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PART--IV-- Bills introduced in the Tripura Legislative Assembly : Report of Selection Committees presented or to be presented to the Assembly and Bills published before introduction in that Assembly.

**TRIPURA LEGISLATIVE ASSEMBLY  
SECRETARIAT**

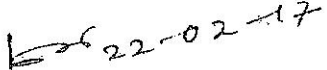
CAPITAL COMPLEX, AGARTALA,  
TRIPURA, PIN-799 010  
[ Fax : (0381) 241 4095 ]

No.F.7(11-25)-LA/2017.

Dated, Agartala, the 22<sup>nd</sup> February, 2017.

**NOTIFICATION**

"As required under Rule 117 of the Rules of Procedure and Conduct of Business in the Tripura Legislative Assembly, "The Tripura Sales Tax (Settlement of Disputes) Bill, 2017 (The Tripura Bill No. 5 of 2017)" as introduced in the Assembly on the 22<sup>nd</sup> February, 2017 is published in the Tripura Gazette."

  
( B. Majumder )  
Secretary

Tripura Legislative Assembly

**The Tripura Sales Tax (Settlement of Disputes) Bill, 2017**

A

**BILL**

WHEREAS, it is felt expedient to provide for settlement of disputes and enforcement of payment of arrears of tax, penalty or interest in disputes, as the case may be, under repealed The Tripura Sales Tax Act, 1976, repealed The Tripura Additional Sales Tax Act, 1990, The Tripura Value Added Tax Act, 2004 and The Central Sales Tax Act, 1956;

BE it enacted by the Tripura Legislative Assembly in the sixty eighth year of Republic of India, as follows:-

**1. Short title and commencement:**

- (i) This Bill may be called the 'The Tripura Sales Tax (Settlement of Disputes) Bill, 2017';
- (ii) It extends to the whole of Tripura;
- (iii) It shall come into force on the date of its publication in the Official Gazette.

**2. Definitions:**

- (1) In this Bill, unless the context otherwise requires,
  - (a) "applicant" means a dealer as defined in the relevant Act;
  - (b) "arrears of tax, penalty or interest in dispute" means -
    - (i) Tax, by whatever name called, including additional tax, if any payable by an applicant upon assessment under the relevant Act, or
    - (ii) penalty payable by an applicant under the relevant Act, or
    - (iii) interest payable by an applicant under the relevant Act,

which, as the case may be, is in dispute in any appeal or revision pending before the appellate authority or revisional authority including the Tripura Value Added Tax Tribunal, the High Court of Tripura and the Supreme Court of India on the 31<sup>st</sup> Day of January, 2017 under the relevant Act.

Explanation: The amount of arrear of tax, penalty or interest which, though included in the appeal petition or the revision petition, is not actually in dispute shall be excluded for the purpose of calculating the arrears of tax, penalty or interest in dispute.

- (c) "designated authority" means an authority appointed under section 3 to receive the application for settlement of dispute and to dispose of the same;
- (d) "Government" means the Government of Tripura;
- (e) "notified authority" means the authority appointed under section 3 to perform the functions under sub-section (3) and sub-section (4) of section 8;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "relevant Act" means any one or more of the following Acts:-
  - (i) repealed The Tripura Sales Tax Act, 1976,
  - (ii) repealed The Tripura Additional Sales Tax Act, 1990,
  - (iii) The Tripura Value Added Tax Act, 2004,
  - (iv) The Central Sales Tax Act, 1956

and includes the rules made or notifications issued thereunder.

- (2) Unless there is anything repugnant to the subject or context, all expressions used in this Act, which are not defined, shall have the same meaning as defined or used in the relevant Acts.

**3. Designated Authority and notified authority:**

For carrying out the purposes of this Act, the Government may, by notification, publish in the Official Gazette and appoint one or more authorities, referred to Section 18(1) of the Tripura Value Added Tax

Act, 2004, to be the designated authority and the notified authority and such authorities shall exercise jurisdiction over such area or areas as the Government may specify in the notification.

4. **Eligibility for settlement:**

- (1) Subject to the other provisions of this Act, an applicant shall be eligible to make an application for settlement of arrears of tax, penalty or interest in dispute in respect of any period for which an assessment has been made under the relevant Act and an appeal or revision relating thereto is pending on 31<sup>st</sup> January, 2017, before any appellate authority or revisional authority, or any other authority as the case may be:

Provided that where an applicant has filed writ petition or appeal including appeal before the Tripura Value Added Tax Tribunal or revision before the Commissioner of Taxes or Joint Commissioner of Taxes, the High Court of Tripura or the Supreme Court of India against any order in respect of the arrears of tax, penalty or interest in dispute, the applicant shall file an application before such Appellate Authority, Revisional Authority, High Court or Supreme Court, as the case may be, for withdrawing such writ petition, appeal or revision and after withdrawal of such writ petition appeal or revision, as the case may be, with the leave of the Court, the applicant shall be eligible to make an application for settlement under this Act by furnishing proof of such withdrawal.

- (2) Notwithstanding anything contained in sub-section (1), an applicant shall not be eligible to make an application for settlement of arrears of tax, penalty or interest in dispute in respect of any period under the relevant act, for which the appeal or revision has been finally heard by the appellate authority or the revisional authority, as the case may be.

Explanation: For the purpose of this sub-section, no appeal or revision shall be deemed to have been heard only by reason of any stay order having been passed by any appellate authority or revisional authority in connection with such appeal or revision.

- (2) Notwithstanding anything contained in sub-section (1), an applicant shall not be eligible to make an application for settlement where prosecution for any offence punishable under any provision of the relevant Act has been instituted in respect of any arrear tax, penalty or interest in dispute.

Explanation: The prosecution has been instituted implies that the prosecution is pending before the Court. A mere show-cause notice shall not debar an applicant from making an application for settlement under this Act.

**Application for settlement:**

- (1) An application for the purpose of Section 4 shall be made to the designated authority by an applicant in such form, and in such manner, as may be prescribed, within six months from the date of commencement of this Act or by such later date as the Government may, by notification in the Official Gazette, specify from time to time.
- (2) Separate applications shall be made by an applicant for different periods under each of the relevant Acts.
- (3) The applicant shall send a copy of the application made under sub-section (1) to the appellate authority or the revisional authority before whom the appeal or revision, as the case may be, is pending, within seven days from the date of making such application before the designated authority.

**Determination of amount payable by the applicant:**

- (1) The designated authority shall, ordinarily within sixty days from the date of receipt of an application referred to in section 5, verify the correctness of the particulars furnished in such an application with reference to the connected records available with the assessing authority, appellate authority or any other authority, as the case may be.
- (2) Where the designated authority is satisfied about the correctness of the particulars set forth in the application made by an applicant, he shall determine, by an order in writing, the amount

payable by the applicant for the purpose of settlement of arrear tax, penalty or interest in dispute at the rate specified in section 7:

Provided that while determining the amount payable by the applicant for the purpose of settlement of arrears of tax, penalty or interest in dispute, the designated authority shall take into account any amount of arrears of tax, penalty or interest in dispute paid by the applicant before making an application under section 5 and deduct the amount so paid by him from the amount determined as payable by the applicant under this sub-section:

Provided further that the amount payable by an applicant as determined under this sub-section shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, then, if such part is fifty paise or more, it shall be rounded off to a rupee, and if such part is less than fifty paise, it shall be ignored.

- (3) After the amount payable by an applicant is determined under sub-section (2), the designated authority shall subject to such conditions and restrictions as may be prescribed, require the applicant, by a notice in such form as may be prescribed, to pay the amount so determined under sub-section (2) within thirty days from the date of receipt of such notice by the applicant or within such further time as may be prescribed.
- (4) The applicant shall pay in one installment, the sum determined by the designated authority as per the terms of the notice and intimate the fact of such payment to the designated authority within fifteen days of making such payment together with a copy of duly receipted challan showing payment of the amount specified in the notice issued under sub-section(3).
- (5) The amount required to be paid in terms of the notice issued under sub-section (3) shall be paid in Form-XVIII as prescribed under rule 31 of the Tripura Value Added Tax Rules, 2005 or electronically by generating e-Challan through the website of the Taxes & Excise Organisation.

**Rate applicable in determining amount payable:**

- (1) The amount payable by an applicant for settlement of dispute under this Act shall be,
  - (a) where the dispute relates to any arrears of tax, at the rate of fifty per centum of the arrears of tax in dispute, or
  - (b) where the dispute relates to any arrears of interest, at the rate of forty per centum of the arrears of interest in dispute.
- (2) Where the dispute relates to any arrears of penalty, at the rate of ten per centum of the arrears of penalty in dispute.

**Settlement of dispute and issue of certificate of settlement:**

- (1) The designated authority, on being satisfied about the payment of the amount which the applicant is required to pay by virtue of the notice under sub-section (3) of section 6, shall settle the dispute in respect of which an application has been made under sub-section (1) of section 5 and issue a certificate of settlement for such dispute in such form as may be prescribed, to the applicant, ordinarily within ninety days of receipt of the copy of duly receipted challan in support of payment made by the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of such arrears of tax, penalty or interest in dispute:

Provided that where no payment is required to be made by an applicant by reason of an adjustment as referred to in the first proviso to sub-section (2) of section 6 and no notice is issued to him under sub-section (3) of section 6 the designated authority shall settle the dispute and issue a certificate for such dispute to such applicant:

Provided further that a certificate of settlement shall be issued by the designated authority separately in respect of every application made under section 5.

- (2) The designated authority, for reasons to be recorded in writing, may refuse to settle a dispute:

Provided that no order refusing to settle a dispute shall be passed without allowing the applicant a reasonable opportunity of being heard.

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

Provided that no such rectification adversely affecting the applicant shall be passed without allowing the applicant a reasonable opportunity of being heard.

- (4) (a) The notified authority within ninety days of the order passed by the designated authority may, either of his own motion or on an application by the applicant, call for and examine the records of any proceeding under this Act and may pass such order thereon as it deems fit:

Provided that no such order shall be passed without allowing a reasonable opportunity of being heard to the applicant as well as to the designated authority.

- (b) The order passed by the notified authority under this sub-section shall be final and binding on the designated authority as well as on the applicant.

9. **Bar on re-opening of settled cases:**

Subject to the provisions of sub-section (3) and sub-section (4) of section 8, a certificate of settlement issued under sub-section (1) of section 8 shall be conclusive as to the dispute to which it relates, and no matter covered by such certificate of settlement shall be re-opened in any proceeding of appeal or revision, or any other proceeding, under the relevant Act.

10. **Withdrawal of appeal and revision:**

Notwithstanding anything to the contrary contained in any provision in the relevant Act, the appeal or revision for any period pending before the appellate authority or the revisional authority, as the case may be, other than the Tripura Value Added Tax Tribunal, the High



Court of Tripura and the Supreme Court, in respect of which a certificate of settlement is issued under sub-section (1) of section 8, shall be deemed to have been withdrawn by the applicant from the date of making of the application by the applicant under sub-section (1) of section 5.

**11. Appellate authority and revisional authority not to proceed in certain cases:**

No appellate authority or revisional authority other than the Tripura Value Added Tax Tribunal, the High Court of Tripura and the Supreme Court shall proceed to decide any appeal or revision under the relevant Act relating to any period in respect of which an application has been made by an applicant under section 5:

Provided that such authority shall proceed to decide such appeal or revision for such period in accordance with the provisions of the relevant Act, if a certificate of settlement referred to in sub-section (1) of section 8 is refused to the applicant by an order passed by the designated authority in writing under sub-section (2) of section 8 or by the notified authority under sub-section (4) of section 8.

**12. Revocation of certificate of settlement:**

- (1) Notwithstanding anything contained in section 9 or section 10, where it appears to the designated authority that an applicant has obtained the benefit of settlement under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the certificate of settlement issued under sub-section (1) of section 8.
- (2) If a certificate of settlement is revoked under sub-section (1), the appeal or revision, as the case may be, under the relevant Act, covered by such certificate or settlement shall, notwithstanding the provisions of section 9 or section 10, stand revived or reinstated immediately upon such revocation, and such appeal or revision shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrears

of tax, penalty or interest in dispute in such appeal or revision has ever been made under this Act:

Provided that this sub-section shall not apply in respect of any case already withdrawn under the proviso to sub-section (1) of section 4 with the leave of the Tripura Value Added Tax Tribunal, the High Court of Tripura and the Supreme Court, as the case may be.

**13. Information to be sent to authorities under the relevant Act:**

The designated authority shall keep the assessing authority, the appellate authority or the revisional authority, who, for the time being, has jurisdiction over the applicant under the relevant Act, informed, inter alia, of the fact of-

- (a) making of an application by an applicant under section 5,
- (b) passing of any order by the designated authority under section 8,
- (c) revocation of any certificate of settlement under section 12, and
- (d) such other matters as it may deem necessary,

in such form and manner, and within such time, as may be prescribed.

**14. No refund of amount paid under the Act:**

Any amount paid by an applicant under section 6 shall not be refundable under any circumstances:

Provided that in the case of revocation of a settlement in accordance with section 12, the amount paid by the applicant under section 6 shall be treated to have been paid under the relevant Act for the period for which the certificate of settlement has been revoked.

**15. Power of the Government to make rules:**

The Government may, by notification in the official gazette, make rules, for carrying out the purposes of this Act, and such rules may

provide for all or any of the matters which, under any provision of this Act, is required to be prescribed or to be provided for by rules.

**16. Power to remove difficulties:**

If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, within two years from the date of commencement of the act, by order, not inconsistent with the provisions of this Act, remove the difficulty.

## STATEMENT OF OBJECTS & REASONS

At present there is about **Rs.30 Cr.** of arrear of tax, penalty and interest in disputes under The Tripura Value Added Tax Act, 2004, The Central Sales Tax Act, 1956, repealed The Tripura Sales Tax Act, 1976 and repealed The Tripura Additional Sales Tax Act, 1990. Hence, Government may introduce a Bill for one time settlement for payment of arrears of tax, interest and penalty in disputes under different tax Acts, which may help in expeditious settlement of existing arrears of tax, penalty and interest in dispute. If the proposal is implemented it may result in expeditious settlement and considerable recovery of arrears in disputes.

The new Bill namely, 'The Tripura Sales Tax (Settlement of Disputes) Bill, 2017' seeks to achieve the object of expeditious settlement of disputes and recovery of arrears of tax, penalty or interest in disputes, as the case may be, under different Acts namely, repealed The Tripura Sales Tax Act, 1976, repealed The Tripura Additional Sales Tax Act, 1990, The Tripura Value Added Tax Act, 2004 and The Central Sales Tax Act, 1956.

## TECHNICAL REPORT

The proposed Bill provides for settlement and recovery of arrears of tax, penalty or interest in disputes, as the case may be under different Acts namely, repealed The Tripura Sales Tax Act, 1976, repealed The Tripura Additional Sales Tax Act, 1990, The Tripura Value Added Tax Act, 2004 and The Central Sales Tax Act, 1956. The subject matter of the Bill is covered by Entry No. 54 of the State List (List-II) of the Seventh Schedule and Article 246A to the Constitution of India and it conforms to the provisions of Clause (1) of the Article 286 of the Constitution of India.

The State Legislature is competent to legislate on the subject matter. The Provisions of the Bill are not repugnant to the provisions of any existing Central Law, or the Constitution of India. The Bill is a Money Bill as defined in sub-clause (a) of Clause (1) of Article 199 of the Constitution of India and as such as per provision of Article 207 clause (1) of the Constitution of India, prior recommendation of the Governor has been obtained.

The Bill does not attract proviso to clause (b) of Article 304 of the Indian constitution and as such prior sanction of HE the President of India is not required to introduce the said Bill.

## FINANCIAL MEMORANDUM

The Bill if enacted and brought into force shall not entail any major expenditure from the Consolidated Fund of the State except a negligible amount on administrative expenses in implementing the new Act. However, the Act once come into force may result in recovery of arrears dues in disputes of at least **Rs.5 Cr. per annum.**