

The Maharashtra Settlement of Arrears of Dues-2022- Procedural and Practical Aspects

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Arrears of Tax-S.2(1)(d)

- Arrears of Tax defined in section 2(1)(d) needs to be ascertained
- As the extent of benefit and quantum of benefit depends upon the types of arrears of tax.

Arrears of Tax-S.2(1)(d)

- Following types of arrears of tax qualified for the settlement under the act
- i) Statutory tax dues
- ii) Unpaid returned tax dues and
- iii) Amount of tax recommended by the Vat Auditor whether recommended or not

Arrears of Tax-S.2(1)(d)

- When statutory order is passed then the unpaid returned tax dues and Vat audit report tax dues will merge in the statutory order .
- Therefore, from statutory order one needs to ascertain the unpaid returned tax amount or Vat audit report tax amount to determine the amount of un-disputed tax and disputed tax.

Arrears of Tax-S.2(1)(d)

- When no order is passed for any period or order is passed and vat audit report for that period contains the recommendation for the payment of tax dues
- Then Vat audit report tax dues needs to be bifurcated for accepted and not accepted tax dues.
- As clarified by the circular the accepted amount will be considered as undisputed tax and remaining amount will be considered as disputed tax.

Arrears of Tax-S.2(1)(d)

- When any order is passed then the tax dues needs to be analysed to ascertain the amount of un-disputed or disputed tax.
- If it contains any amount of tax referred in the definition of undisputed tax (S.2(1)(q), then it will be considered as undisputed tax for the purpose of the settlement Act.

Arrears of Tax-S.2(1)(d)

- Example
- The assessment order passed for the period 2015-16 and dues position is as under;-
- Tax 10,00,000
- Interest 7,50,000
- Penalty 2,50,000
- Total 20,00,000

Arrears of Tax-S.2(1)(d)

- In this case if the tax dues as per order includes un paid returned dues of RS. 2,00,000/- and balance Rs. 8,00,000 is for disallowance of set off ,
- Then Rs 2,00,000 is undisputed tax and no waiver to be paid in full
- Rs. 8,00,000 will be disputed tax and to pay 50% and balance 50% will be eligible for the waiver.

Arrears of Tax-S.2(1)(d)

- Suppose in the above example the amount of tax dues as per the assessment order includes the amount of tax recommended by the Vat for dispute in rate of tax on sale of goods on which tax was paid at 5% instead of 12.5%.
- Then this differential amount of tax will still be considered as disputed tax if the recommendation of the vat auditor is not accepted
- If it is accepted, then it will be considered as undisputed tax

Eligible Sum-S.2(1) (d)

- The arrears of tax, interest, penalty and late fees pertains to the specified period is eligible for the settlement and includes
- Interest payable on the admitted tax under the relevant Acts for the specified.
- Many times, while filing the return the interest payable for tax not paid is not shown. The interest payable on late or non-payment of tax, as per return filed, is also eligible for the Waiver.

Eligible Sum-S.2(1) (d)

The issue of calculation of interest will arise in case of the unpaid returned dues and un-paid amount of tax recommended by the Vat Auditor for which no order is passed.

In such case one needs to calculate the amount of interest up to the date of payment of tax.

Example if the tax is paid on 22/04/22 then interest up to this date will have to be calculated.

Cases Litigated by the State –S.5

- Section 5 of the act provides for eligibility to opt for the Scheme in cases where the department has filed;-
- reference or
- an appeal before the Maharashtra Sales Tax Tribunal or
- the Courts.

Cases Litigated by the State –S.5

- In such case the dues as per the order against which the tribunal allowed appeal is to be considered for the settlement act.
- If more than one issue was agitated before the tribunal and only one issue was taken up before higher forum, then no clarity how to determine the eligible sum for the settlement act.

Cases Litigated by the State –S.5

- Take example, the tribunal allowed appeal for levy of tax on ex bond sale and also allowed set off.
- The department files appeal before the Bombay High Court against the decision of tribunal for allowing appeal for levy of tax ex bond sale.
- In this case from the dues as per appeal order one has to ascertain the disputed amount of tax relating to ex bond sales . This is also clarified by the trade circular.

Cases Litigated by the State –S.5

- Suppose in the above example tax dues for ex bond sale is RS. 5,00,000/- and part payment made in appeal before the first and second appeal is Rs.2,50,000 which includes for disallowance of set off also which is not agitated before the High Court by the department.
- Logically from the dues of 5,00,000/- proportionate amount of part payment should be adjusted i.e 50,000/- being 10% of 5,00,000/- and balance 4,50,000/- and proportionate interest on 5,00,000/- will be eligible for the settlement .

Cases Litigated by the State –S.5

- In some cases, the order of the tribunal decides refund which is also granted. Then, should amount of the disputed dues include the amount of refund or not?
- This needs to be clarified by the department.

Adjustment and determination of arrears of tax, interest, penalty or late fee, if any, eligible for settlement- S. 6.

- The amount of arrears of dues whether as per return , order or Vat Audit report dues needs to be calculated as on 31/03/2022.
- For this purpose, any payment made before 31/03/2022 is to be adjusted .
- It may be noted as clarified by the circular any amount tpaid under the period of scheme will be treated towards payment under the scheme except part payment made for filing appeal under the period of scheme. This needs to be apportioned as if it is paid before 31/03/2022.

Adjustment and determination of arrears of tax, interest, penalty or late fee, if any, eligible for settlement- S. 6

- For example, in case where assessment order is passed on 31/03/2021 for the period 2016-17 raising following demand;-
- Disallowance of set off 50,000
- Interest 25,000
- Penalty 5,000
- Total 80,000

Adjustment and determination of arrears of tax, interest, penalty or late fee, if any, eligible for settlement- S. 6

- The department recovered 10,000 from the bank on 31/12/2021 and dealer made part payment of 5,000 for filing appeal. The total payment will be adjusted against the tax dues and settlement will be available for following amount;-
- Disputed Tax 50,000
- Less Recovered
- By the department 10,000
- Less: paid in appeal 5,000
- Balance tax payable 35,000

Adjustment and determination of arrears of tax, interest, penalty or late fee, if any, eligible for settlement- S. 6

- In above case if the amount of 5,000 is paid in the scheme period say on 02/04/2022 then it can be reduced from the amount payable under the scheme.
- In above case the eligible sum is
- 35,000 tax + 25,000 interest + 5,000 penalty = Total 65,000
- Amount payable 20% 13,000 under lumpsum option
- Less : Paid on 02/04/22 5,000
- Balance Payable 8,000

Requisite Amount payable and Quantum of Amnesty-S.2(1)(I) and S. 8(1) (b)read with Annexure A and B.

- The act provides following options for payment of the requisite amount;-
- One time Option – Applicable to all types of dues
- Lumpsum Option – Payment of 20% on arrears – Applicable to only statutory dues less than 10 lakhs per order per act. Not applicable to returned or Vat audit report dues.
- Instalment Option – Applicable to all types of dues when it exceeds Rs 50 lakhs per application per act.

Requisite Amount payable and Quantum of Amnesty-S.2(1)(l) and S. 8(1)(b)read with Annexure A and B

- If amount is paid short than required to pay, then the proportionate benefit will be granted.
- Please refer example no.1.d given in the trade circular dated 20/04/2022 at page 18.

Forms

- By order dated ---- the Commissioner has prescribed following forms;-
- Form I- Application for statutory dues- online
- Form IA- Application for other dues- online
- Form II- Application for withdrawal of appeal- to be filed manually
- Form III- Order of settlement or Rejection
- Form IV- Notice for Rectification of Mistake
- Form V- Application for Rectification of Mistake
- Form VI- Notice for Review
- Form VII- Furnishing details of payment of instalments
- Form VIII – Notice for Revocation. No form for appeal.

Application

- Application to be filed online depending upon the type of dues for which it is made.
- For that purpose, one has to login to the department site www.mahagst.gov.in.
- The list of desk officer is available on the site under 'what's new'.
- Each registered dealer has user id which TIN and password. If password is not available, then it can be obtained either under forgot password or application with PAN card to the department and password would be communicated on the registered email.

Application

- In case of application by any non -TIN holder, first he needs to create the profile with his PAN and then he will get Unique Identification Number (UIN) starting from 77 which shall be used for submission of the application and payment.
- The portal provides link for the application under the settlement Act which should be used for its submission.

Application

- The form for application contains tab for selection of applicable options like one time payment , Lumpsum and Instalment which needs to be clicked.
- The design of online form is sheet based i.e one sheet opens at a time which needs to be filled and validated then next sheet opens.
- Upon making payment and filling the required details for dues as per order, return etc, tax paid details before 31/03/2022, details of dues , amount payable and waiver as well as details of payment under the scheme, form will be ready for up loading.

Application

- Following documents need to be attached online with the form;-
- Copy of order for statutory order or Returned or the copy of Vat audit report as the case may be
- Original Order of withdrawal of appeal or Copy of acknowledgement of withdrawal of appeal
- Copies of self certified paid challans for the period before 31/03/22 and also paid under the Scheme.

Payment


- The portal provides for the link for the payment under the scheme and payment to be made through it.
- The challan contains Documents id below it and last digit refers S₁ and S₂ which denotes payment made against the statutory order or returned dues respectively.

Useful Links

- e-forms for making an application under Amnesty 2022
 - a) Form-I-V-1.0.001 (Application for Statutory Order dues)
<https://mahagst.gov.in/sites/default/files/forms/FORM-I-Version-1.0.001.zip>
 - b) Form-IA-V-1.0.001 (Application for return/revised return dues, dues as per Form-704 etc. (Other than Statutory Order dues)
<https://mahagst.gov.in/sites/default/files/forms/FORM-IA-Version-1.0.001...>
- 2) Manuals and Procedures
 - a) User manual for online application filling under Amnesty scheme 2022
<https://mahagst.gov.in/sites/default/files/manuals/USER%20MANUAL%20FOR%2...>
 - b) User manual for Profile creation of Non TIN Holder
<https://mahagst.gov.in/sites/default/files/manuals/1.3%20USER%20MANUAL%2...>

Useful Links

- 3) FAQ Regarding Filing of Amnesty_2022 Application and Uploading
<https://mahagst.gov.in/sites/default/files/manuals/FAQ%20REGARDING%20FIL...>
- 4) e- payment for Amnesty 2022
https://eservices.mahagst.gov.in/mstd/ampayment/index.html?_ga=2.1654193...
- 5) Uploading the Amnesty application via dealer's portal
<https://eservices.mahagst.gov.in/mstd/dealer/login>
- 6) For further assistance on Amnesty Scheme -2022 you can email your query on Email ID
- Email Id-helpdeskamnesty2022@gmail.com or call on 022 23760188, 1800225900

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- THANK YOU VERY MUCH
 - HAPPY NEW FINANCIAL YEAR 2022-23
 - BE HAAPY AND KEEP SMILING
 - BE A PARTNER IN BUILDING A STRONG NATION