

TAX FLASH NEWS

31 March 2022

Maharashtra Legislature passes bill for settlement of pre-GST arrears

As proposed in Maharashtra State Budget on introduction of amnesty scheme, Legislature has passed a bill called "Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2022". This Act provides for settlement of arrears of tax, interest, penalty or late fee which were levied, payable or imposed, respectively, under various Acts administered by the State GST Department and for the matters connected therewith or incidental thereto. It will come into force from 1 April 2022.

Gist of the settlement scheme under the Act

A. Eligibility for settlement

- An applicant, whether registered or not under the Relevant Act, shall be eligible to make an application for settlement of arrears in respect of the specified period (i.e. any period ending on or before the 30 June 2017), whether such arrears are disputed in appeal under the Relevant Act or not.
- Cases litigated by Department are also eligible for settlement.
- Relevant Act cover eleven Acts (including Central Sales Tax Act, Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, and Maharashtra Value Added Tax Act), rules and notifications issued thereunder.

B. Conditions for settlement

Appeal, if any, pending before the appellate authority shall be withdrawn fully and un-conditionally by the applicant.

C. Adjustment and determination of arrears

- Any payment made in respect of a statutory order either in the appeal or otherwise, on or before 31 March 2022 shall be adjusted sequentially towards amount of undisputed tax, disputed tax, interest and the balance amount towards penalty and late fees.
- After this adjustment, only the amount remaining outstanding for the specified period, if any, as on 1 April 2022 or any demand raised for the specified period by any statutory order during the period from 1 April 2022 to 30 September 2022 shall be considered for the settlement.

D. Determination of requisite amount and extent of waiver

- Arrears determined by statutory order for the specified period as on 1 April 2022 which are INR ten thousand or less per financial year shall be written off.
- Where the amount of arrears is of INR ten lakh or less and if the applicant opts for payment of a lump sum amount under One Time Payment option, then the extent of lump sum amount payable shall be 20 per cent of the total arrears.
- Amount to be paid by other applicants is tabulated below (balance amount is waived) :

Sr. No.	Amount	Period between 1 April 2005 to 30 June 2017		Period on or before 31 March 2005	
		One Time Payment option	Instalment option	One Time Payment option	Instalment option
1	Un-disputed Tax	100 per cent	100 per cent	100 per cent	100 per cent
2	Disputed Tax	50 per cent	56 per cent	30 per cent	34 per cent
3	Interest	15 per cent	15 per cent	10 per cent	10 per cent
4	Penalty	5 per cent	5 per cent	5 per cent	5 per cent
5	Late fee	5 per cent	5 per cent	-	-

- Requisite amount shall be paid under One Time Payment option. However, in cases where the amount of arrears is more than INR fifty lakhs, applicant may opt to pay the requisite amount under Instalment option.

E. Application for settlement

An applicant shall make a separate application for each class of arrears separately for each financial year within the prescribed date along with proof of payment of the requisite amount.

F. Duration for payment and submission of application

Sr. No.	Particulars	Option 1	Option 2
		One Time Payment option	Instalment option
(a)	Duration for submission of application	1 April 2022 to 14 October 2022	April 2022 to 14 October 2022
(b)	Duration for paying amount	1 April 2022 to 30 September 2022	Minimum 25 per cent of the requisite amount to be paid between 1 April 2022 to 30 September 2022. Remaining amount to be paid in three equal quarterly instalments from date of application.

G. Order of settlement and appeal

- If the application for settlement is in accordance with law, designated authority shall pass an order.
- Appeal can be filed within sixty days from the date of receipt of order.

Our comments

The scheme will help reduce old pending litigations as it provides incentive by way of partial waiver of disputed tax, interest, penalty or the late fee. For bigger dealers, facility to pay the amount of arrear in instalments has also been provided. On a finer reading of the Act, it appears that those applicants who have deposited the amount in full at the time of assessment or appellate stage will not get any benefit under the scheme i.e. benefit of the scheme will be available only to those applicants who have a balance amount outstanding after adjustment towards arrears. Accordingly, Companies needs to evaluate pending litigations appropriately before applying for the scheme.

KPMG in India addresses:

Ahmedabad

Commerce House V, 9th Floor,
902, Near Vodafone House, Corporate
Road,
Prahlad Nagar,
Ahmedabad – 380 051.
Tel: +91 79 4040 2200

Bengaluru

Embassy Golf Links Business Park,
Pebble Beach, 'B' Block,
1st & 2nd Floor,
Off Intermediate Ring Road, Bengaluru –
560071
Tel: +91 80 6833 5000

Chandigarh

SCO 22-23 (1st Floor),
Sector 8C, Madhya Marg,
Chandigarh – 160 009.
Tel: +91 172 664 4000

Chennai

KRM Towers, Ground Floor,
1, 2 & 3 Floor, Harrington Road,
Chetpet, Chennai – 600 031.
Tel: +91 44 3914 5000

Gurugram

Building No.10, 8th Floor,
DLF Cyber City, Phase II,
Gurugram, Haryana – 122 002.
Tel: +91 124 307 4000

Hyderabad

Salarpuria Knowledge City,
6th Floor, Unit 3, Phase III,
Sy No. 83/1, Plot No 2, Serilingampally
Mandal,
Ranga Reddy District,
Hyderabad – 500 081.
Tel: +91 40 6111 6000

Jaipur

Regus Radiant Centre Pvt Ltd.,
Level 6, Jaipur Centre Mall,
B2 By pass Tonk Road,
Jaipur – 302 018.
Tel: +91 141 - 7103224

Kochi

Syama Business Centre,
3rd Floor, NH By Pass Road,
Vytilla, Kochi – 682 019.
Tel: +91 484 302 5600

Kolkata

Unit No. 604,
6th Floor, Tower – 1,
Godrej Waterside,
Sector – V, Salt Lake,
Kolkata – 700 091.
Tel: +91 33 4403 4000

Mumbai

2nd Floor, Block T2 (B Wing),
Lodha Excelus, Apollo Mills
Compound, N M Joshi Marg,
Mahalaxmi, Mumbai- 400011
Tel: +91 22 3989 6000

Noida

Unit No. 501, 5th Floor,
Advant Navis Business Park,
Tower-A, Plot# 7, Sector 142,
Expressway Noida,
Gautam Budh Nagar,
Noida – 201 305.
Tel: +91 0120 386 8000

Pune

9th floor, Business Plaza,
Westin Hotel Campus, 36/3-B,
Koregaon Park Annex,
Mundhwa Road, Ghorpadi,
Pune – 411 001.
Tel: +91 20 6747 7000

Vadodara

Ocean Building, 303, 3rd Floor,
Beside Center Square Mall,
Opp. Vadodara Central Mall,
Dr. Vikram Sarabhai Marg,
Vadodara – 390 023.
Tel: +91 265 619 4200

Vijayawada

Door No. 54-15-18E,
Sai Odyssey,
Gurunanak Nagar Road, NH 5,
Opp. Executive Club, Vijayawada,
Krishna District,
Andhra Pradesh – 520 008.
Tel: +91 0866 669 1000

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KPMG Assurance and Consulting Services LLP, Lodha Excelus, Apollo Mills Compound, NM Joshi Marg, Mahalaxmi, Mumbai - 400 011
Phone: +91 22 3989 6000, Fax: +91 22 3983 6000

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