



TAMIL NADU GOVERNMENT GAZETTE

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Part IV—Section 2

Tamil Nadu Acts and Ordinances

The following Ordinance which was promulgated by the Governor on the 7th October 2008 is hereby published for general information:—

TAMIL NADU ORDINANCE No. 7 OF 2008.

An Ordinance to provide for settlement of arrears of tax, penalty or interest pertaining to sales tax and the matters connected therewith or incidental thereto.

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

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it is expedient to provide for settlement of arrears of tax, penalty or interest, as the case may be, under the repealed Tamil Nadu General Sales Tax Act, 1959, the repealed Tamil Nadu Sales Tax (Surcharge) Act, 1971, the repealed Tamil Nadu Additional Sales Tax Act, 1970 and the Central Sales Tax Act, 1956;

WHEREAS, the Legislative Assembly of the State is not in session and the Governor of Tamil Nadu is satisfied that circumstances exist which render it necessary for him to take immediate action for the purposes hereinafter appearing;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor hereby promulgates the following Ordinance:—

1. (1) This Ordinance may be called the Tamil Nadu Sales Tax (Settlement of Arrears) Ordinance, 2008.

(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 Ordinance, unless the context otherwise requires,—

(a) "applicant" means a dealer as defined in the relevant Act;

(b) "arrears of tax, penalty or interest" means—

(i) tax including additional sales tax, surcharge, additional surcharge and central sales tax, payable by an applicant upon assessment under the relevant Act; or

Short title,
extent and
commence-
ment.

Definitions.

(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, for which assessment has been made prior to the 1st day of April 2002 under the relevant Act, and pending collection on the date of filing of application under this Ordinance;

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

(d) "Government" means the State Government;

(e) "relevant Act" means,—

(i) the repealed Tamil Nadu General Sales Tax Act, 1959;

(ii) the repealed Tamil Nadu Sales Tax (Surcharge) Act, 1971;

(iii) the repealed Tamil Nadu Additional Sales Tax Act, 1970;

(iv) the Central Sales Tax Act, 1956.

Tamil Nadu Act
1 of 1959.

Tamil Nadu Act
24 of 1971.

Tamil Nadu Act
14 of 1970.

Central Act
74 of 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 Ordinance, 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 Ordinance, the Government may, by notification, appoint one or more authorities referred to in section 48 of the Tamil Nadu Valued Added Tax Act, 2006, to be the designated authority and such authority shall exercise jurisdiction over such area or areas as the Government may specify in the notification.

Tamil Nadu Act
32 of 2006.

Eligibility for
settlement.

4. Subject to the other provisions of this Ordinance, an applicant may make an application for settlement of arrears of tax, penalty or interest in respect of which assessment has been made under the relevant Act, prior to the 1st day of April 2002, against which an appeal or revision is not pending before any court on the date of filing application.

Application for
settlement.

5. (1) An application for the purpose of section 4 shall be made to the designated authority by an applicant within three months from the date of commencement of this Ordinance 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, 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.

(3) The applicant shall send a copy of the application made under sub-section (1) to the assessing authority, appellate authority or revisional authority under the relevant Act, before whom any proceeding or 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 relevant records and determine the amount payable at the rates specified in section 7.

(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 not more than ten per cent of the amount determined under sub-section (1).

(3) If the applicant has not paid ninety per cent of the amount payable under section 7 along with the application, the designated authority shall summarily reject the application.

(4) 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.

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

Rate
applicable
in
determining
amount
payable.

(a) Where it relates to arrears of tax which was assessed on the best of judgment due to non production of accounts with corresponding arrears of penalty and interest, the applicant shall pay one third of arrears of tax pending collection on the date of application along with interest calculated at six percent per annum on the arrears of tax and on such payment of tax, the balance of tax and interest and the entire penalty shall be waived.

(b) Where it relates to arrears of tax which was in excess of the tax admitted as per the returns filed for the year with the corresponding arrears of penalty and interest, the applicant shall pay one third of such arrears of tax pending collection on the date of application along with interest at six percent per annum on the arrears of tax and on such payment of tax, the balance of tax and interest and the entire penalty shall be waived.

(c) Where it relates to arrears of tax, which was admitted as tax due as per returns filed for the year with corresponding arrears of penalty and interest, the applicant shall pay the entire arrears of tax pending collection along with interest at six percent per annum and on such payment, the balance of interest and the entire penalty shall be waived.

(d) where it relates to arrears of penalty or interest or both and where there is no corresponding arrears of tax pending collection on the date of application, the applicant shall pay ten percent of the penalty and twenty-five percent of interest, the balance of penalty and interest shall be waived.

8. (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 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 arrears of tax, penalty or interest. Separate certificate shall be issued in respect of each application.

Settlement of
arrears and
issue of
certificate.

(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 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 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.

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, any proceeding or appeal or revision for any period pending before the assessing authority or 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 from the date of making of the application by the applicant under sub-section (1) of section 5. Any order passed by the assessing authority or appellate authority or revisional authority subsequent to the date of filing of application for settlement of arrears of tax, penalty or interest, resulting in claim for refund of amount paid upto the time of settlement of such arrears of tax, penalty or interest under this Ordinance, will not be taken into consideration.

Authority not
to proceed
in certain
cases.

11. No authority shall proceed to decide in any proceeding or 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 proceeding or appeal or revision 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 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 section 8 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 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 8.

(2) If a certificate is revoked under sub-section (1), any proceeding or 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 proceeding or 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 such proceeding or appeal or revision has ever been made under this Ordinance.

(3) In the case of revocation of a certificate in accordance with sub-section (1), the amount paid by the applicant under section 6 shall be treated as payment towards the amount payable under the relevant Act for the period for which the certificate has been revoked.

Information to
be sent to
authorities
under
relevant Act.

13. The designated authority shall inform the assessing authority or appellate authority or revisional authority, as the case may be, 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 Ordinance, the Government may, by order, not inconsistent with the provisions of this Ordinance, 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 Ordinance.

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

Power to
make rules.

(2) (a) All rules made under this Ordinance 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 Ordinance 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 and every notification issued under this Ordinance 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.

7th October 2008.

SURJITH SINGH BARNALA,
Governor of Tamil Nadu.

EXPLANATORY STATEMENT

With a view to expedite the collection of tax, penalty and interest, a liberalized Samadhan Scheme was introduced by enacting a law viz., Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2006, which was applicable to all arrears of sales tax, penalty or interest upto 31st March, 2001 under the relevant Act, other than the arrears covered by Writ or Writ Appeal. The dealers are not able to pay the tax levied in excess as a result of best of judgement assessments and the penalty levied and the interest due thereon at the rate of twenty four percent. A substantial amount of revenue due to the Government is still pending collection for a long time. In view of the above and also in order to mitigate the hardship to the dealers, it has been proposed to give an opportunity to the dealers to settle the arrears of tax, penalty or interest payable to the Government. The Government have announced on the floor of Assembly on 29th April 2008, a more liberalized settlement scheme for the arrears arisen as a result of demands raised upto 31st March 2002, with a condition that no case is pending before any court regarding collection of tax.

2. Accordingly, the Government have decided to give effect to the said announcement by undertaking a legislation.

3. The Ordinance seeks to give effect to the above decision.

(By order of the Governor)

S. DHEENADHAYALAN,
*Secretary to Government,
Law Department.*