

# Tax Flash News

25 April 2023

## West Bengal Government introduces dispute settlement scheme

As proposed in West Bengal State budget, the Government has come with dispute settlement scheme. Under the new Settlement of Dispute (SOD) Scheme<sup>1</sup> all the disputed tax like arrear tax, interest, penalty, or late fee pending before any authority as on 10 February 2023 will be settled if application is made on or before 31 May 2023. The new Settlement Scheme has come into force w.e.f. 15 April 2023.

### Gist of the settlement scheme of the SOD Act

#### A. Eligibility for settlement

- Application for SOD can be filed in respect of any case which is pending on or before 10 February 2023 pertaining to any period up to 30 June 2017 and where the said case has been initiated/order has been issued by any authority involving dispute in tax, interest, late fee and penalty.
- Case which has been referred to Certificate Officer (CO) or to a Tax Recovery Officer (TRO) on or before 10 February 2023 shall also be eligible for the scheme.
- If prosecution is instituted, no application for SOD can be filed.
- The scheme covers eight Acts (including Central Sales Tax Act, 1956, The West Bengal Tax on Entry of Goods into Local Areas Act, 2012, West Bengal Value Added Tax Act, 2003 and West Bengal Sales Tax Act, 1954).

#### B. Determination of requisite amount and extent of waiver

- Amount payable to settle a case involving tax in dispute (other than entry tax)

Particulars	Amount to be paid for settlement
Admitted Tax in return or in writing	100%
Case involving non-furnishing of any Certificate/Declaration forms	15%
Any other tax in dispute	15%

- (a) Fully payment of aforesaid amount to be made with application itself.
- (b) Complete waiver of Interest in dispute for any of the aforesaid case, if filed with disputed tax.
- (c) Complete waiver of penalty in dispute for late/non-payment of tax and default in furnishing return.

<sup>1</sup> West Bengal Sales Tax (Settlement of Dispute) Act, 1999 as amended vide West Bengal Finance Act 2023

(d) Complete waiver of late fee in dispute for any case.

(e) Where there is penalty in dispute for a case of non-return related penalty such as standalone penalty case levied for non-maintenance or non-production of account, documents, etc., or penalty for transporting of goods in contravention of the relevant Act, etc. – Amount to be paid for settlement would be 2% or INR 15,000/- whichever is lower.

- Amount payable to settle a case involving entry tax

Particulars	Amount to be paid for settlement
Arrear Entry Tax	50%
Interest in dispute	NIL
Late Fee	NIL
Penalty in dispute (other than return related)	NIL

### C. Application procedure

- Application to be made in Form 1 manually.
- Amount of tax/penalty payable as per the Scheme to be made through GRIPS portal.
- On payment, Reference Number shall be generated through the link provided in SOD Tab.
- Acknowledgement to be printed and Application in Form 1 to be filed manually in duplicate before the designated authority.

### D. Time limit and Forms to be issued

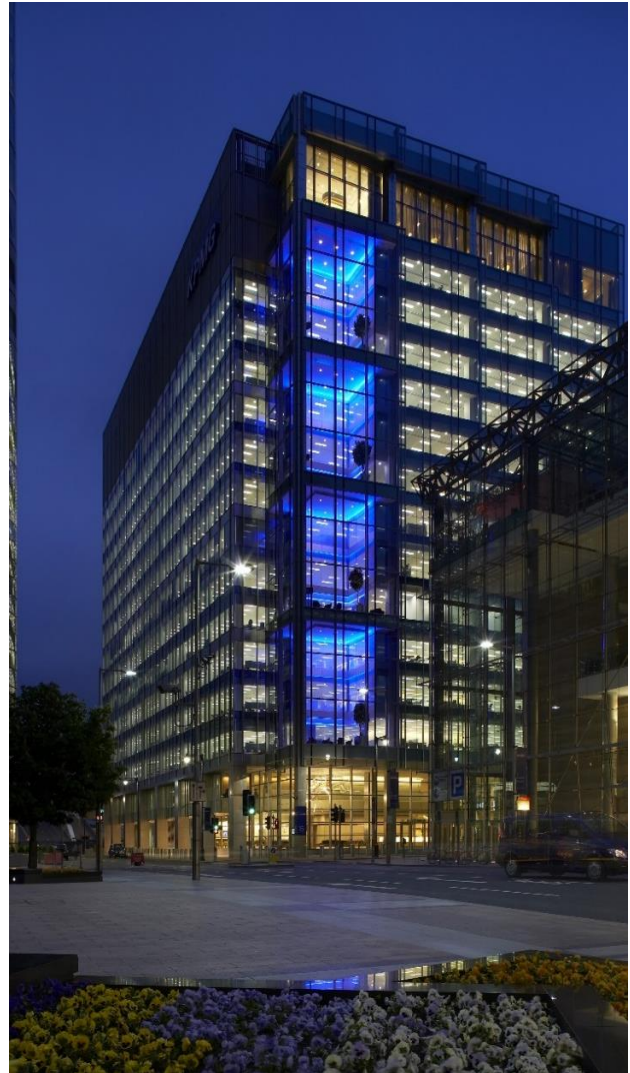
Particulars	Time Limit
Period of dues covered	Up to 30 June 2017
Pending before any authority	On or before 10 February 2023
Cases referred to CO/TRO	Up to 10 February 2023
Leave to be produced in case of WBTT/HC/SC cases	With application or within 2 months from date of application
Last date of filing of application for SOD in Form 1	31 May 2023
Issuance of Form 2 (Provisional Certificate)	Within 15 working days
Issuance of Form 3 (in case of discrepancy)	Within 3 months following the month of application
Reply against Form 3	Within 15 days of receipt of Form 3
Form 3A/order of refusal	After expiry of time allowed in Form 3 or extended further
Communication in Form 4	Ordinarily within 7 days of application received/order passed under section 8/revocation of certificate of settlement under section 12

## E. Some key points regarding the Scheme

- Separate application is required to be filed for each case.
- Concerned order / notice etc. to be attached.
- Application to cover entire dispute of a case and not a part of dispute
- Payment for settlement to be made before filing application and details of payment to be furnished in the application.
- Wherever applicable, leave from Tribunal/Court or receipt of application made for obtaining leave is required to be furnished along with Form 1.
- Leave is required to be furnished within 2 months from the date of application or within such further date as may be provided.
- Provisional certificate in Form 2 shall become final if no notice in Form 3 is issued.
- Settlement of dispute may be refused for reasons to be recording in writing.
- Settled cases can be revoked only in a case where SOD is done by suppressing of fact or providing false information.
- In settled cases Appeal/Revision is deemed to be withdrawn by the application from the date of filing of Form 1.
- In case of revocation/refusal of settlement, Appeal/Revision shall stand restored immediately and shall be disposed of under the relevant Act.
- Designated authority to keep Assessing/Appellate/Revisional authority/CO/TRO informed by issuing Form 4 within 7 days.
- Where case exclusively involving interest is pending, the same shall not be eligible under the Scheme.

## Our comments

As highlighted in State Budget, more than 25,000 cases are still pending for settlement in Tribunal and Courts and with introduction of this scheme, this will certainly help reduce old pending litigations. Also, the scheme seems to be very attractive with relief of almost 85% of tax with complete waiver of interest, penalty and late fee. Accordingly, taxpayers may take this opportunity and evaluate all their pending litigations to take benefit of the Scheme.



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