

EY tax alert

Maharashtra government introduces the bill for amnesty scheme for indirect taxes in the Legislative Assembly

Executive summary

This tax alert summarizes the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Bill, 2023¹ introduced in Maharashtra Legislative Assembly.

The government had proposed an amnesty scheme for various taxes levied before the introduction of Goods and Service Tax (GST) in the State Budget 2023-24 presented on 9 March 2023².

The scheme shall apply to all pending dues under specified state legislations for the period upto 30 June 2017, i.e., before the introduction of GST. Duration for submission of application under the scheme shall commence on 1 May 2023 and end on 14 November 2023. Option for payment in instalments has been made available in cases where arrears are in excess of INR50 lakhs.

The payment of dues under the scheme is summarized below:

Particulars	Matters pertaining to period on or before 31 March 2005		Matters pertaining to period 1 April 2005 to 30 June 2017	
	One-time payment	Installment	One-time payment	Installment
Undisputed tax	100%		100%	
Disputed tax	30%	34%	50%	56%
Interest	10% of total interest		15% of total interest	
Penalty	5% of total penalty		5% of total penalty	

Further, dealers having arrears upto INR50 lakhs as per the statutory orders have an option to pay a lump-sum amount of 20% of the total arrears.

¹ Bill No. XII of 2023

² Refer our alert dated 10 March 2023

Background

- Maharashtra State Government had proposed an amnesty scheme for various taxes levied before introduction of Goods and Services Tax (GST) in the State Budget 2023-24.
- The Government has now introduced the Bill namely, the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Bill, 2023, in the State Legislative Assembly.

Highlights

- The application under the scheme can be made between 1 May 2023 and 14 November 2023. It will be required to be filed separately for each financial year.
- The legislations covered under the scheme (relevant Acts) are:
 - Central Sales Tax Act, 1956
 - The Bombay Sales of Motor Spirit Taxation Act, 1958
 - The Bombay Sales Tax Act, 1959
 - The Maharashtra Purchase Tax on Sugarcane Act, 1962
 - The Maharashtra State Tax on Profession, Trades, Callings and Employment Act, 1975
 - The Maharashtra Sales Tax on the Transfer of Right to use any goods for any purpose Act, 1985
 - The Maharashtra Tax on Luxuries Act, 1987
 - The Maharashtra Tax on Entry of Motors Vehicles into Local Areas Act, 1987
 - The Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989
 - The Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002
 - The Maharashtra Value Added Tax Act, 2002
- Dealers who have availed benefits under the previous amnesty schemes as well as cases litigated by State department are also eligible for settlement under this scheme.
- However, dealers will not be eligible for settlement under this scheme with respect to arrears for which an application has been made under settlement scheme of 2022 and due date of making payment under the said scheme is not over except in cases where an order of settlement has been passed with or without providing the benefits so available.

- Any part payment made on or before 30 April 2023 will be first adjusted against undisputed tax and then disputed tax, thereafter, towards interest and balance towards penalty and late fee.

Amnesty benefit will be computed on the net amount payable after reducing any part payments made up to 30 April 2023.

- Any demand raised for the specified period during the period from 1 May 2023 to 31 October 2023 shall also be considered for the settlement.
- If the total arrear (dues as per assessment order) is up to INR2 lakhs, then the same shall be written off under the scheme.

The post assessment interest or penalty shall stand waived in case where the tax due as per statutory order has been paid up to 30 April 2023 and no order levying such interest and penalty is passed.

- If the arrears amount is more than INR50 lakhs, then dealer can pay the same in instalments.
- Based on the option selected, the duration for payment of requisite amount under the scheme is as follows:
 - One-time payment: 1 May to 31 October 2023
 - Instalment payment: Atleast 25% of requisite amount between 1 May to 31 October and balance in three equal quarterly instalments from the date of application.
- Summary of the benefit is as follows:

Matters pertaining to period on or before 31 March 2005				
Particulars	One-time payment		Installment	
	Amount to be paid	Amount of waiver	Amount to be paid	Amount of waiver
Undisputed tax	100%	NIL	100%	NIL
Disputed tax	30%	70%	34%	66%
Interest	10%	90%	10%	90%
Penalty	5%	95%	5%	95%

Matters pertaining to period 1 April 2005 till 30 June 2017				
Particulars	One-time payment		Installment	
	Amount to be paid	Amount of waiver	Amount to be paid	Amount of waiver
Undisputed tax	100%	NIL	100%	NIL
Disputed tax	50%	50%	56%	44%
Interest	15%	85%	15%	85%
Penalty/ Late fee	5%	95%	5%	95%

- Further, dealers having arrears upto INR50 lakhs as per the statutory orders will have an option to pay a lump-sum amount of 20% of the total arrears.
- Where the payment made by the dealer is less than the requisite amount, then the designated authority shall compute the amount of waiver proportionate to the amount paid.

The amount so paid shall be first adjusted against undisputed tax and the balance against disputed tax, interest, penalty and late fee, proportionately.

- In case of entry tax, the requisite amount shall be the amount of tax determined in the order, or the amount reduced or denied by the amount of set-off of entry tax under VAT, whichever is less.

The applicant shall not be entitled to claim set-off under VAT, including the amount paid on or before 30 April 2023.

- If any appeal is pending in respect of any statutory order, the same shall be withdrawn fully and unconditionally by the applicant.
- If dealer has made payment of requisite amount within specified time but could not manage to file application within time, then delay up to 30 days may be condoned after recording sufficient reason.
- Authority shall pass an order within three months from the last date specified for payment of requisite amount.
- Where the application made by the dealer is not in accordance with the provisions of the scheme, the designated authority may reject the application after giving an opportunity of being heard to the applicant.

If the applicant had withdrawn any appeal to apply for the scheme, then on rejection of such application, such appeal can be reinstated on application made in this regard to the appellate authority.

- Authority, may on its own motion or on application of dealer, rectify the amnesty order within six months from the date of receipt of order by the dealer.
- An appeal against the amnesty order can be filed before the appellate authority within 60 days from the date of receipt of order.

There shall be no second appeal against the order passed by the appellate authority.

- Commissioner can review an amnesty order within 12 months from the service of such order.
- Under no circumstances, the dealer shall be entitled to get refund of any amount paid under the amnesty scheme.

In case the order of settlement is revoked or rejected, the amount paid by the dealer under the scheme shall be treated to have been paid under the relevant Acts.

Comments

The amnesty scheme appears to be more attractive than the scheme which was introduced in 2022. Taxpayers who missed availing the benefit of the scheme last year may take benefit under this scheme.

The amnesty scheme introduced for second consecutive year signifies the intent of government to unlock the sizeable portion of tax dues locked under the old pending litigations.

It is relevant to note that similar scheme has also been announced by the state of Jharkhand in its budget.

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