

TAX FLASH NEWS

7 March 2019

Ordinance for amnesty scheme to settle pre-GST regime disputes – Maharashtra

Background

Recently the Maharashtra government in its cabinet meeting had approved an amnesty scheme to settle pre-GST regime state tax disputes. To give effect to the same an Ordinance¹ dated 6 March 2019 has been passed.

Key highlights of the amnesty scheme are as under

1. Amnesty scheme inter-alia covers the following key legislations
 - a. Bombay Sales Tax Act, 1959
 - b. Maharashtra Value Added Tax Act, 2002
 - c. Central Sales Tax Act, 1956
 - d. Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002
 - e. Maharashtra Tax on Luxuries Act, 1987
 - f. Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975
2. Who can opt for the amnesty scheme?
 - a. Registered or unregistered dealers under the erstwhile law;
 - b. Dealers who had availed the benefit of any amnesty schemes declared by the Government of Maharashtra or under the Maharashtra Settlement of Arrears in Dispute Act, 2016 shall also be eligible to make an application.
3. The scheme would be applicable for two disputed tax periods
 - a. Period up to 31 March 2010
 - b. 1 April 2010 to 30 June 2017

¹ Maharashtra Ordinance No. V of 2019 dated 6 March 2019

4. Dealers cannot opt for amnesty in the following cases
 - a. Cases where statutory orders or returns or the revised returns under the erstwhile law are filed after 15 July 2019;
 - b. Remand back cases where the order has not been passed on or before 15 July 2019;
 - c. Credit transitioned to the GST regime unless the credit equivalent to the amount for which the settlement application is filed has been reversed by debiting electronic credit/cash ledger on or before the filing of the application.
5. Dealers opting for amnesty scheme can file an application in either of the two phases
 - a. Phase I – 1 April 2019 to 30 June 2019
 - b. Phase II – 1 July 2019 to 31 July 2019
6. Along with the application, the dealer would be required to make the payment of both the disputed and undisputed amount as per the scheme
7. Dealers would be required to unconditionally withdraw appeals pending before the appellate authority/tribunal/court
8. Gist of the payments along with the extent of waiver is as under:

Dispute period	Nature of liability	Phase I 1 April 19 – 30 June 19		Phase II 1 July 19 – 31 July 19	
		Payment	Waiver	Payment	Waiver
Up to 31 March 2010	Tax	50%	50%	60%	40%
	Interest	10%	90%	20%	80%
	Penalty	5%	95%	10%	90%
1 April 2010 to 30 June 2017	Tax	70%	30%	80%	20%
	Interest	20%	80%	30%	70%
	Penalty	10%	90%	20%	80%

Notes –

- Percentage of payment and waiver is to be calculated for the disputed amount
- All undisputed tax amount to be paid in full
- Any post-assessment interest or penalty or both leviable but not levied up to the date of application to be waived in full
- Late fee in respect of returns filed during the period commencing from 1 April 2019 to 31 July 2019 to be waived in full
- The dealer shall not be entitled to claim refund of the amount paid under the scheme

Our comments

As amnesty scheme has become effective in Maharashtra, businesses can proceed to evaluate the existing disputes and avail the benefit of the scheme in terms of early resolution/closure of pre-GST regime disputes.

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