



## **ABSTRACT**

Premature payment of the amount of deferred taxes at Net Present Value [N.P.V.] - Scheme - formulated - Orders issued.

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### **COMMERCIAL TAXES AND REGISTRATION (F1) DEPARTMENT**

Read

G.O.Ms.No.60

Dated: 28.02.2007

- 1) Petition dated 07.06.2006 of Tvl.Reckitt Benckiser (India) Limited.
- 2) From the SC & CCT Lr.No.Q2/31192/2006 dt:3.10.2006.

### **ORDER:**

Tvl. Reckitt Benckiser (India) Ltd. were sanctioned IFST deferral for a sum of Rs.1328.89 lakhs for the period of 9 years from 01.04.2000 to 31.03.2009 and the repayment starts only from 01.04.2009. The dealers have availed deferral facility to the extent of Rs. 472.27 lakhs during the period of 01.04.2000 to 31.03.2006. Now, the petitioner in the petition first read above has stated that the company intends to stop further availing of this facility and to clear the entire deferred tax liability of Rs.472.27 lakhs availed upto March 2006. Hence, the dealers have requested to offer a discount at the rate of 7.5% interest per annum while arriving at the Net Present Value for payment of deferred tax liability. Moreover, the dealers have also stated that the Government of Karnataka is permitting the companies who availed the benefit of deferred tax payment to make prematurely at Net Present Value (NPV) at 6.5% discount rate, through a scheme.

2. In this connection the Special Commissioner and Commissioner of Commercial Taxes has stated that the request of the petitioner has been considered and is found reasonable for the following reasons:-

- a. There are nearly 2500 dealers who have availed IFST deferral scheme and in most of the cases the units have declared themselves sick at the stage of repayment of the sales tax dues after availing the deferral scheme, thus causing a lot of hardship to the Department in recovering the involved amounts due to the State Exchequer through claims before the BIFR, AAIFR or courts.

- b. This scheme will augment the revenue of the Department in the medium term and will also be a key factor in offsetting the revenue decline, if any, caused due to the advent of the VAT regime and increase liquidity.
- c. By permitting the industries to repay the deferred amount before the due repayment dates and at a discounted rate, the period for which the Government money remains locked up without any interest in the hands of those industries would be considerably reduced.
- d. Besides, the enticement of prepayment of deferral dues at a discounted rate even before the deferral availment period is over or before the due date for repayment has fallen would enable and encourage many of the running industries to go for early and prompt payment of the deferral dues reducing their sales tax burden substantially in the long run and also help in higher rate of recovery of the tax arrears from the industries.
- e. When the repayment period begins, say after nine years, the industries repay the arrears in a structured manner starting with repayment of the first year's due in the tenth year and then the second year dues in the eleventh year and so on. This repayment is made without any interest thereon. Accounting for inflation and the duration for which the deferred amounts remain with the industries, the Government loses a huge revenue potential in terms of liquidity. By permitting the industries to prepay at a discounted rate, apart from reducing the lock-in period as mentioned in previous para, the realization in terms of revenue is higher in the near term.
- f. At the time of sanction of deferral to the industries, the financial institutions like TIIC/SIPCOT or DIC which grant the Eligibility Certificate get the machineries and other assets pledged/ mortgaged in their favour for the loans sanctioned by them. When the industries default in repayment of the loans to these institutions, due to the attachment and auction of the properties by the above said financial institutions to recover their dues, huge financial loss is caused to the Commercial Tax Department, even though Commercial Taxes department is having the first charge over the arrears payable by the defaulter. Such disposal of assets

occurs even without the knowledge of the department thus making the recovery of arrears from the industries an arduous task.

- g. Above all, the Cost of assets after the deferral period on depreciation in sick industry is very much low.

3. The Commissioner of Commercial Taxes has requested to consider the representation of the dealers on the above lines and to issue a general Government Order for prepayment of deferral dues on the same lines as per orders of Government of Karnataka.

4. The Government after careful consideration have accepted the request of the Special Commissioner and Commissioner of Commercial Taxes and formulate the following scheme for premature payment of deferred taxes, for the benefit of industrial units who have been allowed the benefit of deferment of tax subject to the following conditions and restrictions:-

1. All industrial units who have been allowed deferment of tax under the Industrial Policies of the Government of Tamil Nadu issued from time to time or under the provisions of section 17-A of the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) or under sub-section (2) of section 9 of the Central Sales Tax Act, 1956 (central Act 74 of 1956) read with section 17(4) of the Tamil Nadu General Sales Tax Act, and the industrial units hereafter allowed under section 18(1) of the Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006) are eligible to apply for premature payment of deferred tax under this Government Order.
2. The premature payment of deferred taxes shall be equal to the Net Present Value (NPV) of the deferred tax, calculated at a discount rate of 5% per annum, as calculated in the Annexure.II
3. All industrial units are eligible to exercise their irrevocable option to make premature payment of deferred taxes, even before the deferral availment period is over or before the commencement of repayment period.
4. The industrial units, which have already commenced payment of deferred taxes by instalments, can also exercise an irrevocable option to make premature payment of deferred tax for the remaining instalments.

5. Any industry desirous of availing the benefit of premature payment of deferred taxes shall make an application to the territorial Deputy Commissioner of Commercial Taxes (C.T.) in the format specified in Annexure I along with the amount due in the form of DD or pay Order.
6. If the amount of tax paid under Clause (5) above is found to be ineligible for premature payment under this scheme, then such amount shall be returned to the dealer forthwith indicating the reasons, to be recorded in writing.
7. If the amount of tax paid under clause (5) above is found to be less than the tax assessed for the corresponding period, then the balance of such tax calculated at the discount rate shall be recovered along with interest at 15% per annum.
8. If the amount of tax paid at Net Present Value alterations by the Assessing authority, Appellate authority or as the case may be, the Revising authority at any point of time, then the industrial unit shall pay the difference of amount so calculated afresh.
9. Premature payment of deferred taxes referred to in this order shall be payable in full in one instalment only.
10. The Deputy Commissioner (CT) shall verify the application in detail and arrive at the actual amount due based on the examples given at the end of Annexure III. If there is any shortage of tax between the amount as calculated by the dealer and by the Deputy commissioner (CT), then the dealer shall make good the shortage along with interest at 15%. If the same is found in excess, then the same shall be refunded within 15 days from the date of the order.
11. If the premature payment as calculated by the dealer and as revised by the Deputy Commissioner (CT) is found correct and payments are received in full, then the Deputy Commissioner (CT) concerned shall pass a detailed order within one month from the date of original application of the dealer.

5. This order issues with the concurrence of Finance Department vide its U.O.No.381/SS (Dr.KSG)/ dated 27.10.2006.

(BY ORDER OF THE GOVERNOR)

M.DEVARAJ  
SECRETARY TO GOVERNMENT

To

The Commissioner of Commercial Taxes, Chepauk, Chennai-5.

Copy to

The Senior P.A. to the Hon'ble Chief Minister, Chennai-9.

The Senior P.A. to Hon'ble Minister (Finance), Chennai-9.

Special P.A. to Hon'ble Minister (CT), Chennai-9.

The CT & R (B/C/D)Dept.. Chennai-9.

NIC, Chennai-9 (with a request to publish the G.O. in the

Tamil Nadu Government website [www.tn.gov.in](http://www.tn.gov.in))

SF/SC

//Forwarded/by Order//

SECTION OFFICER

**Annexure - I****APPLICATION FOR PREPAYMENT OF DEFERRED TAXES**

To  
 The Deputy Commissioner of Commercial Taxes  
 ..... Division,  
 .....

I/We hereby opt to pay tax deferred in terms of Government Order (Ms) No.60, C.T. & R. Department, dated 28.02.2007 relating to the following periods at a discount rate of 5% per annum.

Year/ period	Amount of deferred tax	Year/month of payment of deferred tax	Total amount / installments paid	Balance of deferred tax payable	Balance period/ instalments	Net Present Value as on the date of application	Details of DD/PO towards amount payable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1)							
2)							
3)							
4)							
5)							

Copies of the relevant annual returns, assessment order, payment details/relevant Notification issued by Government are enclosed herewith.

**DECLARATION**

I/We ..... do hereby solemnly declare that to the best of my/our knowledge and belief, the information furnished in the above application are true and complete.

Date:  
 Place:

Signature  
 Name & status of the applicant

### Annexure III

#### ILLUSTRATION

1. Column 1 in the above table in Annexure II indicates the number of months in advance in which payment of deferred taxes are made. For example, if one of the installment of deferred taxes is due in the month of March, 2007 and the payment is received in the month of December 2006 then it should be construed that the deferred taxes have been paid in advance by 3 months. If one of the instalments of deferred taxes is due in September 2007 and the payment is made in the month of December 2006 then it should be construed that the deferred taxes have been paid in advance by 9 months and so on.

2. In the above example, if the deferred taxes are paid in advance by 3 months, then the Net Present Value of deferred taxes to be paid at 98.76%. And if the deferred taxes are paid in advance by 9 months then the percentage of deferred taxes to be paid is at 96.33%.

3. For Net Present Value calculation of premature payment of deferred taxes at Net Present Value, the due date of each instalment of deferred taxes should be taken into account and number of months shall be arrived at on that basis.

4. If the instalements are due on the following months and the payments are made in the month of January 2007 then the calculation for arriving at Net Present Value of each instalement shall be as follows:

Due date of instalments	Calculation of number of months	% of NPV
March-07	2 months	99.17%
September-07	8months	96.73%
March-08	14 months	94.34%
September-08	20 months	92.02%
March - 09	26 months	89.75%

5. If the deferred taxes are payable on a yearly basis as in the case of mega industries, the actual date of payment made and the actual due date shall be calculated for arriving at the number of months.

6. While calculating the number of completed months, 15 days and more shall be rounded off to the next month and less than 15 days shall be rounded off to the earlier month. For example, if the premature payment is made by 2 months and 15 days, in advance, then it should be construed that the said payment is made 3 months earlier. If in the above example, if premature payment is made by 2 months and 14 days in advance, it should be construed that the advance payment is made by 2 months earlier.

7. For the purpose of reckoning a month 30 days shall be taken into account irrespective of the fact that some months may have 31 days or 28 days or 29 days.

**8. The following tables will give details of calculations of Net Present Value**

**Example - 1**

Amount of deferred taxes payable	Actual date on which deferred taxes are payable	Date on which premature payment is made	Number of months and days premature payment is made	Number of months to be reckoned for the purpose of NPV calculation	Percentage of NPV of deferred taxes	Actual amount payable
1.	2.	3.	4.	5.	6.	7.
Rs.50,000	20.04.2007	15.12.2006	4 months 5 days	4 months	98.35	49,175
Rs.50,000	20.10.2007	15.12.2006	10 Months 5 days	10 months	95.93	47,635
Rs.50,000	20.04.2008	15.12.2006	16 months 5 days	16 months	93.56	46,780
Rs.50,000	20.10.2008	15.12.2006	22 months 5 days	22 months	91.25	45,625
Rs.50,000	20.04.2009	15.12.2006	28 months 5 days	28 months	89.01	44,500
Rs.50,000	20.10.2009	15.12.2006	34 months 5 days	34 months	86.82	43,410
Rs.3,00,000						2,77,125



**Example-2**

Amount of deferred taxes payable	Actual date on which deferred taxes are payable	Date on which premature payment is made	Number of months and days premature payment is made	Number of months to be reckoned for the purpose of NPV calculation	Percentage of NPV of deferred taxes	Actual amount payable
1.	2.	3.	4.	5.	6.	7.
Rs.1,00,000	10.05.2007	20.12.2006	4 months 20 days	5 months	97.94	97,940
Rs.1,00,000	10.11.2007	20.12.2006	10 months 20 days	11 months	95.53	95,530
Rs.1,00,000	10.05.2008	20.12.2006	16 months 20 days	17 months	93.18	93,180
Rs.1,00,000	10.11.2008	20.12.2006	22 months 20 days	23 months	90.88	90,880
Rs.1,00,000	10.05.2009	20.12.2006	28 months 20 days	29 months	88.64	88,640
Rs.1,00,000	10.11.2009	20.12.2006	34 months 20 days	35 months	86.46	86,460
Rs.6,00,000						5,52,630

**Example - 3**

Amount of deferred taxes payable	Actual date on which deferred taxes are payable	Date on which premature payment is made	Number of months and days premature payment is made	Number of months to be reckoned for the purpose of NPV calculation	Percentage of NPV of deferred taxes	Actual amount payable
1.	2.	3.	4.	5.	6.	7.
Rs.75,000	10.05.2007	25.12.2006	4 months 15 days	5 months	97.94	73,455
Rs.75,000	10.11.2007	25.12.2006	10Month 15 days	11 months	95.53	71,648
Rs.75,000	10.05.2008	25.12.2006	16 months 15 days	17 months	93.18	69,885
Rs.75,000	10.11.2008	25.12.2006	22 months 15 days	23 months	90.88	68,160
Rs.75,000	10.05.2009	25.12.2006	28 months 15 days	29 months	88.64	66,480
Rs.75,000	10.11.2009	25.12.2006	34 months 15 days	35 months	86.46	64,845
Rs.4,50,000						4,14,473

**Example -4**

Amount of deferred taxes payable	Actual date on which deferred taxes are payable	Date on which premature payment is made	Number of months and days premature payment is made	Number of months to be reckoned for the purpose of NPV calculation	Percentage of NPV of deferred taxes	Actual amount payable
1.	2.	3.	4.	5.	6.	7.
Rs.2,00,000	1.4.2007	25.12.2006	3 months 5 days	3 months	98.76	1,97,520
Rs.2,00,000	1.4.2008	25.12.2006	15Months 5 days	15 months	93.95	1,87,900
Rs.2,00,000	1.4.2009	25.12.2006	27 months 5 days	27 months	89.38	1,78,760
Rs.2,00,000	1.4.2010	25.12.2006	39 months 5 days	39 months	85.03	1,70,060
Rs.2,00,000	1.4.2011	25.12.2006	51 months 5 days	51 months	80.89	1,61,780
Rs.2,00,000	1.4.2012	25.12.2006	63 months 5 days	63 months	76.95	1,53,900
Rs.12,00,000						10,49,920

M.DEVARAJ  
SECRETARY TO GOVERNMENT

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SECTION OFFICER

