



The Tamil Nadu Sales Tax (Settlement of Disputes) Act, 2002

Act 17 of 2002

Keyword(s):

Arrears of Tax, Settlement of Disputes

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 26th May 2002 and is hereby published for general information:—

ACT No. 17 OF 2002.

An Act to provide for expeditious settlement of disputes relating to arrear of tax, penalty or interest pertaining to sales tax: and the matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for settlement of disputes relating to arrear of tax, penalty or interest, as the case may be, under the Tamil Nadu General Sales Tax Act, 1959, the repealed Tamil Nadu Sales Tax (Surcharge) Act, 1971, the Tamil Nadu Additional Sales Tax Act, 1970 and the Central Sales Tax Act, 1956;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-third Year of the Republic of India as follows:--

1. (1) This Act may be called the Tamil Nadu Sales Tax (Settlement of Disputes) Act, 2002.

Short title 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) "applicant" means a dealer under the relevant Act, except the following classes of dealers, namely:--

- (i) Public Sector undertakings including oil companies, Government companies or Corporations;
- (ii) Dealers in lottery tickets in respect of assessment years prior to the 1st day of April 1996;

(b) "arrear of tax, penalty or interest in dispute" means,--

- (i) tax, by whatever name called, 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,--

as the case may be, which is in dispute in any appeal or revision pending before the appellate authority or revisional authority on the 28th day of February 2002 under the relevant Act;

(c) "designated authority" means the authority appointed under section 3;

(d) "relevant Act" means,--

- (i) the Tamil Nadu General Sales Tax Act, 1959;
- (ii) the repealed Tamil Nadu Sales Tax (Surcharge) Act, 1971;
- (iii) the Tamil Nadu Additional Sales Tax Act, 1970; or
- (iv) The Central Sales Tax Act, 1956;

and includes the rules made or notifications issued thereunder.

Tamil Nadu Act
of 1959.
Tamil Nadu
Act 24 of
1971.
Tamil Nadu
Act 14 of
1970.
Central Act 74
of 1956.

Tamil Nadu Act
of 1959.

Tamil Nadu Act
24 of 1971.

Tamil Nadu Act
14 of 1970.

Central Act 74
of 1956.

(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 Act.

Designated
authority.

3. For carrying out the purposes of this Act, the State Government may, by notification, appoint one or more authorities referred to in section 28 of the Tamil Nadu General Sales Tax Act, 1959, to be the designated authority and such authority shall exercise jurisdiction over such area or areas as the State Government may specify in the notification.

Tamil Nadu
1 of 199

Eligibility for
settlement.

4. (1) Subject to the other provisions of this Act, an applicant may make an application for settlement of arrear of tax, penalty or interest in dispute in respect of any period for which an assessment has been made under the relevant Act.--

(i) against which an appeal or revision has been filed on or before the 28th day of February 2002 before any appellate authority or revisional authority, as the case may be, and pending before such authority on or before the date of making an application under section 5;

(ii) against which an order in appeal or revision is received by the dealer on or before the 15th day of February 2002 and further appeal or revision is filed and pending before making an application under section 5.

Explanation.—For the purpose of this Act, appeal or revision shall not include writ or writ Appeal.

(2) Notwithstanding anything contained in sub-section (1), an applicant shall not be eligible to make an application for settlement of arrear 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.

Application for
settlement.

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

(2) A separate application shall be made for each assessment year in respect of which appeal or revision is pending 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 revisional authority, under the relevant Act, 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.

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

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

Provided further that the amount 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 the nearest rupee, and if such part is less than fifty paise, it shall be ignored.

(2) If the amount paid by the applicant along with the application falls short of not more than ten per cent of the amount determined, the designated authority shall demand the further amount in such manner as may be prescribed and the same shall be paid by the applicant within thirty days from the date of receipt of such demand.

(3) If the amount paid by the applicant along with the application falls short of more than ten per cent of the amount determined or the applicant fails to pay the further amount required to be paid under sub-section (2), the designated authority shall reject the application after giving the applicant a reasonable opportunity of showing cause against such rejection.

(4) If the amount paid by the applicant exceeds the amount determined under this section, the excess amount paid shall not be refunded.

7. (1) The amount under sub-section (1) of section 6 shall be determined as follows:—

(a) Where it relates to any tax in dispute, at the rate of fifty per centum of the tax in dispute; or

(b) Where it relates to any tax and penalty in dispute, at the rate of fifty per centum of the tax in dispute and at the rate of twenty-five per centum of such fifty per centum of the tax in dispute;

(c) Where it relates to any penalty in dispute, at the rate of fifteen per centum of the penalty in dispute;

(d) Where it relates to any interest in dispute, at the rate of twenty-five per centum of the interest in dispute;

(2) The interest payable by an applicant on the amount determined under clauses (a), (b) and (c) of sub-section (1) shall be twenty-five per centum of the interest payable at the rate specified under the relevant Act and the same shall be paid before the issue of certificate under section 8.

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

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

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 authority notified by the Government in this behalf may, at any time within ninety days from the date of issue of certificate under sub-section (1) by the designated authority, 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 passed without allowing the applicant a reasonable opportunity of showing cause against such rectification.

9. A certificate issued under section 8 shall be conclusive as to the dispute to which it relates, and no matter covered by such certificate shall be re-opened in any proceeding of review or revision, or in any other proceeding, under the relevant Act.

Rate applicable in determining the amount payable.

Settlement of dispute and issue of certificate.

Bar on re-opening of settled cases.

Withdrawal of
appeal and
revision.

10. 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 revisional authority, as the case may be, under the relevant Act in respect of which a certificate is issued under 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.

Authority not to
proceed in
certain cases.

11. No authority shall proceed to decide any appeal or revision under the relevant Act relating to any assessment year in respect of which a copy of the application has been received under sub-section (3) of section 5:

Provided that such authority shall proceed to decide such appeal or revision for such assessment year in accordance with the provisions of the relevant Act, if a certificate 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.

Revocation of
certificate.

12. (1) Notwithstanding anything contained in section 9 or section 10, where it appears to the designated authority that an applicant has obtained the certificate under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority, may, within a period of two years from the date of issue of certificate for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of showing cause, revoke the certificate issued under sub-section (1) of section 8.

(2) If a certificate is revoked under sub-section (1), the appeal or revision, as the case may be, under the relevant Act, covered by such certificate, 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 arrear of tax, penalty or interest in dispute in such appeal or revision has ever been made under this Act.

(3) In the case of revocation of a certificate in accordance with sub-section (1), the amount paid by the applicant under this Act shall be treated as payment towards the amount payable under the relevant Act for the period for which the certificate has been issued.

Information to be
sent to the
authorities
under the
relevant Act.

13. The designated authority shall inform the assessing authority, or the appellate authority or the revisional authority under the relevant Act, who, for the time being, has jurisdiction over the applicant under the 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 8:

(c) the fact of revocation of any certificate under section 12, and

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

Power to remove
difficulties.

14. If any difficulty arises in giving effect to any of the provisions of this Act, the State 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.

15. (1) The State 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 day, shall come into force on the day, 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 day, come into force on the day on which they are published.

(3) Every rule made and every notification issued under this Act and every order made under section 14 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, 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.

(By order of the Governor)

A. KRISHNANKUTTY NAIR,
Secretary to Government,
Law Department.