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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL

FINANCE DEPARTMENT

REVENUE

NOTIFICATION

No. 1835-F.T., the 19th day of December 2018.— In exercise of the power conferred by section 15 of the West Bengal Sales Tax (Settlement of Dispute) Act, 1999 (West Ben. Act IV of 1999), the Governor is pleased hereby to make, with immediate effect, the following amendments in the West Bengal Sales Tax (Settlement of Dispute) Rules, 1999, issued with this Department notification No.1749-F.T., dated the 16th June, 1999, as subsequently amended (hereinafter referred to as the said rules):—

Amendments

In the said rules, —

(1) in rule 2, —

(a) for clause (a), *substitute* the following clause: -

'(a) "case pending" means a case which is pending on the 31st day of October, 2018 under the relevant Act, before any authority under that Act, for which—

- (i) an audit, special audit or assessment has been made, or an appeal, revision or review petition has been filed, or a revision or review proceeding has been initiated, or a notice or order has been issued intimating the applicant for payment of tax, interest, late fee or penalty, or a notice has been issued in any proceeding proposing payment of tax, interest, late fee or penalty, or
- (ii) a proceeding for recovery of arrears of dues has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913), or to a Tax Recovery Officer under the relevant Act, on or before the 31st day of March, 2014,

and includes a case in respect of arrear tax, interest, late fee or penalty in dispute relating to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2, whether or not the applicant is in possession of any evidence of a notice or order issued;'

(b) for clause (bb), *substitute* the following clause:-

'(bb) "revision pending", for the purpose of section 4A, means any application relating to any arrear tax, interest, late fee or penalty in dispute pending before the West Bengal Taxation Tribunal, or the High Court, or the Supreme Court, on the 31st day of October, 2018 relating to any period upto the 30th day of June, 2017, other than a proceeding for recovery of arrears of dues which has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913) or to a Tax Recovery Officer under the relevant Act, after the 31st day of March, 2014;'

(2) in rule 3, in sub-rule (1), for the words "to the appropriate designated authority", substitute the following words and letters: –

"to the appropriate designated authority using the reference number generated upon furnishing electronically the basic information relating to settlement of dispute through the website of the Directorate of Commercial Taxes, West Bengal, i.e. www.wbcomtax.gov.in";

(3) in rule 4, –

(a) in sub-rule (1), –

(i) in clause (c), for the words "only/chief place of business", *substitute* the words "principal place of business";

(ii) in clause (e), for the words "registration under the relevant Act", *substitute* the words "registration, if any, under the relevant Act";

(iii) in clause (f), for the words "assessment of tax or determination of interest or determination of late fee or imposition of penalty", *substitute* the words "the case pending";

(iv) for clause (g), *substitute* the following clause: –

"(g) the particulars of the case pending, namely: –

(i) the designation of the authority before whom the case is pending,

(ii) the date of order or notice or intimation or presentation of the memorandum in respect of the case so pending before such authority,

(iii) the Case No./Memo. No., if any,

(iv) certificate / TRO Case No. & date of a case referred to CO/TRO;";

(v) *omit* clause (i);

(vi) after clause (k), *insert* the following clauses: –

"(l) a prayer in the format provided in Annexure 1 to Form 1 for granting instalment for payment of remaining balance as referred to in item (B) of sub-clause (ii) of clause (a) of sub-section (1) of section 7 of the Act;

(m) a Declaration in the format provided in Annexure 2 to Form 1 to the effect that the applicant is not in possession of any Notice/Order/Demand Notice in respect of Entry Tax.";

(b) for sub-rule (2), *substitute* the following sub-rule:–

"(2) The application in Form 1 shall be verified by the applicant in the manner provided in such form, and shall be presented along with a printout of the reference number generated upon furnishing electronically the basic information relating to settlement of dispute as referred to in sub-rule (1) of rule 3 and the other documents mentioned in Form 1:

Provided that the copy of the order of leave as referred to in sub-section (1) of section 4A shall be submitted before the designated authority on or after the date of submission of Form 1 but not later than two months from the date of application or such further time as may be allowed by the concerned authority upon prayer:

Provided further that where a case was pending on the 31st day of October, 2018 before the West Bengal Taxation Tribunal, or the High Court or the Supreme Court against which the final order has been passed after the 31st day of October, 2018 but before the date of application, a copy of such final order shall be furnished in lieu of order granting leave as referred to in sub-section (1) of section 4A:

Provided also that if an applicant opts to pay the amount in instalments as referred to in item (B) of sub-clause (ii) of clause (a) of sub-section (1) of section 7, he shall furnish a prayer in Annexure 1 appended to Form 1 for granting such instalment:

Provided also that in a case in respect of arrear tax, penalty, late fee or interest in dispute relating to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2, if the applicant is not in possession of any notice or order, he shall furnish the additional information in Annexure 2 appended to Form 1.":

(4) in rule 5,—

(a) for sub-rule (1), *substitute* the following sub-rule: —

"(1) An application for settlement in respect of a case pending shall be presented by the applicant or by an agent duly authorised by him to the appropriate designated authority as may be authorised by the Commissioner of Commercial Taxes, West Bengal for such purpose, either by hand or by registered post or speed post.";

(b) in sub-rule (2), for the words "registered post", *substitute* the words "registered post or speed post";

(5) for Form 1, *substitute* the following Form: —

"THE WEST BENGAL SALES TAX (SETTLEMENT OF DISPUTE) RULES, 1999

FORM 1

Application for settlement of arrear tax, interest, late fee or penalty in dispute under section 5 of the West Bengal Sales Tax (Settlement of Dispute) Act, 1999.

(See rules 3 & 4)

Reference No. generated from the website of Commercial Tax Directorate	
Name of the office where the case is pending on or before 31.10.2018	

To

..... [the Designated Authority]

.....

I,, proprietor/ partner/ karta/ Managing Director/ principal officer / duly authorised officer/ President/ Secretary/ legal heir/ successor/ assignee or nominee, myself or on behalf of an applicant, being eligible under section 4, or section 4A, of the West Bengal Sales Tax (Settlement of Dispute) Act, 1999 (West Ben. Act IV of 1999), hereby apply for settlement of arrear tax, interest, late fee or penalty in dispute under section 5 of that Act and the relevant particulars are furnished below:—

1. Name of the applicant (name of the proprietor / partner / company / society, etc.):	
2. Trade name of the business	
3. Address of the principal place of business	
4. Postal address at which communication may be made	
5. E-mail id to which notices / communications may be sent	

6. Mobile number to which communications may be sent					
7. Act under which the case is pending					
8. Registration Certificate No. under the relevant Act, if any:					
9. (a) Period of the case in respect of which the application is made		From: DDMMYYYY		From: DDMMYYYY	
(b) Case No./Memo. No./Order No., if any and date, if any					
(c) Certificate No. & date of a case referred to CO/TRO					
(d) Amount payable as per notice of demand/order or notice intimating the non-payment of tax, interest, late fee or penalty, as the case may be					
PARTICULARS OF THE DISPUTES		Tax (₹)	Interest (₹)	Penalty (₹)	Late Fee (₹)
(i) Any arrear tax in dispute which is solely owing to non-furnishing or non-production of any certificate or declaration					
(ii) Tax admitted in return or in writing					
(iii) Any other arrear tax in dispute not covered in (i) and (ii) above					
(iv) Any arrear tax, penalty, late fee and interest in dispute in respect of entry tax					
(v) Any late fee in dispute other than (iv) above					
(vi) Any arrear interest in dispute for non-payment of arrear tax in dispute (other than entry tax)					
(vii) Any arrear penalty in dispute for non-payment or delayed payment of tax or for non-furnishing of return (other than entry tax)					
(viii) Any other arrear penalty in dispute other than (vii) above and entry tax.					

10. Particulars of the appeal / revision /review/ application pending –	
(a) The authority / forum / Court before which the appeal / revision / review/application is pending	
(b) Date of presentation / filing of the pending petition	
(c) The appeal / revision/ review case No., if communicated	
(d) Matter No., if pending before Tribunal/Court	
(e) Date on which leave granted by Tribunal/Court as referred to in sub-section (1) of section 4A, if granted before filing the instant application.	

11. Amount payable for settlement of arrear tax in dispute (other than Entry Tax) and information about arrear tax in dispute owing to –

(a) non-furnishing or non-production of certificate or declaration prescribed under the relevant Act [Sec. 7(1)(a)(i) of the WBST (SOD) Act, 1999]

Sl. No.	Provision of relevant Act/ rule	Full rate of tax (%)	Turnover of sale / purchase /CTP involved in claim under the relevant provision (₹)	Turnover of sale / purchase/CTP relating to arrear tax for which Forms/ Certificates were not produced in assessment, appeal etc. (₹)	Turnover of sale / purchase/ CTP for which declarations/ certificates received till date of application (₹)	Turnover of sale / purchase CTP not yet supported by declarations/ certificates (₹)	Applicable differential rate of tax in absence of declarations / certificates (%)	Remaining balance amount of arrear tax in dispute (₹)
(1)	(2)	(3)	(4)	(5)	(6) *	(7)	(8)	(9) **
TOTAL amount payable in Table 11(a) or the actual amount paid whichever is higher :								
<i>*Details of declarations / certificates lying in possession on the date of application shall be furnished with this Form 1.</i>								
<i>**Calculation of column 9: Turnover as in column (7) x differential tax rate as in column (8)</i>								

(b) tax admitted in return or in writing [Sec. 7(1)(a)(ia) of the WBST (SOD) Act, 1999]

(i) Amount of arrear tax admitted in return or in writing (₹):	
(ii) 100% of the Amount of arrear tax admitted in (i), or the actual amount paid, whichever is higher (₹):	

(c) arrear tax in dispute other than of Table 11 (a) and Table 11 (b) [Sec. 7(1)(a)(ii) of the WBST (SOD) Act, 1999]

Arrear tax in dispute other than (a) and (b) above (in ₹)	
(A) 35 % of arrear tax as above, or the actual amount paid, whichever is higher [Sec. 7(1)(a)(ii)(A) of the Act] (₹)	
OR	
(B) 40% of arrear tax as above, or the actual amount paid, whichever is higher [Sec. 7(1)(a)(ii)(B) of the Act] (₹)	

(d) Total amount payable for settlement of arrear tax in dispute other than Entry Tax as referred to in section 7(1)(aa) (i) of the WBST (SOD) Act, 1999 [in ₹]

Total amount payable for settlement of arrear tax in dispute [other than Entry Tax]	
Total of Table: 11(a) + 11(b)(ii) + 11(c)(A) / 11(c)(B) [in ₹]	

12. Information about arrear tax in dispute relating to Entry Tax and amount payable for settlement [Sec. 7(1)(aa)(i) of the WBST (SOD) Act,1999]

Arrear tax in dispute relating to the West Bengal Tax on Entry of Goods into Local Areas Act, 2012. (in ₹)	
Amount payable for settlement of Entry Tax in dispute [100 % of arrear tax in dispute, or the actual amount paid, whichever is higher (₹)]	

13. Information relating to arrear penalty in dispute and amount payable for settlement [Sec. 7(2) of the WBST (SOD) Act, 1999]

(i) Arrear penalty in dispute referred to in section 2(1)(a)(ii) [₹]	
(ii) Arrear penalty in dispute referred to in section 2(1)(a)(iii) [₹]	
(iii) Arrear penalty in dispute referred to in section 2(1)(a)(iii) for Entry tax [₹]	
(iv) Amount payable for settlement [50% of 13(ii) above, or actual amount paid in respect of serial 13(ii), whichever is higher (₹)]	

14. Total amount payable for settlement of arrear Tax, Interest, Penalty and Late Fee:

Amount payable relating to—	Tax (₹)	Interest (₹)	Penalty (₹)	Late Fee (₹)
Total of Table 11(d) / 12 + 13(iv) [in (₹)]				

Note: If the applicant wants to make payment in instalments in respect of amount payable as mentioned in Table no.11(c)(B) he is required to pray in Annexure 1 appended to Form 1.

15. Details of payment of tax and penalty [as referred to in serial 13(ii)]: –

Payment relating to—	Tax (₹)	Penalty (₹)
(a) Payment in accordance with impugned demand notice, computation sheet, order, or notice intimating non-payment of tax, interest, late fee or penalty		
(b) Payment made subsequently for filing the appeal / revision petition as in sl. 10 (including payments which are not shown in demand notice)		

16. Details of payment(s) made for making this application for settlement of dispute:–

GRN / Challan No.	Date	Bank	Branch	Period		Amount (₹)	
				From	To	Tax	Penalty
Total :							

17. Documents attached (Put ✓ in box):–

(a) Copy of notice/order/communication relating to the proceeding pending	
(b) Copy of order against which appeal/revision/review filed and the relevant demand notice AND Copy of appeal/revision petition before authority/application before Tribunal/Court	
(c) Copies of the payment documents in respect of serial 15 and serial 16 above	
(d) Copy of the order of Tribunal/Court granting the leave u/s 4A of the Act, if any	

(e) Statement of declarations/certificates received as referred to in section 7(1)(a)(i) of the Act [mandatory for Table 11(a)]	
(f) Prayer for granting instalment for payment of remaining balance (Annexure 1) as referred to in section 7(1)(a)(ii)B of the Act [mandatory for Table 11(c)(B)]	
(g) Declaration to the effect that the applicant is not in possession of any Notice/Order/ Demand Notice in respect of Entry Tax (Annexure 2), if applicable.	

VERIFICATION

I,, solemnly declare that to the best of my knowledge and belief—

- (a) the particulars and information given in this application are correct and complete;
- (b) the amount of arrear tax or interest in dispute shown hereinabove are truly stated and relate to the relevant period as mentioned in this application;
- (c) no proceeding for prosecution has been instituted against me/applicant for any offence under any of the provisions of the relevant Act for the relevant period; and
- (d) I/ the applicant am/is not otherwise ineligible for making this application in terms of the provisions of the Act.

Date : (Signature) :

Place : (Name of the signatory in full) :

(Status in relation to the applicant):

Note: A copy of paid Challan in proof of payment of 15% of disputed amount as shown in Table in serial 11(c)(B) has to be submitted along with the application for payment in instalments under section 7(1)(a)(ii)(B). A statement of challans alongwith the copies of paid challans for full payment made for settlement have to be furnished within 10 days from the expiry of three months following the month in which such application was submitted.

Annexure 1

Prayer of payment in instalments

[See rule 4 of the West Bengal Sales Tax (Settlement of Dispute) Rules, 1999]

To

..... (Designated Authority)

Sir/Madam,

I, the undersigned, intend to make payment of the arrear tax in dispute, as mentioned in section 7(1)(a)(ii)(B) of the WB (SOD) Act, 1999, for the period in instalments. I have made payment of Rs. (15% of the said arrear tax in dispute), and a copy of the said challan is furnished along with this application. I shall pay the balance amount of Rs. in maximum three monthly instalments from the month of to

I, therefore, request you to kindly grant permission to make payment in instalment as above.

The above particulars are true and correct to the best of my knowledge and belief.

Date.....

Signature of the applicant.....

Place

Name.....

Status.....

Annexure 2**Information relating to the West Bengal Tax on Entry of Goods into Local Areas Act, 2012**

[See rule 4 of the West Bengal Sales Tax (Settlement of Dispute) Rules, 1999]

I hereby declare that I am not in possession of any Notice/Order/Demand Notice in respect of West Bengal Tax on Entry of Goods into Local Areas Act, 2012 for the periodto..... and I furnish the following particulars, as required under rule 4 of the West Bengal Sales Tax (Settlement of Dispute) Rules, 1999, in support of my arrear tax, interest, late fee and penalty in dispute under the said Act for the said period:

Sl. No.	Particulars	Amount (₹)
1	Turnover of import of specified goods	
2	Deduction as per rule 7 of the West Bengal Tax on Entry of Goods into Local Areas Act, 2012	
3	Taxable turnover of import on which tax is payable	
4	Tax payable [1% of 3]	
5	Less: tax paid by the applicant as it is evident from challan produced (excluding any amount paid for settlement)	
6	Tax remaining unpaid by the applicant [4-5]	

The above particulars are true and correct to the best of my knowledge and belief.

Date

Signature of the applicant.....

Place

Name.....

Status....."

By order of the Governor,

RAJSEKHAR BANDYOPADHYAY

Additional Secretary to the Government of West Bengal.