

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the Tamil Nadu on 10th October, 2023 is published together with Statement of Objects and Reasons for general information:—

L.A Bill No. 28 of 2023

A Bill to provide for settlement of arrears of tax, penalty or interest pertaining to certain taxes administered by Commercial Taxes and Registration Department and the matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for settlement of arrears of tax, penalty or interest, as the case may be, under,—

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| Tamil Nadu Act 1 of 1959. | (i) the repealed Tamil Nadu General Sales Tax Act, 1959, |
| Tamil Nadu Act 24 of 1971. | (ii) the repealed Tamil Nadu Sales Tax (Surcharge) Act, 1971, |
| Tamil Nadu Act 14 of 1970. | (iii) the repealed Tamil Nadu Additional Sales Tax Act, 1970, |
| Tamil Nadu Act 6 of 1981. | (iv) the repealed Tamil Nadu Tax on Luxuries Act, 1981, |
| Tamil Nadu Act 20 of 2001. | (v) the repealed Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, |
| Tamil Nadu Act 13 of 1990. | (vi) the repealed Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990, |
| Tamil Nadu Act X of 1939. | (vii) the repealed Tamil Nadu Entertainments Tax Act, 1939, |
| Tamil Nadu Act 22 of 1983. | (viii) the repealed Tamil Nadu Advertisements Tax Act, 1983, |
| Tamil Nadu Act XX of 1935. | (ix) the repealed Tamil Nadu Betting Tax Act, 1935, |
| Tamil Nadu Act 32 of 2006. | (x) the Tamil Nadu Value Added Tax Act, 2006, and |
| Central Act 74 of 1956. | (xi) the Central Sales Tax Act, 1956; |

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Taxes (Settlement of Arrears) Act, 2023. Short title,
extent and
commencement.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

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

Definitions.

(a) "admitted tax" means tax payable as per the returns, books of accounts or tax assessed by the assessing authority under the relevant Act but does not include disputed tax;

(b) "applicant" means a dealer or any person who is liable to pay tax under the relevant Act;

(c) "arrears of tax, penalty or interest" means-

(i) tax including sales tax, additional sales tax, surcharge, additional surcharge, value added tax, central sales tax, luxury tax, advertisement tax, entertainments tax, entry tax or betting tax, payable by an applicant upon assessment under the relevant Act;

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

(iii) interest payable by an applicant under the relevant Act,

as the case may be, pertaining to the assessment years upto 2017-2018, for which assessment has been made on or before the 31st day of March 2021 under the relevant Act, and pending collection on the date of filing of application under this Act;

(d) "certificate of settlement" means a certificate issued under this Act for settlement of arrears of tax, penalty or interest under the relevant Act;

(e) "declaration form" means form or certificate prescribed under the relevant Act for sale or purchase of goods at reduced or concessional rate of tax or for exemption from tax;

(f) "designated authority" means an authority appointed under section 3;

(g) "disputed tax" means the whole or part of tax determined by the assessing authority under the relevant Act against which appeal, revision or review is pending before any authority, tribunal or court, as on the date of commencement of this Act;

(h) "Government" means the State Government;

(i) "relevant Act" means,-

(i) the repealed Tamil Nadu General Sales Tax Act, 1959; or Tamil Nadu Act 1 of 1959.

(ii) the repealed Tamil Nadu Sales Tax (Surcharge) Act, 1971; or Tamil Nadu Act 24 of 1971.

(iii) the repealed Tamil Nadu Additional Sales Tax Act, 1970; or Tamil Nadu Act 14 of 1970.

(iv) the repealed Tamil Nadu Tax on Luxuries Act, 1981; or Tamil Nadu Act 6 of 1981.

(v) the repealed Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001; or Tamil Nadu Act 20 of 2001.

(vi) the repealed Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990; or Tamil Nadu Act 13 of 1990.

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| Tamil Nadu Act X of 1939. | (vii) the repealed Tamil Nadu Entertainments Tax Act, 1939; or |
| Tamil Nadu Act 22 of 1983. | (viii) the repealed Tamil Nadu Advertisements Tax Act, 1983; or |
| Tamil Nadu Act XX of 1935. | (ix) the repealed Tamil Nadu Betting Tax Act, 1935; or |
| Tamil Nadu Act 32 of 2006. | (x) the Tamil Nadu Value Added Tax Act, 2006; or |
| Central Act 74 of 1956. | (xi) the Central Sales Tax Act, 1956, as the case may be. |

(2) Unless there is anything repugnant to the subject or context, all words and expressions used in this Act, but not defined, shall have the same meaning as assigned to them in the relevant Act.

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| Tamil Nadu Act 19 of 2017. | 3. For carrying out the purposes of this Act, the Government may, by notification, appoint one or more officers referred to in section 3 of the Tamil Nadu Goods and Services Tax Act, 2017 to be the designated authority and such authority shall exercise jurisdiction over such area or areas as the Government may specify in the notification. | Designated authority. |
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4. Subject to the other provisions of this Act, an applicant is eligible to make an application for settlement of arrears of tax, penalty or interest pertaining to the assessment years upto 2017-2018 for which assessment has been made under the relevant Act, on or before the 31st day of March 2021, against which an appeal, revision or review is not pending before any authority or tribunal under the relevant Act or any court on the date of filing of application:

Provided that in cases where any appeal, revision or review, is pending before any authority or tribunal under the relevant Act or any court on the date of commencement of this Act, application for settlement of arrears shall be made along with a copy of leave to withdraw granted by the authority or tribunal or court, as the case may be:

Provided further that in cases where any appeal filed by the Government is pending before any authority, tribunal under the relevant Act or court on the date of commencement of this Act, application for settlement of arrears shall be made as per the tax claimed by the Government, treating such claims as disputed tax together with the corresponding penalty or interest.

5. (1) An application for the purpose of section 4 shall be made to the designated authority within four months from the date of commencement of this Act or such later date as the Government may, by notification, specify, from time to time, in such form, and in such manner, as may be prescribed, along with proof of payment of the amount at the rates specified in section 7.

(2) A separate application shall be made for each assessment year.

6. (1) The designated authority shall verify the correctness of the particulars furnished in the application made under section 5 with reference to all relevant records and determine the amount payable at the rates specified in section 7.

Application for settlement.
Eligibility for settlement.
Application for settlement.
Determination of amount payable by applicant.

(2) The designated authority shall demand further amount payable by the applicant in the form prescribed, if the amount paid by the applicant along with application falls short of the amount determined under sub-section (1).

(3) The amount determined under sub-section (1) shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, and, if such part is fifty paise or more, it shall be rounded off to the nearest rupee, and if such part is less than fifty paise, it shall be ignored.

Rate applicable
in determining
amount payable.

7. (1) The amount payable by the applicant and to be waived shall be determined as follows: —

(a) where the total arrears of tax, penalty or interest is above rupees fifty thousand and upto rupees ten lakh for an assessment year on the date of application for settlement under this Act, the applicant shall have an option to pay under any one of the following methods that is most beneficial to him:—

(i) pay twenty per cent. on the total arrears of tax, penalty or interest and on such payment, the remaining arrears of tax, penalty or interest payable shall be waived; or

(ii) (1) on the admitted tax, pay sixty-six per cent. along with ten per cent. of the penalty and ten per cent. of the interest and on such payment, the remaining admitted tax, penalty and interest payable shall be waived;

(2) on the disputed tax, pay thirty-three per cent. along with ten per cent. of the penalty and ten per cent. of the interest and on such payment, the remaining disputed tax, penalty and interest payable shall be waived;

(3) where it relates to arrears of penalty or interest or both and where there is no arrear of tax, pay ten per cent. of the interest and ten per cent. of the penalty and on such payment, the remaining interest or penalty or both payable shall be waived;

(b) where the total arrears of tax, penalty or interest is above rupees ten lakh and upto rupees one crore for an assessment year on the date of application for settlement under this Act, the applicant shall,—

(i) on the admitted tax, pay sixty-six per cent. along with ten per cent. of the penalty and ten per cent. of the interest and on such payment, the remaining admitted tax, penalty and interest payable shall be waived;

(ii) on the disputed tax, pay thirty-three per cent. along with ten per cent. of the penalty and ten per cent. of the interest and on such payment, the remaining disputed tax, penalty and interest payable shall be waived;

(iii) where it relates to arrears of penalty or interest or both and where there is no arrear of tax, pay ten per cent. of the penalty and ten per cent. of the interest and on such payment, the remaining penalty or interest or both payable shall be waived;

(c) where the total arrears of tax, penalty or interest is above rupees one crore and upto rupees ten crore for an assessment year on the date of application for settlement under this Act, the applicant shall,—

(i) on the admitted tax, pay seventy-five per cent. along with fifteen per cent. of the penalty and twenty per cent. of the interest and on such payment, the remaining admitted tax, penalty and interest payable shall be waived;

(ii) on the disputed tax, pay fifty per cent. along with fifteen per cent. of the penalty and twenty per cent. of the interest and on such payment, the remaining disputed tax, penalty and interest payable shall be waived;

(iii) where it relates to arrears of penalty or interest or both and where there is no arrear of tax, pay fifteen per cent. of the penalty and twenty per cent. of the interest and on such payment, the remaining penalty or interest or both payable shall be waived.

(d) where the total arrears of tax, penalty or interest is more than rupees ten crore for an assessment year on the date of application for settlement under this Act, the applicant shall,—

(i) on the admitted tax, pay ninety per cent. along with fifteen per cent. of the penalty and thirty per cent. of the interest and on such payment, the remaining admitted tax, penalty and interest payable shall be waived;

(ii) on the disputed tax, pay sixty per cent. along with fifteen per cent. of the penalty and thirty per cent. of the interest and on such payment, the remaining disputed tax, penalty and interest payable shall be waived;

(iii) where it relates to arrears of penalty or interest or both and where there is no arrear of tax, pay fifteen per cent. of the penalty and thirty per cent. of the interest and on such payment, the remaining penalty or interest or both payable shall be waived.

(2) Notwithstanding anything contained in the relevant Act, interest accrued at the time of payment of tax, penalty or interest, as the case may be, under this Act, shall also stand waived.

8. Notwithstanding anything contained in the relevant Act or this Act, where on the date of commencement of this Act, the total arrears of tax, penalty or interest, is rupees fifty thousand or less for an assessment year, the entire amount shall stand waived on that date and the assessee shall stand discharged from his liability to make payment of such arrears of tax, penalty or interest.

Total waiver of certain amounts.

9. Notwithstanding anything contained in the relevant Act, no arrears of tax, penalty or interest payable under this Act shall be,—

Restrictions.

(a) paid through the input tax credit account;

(b) adjusted against any excess amount; or

(c) refunded,

under any circumstances.

Settlement of arrears
and issue of
certificate.

10. (1) The designated authority shall, on being satisfied about the payment of the amount determined under sub-section (1) of section 6, by an order, settle the arrears of tax, penalty or interest and issue a certificate of settlement in such form as may be prescribed, and thereupon, the applicant shall be discharged from his liability to make payment of such arrears of tax, penalty or interest. A separate certificate of settlement shall be issued in respect of each application:

Provided that where certificate of settlement is issued in a case, wherein appeal filed by the Government is pending before any authority, tribunal or court, the Government shall withdraw the appeal forthwith.

(2) The designated authority, for reasons to be recorded in writing, may refuse to settle the arrears of tax, penalty or interest:

Provided that no order under this sub-section shall be passed without giving the applicant a reasonable opportunity of showing cause against such refusal.

(3) The designated authority may, at any time within ninety days from the date of issue of certificate under sub-section (1), modify the certificate by rectifying any error apparent on the face of the record:

Provided that no such rectification adversely affecting the applicant shall be made without giving the applicant a reasonable opportunity of showing cause against such rectification.

Appeal.

11. Any person aggrieved by an order passed under sub-section (2) of section 10 may prefer an appeal to an officer not below the rank of Additional Commissioner of Commercial Taxes as the Government may, by notification, specify in this behalf. The said officer shall dispose the appeal, either by confirming the order of the designated authority or set aside the order and direct the designated authority to pass a fresh settlement order, after further enquiry.

Revision.

12. (1) The Commissioner may of his own motion, for reasons to be recorded in writing, at any time, within twelve months from the date of order, call for and examine any order passed under section 10 or section 11, to satisfy himself as to the correctness, legality or propriety of the order made or decision taken therein and if in any case, it appears to the Commissioner that any such order or decision should be modified, annulled, reversed or remitted back for reconsideration, he may pass orders accordingly.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

Bar on
re-opening of settled
cases.

13. A certificate of settlement issued under section 10 shall be conclusive as to the settlement of arrears to which it relates, and no matter covered by such certificate of settlement shall be re-opened in any proceeding of appeal, revision or review or in any other proceeding, under the relevant Act.

14. (1) Notwithstanding anything contained in section 13, where it appears to the designated authority that an applicant has obtained a certificate of settlement under sub-section (1) of section 10, by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, the designated authority, may, within a period of two years from the date of issue of the certificate, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of showing cause, revoke the certificate.

Revocation of certificate.

(2) In the case of revocation of a certificate under sub-section (1), the amount paid by the applicant along with the application made under section 5 shall be treated as payment towards the amount payable for the relevant assessment year under the relevant Act.

15. The designated authority shall inform the assessing authority, appellate authority, revisional authority or tribunal under the relevant Act or the Court, as the case may be, which, for the time being, has jurisdiction over the applicant under the relevant Act,—

Information to be sent to authorities under relevant Act.

(a) the fact of making of an application by the applicant under section 5;

(b) the fact of passing of any order by the designated authority under section 10;

(c) the fact of rectification of any error on the face of any certificate under sub-section (3) of section 10;

(d) the fact of revocation of any certificate under section 14; and

(e) such other matters as it may deem necessary in such form, in such manner, and within such time, as may be prescribed.

16. The Commissioner of Commercial Taxes 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:

Power of Commissioner of Commercial Taxes.

Provided that no such instruction or direction shall be issued after the expiry of one year from the date of coming into force of this Act.

17. (1) All particulars contained in the application, statement made, records or documents produced under the provisions of this Act or in any evidence given or affidavit or deposition made, in the course of any proceeding under this Act or in any proceeding for the purposes of this Act shall be treated as confidential and shall not be disclosed.

Prohibition of disclosure of particulars produced before designated authorities.

(2) Nothing contained in sub-section (1) shall apply to the disclosure of any such particulars—

(a) for the purpose of investigation of, or prosecution for, an offence under this Act, or under the Indian Penal Code, 1860 or under any other law for the time being in force; or

Central Act XLV of 1860.

(b) to any person enforcing the provisions of this Act where it is necessary to disclose the same to him for the purposes of this Act; or

(c) occasioned by the lawful employment under this Act of any process for the recovery of any demand; or

(d) to a civil court in any suit to which the Government are party and which relates to any matter arising out of any proceeding under this Act; or

(e) occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document; or

Central Act
II of 1899.

(f) to an officer of -

(i) the Government of India; or

(ii) the Government of any State or Union Territory in India with which an arrangement for disclosure on a reciprocal basis has been entered into by the Government; or

(g) to an officer of any department other than the Commercial Taxes Department of the Government after obtaining the permission of the Commissioner of Commercial Taxes:

Provided that such particulars shall be furnished under this clause only in exceptional cases and that any officer obtaining such particulars shall keep them as confidential and use them only in the lawful exercise of the powers conferred by or under any enactment.

(3) Nothing herein contained shall prevent the publication of the certificate of settlement or rejection of any application in the prescribed manner.

Protection of
action taken
in good faith.

18. (1) No suit, prosecution or other proceedings shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Power to remove
difficulties.

19. If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove such difficulty:

Provided that no such order shall be made after the expiry of one year from the date of coming into force of this Act.

Power to make
rules

20. (1) The Government may, make rules, whether prospectively or retrospectively, for carrying out the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular date, shall come into force on the date, on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular date, come into force on the date on which they are so published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if before the expiry of the session in which it is so placed or the next session, if the Assembly makes any modification in any such rule or notification or order or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter 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 under that rule or notification or order.

STATEMENT OF OBJECTS AND REASONS.

The system of levy of tax on Goods and Services has been introduced across the country, including Tamil Nadu, from the 1st day of July 2017. A large amount of tax, penalty and interest are pending under various repealed Acts, namely, the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959), the Tamil Nadu Sales Tax (Surcharge) Act, 1971 (Tamil Nadu Act 24 of 1971), the Tamil Nadu Additional Sales Tax Act, 1970 (Tamil Nadu Act 14 of 1970), the Tamil Nadu Tax on Luxuries Act, 1981 (Tamil Nadu Act 6 of 1981), the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 (Tamil Nadu Act 20 of 2001), the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 (Tamil Nadu Act 13 of 1990), the Tamil Nadu Entertainments Tax Act, 1939 (Tamil Nadu Act X of 1939), the Tamil Nadu Advertisements Tax Act, 1983 (Tamil Nadu Act 22 of 1983), the Tamil Nadu Betting Tax Act, 1935 (Tamil Nadu Act XX of 1935) and also under the Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006) and the Central Sales Tax Act, 1956 (Central Act 74 of 1956). Reversal of Input Tax Credit under the said Tamil Nadu Act 32 of 2006 and the levy of Entry tax on motor vehicles and goods under the Entry tax enactments, having been upheld by the Hon'ble Courts during the years 2016, 2017, 2018 and 2019, the demands have accumulated over a period of time. The dealers were not able to pay the taxes levied as a result of such decisions, assessments made under the best of judgment, and due to levy of consequential penalties and interest due thereon.

2. With a view to expedite the collection of arrears, Samadhan Schemes were implemented in the past during the years 2006, 2008, 2010 and 2011 by enactment of the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2006 (Tamil Nadu Act 27 of 2006), the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2008 (Tamil Nadu Act 60 of 2008), the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2010 (Tamil Nadu Act 20 of 2010) and the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011 (Tamil Nadu Act 29 of 2011). However, a substantial amount of arrears due to the Government under the relevant Acts are still pending for collection.

3. During the presentation of the Revised Budget for the year 2021-2022, the Government had announced on the floor of Assembly on 13th August 2021, that an effective Samadhan Scheme will be launched to clear the pending dues of Rs.28,000 crore under the Tamil Nadu Value Added Tax and other taxation laws referred above.

4. In view of the above announcement and also considering the representations received from various trade associations for the re-introduction of the Samadhan Scheme for expeditious settlement of the pending cases and in order to mitigate the hardship of the dealers and to reduce tax litigations, the Government have decided to give another opportunity to the dealers to settle the arrears of tax, penalty and interest payable to the Government pertaining to the assessments under the said Acts for the assessment years up to 2017-2018 (i.e., up to 30.06.2017), which has been made on or before the 31st day of March 2021.

5. The Bill seeks to give effect to the above decision.

P. MOORTHY,
Minister for Commercial Taxes and Registration.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clauses 1(3), 3, 5(1), 10, 11, 15, 16, 19 and 20 of the Bill authorise the Government or the Commissioner to issue notifications, orders or directions or instructions or to make rules, as the case may be, for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

P. MOORTHY,

Minister for Commercial Taxes and Registration.

Secretariat,
Chennai-600 009,
10th October 2023.

K. SRINIVASAN,
Secretary.

