The Meghalaya Settlement of Arrears (Under the State Taxation Acts) Act, 2020

Act 16 of 2020

Keyword(s):
Dealer, Hoteller, Notice of Demand, Tax Defaulter, Annexure, Arrears

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

An Act

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:

PART-IV
GOVERNMENT OF MEGHALAYA
LAW (B) DEPARTMENT

NOTIFICATION


No.LL(B)21/2020/22.—The Meghalaya Settlement of Arrears (Under the State Taxation Acts) Act, 2020 (Act No. 16 of 2020) is hereby published for general information.

MEGHALAYA ACT NO. 16 OF 2020.

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on the 20th November, 2020.

Published in the Gazette of Meghalaya Extra-Ordinary issue dated 24th November, 2020.

1. Short title, extent and commencement
   (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.

2. Definitions.
   (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 a result of 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
(a) 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 Return 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 (v) of Section 2 of the Meghalaya Value Added Tax Act, 2003, sub-section (3) of Section 2 of the Meghalaya Sales Tax Act, subsection (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) "Hoteller" 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 Acts" means a dealer or a hotelier registered under the respective State Taxation Acts;

(n) "Scheme" means the settlement of Arrears (under the State Taxation Acts) as provided under Section 3 to Section 13 of this Act;

(o) "State" means the State of Meghalaya;


(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

(i) "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

(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 warden thereof, shall be as determined in accordance with the provisions of this Act.

Eligibility

(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 disposed 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.

Extant of applicability and duration

(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.
(2) The duration of the Scheme shall be for a period of six months from the date of publication of the Act in the Official Gazette.

(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.

(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 authority 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.
9. **Grant of remission and amnesty**

(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 thereunder, 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 percent 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 thereafter, 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.

10. **Revocation of grant**

(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 of such revocation.

11. **Bar on re-opening of settled cases**

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.

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.

12. **Resolution of dues**

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.

13. **No refund under this scheme**

Under no circumstances, the applicant shall be entitled to get the refund of the amount paid under this Act:

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.

14. **Powers of authorities**

(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.

(2) Notwithstanding anything contained in the relevant State Taxation Acts, the Assessing Authority, 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, as:

(a) to the extent of the issues for which no application for settlement is made by the applicant; or

(b) in case an order of settlement referred to in Section 9 is made, rejecting the application for settlement.

15. **Power to make rules**

(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.

(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 by the rules.

16. **Power of the Commissioner**

(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.
Interpretation 17. 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.

Power to remove difficulties 18. (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:

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.

(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.

Bar to proceedings in civil court 19. 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.

Repeal and saving 20. (1) The Meghalaya Settlement of Khasi Hills (under the State Taxation Acts) (Meghalaya Ordinance No. 3 of 2020) is hereby repealed.

(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.

S. K. SANGMA,
Deputy Secretary to the Govt. of Meghalaya,
Law Department.