

ODISHA ACT 12 OF 2011

THE ODISHA SALES TAX (SETTLEMENT OF ARREARS) ACT, 2011

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THE ODISHA SALES TAX (SETTLEMENT OF ARREARS) ACT, 2011

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 first published in an extraordinary issue of the *Odisha Gazette*,
 dated the 12th October, 2011 (No.2292)]

**AN ACT TO PROVIDE FOR SETTLEMENT OF ARREARS OF TAX,
 PENALTY OR INTEREST PERTAINING TO SALES TAX AND THE
 MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.**

Whereas, it is expedient to provide for settlement of arrears of tax, penalty or interest, as the case may be, under the repealed Orissa Sales Tax Act, 1947 and the repealed Odisha Additional Sales Tax Act, 1975.

Be it enacted by the Legislature of the State of Odisha in the Sixty-second Year of the Republic of India as follows:—

Short title,
 extent and
 commence-
 ment.

1. (1) This Act may be called the Odisha Sales Tax (Settlement of Arrears) Act, 2011.

(2) It extends to the whole of the State of Odisha.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

* [For the Bill, See *Odisha Gazette* Extraordinary dated the 17th August, 2011 (No.1884 [Legis-6/ 2011]

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

- (a) “applicant” means a dealer as defined in the relevant Act;
- (b) “arrears of tax, penalty or interest” means —
 - (i) tax including additional sales tax and surcharge, payable by an applicant upon assessment under the relevant Act; or
 - (ii) penalty payable by an applicant under the relevant Act; or
 - (iii) interest payable by an applicant under the relevant Act,

as the case may be, for which assessment has been made prior to the 1st day of April, 2008 under the relevant Act, and pending collection on the date of filing of application under this Act;

- (c) “designated authority” means an authority appointed under section 3;
- (d) “Government” means the Government of Odisha;
- (e) “relevant Act” means,—
 - (i) the repealed Odisha Sales Tax Act, 1947; and
 - (ii) the repealed Odisha Additional Sales Tax Act, 1975.

Odisha Act
14
of 1947.
Odisha Act
24
of 1975.

(2) Unless there is anything repugnant to the subject or context, all expressions used in this Act, which are not defined, shall have the same meaning as defined or used in the relevant Act.

Designated Authority.

3. For carrying out the purposes of this Act, the officers as referred to in sub-section (2) of section 3 of the Odisha Value Added Tax Act, 2004 shall act as designated authority and such authority shall exercise the power and function within such limit as may be specified, from time to time, in the order issued in this behalf by the Commissioner.

Odisha Act 4
of 2005.

Eligibility for settlement.

4. Subject to the other provisions of this Act, an applicant may make an application for settlement of arrears of tax, penalty or interest or both interest and penalty in respect of which assessment has been made under the relevant Act, prior to the 1st day of April, 2008, and pending collection of such arrears on the date of filing of application under the Act.

Application
or
settlement.

5. (1) An application for the purpose of section 4 shall be made to the designated authority by an applicant within three months from the date of commencement of this Act or by such later date as the Government may, by notification, specify, from time to time, in such form, and in such manner, as may be prescribed, with proof of payment of the amount payable at the rates specified in section 7.

(2) A separate application shall be made for each assessment year.

(3) The applicant shall send a copy of the application made under sub-section (1) to the sales tax officers, assessing authority, tax recovery officer, appellate authority or revisional authority, as the case may be, under the relevant Act, or any other Court or Tribunal before whom any proceeding, appeal or revision, as the case may be, is pending, within seven days from the date of making such application before the designated authority.

Determination
of amount
payable by
the applicant.

6. (1) The designated authority shall verify the correctness of the particulars furnished in the application made under section 5 with reference to all relevant records and determine the amount payable at the rates specified in section 7.

(2) The designated authority shall demand further amount payable by the applicant in the form prescribed, if the amount paid by the applicant alongwith application falls short of not more than ten per cent of the amount determined under sub-section (1).

(3) If the applicant has not paid ninety per cent of the amount payable under section 7 alongwith the application, the designated authority shall summarily reject the application.

(4) The amount determined under sub-section (1) shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, and, if such part is fifty paise or more, it shall be rounded off to the nearest rupee, and if such part is less than fifty paise, it shall be ignored.

Rate
applicable in
determining
amount
payable.

7. The amount payable by the applicant and to be waived shall be determined as follows:—

(a) Where it relates to arrears of tax, which was admitted as tax due as per returns filed for the year with corresponding arrears of penalty and interest, the applicant shall pay the entire arrears of tax pending collection along with interest at six per cent per annum and on such payment, the balance of interest and the entire penalty shall be waived.

(b) Where it relates to arrears of tax which was assessed on the best of judgment due to non production of accounts with corresponding arrears of penalty and interest, the applicant shall pay one fourth of arrears of tax pending collection on the date of application along with interest calculated at six per cent per annum on the arrears of tax and on such payment of tax and interest, the balance of tax and interest and the entire penalty shall be waived.

(c) Where it relates to arrears of penalty or interest or both and where there is no corresponding arrears of tax pending collection on the date of application, the applicant shall pay ten per cent of the penalty and twenty-five per cent of interest, the balance of penalty and interest shall be waived.

Settlement of arrears and issue of certificate.

8. (1) The designated authority shall, on being satisfied about the payment of the amount determined under sub-section (1) of section 6, by an order, settle the arrears of tax, penalty or interest or both penalty and interest and issue a certificate in such form as may be prescribed, and thereupon, the applicant shall be discharged from his liability to make payment of the balance amount of such arrears of tax, penalty or interest or both penalty and interest. Separate certificate shall be issued in respect of each application.

(2) The designated authority, for reasons to be recorded in writing, may refuse to settle the arrears of tax, penalty or interest or both penalty and interest :

Provided that no order under this sub-section shall be passed without giving the applicant a reasonable opportunity of showing cause against such refusal.

(3) The authority notified by the Government in this behalf may, at any time within ninety days from the date of issue of certificate under sub-section (1) by the designated authority, modify the certificate by rectifying any error apparent on the face of the record:

Provided that no such rectification adversely affecting the applicant shall be passed without allowing the applicant a reasonable opportunity of showing cause against such rectification.

Bar on re-opening of settled cases.

Withdraw appeal a revision.

Auth to p cert

9. A certificate issued under section 8 shall be conclusive as to the settlement to which it relates, and no matter covered by such certificate shall be re-opened in any proceeding of review or revision, or in any other proceeding, under the relevant Act.

10. Notwithstanding anything to the contrary contained in any provision in the relevant Act, any proceeding or appeal or revision for any period pending before the sales tax officer, assessing authority, tax recovery officer, appellate authority or revisional authority, as the case may be, under the relevant Act in respect of which a certificate is issued under section 8, shall be deemed to have been withdrawn from the date of making of the application by the applicant under sub-section (1) of section 5. Any order passed by the sales tax officer, assessing authority, tax recovery officer, appellate authority or revisional authority subsequent to the date of filing of application for settlement of arrears of tax, penalty or interest or both penalty and interest, resulting in claim for refund of amount paid upto the time of settlement of such arrears of tax, penalty or interest or both penalty and interest under this Act, shall not be taken into consideration.

11. No authority shall proceed to decide in any proceeding or appeal or revision under the relevant Act relating to any period or assessment year in respect of which a copy of the application has been received under sub-section (3) of section 5:

Provided that such authority shall proceed to decide such proceeding or appeal or revision in accordance with the provisions of the relevant Act, if a certificate referred to in sub-section (1) of section 8 is refused to the applicant by an order passed by the designated authority under sub-section (2) of section 8.

12. (1) Notwithstanding anything contained in section 9 or section 10, where it appears to the designated authority that an applicant has obtained the certificate under section 8 by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may, within a period of two years from the date of issue of the said certificate, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of showing cause, revoke the certificate issued under sub-section (1) of section 8.

(2) If a certificate is revoked under sub-section (1), any proceeding or appeal or revision, as the case may be, under the relevant Act, covered by such certificate shall, notwithstanding the provisions of section 9 or section 10, stand revived or reinstated immediately upon such revocation, and such proceeding or appeal or revision shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrears of tax, penalty or interest in such proceeding or appeal or revision has ever been made under this Act.

(3) In the case of revocation of a certificate in accordance with sub-section (1), the amount paid by the applicant under section 6 shall be treated as payment towards the amount payable under the relevant Act for the period for which the certificate has been revoked.

Information to be sent to authorities under relevant Act.

13. The designated authority shall inform the sales tax officer, assessing authority, tax recovery officer, appellate authority or revisional authority, as the case may be, under the relevant Act, who for the time being, has jurisdiction over the applicant under the relevant Act,—

- (a) the fact of making of an application by the applicant under section 5;
- (b) the fact of passing of any order by the designated authority under section 8 ;
- (c) the fact of revocation of any certificate under section 12; and
- (d) such other matters as it may deem necessary ;

in such form, in such manner, and within such time, as may be prescribed.

Power to remove difficulties.

14. If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove such difficulty:

Provided that no such order shall be made after the expiry of one year from the date of coming into force of this Act.

Power
make
issue
notif
etc.
prov
layir

Power to
make rules,
issue
notification
etc. and
provision for
laying.

15. (1) The Government may, make rules, whether prospectively or retrospectively, for carrying out the purposes of this Act.

(2) Every rule made and every notification issued under this Act and every order made under section 14 shall, as soon as may be after they are made or issued, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modification if any, therein, they shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, that any such modification or annulment shall be, without prejudice to the validity of anything previously done under that rules, notification or order.