



The Gazette of Meghalaya

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 199

Shillong, Thursday, November 5, 2020

14th Kartika, 1942 (S. E.)

PART-V

GOVERNMENT OF MEGHALAYA

MEGHALAYA LEGISLATIVE ASSEMBLY SECRETARIAT

NOTIFICATION

The 5th November, 2020.

No.LB.125/LA/2020/2. - The Meghalaya Settlement of Arrears (Under the State Taxation Acts) Bill, 2020 introduced in the Meghalaya Legislative Assembly on the 5th November, 2020 together with the Statement of Objects and Reasons is published under Rule 71 of the Rules of Procedure and Conduct of Business in the Meghalaya Legislative Assembly for general information.

**THE MEGHALAYA SETTLEMENT OF ARREARS
(UNDER THE STATE TAXATION ACTS) BILL, 2020**

**A
Bill**

to provide for securing the interest of Revenue Collection by the Government of Meghalaya, and to reduce the arrears arising out of the enactments administered by the Commercial Taxes Department and matters incidental thereto.

Be it enacted by the Legislature of the State of Meghalaya in the Seventy-first year of the Republic of India as follows:-

- Short title, extent and commencement** 1. (1) This Act may be called The Meghalaya Settlement of Arrears (under State Taxation Acts) Act, 2020.
- (2) It extends to the whole of the State of Meghalaya.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette appoint.
- Definitions.** 2. (1) In this Act, unless the context otherwise requires, —
- (a) **“Annexure”** means the Annexure appended to this Act;
- (b) **“Appellate Authority”** means the authorities competent to hear appeals against orders passed under the provisions as existed before the subsumation of the enactments under the Meghalaya Goods and Services Tax Act, Act or as existing under the enactments kept out of the Meghalaya Goods and Services Tax Act, Act and includes the Assistant Commissioner of Taxes (Appeals) or any officer not below the rank of Commissioner of Taxes, Assistant Commissioner of Taxes, the Appellate Tribunal and all authorities specified in sub-section (4) of Section 6 of this Act;
- (c) **“Applicant”** means a tax defaulter or a tax non-payer or short payer who is liable to pay arrears of Tax, interest, surcharge and penalty, levied or imposed under the relevant State Taxation Acts and who desires to avail the benefit of settlement, by complying with the conditions, under this Act;
- (d) **“Arrears”** means the composite amount of tax, interest, surcharge, penalty as the case may be, —
- (i) payable by an assessee as per any statutory order under the relevant State Taxation Act as on the cut-off date which is the 31st March 2020; or (ii) admitted in the return or, as the case may be, the revised return filed under the relevant State Taxation Acts and which has not been paid either wholly or partly; or (iii) determined and recommended to be payable by the auditor, in the audit report under the relevant State Taxation Acts; or (iv) in respect of which a notice has been issued, in relation to any proceeding under the relevant State Taxation Acts; or

- (v) determined to be payable by the assessee where no notice in relation to any proceeding under the relevant State Taxation Acts is issued, and such arrears of tax, interest, surcharge, penalty, pertains to specific tax period for which the return has been filed;
- (e) **“Assessing Officer”** means the Government official designated to complete assessment of periodical tax Returns filed by a registered dealer under respective State Taxation Acts;
- (f) **“Assessment”** means statutory proceedings under State Taxation Acts to determine the tax liability of a registered dealer;
- (g) **“Commissioner”** means the Commissioner of Taxes, Meghalaya;
- (h) **“Dealer”** means a person who carries on business, as defined under clause (xvi) of Section 2 of the Meghalaya Value Added Tax Act, 2003, sub-section (3) of Section 2 of the Meghalaya Sales Tax Act, sub-section (2) of Section 2 of the Meghalaya (Finance) Sales Tax Act, sub-section (3) of Section 2 of the Meghalaya Purchase Tax Act, sub-section (4) of Section 2 of the Meghalaya (Sales of Petroleum and Petroleum products etc.) Taxation Act and clause (b) of Section 2 of the Central Sales Tax Act, 1956;
- (i) **“Government”** means the Government of Meghalaya;
- (j) **“Hotelier”** means a person as defined under clause (d) of Section 2 of The Meghalaya Tax on Luxuries (Hotels and Lodging Houses) Act, 1991;
- (k) **“Notice of Demand”** means a statutory notice issued to a registered dealer after assessment requiring him to pay the outstanding dues;
- (l) **“Person”** includes an individual, joint family, firm, company, association of persons, body of individuals whether incorporated or not, Central Government or State Government or local authority;
- (m) **“Registered dealer Taxation Act”** means a dealer or a hotelier registered under the respective State Taxation Acts;
- (n) **“Scheme”** means the settlement of Arrear (under the State Taxation Acts) as provided under Section 3 to Section 13 of this Act;
- (o) **“State”** means the State of Meghalaya;
- (p) **“State Taxation Acts”** include The Meghalaya Sales Tax Act (Assam Act XVII of 1947 as adapted and amended by Meghalaya), The Meghalaya (Finance) Sales Tax Act (Assam Act XI of 1956 as adapted and amended by Meghalaya), The Meghalaya Tax on Luxuries (Hotels and Lodging Houses) Act, 1991, The Meghalaya (Sale of Petroleum and Petroleum Products etc.) Taxation Act (Assam Act IX of 1956 as adapted and amended by Meghalaya), the Meghalaya Purchase Tax Act (Assam Act XIX of 1967 as adapted and amended by Meghalaya), the Meghalaya Value Added Tax Act, 2003 and the Central Sales Tax Act, 1956 as administered, collected and appropriated by the Government;
- (q) **“Tax Defaulter”** means a registered dealer who has been assessed to tax and has been issued notice(s) of Demand on or before the 31st March 2020, but has failed to pay the outstanding dues of tax, interest, surcharge or penalty; and

- (r) **"Tax Non-payer and/or Short payer"** means a registered dealer who has furnished the return for all tax periods upto 31st March, 2020 but has made no payment or has failed to make full payment of the tax admitted therein and notice(s) of demand has not yet been served;
- (2) Words and expressions used in this Act but not defined herein shall have the same meaning as respectively assigned to them under the relevant State Taxation Acts;
- Adjustment of any payment made under relevant act and settlement of arrears of tax, interest, surcharge, penalty, if any**
3. (1) Notwithstanding anything contained in the relevant State Taxation Acts or under this Act,-
- (a) any payment made in respect of the statutory order either in the appeal or otherwise, on or before the date of commencement of this Act, shall first be adjusted towards the amount of tax and thereafter towards the interest and the balance amount remaining unadjusted, shall then be adjusted towards the penalty, sequentially;
- (b) after adjustment of amount as specified in clause (a), the amount remaining outstanding, if any, as on the date of commencement of this Act, shall only be considered for the settlement and the requisite amount payable towards the settlement of aforesaid outstanding amount and the waiver, thereof, shall be as determined in accordance with the provisions of this Act.
- (2) The provisions of foregoing clauses shall be applicable with necessary changes to the balance outstanding dues as per the return furnished for the particular tax period or, as the case may be, as per the recommendations made in respect of tax, interest, surcharge or penalty by the auditor in the audit report.
- Eligibility**
4. (1) An applicant is eligible for remission on tax, interest, surcharge and penalty, on condition that he makes payment of not less than seventy per centum of total dues, as per applicability set forth, within the date specified by the Commissioner in the notice as may be prescribed.
- (2) Subject to the other provisions of this Act, an applicant shall be eligible to make an application for settlement of arrears of tax, interest, surcharge and penalty in respect of the specified period, whether such arrears are disputed in appeal under the relevant State Taxation Acts or not:
- Provided that no applicant shall be eligible for the Scheme if he has been convicted of an offence under Chapters XI, XVII and XVIII of the Indian Penal Code; or economic and financial offences prohibited by laws of the Government of India.
- Extent of applicability and duration**
5. (1) An applicant eligible under the Scheme with dues of tax, interest, surcharge and penalty shall be granted remission on tax, interest, surcharge and penalty up to an amount not exceeding thirty per centum of the total dues.

Procedure for application

6. (1) An eligible applicant who opts for the Scheme would have to file an application in the Form to prescribed by rules made thereunder. The application shall be signed in the case of an individual, by the individual himself or a person duly authorized by the individual or a person competent to act on his behalf. In case of person other than an individual, the declaration shall be signed by a person duly authorized or a person competent to act on behalf of entities other than an individual.
- (2) The application shall be made to the Assessing Officer in such form and in such manner, as may be specified in the order by the Commissioner.
- (3) Subject to the other provisions of this Act, where an applicant desires to settle the arrears of outstanding dues as per return furnished for the particular tax period under the relevant State Taxation Acts, he shall submit a separate application for each of such return or revised return under each relevant State Taxation Act.
- (4) Where any Appellate Authority including Tribunal, or the Court has remanded the case back to any authority under the relevant State Taxation Acts, for giving effect to the directions given therein and such order has not been passed on or before the date of commencement of this Act, then such cases shall not be eligible for settlement under this Act:
- Provided that, the applicant may be eligible to settle the amount of tax, interest, surcharge and penalty as per the directions given by the said authority or the Court and in case, no such specific directions are given then such tax, interest, surcharge and penalty shall be determined by the applicant.
- Withdrawal of appeal**
7. (1) (a) Notwithstanding anything contained in any provisions of the relevant State Taxation Act, the appeal pending before the Appellate Authority or the Tribunal or the Court, shall be withdrawn unconditionally by the applicant on the date on which such appeal withdrawal application is submitted to the aforesaid authorities or the Court.
- (b) The submission of acknowledgement of such application to the Commissioner, along with the application for settlement shall be treated as sufficient proof towards withdrawal of the said appeal.
- (2) In case, the applicant desires to withdraw the appeal, in respect of certain issues and desires to continue the same for certain other issues, then the applicant, shall specifically state details thereof in withdrawal application filed before the said authorities or the Court, and the provisions of sub-section (1) of this Section shall apply with necessary changes so far as they relate to the withdrawal and submission of proof to the Commissioner.
- (3) The provisions of Section 3 shall be applicable in the cases where the applicant withdraws appeal as mentioned in sub-section (2) of this Section.

**Verification by
assessing officer**

8. (1) The Commissioner shall cause each application to be verified by the respective Assessing Officer for correctness of the declaration and payment, to be recorded in the registered dealer's file for respective State Taxation Acts.
- (2) The Assessing Officer shall verify and confirm that the application is accompanied with documents mentioned in the application form. The Assessing Officer shall verify the correctness of the particulars furnished in the application and documents submitted with the application with reference to the records available with the assessing authority or, as the case may be, any other authority with whom such records are available.
- (3) On verification of the application, in case it is noticed that, the said application is incorrect or incomplete or the amount declared to have been paid is deficient, the Assessing Officer shall issue defect notice, within thirty working days from the date of receipt of the application and inform the applicant about the defects in the application along with the details of the amount to be paid: provided that, the defect notice in respect of an application shall be issued only once.
- (4) The applicant shall, within fifteen days of the issue of the defect notice, correct the defects and make the payment of amount short paid, if any, and submit proof of such payment to the Assessing Officer.
- (5) In case the applicant fails to correct the defects so communicated including the additional payment, if any, the Assessing Officer may, for reasons to be recorded in writing and after giving the applicant the opportunity of being heard, pass an order within thirty working days of the date fixed under sub-section (4) of this Section.
- (6) Where the application is received from a Tax non-payer or Short payer, the Assessing Officer in addition to the verification as laid down at sub-section (1), (2) and (3) of this Section, shall pass the order of assessment under the relevant State Taxation Acts and issue the notice of demand to the applicant under the provisions of the relevant State Taxation Acts within thirty working days from the date of receipt of the application.
- (7) Where, the application is found by the Assessing Officer to be complete in all respects including application where deficiencies have been cured or notice of demand has been raised under sub-section (6) of this Section in accordance with the provisions of this Scheme and the rules made there under, he shall within fifteen working days, forward the application along with the case records to the Commissioner.
- (8) Where the application for settlement of arrears of tax, interest, surcharge and penalty is not in accordance with the provisions of this Scheme, the Assessing Officer may, by order, for reasons to be recorded in writing, within thirty working days from the date of receipt of the application, reject the application, after giving the opportunity of being heard to the applicant.

**Grant of remission
and amnesty**

9.

- (9) Where the application has been rejected under sub-section (5) and (8) of this Section, the applicant may within fifteen working days of the date of issue of the order, file an appeal to the Commissioner in the format as may be prescribed by rules made thereunder.
- (10) The speaking order on the appeal is to be passed by the Commissioner within thirty working days from the date of receipt of the appeal.
- (1) If the Commissioner is satisfied that the application is complete and accurate in all respects in accordance with the provisions of this Scheme and the rules made there under, he shall issue the notice of demand directing the applicant to make payment to the Government Treasury, by Treasury challan, by the specified date being not less than thirty days and more than forty five days from the date of issuance of the notice, the sum of not less than seventy percentum of the total dues of tax, interest, surcharge and penalty.
- (2) On full payment of the sum specified at sub-section (1) of this Section, the Commissioner shall pass a speaking order and issue a Tax Clearance Certificate within thirty working days, in a manner and format as may be prescribed by rules made thereunder and provide the copy of the said order to the applicant and thereupon, notwithstanding anything contained in the relevant State Taxation Acts, such applicant shall be discharged of his liability to the extent of the amount of waiver specified in the order of the settlement.
- (3) The Commissioner may, on his own motion or on application, within six months from the date of issue of the order of settlement, rectify any error apparent from the record and pass a speaking order accordingly:

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

Revocation of grant

10.

- (1) If the Commissioner is satisfied that a tax defaulter has obtained the grant of remission and amnesty by misrepresentation of facts or furnishing of false information, the Commissioner may revoke the grant after giving the tax defaulter an opportunity of being heard:
- Provided that no order under the provision of sub-section (1) of this Section shall be passed after the expiry of two years from the date of issuance of the Tax Clearance Certificate under this Scheme.
- (2) If an order of settlement is revoked under sub-section (1) of this Section, the assessment, revision, review or appeal, as the case may be, under the relevant State Taxation Acts, covered by such order of settlement, shall stand revived or reinstated immediately upon such revocation, and such assessment, revision, review or appeal, as the case may be, shall be decided in accordance with the provisions of the relevant State Taxation Acts, as if no order of settlement of the arrears of tax, interest, surcharge, penalty has ever been made, and notwithstanding the period of limitation provided under the relevant State Taxation Acts, such assessment, revision, review or appeal, as the case may be, shall be made by the respective authorities, within two years from the date of passing the order of such revocation:

		<p>Provided that, an appeal shall be re-instated on application made in this behalf to the Appellate Authority within sixty days from the date of issue of the order of revocation.</p>
Bar on re-opening of settled cases	11.	<p>An order of settlement issued under the provisions of this Act shall be conclusive as to the settlement of arrears covered under that order, and the matter covered by such order of settlement shall not be re-opened in any proceeding or review or revision or any other proceeding under the relevant State Taxation Acts.</p>
Resolution of dues	12.	<p>Final orders issued by the Commissioner in a manner and format as may be prescribed by rules made thereunder shall supersede the notice(s) of Demand issued under respective State Taxation Acts by the Assessing Officer, and no further proceedings for recovery shall continue.</p>
No refund under this scheme	13.	<p>Under no circumstances, the applicant shall be entitled to get the refund of the amount paid under this Act:</p> <p>Provided that, in case of revocation of an order of the settlement in accordance with the provisions of this Act, the amount paid by the applicant under this Act shall be treated to have been paid under the relevant State Taxation Acts.</p>
Powers of authorities	14.	<p>(1) No Appellate Authority including Tribunal, shall proceed to decide any appeal under the relevant State Taxation Acts, in respect of and to the extent of one or more issues or all the issues for which an application is made by the applicant under the provisions of this Act.</p> <p>(2) Notwithstanding anything contained in the relevant State Taxation Acts, the Assessing Authority, the Appellate Authority including the Tribunal, Revision Authority, Reviewing Authority, shall proceed to decide such assessment, appeal, revision or review in accordance with the relevant State Taxation Acts, -</p> <p>(a) to the extent of the issues for which no application for settlement is made by the applicant; or</p> <p>(b) in case an order of settlement referred in Section 9 is made, rejecting the application for settlement.</p>
Power to make rules	15.	<p>(1) The State Government may, by notification, with prospective or retrospective effect not earlier than the date of coming into effect of this Act, make rules for carrying out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed for by the rules.</p>
Power of the Commissioner	16.	<p>(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 and the manner in which the form shall be submitted.</p>

Interpretation	17.	<p>If any question arises relating to the interpretation of any of the provisions in this Act, it shall be referred to the Government of Meghalaya in the Excise, Registration, Taxation & Stamps Department, whose decision thereon shall be final and binding and no challenge shall lie against any order passed under this Act before any court of law.</p>
Power to remove difficulties	18.	<p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:</p> <p>Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.</p> <p>(2) Every order made under sub-section (1) of this Section above shall be laid, as soon as may be, after it is made, before the House of the State Legislature.</p>
Bar to proceedings in civil court	19.	<p>No suit shall be brought in any civil court to set aside or modify any order passed under this Act; and no prosecution, suit or other proceeding shall lie against the Commissioner or any of his subordinate officers for anything done in good faith or intended to be done under this Act.</p>
Repeal and saving	20.	<p>(1) The Meghalaya Settlement of Arrears (under the State Taxation Acts) (Meghalaya Ordinance No.3 of 2020) is hereby repealed.</p> <p>(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been taken or done under the provisions of this Act.</p>

STATEMENT OF OBJECTS AND REASONS

As there are preceding laws which existed before the introduction of the Meghalaya Goods and Services Tax (MGST) Act, 2017 and the Central Goods and Services Tax Act, 2017 and now stand subsumed under the MGST Act or are kept out of the said Acts and to mobilize tax resources that have become due for years but have remained unrecoverable due to burden of such dues, this Bill, provides for applicants an opportunity of remission on dues on account of tax, interest, surcharge and penalty, on condition of payment of 70 (Seventy) per cent of total outstanding dues within a stipulated time period and for other matters connected therewith or incidental thereto.

Therefore, it is expedient to effect recovery of the arrear dues on account of unrecovered tax, surcharge, interest and penalty that has accumulated over a number of years, it is necessary to enact a legislation to notify a Scheme for waive off of a certain percentage of the arrear dues if a tax defaulter comes forward to avail the benefit of the Scheme and pays the remainder of the amount in full, hence the Bill.

JAMES K. SANGMA,
Minister-in-charge
Taxation Department.

ANDREW SIMONS,
Commissioner & Secretary,
Meghalaya Legislative Assembly.

FINANCIAL MEMORANDUM

The provisions of this Bill when enacted and enforced will be administered by the staff of the Department and no additional expenditure will be necessary for the purpose.

MEMORANDUM ON DELEGATED LEGISLATION

Section 15 are the powers delegated for framing Rules by State Government which are matters of details and of normal character.