



बिहार गजट

असाधारण अंक

बिहार सरकार द्वारा प्रकाशित

11 पौष 1942 (श0)
(सं0 पटना 1) पटना, शुक्रवार, 1 जनवरी 2021

fof/k foHkx

अधिसूचना

1 जनवरी 2021

सं० एल0जी0-01-17/2020/01/लेज—भारत-संविधान के अनुच्छेद 213 के खंड-(1) के अधीन बिहार राज्यपाल दिनांक 1 जनवरी, 2021 को प्रख्यापित निम्नलिखित अध्यादेश इसके द्वारा सर्वसाधारण की सूचना के लिए प्रकाशित किया जाता है ।

बिहार-राज्यपाल के आदेश से,
बलराम मंडल,
सरकार के अवर सचिव ।

(BIHAR ORDINANCE NO.-01, 2021)
THE BIHAR SETTLEMENT OF TAXATION DISPUTES (SECOND)
ORDINANCE, 2020

Promulgated by the Governor of Bihar in the Seventy first Year of the Republic of India.

AN
ORDINANCE

to provide for settlement of disputes arising from proceedings under Part I of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) [as it stood before its repeal by section 94 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005)], the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the Bihar Tax on Entry of goods into Local Areas for Consumption, use or Sale Therein Act, 1993 (Bihar Act No16 of 1993), the Bihar Taxation on Luxuries in Hotels Act, 1988 (Bihar Act 5 of 1988), the Bihar Entertainment Tax Act, 1948 (Bihar Act XXXV of 1948), the Bihar Tax on Advertisement Act, 2007, [as they stood before their repeal by section 173 of the Bihar Goods and Services Tax Act, 2017 (Bihar Act No. 12 of 2017)], the Bihar Electricity Duty Act, 1948 (Bihar Act 36 of 1948) [as it stood before its repeal by section 23 of the Bihar Electricity Duty Act, 2018 (Act 4 of 2018)] and the Central Sales Tax Act, 1956 (Act 74 of 1956),

WHEREAS, The Bihar Settlement of Taxation Disputes Ordinance, 2020 (Bihar Ordinance no.- 11, 2020) was promulgated by the Governor of Bihar on the 21st day of September, 2020;

AND, WHEREAS, no legislative work was taken up during the first session of seventeenth Bihar Legislative Assembly which started from 23rd November, 2020, and continued till 27th November, 2020;

AND, WHEREAS, The Bihar Settlement of Taxation Disputes Ordinance, 2020 (Bihar Ordinance no.- 11, 2020) will cease to operate on the 7th January, 2021, and to give continued effect to the Provisions of the said Ordinance, it is necessary to take immediate necessary action in the matter;

AND, WHEREAS, the Legislature of the State of Bihar is not in session; and the Governor of Bihar is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Bihar is pleased to promulgate the following Ordinance:-

CHAPTER I
Preliminary

1. Short title, extent and commencement.— (1) This Ordinance may be called the Bihar Settlement of Taxation Disputes (Second) Ordinance, 2020.

(2) It shall extend to the whole of the State of Bihar.

(3) It shall be deemed to have come into force on the 21st day of September, 2020 and shall remain in force for a period of six months from the said date:

Provided that the State Government may, by a notification published in the official Gazette in this behalf, extend the said period of six months by such further period, not exceeding six months, as may be specified in the said notification.

2. Definitions.—*In this Ordinance, unless otherwise required in the context –*

(a) “*Ordinance*” means the Bihar Settlement of Taxation Disputes (Second) Ordinance, 2020;

(b) “*admitted tax*” means the amount of tax admitted as being payable in the returns filed by the party under the law;

- (c) “*appeal*” means an appeal under the law pending before the Additional Commissioner of State Tax (Appeals) or the Joint Commissioner of Commercial Taxes (Appeal) appointed and having territorial jurisdiction under section 9 of the Bihar Finance Act, 1981, Part I or section 10 of the Bihar Value Added Tax Act, 2005;
- (d) “*arrear tax, penalty, interest or fine in dispute*” means,-
- (i) tax, by whatever name called, payable by an assessee pursuant to an order of assessment, re-assessment or scrutiny or any other order made or passed under the law, or,
 - (ii) penalty imposed upon an assessee under any provision of the law, or,
 - (iii) interest payable by an assessee under any provision of the law, or
 - (iv) fine payable by an assessee under any provision of the law;
- (e) “*dispute*” means any proceeding, by way of an appeal, revision, miscellaneous revision, review, reference or any petition in respect of any levy of tax, interest, fine or penalty pursuant to any order passed under the law, in respect of any period on or before 30th day of June, 2017 under the law, which is pending on 31st day of August, 2020, before any authority or Tribunal appointed under the law or, as the case may be, the High Court or the Supreme Court;
- Explanation.-* For the purposes of this clause a “dispute” includes:
- (i) any such levy the full amount in respect of which has not been paid into Government Treasury, or
 - (ii) a proceeding for recovery of any tax, interest, fine or penalty, initiated by or pending before any authority appointed or prescribed or authorised under the law or under the Bihar and Orissa Public Demand Recovery Act, 1914;
- (f) “*disputed amount*”, in relation to a dispute, means any tax or interest or fine or penalty which has been determined as being payable by the party pursuant to an order of assessment, re-assessment, scrutiny or any other order made or passed under the law;
- (g) “*law*” means Part I of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) [as it stood before its repeal by section 94 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005)], the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the Bihar Tax on Entry of goods into Local Areas for Consumption, use or Sale Therein Act, 1993 (Bihar Act No16 of 1993), the Bihar Taxation on Luxuries in Hotels Act, 1988 (Bihar Act 5 of 1988), the Bihar Entertainment Tax Act, 1948 (Bihar Act XXXV of 1948), the Bihar Tax on Advertisement Act, 2007, [as they stood before their repeal by section 173 of the Bihar Goods and Services Tax Act, 2017 (Bihar Act No. 12 of 2017)], the Bihar Electricity Duty Act, 1948 (Bihar Act 36 of 1948) [as it stood before its repeal by section 23 of the Bihar Electricity Duty Act, 2018 (Act 4 of 2018)] and the Central Sales Tax Act, 1956 (Act 74 of 1956) ;
- (h) “*party*” means any person who is a party to a dispute under the Law and who files an application under this Ordinance for settlement of any dispute;
- (i) “*prescribed*” means as prescribed in the Rules made under this Ordinance;
- (j) “*prescribed authority*”, for the purposes of this Ordinance, means authorities referred to section 10 of Bihar Value added Tax Act, 2005;
- (k) “*revision*” means a petition for revision under the law pending before the Commissioner of Commercial Taxes appointed under section 9 of Part I of

- the Bihar Finance Act, 1981 or under section 10 of the Bihar Value Added Tax Act, 2005 or before the Tribunal constituted under the law;
- (l) “*settled*”, in relation to a dispute, means disposal and conclusion of the proceeding in relation to such dispute;
- (m) “*settlement amount*” means the amount upon payment of which the dispute shall be settled;
- (n) “*statutory certificates/declarations*” for the purpose of the Act means declarations and certificates mentioned under Rule 12 of the Central Sales Tax (Registration & Turnover) Rules 1957 and includes any Form of declaration prescribed under any other rule framed under the law;
- (o) “*Tribunal*” means the Commercial Taxes Tribunal constituted under section 8 of Part I of the Bihar Finance Act, 1981 or section 9 of the Bihar Value Added Tax Act, 2005;
- (p) words or expressions not defined herein shall have the meanings respectively assigned to them under the law or under the rules framed thereunder.

CHAPTER II

Settlement of Disputes

3. Settlement amount.— (1) Subject to other provisions of this Ordinance, a dispute pending under the law may, on an application being made in this behalf by a party, be settled upon payment of the settlement amount as specified in column 3 of the Table appended herein below:

Table

Sl.No.	Dispute relating to:	Settlement amount:
1	2	3
1.	Arrear of tax on account of failure to furnish or produce any statutory Certificate or Declaration	100% of remaining balance amount of the arrear of tax in dispute, as reduced by the amount of tax involved in the value of Certificates/Declarations in the possession of the applicant till the date of application, or the amount already paid towards such arrear, whichever is higher;
2.	Other Arrear of tax	35% of the arrear of tax in dispute or the amount already paid towards such arrear, whichever is higher;
3.	For dispute arising out of an order levying penalty, fine or interest under the law	10% of disputed amount of penalty or interest or the fine, as the case may be, or the amount already paid towards such arrear, whichever is higher;

Explanation.—For the purposes of this sub-section, the expression “settlement amount” shall not include any payment towards any arrear of admitted tax and the party shall deposit the total amount of admitted tax.

- (2) Where a party desirous of settling a dispute, has deposited any amount in respect of the dispute, the said amount would be considered as payment towards settlement amount and the party will have to pay the difference amount only.
- (3) Where a party desirous of settling a dispute, has already deposited any amount in respect of the dispute which is equal to or more than the settlement amount, the said amount would be considered as payment towards settlement amount and the amount deposited in excess of the settlement amount will not be refunded.

- (4) Notwithstanding anything contained in any law for the time being in force but subject to the other provisions of this Ordinance, any dispute in respect of which the amount specified in sub-section (1) has been deposited into Government Treasury, in the manner and within the time specified, shall be deemed to have been concluded and it shall not be continued by any authority or Court before which such dispute is pending.
- (5) Upon an order of settlement of a dispute relating to –
- a revision petition pending before the Tribunal, or
 - a reference, or
 - a Writ Petition, or
 - a Special Leave Petition

being passed under Section 5 of the Ordinance, the said revision, reference, Writ Petition or Special Leave Petition shall be deemed to have been disposed of in terms of the aforesaid settlement.

CHAPTER III

Manner of Settlement of Disputes

4. Application for settlement.—Any party wishing to settle a dispute shall furnish to the prescribed authority, an application in such form and manner and within such time as may be prescribed.

5. Disposal of application.—

- No application shall be considered by the prescribed authority unless the application conforms to the requirements of Section 4 and the rules made thereunder.
- Every application furnished under section 4 shall be proceeded in such manner and within such time as may be prescribed.

6. Power to make rules.—

- The Government may by notification, make rules for carrying out the provisions of this Ordinance.
- Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for all or any of the matters which by this Ordinance are required to be, or may be, prescribed or in respect of which provision are to be or may be made by rules.

7. Repeal and Savings.—

- The Bihar Settlement of Taxation Disputes Ordinance, 2020 (Bihar Ordinance No.- 11, 2020) is hereby repealed.
- Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Ordinance as if this Ordinance were in force on the day on which such thing was done or action taken

Patna
Dated.— 1st January 2021

PHAGU CHAUHAN,
Governor of Bihar.

अधीक्षक, सचिवालय मुद्रणालय,
बिहार, पटना द्वारा प्रकाशित एवं मुद्रित।
बिहार गजट (असाधारण) 1-571+400-डी0टी0पी0।
Website: <http://egazette.bih.nic.in>