

THE PUDUCHERRY SETTLEMENT OF
ARREARS BILL, 2020
(Bill No. 6 of 2020)

A
BILL

to provide for settlement of arrears of tax, penalty and interest which were levied, payable or imposed, respectively under Pondicherry General Sales Tax Act, 1967, Puducherry Value Added Tax Act, 2007 and Central Sales Tax Act, 1956 administered by the Commercial Taxes Department, Puducherry and for the matters connected therewith or incidental thereto.

Short title, extent and commencement. BE it enacted by the Puducherry Legislative Assembly in the Seventy-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Puducherry Settlement of Arrears Act, 2020.

(2) It extends to the whole of the Union territory of Puducherry.

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

Definitions. 2. In this Act, unless the context otherwise requires,-

(a) "Appellate Authority" means, the Appellate Assistant Commissioner appointed under the Puducherry Value Added Tax Act, 2007 or the erstwhile Pondicherry General Sales Tax Act, 1967;

(b) "applicant" means, a dealer as defined in the Relevant Act who is liable to pay arrears of tax, penalty and interest, levied or imposed under the Relevant Act and who desires to avail the benefit of settlement, by complying with the conditions, under this Act;

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

(i) tax payable by an applicant under the relevant Act;

(ii) penalty payable by an applicant under the relevant Act, other than sub-clause (iii) of this clause.

(iii) penalty payable by an applicant under sub-section (3) of section 27 of the Pondicherry General Sales Tax Act, 1967 or section 24A of the Puducherry Value Added Tax Act, 2007.

(d) "assessing authority" means, an assessing officer who has jurisdiction over the applicant under the Puducherry Value Added Tax Act, 2007 or Pondicherry General Sales Tax Act, 1967 and includes an officer authorized by the Commissioner in this behalf under the relevant Act;

(e) "Commissioner" means, any person appointed as the Commissioner of State Tax under section 3 of the Puducherry Goods and Services Tax Act, 2017 and includes the Commissioner of Commercial Taxes appointed under section 3 of the Puducherry Value Added Tax Act, 2007;

Act No.
6 of
2017.

Act No.
9 of
2017.

(f) "Government" means, the Government of Puducherry;

(g) "Relevant Act" means the following Acts:-

Act No.
74 of
1956.

(i) the Central Sales Tax Act, 1956;

Act No.
74 of
1967.

(ii) the repealed Pondicherry General Sales Tax Act, 1967;

Act No.
9 of
2007.

(iii) the Puducherry Value Added Tax Act, 2007.

(h) "Revisional Authority" means, the authority conferred with special powers or powers of revision under section 35 or 36 or 37 of the Pondicherry General Sales Tax Act, 1967 or under section 45 or 46 of the Puducherry Value Added Tax Act, 2007, as the case may be.

(i) "Tribunal" means, the Pondicherry Sales Tax Appellate Tribunal.

(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.

Eligibility for settlement.

3. Subject to the other provisions of this Act, an applicant may make an application for settlement of arrears of tax, penalty and interest in respect of which any assessment is completed and demand raised under the relevant Act prior to the 1st day of July 2017:

Provided that if, an appeal or revision or any case against assessment is pending before the Tribunal or High Court or Supreme Court, as on the date of submission of application under section 4, other than the private complaints filed by the Government before the Judicial Magistrate Court, then the demand covered under such assessment shall not be eligible for settlement.

Application for settlement.

4. (1) An application for the purpose of section 3 shall be made to the Assessing Authority by an applicant within ninety days from the date of commencement of this Act or by 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.

(2) The application shall be accompanied with proof of payment of fifty percent. of the tax amount remaining unpaid as on the date of making application under sub-section (1).

(3) The application shall be submitted separately for each assessment under the relevant Act.

(4) The applicant shall send a copy of the application made under sub-section (1) to the appellate authority or the revisional authority under the relevant Act, before whom any appeal or revision, as the case may be, is pending within seven days from the date of making such application before the assessing authority.

5. (1) The assessing authority shall verify the correctness of the particulars furnished in the application made under section 4 with reference to all relevant records and determine the amount of tax and penalty payable by the applicant at the rates specified in section 6. The amount so determined shall be communicated to the applicant in the prescribed Form within fifteen days from the date of submission of application by the applicant under sub-section (1) of section 4.

Determination of the amount payable by the applicant and payment thereof.

(2) If, the amount paid by the applicant along with the application submitted under sub-section (1) of section 4 falls short of not more than ten percent. of the amount payable under sub-section (2) of section 4, then the assessing authority shall issue a notice to the applicant in the prescribed Form demanding payment of differential amount within a period of seven days from the date of receipt of notice.

(3) If, the amount paid by applicant along with the application falls short of more than ten percent. of the amount payable under sub-section (2) of section 4 or the applicant fails to pay the differential amount as per the notice issued under sub-section (2) within the time allowed, then the assessing authority shall summarily reject the application by an order in writing.

(4) The balance tax and penalty amount as determined by the assessing authority under sub-section (1) after adjusting all payments made earlier against the relevant demand including the amount paid under sub-section (2) of section 4 or sub-section (2) of this section shall be paid by the applicant within three months from the date of communication of amount determined by the assessing officer under sub-section (1) without the requirement of any further notice from the assessing authority.

(5) If, the applicant fails to pay the tax and penalty amount payable under sub-section (4) within the period allowed for its payment, the assessing authority shall reject the application by an order in writing.

(6) Any payment made under this Act shall not be refundable. On rejection of application under sub-section (3) or (5), the amount paid by the applicant under this Act shall be treated to have been paid against the respective demand under the relevant Act.

(7) The amount determined or payable under this section 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.

6. (1) Notwithstanding anything contained in the relevant Act, but, subject to the provisions of this Act, the applicant applying for settlement under section 4 shall pay the arrears of tax and penalty as below:

Rate applicable in determining amount payable and waiver.

(a) *Tax*-one hundred percent. of the amount remaining unpaid as on the date of application.

(b) *Penalty*-twenty five percent. of the amount remaining unpaid as on the date of application.

(2) On completion of payment under sub-section (1), the balance penalty and the entire interest shall be waived.

7. (1) The assessing authority shall, on being satisfied about the payment of the amount determined under sub-section (1) of section 5, by an order, settle the arrears of tax, and penalty 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 arrears of penalty and interest.

Settlement of arrears and issue of certificate.

(2) The certificate under sub-section (1) shall be issued within fifteen days of payment of the entire amount determined under sub-section (1) of section 5 and separate certificate shall be issued in respect of each application.

(3) The assessing authority, for reasons to be recorded in writing, may refuse to settle the arrears of tax, penalty and 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.

(4) After a certificate under sub-section (1) is issued by the assessing authority, the Commissioner may, at any time within one year from the date of issue of the certificate, call for the record of such certificate and after noticing an error in such certificate, in so far as it is prejudicial to the interest of revenue, may modify the certificate after allowing the applicant a reasonable opportunity of showing cause.

Bar on re-opening of settled cases.

8. A certificate issued under section 7 shall be conclusive as to the settlement 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.

Withdrawal of appeal, revisions and revenue recovery Actions.

9. (1) Notwithstanding anything to the contrary contained in any provision in the relevant Act, 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 7, shall be deemed to have been withdrawn.

(2) Any order passed by the appellate authority or revisional authority subsequent to the date of filing of application for settlement of arrears of tax, penalty and interest resulting in claim for refund of amount paid upto the time of settlement of such arrears of tax and penalty under this Act, will not be taken into consideration.

(3) Where any revenue recovery proceedings under the Puducherry Revenue Recovery Act, 1970 has been initiated or private complaint has been filed before the Judicial Magistrate Court against the applicant for recovery of arrears of tax, penalty and interest, on issue of certificate under section 7, the revenue recovery proceedings and the private complaint relevant to the demand for which the certificate is issued shall be withdrawn:

Act
No. 14
of
1970.

Provided that the private complaint pending before the Judicial Magistrate Court shall not be withdrawn without the prior approval of the Government.

10. No authority shall proceed to decide in any appeal or revision under the relevant Act relating to any assessment order in respect of which a copy of the application has been received under sub-section (1) of section 4:

Authority not to proceed in certain cases.

Provided that such authority shall proceed to decide such proceeding or appeal or revision in accordance with the provisions of the relevant Act, if the application is rejected under sub-section (3) or (5) of section 5 or if a certificate referred to in sub-section (1) of section 7 is refused to the applicant by an order passed by the assessing authority under sub-section (3) of section 7.

11. (1) Notwithstanding anything contained in section 8 or section 9, where it appears to the assessing authority that an applicant has obtained the certificate under section 7 by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such assessing authority, may, within a period of two years from the date of issue of the said 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 7.

Revocation of certificate.

(2) If a certificate is revoked under sub-section (1), any appeal or revision, as the case may be, under the relevant Act, covered by such certificate shall, notwithstanding the provisions of section 8 or section 9, 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 and penalty in such proceeding or 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 section 5 shall be treated as payment towards the amount payable under the relevant Act for the demand for which the certificate has been revoked.

Information to be sent to authorities under relevant Act.

12. The assessing authority within three days of the receipt or issue, as the case may be, shall communicate to the appellate authority or revisional authority under the relevant Act, who for the time being, has jurisdiction over the applicant under the relevant Act and to the Commissioner,—

(a) copy of order passed under sub-section (3) or (5) of section 5;

(b) copy of an order passed and certificate issued under sub-section (1) of section 7;

(c) copy of revocation order passed under sub-section (1) of section 11; and

(d) such other matters as it may deem necessary.

Power to remove difficulties.

13. 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.

14. (1) The Government may, make rules, ^{Power to 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 Official 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 so published.

(3) Every rule made or notification issued under this Act and every order made under section 13 shall, as soon as may be after it is made or issued, be laid before the Legislative Assembly, Puducherry, while it is in session for a total period of fourteen days, which may be comprised in one session or in two or more successive sessions, and, if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the Legislative Assembly makes any modification in the rule or notification or order or decides that any such rule or notification or order should not be made or issued, that 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

Goods and Services Tax has been implemented in the Union territory of Puducherry *vide* the Puducherry Goods and Services Tax Act, 2017 with effect from 1st July 2017. Under Goods and Service Tax various levies on Goods and Services have been subsumed.

2. After the implementation of Goods and Services Tax, the work-load under the said Act has increased. There are large number of cases and litigations pending under the repealed Pondicherry General Sales Tax Act, 1967, the Puducherry Value Added Tax Act, 2007 and the Central Sales Tax Act, 1956 which involves locking of substantial amount of tax revenue. The Government, therefore, considers it expedient to provide for an Act for settlement of arrears of tax, penalty and interest under the aforesaid Acts in respect of which assessment or reassessment is completed and demand has been created prior to the 1st day of July 2017. The Act envisages the safeguarding of the revenue fully in respect of taxes and with an incentive towards the partial waiver of penalty subject to the conditions laid down in the Act.

3. For the purpose, it is proposed to enact the Puducherry Settlement of Arrears Act, 2020.

4. The Bill seeks to achieve the above objects.

V. NARAYANASAMY,
Chief Minister.

FINANCIAL MEMORANDUM

The Bill proposes to provide for the settlement of arrears for which the demand has been created under the repealed Pondicherry General Sales Tax Act, 1967, the Puducherry Value Added Tax Act, 2007 and the Central Sales Tax Act, 1956 during the period prior to the 1st day of July 2017.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the Union Territory of Puducherry on its enactment as an Act of the Puducherry Legislature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely:—

Clause 13.— Under this clause, Government is empowered to remove, by an order, within a period of one year from the date of coming into force of the Act, any difficulty, which may arise in giving effect to the provisions of the Act.

Clause 14.— Under this clause, Government is empowered to frame rules whether prospectively or retrospectively for carrying out the purposes of the Act.

ADMINISTRATOR'S RECOMMENDATION UNDER
SUB-SECTION (1) OF SECTION 23 OF THE GOVERNMENT
OF UNION TERRITORIES ACT, 1963

[Copy of the Letter No. 13-239/CM/2020, dated 16-07-2020 from
Thiru V. Narayanasamy, Hon'ble Chief Minister to the Hon'ble
Speaker, Legislative Assembly, Puducherry.]

The Lieutenant-Governor, Puducherry, having been informed of the subject matter of the proposed Puducherry Settlement of Arrears Bill, 2020 providing for settlement of arrears of tax, penalty and interest under the repealed Pondicherry General Sales Tax Act, 1967, the Puducherry Value Added Tax Act, 2007 and the Central Sales Tax Act, 1956, recommends under sub-section (1) of section 23 of the Government of Union Territories Act, 1963 (Central Act 20 of 1963), the introduction in and consideration by the Legislative Assembly of the said Bill.