of the statutory order for which waiver is sought.

**5.** The applicant who desires to avail the waiver under this Act with respect to the arrears in dispute shall withdraw the appeals pending before the appellate authority or Tribunal or, as the case may be, before the Court on or before the 30th September 2016 :

Withdrawal of  
appeal.

Provided that, where the applicant desires to opt for settlement of arrears in dispute for some of the issues raised in appeal then he shall withdraw the appeal in respect of such issues.

Determination  
of requisite  
amount and  
extent of  
waiver.

6. (1) Where the arrears in disputes pertain to any assessment period ending on or before the 31st March 2005 under the relevant Act, then the extent of waiver shall be in excess of the requisite amount payable as specified in column (2) of the Table as below :—

TABLE-1

Type of Arrears (1)	Conditions for Waiver (2)	Extent of Waiver (3)
Arrears in disputes related to section 5 of this Act.	(i) The applicant shall pay whole amount of tax out of arrears in disputes after reducing it by the part payment covered by sub-section (4) of this section.  (ii) In case, where the appeal is withdrawn for some of the issues, then the applicant shall pay the whole amount of tax relating to such issues withdrawn in appeal and credit of part payment covered by sub-section (4) of this section will be given in proportion to tax involved in the issues withdrawn in appeal.	(a) Total amount of interest and penalty out of arrears in disputes pertaining to issues withdrawn as provided in section 5.  (b) Total amount of post assessment penalty and interest, accrued upto date of payment of tax made as per column (2) and such penalty and interest on payment of tax considered under sub-section (4) of this section pertaining to issues withdrawn as provided in section 5.

(2) Where the arrears in disputes pertain to any assessment period on or after the 1st April 2005 and ending upto the 31st March 2012 under the relevant Act, then the extent of waiver shall be in excess of the requisite amount payable as specified in column (2) of the Table as below :—

TABLE-2

Type of Arrears (1)	Conditions for Waiver (2)	Extent of Waiver (3)
Arrears in disputes related to section 5 of this Act.	(i) The applicant shall pay whole amount of tax and twenty five per cent. of outstanding interest out of arrears in disputes after reducing it by the part payment covered by sub-section (4) of this section.	(a) Balance amount of interest, whole amount of penalty out of arrears in disputes, pertaining to issues withdrawn as provided in section 5.

TABLE-2—Contd.

(1)	(2)	(3)
	<p>(ii) In case, where the appeal is withdrawn for some of the issues, then the applicant shall pay the whole amount of tax and twenty five per cent. of outstanding interest out of arrears in disputes relating to the issues withdrawn in appeal and credit of part payment covered by sub-section (4) of this section will be given in proportion to the tax involved in issues withdrawn in appeal.</p>	<p>(b) total amount of post assessment interest and penalty accrued upto date of payment of tax made as per column (2) and on payment of tax considered under sub-section (4) of this section pertaining to issues withdrawn as provided in section 5.</p>

(3) The payment of requisite amount under sub-sections (1) and (2) of this section, shall be made in the form of Challan prescribed under the relevant Act or, as the case may be, in Form MTR-6 prescribed under the Maharashtra Value Added Tax Rules, 2005.

(4) Notwithstanding anything contained in any provision under the relevant Act, the part payment made in appeal before the appellate authority, under the relevant Act, Tribunal or Court, shall be considered for payment of the requisite amount under this Act, and it shall first be adjusted against the tax and thereafter towards the amount of interest and the balance amount remaining unadjusted shall then be adjusted towards the penalty.

(5) The extent of waiver as per this section shall be granted in proportion of the payment made under sub-sections (1) and (2) of this section by the applicant.

**7.** (1) The designated authority may, issue a defect notice for the incomplete or incorrect application. The applicant shall within fifteen days from the receipt of the notice, correct the defects and make the payment, if any, and submit to the designated authority accordingly. If the applicant fails to do so then, the designated authority may, for reasons to be recorded in writing and after giving an opportunity of being heard, may reject the application for settlement of the arrears in dispute by an order.

Disposal of application.

(2) The designated authority shall, on receipt of application alongwith proof of withdrawal of appeal, payment of requisite amount, and being satisfied that all conditions for waiver are fulfilled, pass an order for each application for settlement of arrears in dispute.

(3) Notwithstanding anything contained in the relevant Act, the applicant shall be discharged from his liability to make payment of the amount of such arrears in dispute under the relevant Act for which the order of settlement has been passed.

(4) The designated authority may, on his own motion or on application of the applicant, within thirty days from the date of receipt of order by the applicant under sub-section (2) of this section, rectify any error apparent on the face of the record :

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

Appeal. **8.** (1) An appeal against the order passed under sub-section (1) of section 7 shall lie to,—

(a) the Deputy Commissioner, if order is passed by the authority subordinate to him,

(b) the Additional Commissioner, if the order is passed by the Deputy Commissioner or the Joint Commissioner.

(2) The applicant may file an appeal against the order under sub-section (1) of section 7, before the appellate authority within sixty days from date of receipt of the order.

(3) No appeal shall lie against the order of settlement passed under sub-section (2) of section 7.

No refund under the Act.

**9.** Under any circumstances, the applicant shall not be entitled to refund of any amount of arrears in disputes paid prior to the date of commencement of this Act and the amount paid under this Act.

Revocation of order of settlement.

**10.** Notwithstanding anything contained in section 7, where it appears to the designated authority that, the applicant has obtained the benefit of settlement, by suppressing any material information or particulars or by furnishing any incorrect or false information or, if any suppression of material facts, concealment of any particulars is found in the proceedings related to search and seizure under the relevant Act, then the designated authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, may revoke the order of settlement issued under sub-section (2) of section 7.

Review.

**11.** After an order is passed by the designated authority, the Commissioner may, on his own motion, at any time, within twelve months from the date of service of order, call for the record of such order and after notice of error in such order, in so far as it is prejudicial to the interest of revenue, may serve on the dealer a notice and pass an order to the best of his judgement, where necessary.

Powers of Commissioner under the Act.

**12.** (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 specify the forms for the purpose of this Act.

Power to make rules.

**13.** (1) The State Government may, by notification in the *Official Gazette* make rules to carry out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

**TRADE CIRCULAR**

No.VAT/MMB-2015/47/ADM-8/B-/20 Mumbai, Dt. 3<sup>rd</sup> May, 2016  
Trade Cir. No./0T of 2016

**Sub.:** Settlement of Arrears in Dispute under the various Acts administered by the Sales Tax Department.

**Ref.:** The Maharashtra Settlement of Arrears in Disputes Act, 2016

Hon'ble Finance Minister in his Budget Speech delivered on 18<sup>th</sup> March 2016 has announced a scheme so as to unlock the arrears pending at the appellate forum under various Acts administered by the Maharashtra Sales Tax Department (hereinafter referred to as "MSTD"). The Act No. XVI of 2016 has now been published in the Maharashtra Government Gazette dated 26<sup>th</sup> of April, 2016. The Act so passed is titled as "the Maharashtra Settlement of Arrears in Disputes Acts, 2016 (hereinafter referred to as "the Settlement Act"). The Settlement Act is passed with a view to provide the settlement of arrears in dispute under various Acts administered by MSTD.

**Salient features of the Settlement Act and its procedural aspects are explained below:-**

**1. Applicability of Settlement Act:-** This Act's is applicable in respect of the arrears in dispute under the following Act administered by the MSTD:-

- (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 Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975;
- (vi) the Maharashtra Sales Tax on the Transfer of the 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 Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989;
- (x) the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002;
- (xi) the Maharashtra Value Added Tax Act, 2002.

**2. Time limit to make application-** The applicant who desires to settle the arrears in dispute in respect of the statutory orders passed for any period ending on or before 31<sup>st</sup> March 2012 shall submit correct and complete application on or before 30<sup>th</sup> September 2016, in Form-I, as specified in the order dated by the Commissioner u/s 12(2) of the Settlement Act.

**3. Authorities to whom the application can be made:-**

- (A) The application along with the relevant documents shall be submitted to the concerned Nodal officer.
- (B) If any case is not allotted to a Nodal Officer, then the application shall be made to,-
  - (a) the Nodal Joint Commissioner of Sales Tax in Mumbai & Pune,
  - (b) the Joint Commissioner of Sales Tax (VAT Adm) where the office of such Joint Commissioner of Sales Tax (VAT Adm) is situated,
  - (c) In other cases to the administrative head of the respective location.
- (C) The applicant who desires to avail the settlement under this Act for arrears under the Profession Tax Act, 1975, shall apply to the concerned Professions Tax Officer.
- (D) The list of the Nodal Officers and their jurisdiction is available on the MSTD web-site's What's New section (Web-site: [www.mahavat.gov.in](http://www.mahavat.gov.in)).

**4. Key definitions used in the Act:-**

Some of the key definitions in Section 2 under this Act are explained below:

- (a) *Arrears in Dispute* [Sec.2(2)]: Arrears in dispute includes tax, interest and penalty in respect of any statutory order that pertains to period ending on or before 31<sup>st</sup> March 2012 and



where an appeal is filed with the appellate authority and stay has been granted either in full or part by the appellate authority, Tribunal or Court.

It is clarified that the following proceedings shall be considered as "Appeals":-

- (i) 1<sup>st</sup> Appeal
  - (ii) 2<sup>nd</sup> Appeal
  - (iii) Revision under the Bombay Sales of Motor Spirit Taxation Act, 1958, the Maharashtra Purchase Tax on Sugarcane Act, 1962 and the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975.
  - (iv) Any proceeding before the Tribunal, High Court or Supreme Court.
- (b) *Applicant* [Sec.2(3)]: "Applicant" means a person who desires to settle the arrears in dispute and also includes any other desiring person complying with the conditions. Thus even the Financial Institutions, Banks, Official Assignee etc. can make application for settlement of arrears in dispute.
- (c) *Order of Settlement* [Sec.2(4)]: "Order of Settlement" means an order issued to settle the arrears in disputes.
- (d) *Designated Authority* [Sec.2(6)]: The authorities specified under sub-section (2) of section 10 of the Maharashtra Value Added Tax Act, 2002 shall be the Designated Authorities for the purposes of Settlement Act.
- (e) *Requisite Amount* [Sec.2(8)]: "Requisite amount" means an amount required to be paid as specified under Section 6 of this Act.
- (f) *Statutory Order* [Sec.2(9)]: "Statutory order" means any order passed under the relevant Act raising dues of tax, interest or penalty payable by applicant.

**5. Conditions for Settlement of Arrears in disputes :-**

- (A) An application shall be made on or before the 30<sup>th</sup> September 2016.

- (B) Application for settlement can be made for any period ending on or before 31st March 2012.
- (C) The applicant who desires to avail the benefit under the Settlement Act, shall first withdraw the appeal, or any proceeding pending before the appellate authority, Tribunal or Court.
- (D) The application shall be accompanied by:
- (i) copy of the concerned statutory order,
  - (ii) stay order granted by the Appellate Authority, Tribunal or Court,
  - (iii) order of withdrawal of the appeal or any proceeding pending before the Tribunal or Court,
  - (iv) challans showing payment of the requisite amount as stated in the section 6(1) or 6(2) of the Settlement Act,
  - (v) challans showing payment of the amount of undisputed arrears in respect of the concerned statutory order, as per section 4(4).

**6. Clarification regarding certain issues:-**

(A) Appeal etc. issues:-

- (i) *Type of stay* : It is clarified that stay order under the relevant Act includes ad-interim, interim and final stay order.
- (ii) *Withdrawal of appeal*: The applicant may withdraw the appeal fully or partly. In other words, the applicant may withdraw some issues raised in appeal and may pursue the appeal for the remaining issues. In case of partial withdrawal of appeal, the applicant shall specify the details of such issues in the application.

(B) Payments required to be made :-

- (a) The applicant shall be required to make payment of requisite amount as determined under section 6(1) and 6(2) of this Act. In addition to requisite amount the applicant shall also make payment of undisputed arrears of tax and interest, if any, under the relevant Act as provided in Section 4(4) of this Act.
- (b) The applicant shall pay the requisite amount and the amount of undisputed arrears on or before 30<sup>th</sup> September 2016. Such payment shall be made in Chalan MTR-6, if the applicant has

been granted TIN. Where the applicant has not been granted TIN then the payment shall be made in the Chalan prescribed under the relevant Act.

- (c) Undisputed arrears in relation to interest covers,-
- (i) amount of interest payable by the applicant pertaining to any period starting on or after 1st May 2010 and ending on 31st March 2012,-
    - (a) u/s 30(2) and 30(4) of the MVAT Act, 2002,
    - (b) u/s 6(1) of the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002,*[read with section 30(2) and 30(4) of MVAT Act, 2002]* and
    - (c) u/s 9(2) of the CST Act, 1956,*[read with section 30(2) and 30(4) of MVAT Act, 2002]*.
  - (ii) The amount of interest payable by the applicant under the Maharashtra Purchase Tax on Sugarcane Act, 1962, the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975, the Maharashtra Tax on Luxuries Act, 1987 and the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 shall not be considered as undisputed arrears for statutory orders pertaining to any period ending on or before 31<sup>st</sup> March 2012.

(C) Payment of requisite amount:-

The requisite amount to be paid will depend upon the fact whether the applicant desires to withdraw the appeal in full or desires the partial withdrawal of appeal i.e. only in respect of certain issues and would like to contest other issues.

- (a) In case of full withdrawal of appeal , -
- (i) the applicant shall pay entire amount of the tax out of arrears in dispute.
  - (ii) If arrears of interest in dispute pertains to,-
    - (1) any assessment period ending on or before 31<sup>st</sup> March 2005 then, no interest is required to be paid.
    - (2) any assessment period starting on or after 1<sup>st</sup> April 2005, and ending on 31<sup>st</sup> March 2012, then

applicant shall pay 25% of the outstanding interest other than undisputed amount of interest as mentioned in para 6(c) above. For this the applicant shall determine the amount of interest so payable on his own and pay the same.

(b) In case of partial withdrawal of appeal:-

(i) The applicant shall determine and pay the entire amount of the tax relating to issues for which appeal is withdrawn.

(ii) if arrears of interest in disputes pertains to,-

(1) the assessment period ending on or before 31<sup>st</sup> March 2005 then, no interest pertaining to issues withdrawn in appeal is required to be paid.

(2) the assessment period starting on or after 1<sup>st</sup> April 2005 and ending on 31<sup>st</sup> March 2012 then applicant shall pay 25% of the outstanding interest other than undisputed amount of interest as mentioned in para 6(c) above, related to the issues withdrawn in appeal. For this the applicant shall determine the amount of interest so payable on his own and pay the same.

(D) Credit of the required amount:-

The amounts required to be paid to avail the benefit of the Settlement Act are the requisite amount and the amount of undisputed arrears.

The credit of the payment of following amounts may be claimed by the applicant for the purpose of determining the requisite amount in the manner as stated below:

(i) Part payment made in appeal and such part payment shall be apportioned first towards tax, then towards interest and towards penalty as provided in the Settlement Act.

(ii) Payment made after the passing of the statutory order but before filing of appeal, the credit of such payment shall be given after apportionment as per the relevant Act.

(iii) In case of partial withdrawal of appeal, the credit of payment shall be given in the manner provided in clause (a) and (b) above in proportion to the issues withdrawn from appeal.

(E) No refund under the Act:-

Under no circumstances, the applicant shall be entitled to refund of any amount of arrears in disputes paid prior to the date of commencement of this Act and the amount paid under this Act.

**7. Benefits of the Settlement Act to the applicant:-**

(A) Interest and penalty: If an applicant has preferred an appeal challenging the imposition of penalty or payability of interest only under the relevant Act, then he can make application with respect to such individual appeal.

(B) Penalty orders under section 61(2) of MVAT Act: If penalty has been imposed by a separate order u/s 61(2) under MVAT Act, 2002 for any period upto 2011-12 and the dealer has filed the audit report in Form e-704 and also preferred an appeal against the said penalty order, even then he may apply for settlement under the Act.

However, if any dealer has not filed e-704 so far may file it and take benefit of settlement, after complying with other condition, of this Act such as filing of appeal and obtaining stay etc.

(C) Extent of waiver:-

(a) Where the appeal is withdrawn in full:-

(i) in respect of the statutory order which pertains to period ending on or before 31<sup>st</sup> March 2005 is withdrawn in full and the applicant has made the payment as determined as per sub-section(1) and (2) of section 6 then the applicant is eligible for waiver to the extent of,-

(1) total amount of interest and penalty out of arrears in dispute.

(2) total amount of post assessment interest or, as the case may be, the penalty, whether such order under the relevant Act has been passed or not.

(ii) in respect of the statutory order which pertains to period starting on or after 1<sup>st</sup> April 2005 and ending on 31<sup>st</sup> March 2012 is withdrawn in full and the applicant has made the payment as determined as per sub-section(1) and (2) of section 6 then the applicant is eligible for waiver to the extent of,-

- (1) balance amount of interest arrived at, after payment of requisite amount of interest or as the case may be undisputed arrears of interest.
- (2) total amount of penalty out of arrears in dispute.
- (3) total amount of post assessment interest or, as the case may be, the penalty, whether such order under the relevant Act has been passed or not.

(b) Where the appeal is withdrawn with respect to partial issues:-

(i) in respect of the assessment order which pertains to period ending on or before 31<sup>st</sup> March 2005 is withdrawn with respect to some of the issues (in part) and the applicant has made the payment as determined as per sub-section(1) and (2) of section 6 then the applicant is eligible for waiver to the extent of,-

- (1) corresponding amount of interest with respect to issues withdrawn.
- (2) corresponding amount of penalty with respect to issues withdrawn.
- (3) corresponding amount of post assessment interest or, as the case may be penalty with respect to issues withdrawn, whether such order under the relevant Act has been passed or not.

(ii) in respect of the assessment order which pertains to period starting on or after 1<sup>st</sup> April 2005 and ending on 31<sup>st</sup> March 2012 is withdrawn with respect to some of the issues and the applicant has made the payment as determined as per sub-section (1) and (2) of section

6 then the applicant is eligible for waiver to the extent of,-

- (1) balance amount of corresponding interest arrived at, after payment of requisite amount of interest or as the case may be undisputed arrears of interest with respect to issues withdrawn.
- (2) total amount of penalty with respect to issues withdrawn.
- (3) total amount of post assessment interest or, as the case may be, the penalty, whether such order under the relevant Act has been passed or not.

**8. Procedural aspects to be followed under the Settlement Act:-**

- (i) The applicant shall file application in the Form-I, as specified in the order by the Commissioner u/s 12(2) of the Settlement Act.
- (ii) On receipt of the application the designated officer shall verify the contents of the said application as well as requisite proofs as stated in clause (D) of para 5 above.
- (iii) If the application is defective i.e. incomplete or incorrect or insufficient amount, the Nodal Officer may within seven days from the receipt of application issue a defect notice in Form-II as specified in the order by the Commissioner u/s 12(2) of the Settlement Act.
- (iv) The applicant may, within fifteen days, from the receipt of the defect notice complies with the defect notice and makes the payment if any, as advised by the Nodal officer.
- (v) If the applicant complies with the defect notice then the Nodal officer shall pass the settlement order within thirty days from the date of compliance of the defects.
- (vi) If the applicant fails to comply with the defects then the Nodal Officer, after providing the opportunity of hearing, may pass the rejection order u/s 7(1) of this Act within thirty days from the last date provided for compliance of the defects.

(vii) If the defect is related to short payment of requisite amount and the applicant fails to comply with the same, then the benefit of settlement shall be given on proportionate basis and accordingly the Nodal Officer shall pass the order of settlement within thirty days from the last date provided for compliance of defects.

**9. Order of Settlement:-**

- (i) The Nodal Officer, on being satisfied about the correctness of application and fulfillment of conditions for waiver provided in the Settlement Act, shall pass an order of settlement within thirty days from the date of receipt of application. The order of settlement shall be in Form-IV, as specified in the order by the Commissioner u/s 12(2) of the Settlement Act.
- (ii) The settlement order shall clearly specify the payment of amount of the tax or interest if any, and the amount of waiver granted towards the interest and penalty.
- (iii) A separate order under the relevant Act shall be passed in respect of each application filed for the settlement of arrears in dispute.

**10. Rectification of mistakes:-**

In case of any error apparent on the face of the record of an order passed under Section 7(2) of the Settlement Act, the Nodal Officer, on his own motion or on an application in Form-VI by the applicant, may rectify such error. The Nodal Officer shall pass rectification order within thirty days from the date of receipt of the order of settlement. No rectification order shall be passed without serving a notice in Form-V on the applicant and without giving an opportunity of being heard in case the applicant is likely to be affected adversely.

**11. Appeal against the order of rejection:-**

- (i) Section 8 of the Settlement Act provides for appeal against an order passed under Section 7(1) of the Settlement Act. The said appeal shall lie before,-
  - (i) the Deputy Commissioner of Sales Tax if the order of the Settlement is passed by the Sales Tax Officer or the Assistant Commissioner of Sales Tax.



- (ii) the Additional Commissioner of Sales Tax, if the order of the Settlement is passed by the Deputy Commissioner of Sales Tax or as the case may be Joint Commissioner of Sales Tax.
- (ii) Appeal against an order passed under section 7(1) of the Settlement Act shall be filed under Section 8(1) within sixty days from the date of receipt of the said order in Form-III. The appellate authority shall pass the order within sixty days from the receipt of application of appeal.
- (iii) As per Section 8(3) of the Settlement Act, an appeal can be filed only against the rejection order under Section 7(1) of the Act.
- (iv) No appeal shall lie against the order of settlement passed under Section 7(2) of the Settlement Act.

**12. Revocation of settlement order :-**

An order of settlement may be revoked where an applicant has obtained benefits of settlement,-

- (a) by suppressing material information or particulars, or,  
(b) by furnishing any incorrect or false information or,  
(c) by suppression of material facts, concealment of any particulars found in the search and seizure proceedings under the relevant Act.

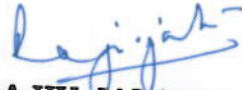
**13. Review:-**

Section 11 of the Settlement Act provides for the review of any order passed under the Settlement Act. The record of an order may be called within twelve months from the date of service of an order passed under the Act by the reviewing authority and after notice of error in such order a notice in Form-VIII shall be served on the dealer and a review order shall be passed. The review order shall be passed only in case the error is prejudicial to the interests of revenue.

**14. Instructions and forms under the Act: -**

The Commissioner may issue instructions and directions to the designated authorities and also specify forms under Section 12 of the Settlement Act.

15. If any member of the trade has any doubt, he may refer the matter to the office of respective joint commissioner or to the administrative head of respective location from where the application is submitted for further clarification.



**(RAJIV JALOTA)**

Commissioner of Sales Tax,  
Maharashtra State, Mumbai.

No.VAT/MMB-2015/47/ADM-8/B- 120 Mumbai, Dt. 3<sup>rd</sup> May, 2016.

Trade Cir. No. 10 T of 2016.

1. Copy forwarded to the Joint Commissioner of Sales Tax (MAHAVIKAS) with the request to upload this Trade circular on Department's web-site.



**(D. M. THORAT)**

Joint Commissioner of Sales Tax, HQ-1,  
Maharashtra State, Mumbai.

## TRADE CIRCULAR

To,

\_\_\_\_\_

No PT/2016/AMD-2015/5/ADM-8/B-  
(Trade Cir No 12T of 2016)

Mumbai, Dt 06/05/2016

**Sub :** Profession Tax Enrolment Amnesty Scheme 2016.  
Amendment to Maharashtra State Tax on Professions, Trades,  
Callings and Employments Act 1975, by Maharashtra Act no. XV  
of 2016.

The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Profession Tax Act) is being implemented with effect from 1<sup>st</sup> April 1975. Under this Act, every self-employed person engaged in any profession, trade, callings and employment in the State of Maharashtra is required to obtain Enrolment Certificate and pay Profession Tax yearly as per provisions of the Act. Section 3(2) of the PT Act provides that liability to pay tax of an un-enrolled person shall be up to 8 years, preceding the year, in which he has applied for enrolment.

The Government has noticed that, many persons / societies / institutions / Companies have not obtained Enrolment Certificate and paid Profession Tax though they are liable to pay the same.

2. Accordingly, to encourage the persons to get themselves enrolled under Profession Tax Act, Government of Maharashtra has declared an Amnesty Scheme for the persons who have not obtained Enrolment Certificate yet. The salient features of the scheme are as under.

A new sub-section (3) has been added in section 3 w.e.f. 1st April 2016, which provides that an un-enrolled person shall not be liable to pay tax for any periods prior to 1st April 2013, if :

- a) he makes an application for enrolment from 1st April 2016 to 30th September 2016, or
- b) his application for enrolment is pending on 1st April 2016.

### 3. Scheme

**(i) Name of the Scheme :**

This scheme is called as "Profession Tax Enrolment Amnesty Scheme 2016".

**(ii) "Persons" eligible for Amnesty Scheme:**

All persons, who are liable but not yet enrolled under this Act can take benefit of this Scheme.


**(iii) Benefits under the Scheme:**

- a) Profession Tax and related interest in respect of periods prior to 01/04/2013, will be waived in full, if Enrolment Certificate is obtained during the amnesty period.
- b) Penalty u/s 5(5) of Profession Tax Act, 1975 will not be imposed against the entities who obtain enrolment certificate under this scheme.

**4. Procedure:**

- a) Un-enrolled persons are required to submit e-application on Department's web-site [www.mahavat.gov.in](http://www.mahavat.gov.in) by choosing option "e-registration" in the box "e-services".
- a) The Enrolment Certificate TIN will be granted within 3 working days to the applicant. TIN can be checked on department's web-site by clicking "Know Your TIN" TAB at the bottom of the Home screen or option provided with same name in "Dealer Services" TAB. It is suggested to enter only PAN at the space provided for. Digitally signed certificate can be downloaded by clicking "PT-EC Registration Certificate" option in "Downloads" TAB.
- b) On obtaining Enrolment TIN applicant shall make payment of tax.
- c) In case of any difficulty, the applicant in Mumbai and Pune may contact the administrative Joint Commissioner of Sales Tax (Profession Tax) and the applicant in locations other than Mumbai and Pune may contact the Joint Commissioner of Sales Tax (ADM) VAT of the respective division.

5. After this Amnesty Scheme is over, stringent action will be taken against un-enrolled persons. A campaign will be launched against un-enrolled persons who may be liable for previous eight years with consequent penalty and may also face prosecution.

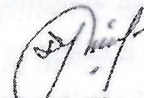
  
(RAJIV JALOTA)

Commissioner of Sales Tax,  
Maharashtra State, Mumbai.

No PT/2016/AMD-2015/5/ADM-8/B-  
(Trade Cir No )2.T of 2016)

Mumbai, Dt 06/05/2016

Copy forwarded to Joint Commissioner of Sales Tax (Mahavikas) with a request to upload this Trade Circular on the Departments web-site.

  
(D. M. Thorat)

Joint Commissioner of Sales Tax (HQ)1  
Maharashtra State, Mumbai.