

Amnesty scheme for settlement of arrears of tax, interest, penalty, or late fee prior to implementation of GST

The Government of Maharashtra has introduced an amnesty scheme, 'Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2023' ("**Amnesty Scheme**") for various taxes levied by the State of Maharashtra prior to introduction of Goods and Services Tax ("**GST**").

The relevant acts covered under the Amnesty Scheme ("**Relevant Act**") are:

1. Central Sales Tax Act, 1956.
2. Bombay Sales of Motor Spirit Taxation Act, 1958.
3. Bombay Sales Tax Act, 1959.
4. Maharashtra Purchase Tax on Sugarcane Act, 1962.
5. Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975.
6. Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985.
7. Maharashtra Tax on Luxuries Act, 1987.
8. Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987.
9. Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989.
10. Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002.
11. Maharashtra Value Added Tax Act, 2002 ("**MVAT Act**")

The Amnesty Scheme will come into force on May 1, 2023.

Eligibility

Any applicant registered or not, will be eligible to make an application for settlement of arrears of tax, interest, penalty or late fee in respect of the specified period under the Relevant Act, whether such arrears are disputed in appeal or

not. Any applicant who has availed benefits under previous schemes is also eligible under the Amnesty Scheme, provided that the benefit is not in respect of arrears for which application is made under previous schemes¹.

Determination of amount payable and extent of waiver under the Amnesty Scheme

1. Arrears² of INR 2,00,000 (Indian Rupees two lakh) or less:

- Full waiver of arrears for any year (as per any statutory order).
- Full waiver of post-assessment interest and penalty provided that, the tax due is discharged prior to April 30, 2023, and no order levying interest or penalty has been passed.

2. Arrears of INR 50,00,000 (Indian Rupees fifty lakh) or less:

Waiver of 80% of amount of arrears as per any statutory order, if the applicant opts for a lump sum payment of such arrears.

3. Arrears of more than INR 50,00,000 (Indian Rupees fifty lakh):

Options available for settlement of arrears more than INR 50,00,000 (Indian Rupees fifty lakh):

- One time payment/ lumpsum payment.
- Payment in instalments.

For period commencing on or after April 1, 2005 till June 30, 2017				
Amount	One Time Payment option ³		Instalment option ⁴	
	Amount to be paid	Amount of waiver	Amount to be paid	Amount of waiver
Disputed tax ⁵	50% of the disputed tax amount	50% of the disputed tax amount	56% of the disputed tax amount	44% of the disputed tax amount
Interest payable under the Relevant Act or interest payable as per any statutory order or returns or revised return	15% of such amount	85% of such amount	15% of such amount	85% of such amount
Outstanding penalty as per any statutory order	5% of such amount	95% of such amount	5% of such amount	95% of such amount

¹ Maharashtra Settlement of Arrears in Disputes Act, 2016 or the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2019 or the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2022

² Section 2(d) of the Amnesty Scheme, defines "arrears" to mean the outstanding amount of tax, interest, penalty or late fee, as the case may be:

- payable by an assessee as per any statutory order under the Relevant Act; or
- admitted in the return or, as the case may be, the revised return filed under the Relevant Act and which has not been paid either wholly or partly; or
- determined and recommended to be payable by the auditor, in the audit report submitted as per section 61 of the MVAT Act, whether the notice under section 32 or 32A of the MVAT Act, has been issued or not, and such arrears of tax, interest, penalty or late fee, pertains to specified period and it also includes the interest payable on the admitted tax under the Relevant Act for the specified period.

³ Duration for submission of application: May 1, 2023 to November 14, 2023.

Duration for payment of requisite amount: May 1, 2023 to October 31, 2023.

⁴ Duration for submission of application: May 1, 2023 to November 14, 2023.

Duration for payment of requisite amount: Minimum 25% between May 1, 2023 to October 31, 2023 and balance in 3 (three) quarterly instalments within 9 (nine) months from date of application.

⁵ As per Section 2(g) of the Amnesty Scheme, disputed tax means, tax other than un-disputed tax.

For period commencing on or after April 1, 2005 till June 30, 2017				
Amount	One Time Payment option ³		Instalment option ⁴	
	Amount to be paid	Amount of waiver	Amount to be paid	Amount of waiver
Late fee payable in respect of any returns filed on or before October 31, 2023	5% of such amount	95% of such amount	5% of such amount	95% of such amount

For period ending on or before March 31, 2005				
Amount	One Time Payment option		Instalment option	
	Amount to be paid	Amount of waiver	Amount to be paid	Amount of waiver
Disputed Tax	30% of the disputed tax amount	70% of the disputed tax amount	34% of the disputed tax amount	66% of the disputed tax amount
Interest payable under the Relevant Act or interest payable as per any statutory order or returns or revised return	10% of such amount	90% of such amount	10% of such amount	90% of such amount
Outstanding penalty as per any statutory order	5% of such amount	95% of such amount	5% of such amount	95% of such amount

Other key considerations

1. No waiver will be granted in respect of undisputed tax⁶.
2. Refund matters will not be eligible for benefits under the Amnesty Scheme.
3. Any payment made on any account on or before April 30, 2023 will not be considered as payment towards the requisite amount.
4. In case less than the requisite amount is paid, proportionate adjustment will be permitted.
5. Appeal, if any, pending before the Appellate Authority under the Relevant Act or the tribunal or the court in respect of any statutory order, to be withdrawn fully and unconditionally by the applicant.

⁶ As per Section 2(q) of the Amnesty Scheme, “un-disputed tax” means:

- (a) the taxes collected separately under the Relevant Act; or
- (b) the taxes shown payable in the return or the revised return under the Relevant Act; or
- (c) an amount claimed by the dealer as deductions or allowed by the designated authority as per rule 57 of the Value Added Tax Rules or similar rules under other Relevant Act; or
- (d) an amount forfeited under the statutory order or excess tax collection shown in the return, revised return or audit report, as the case may be, submitted under the Relevant Act; or
- (e) any amount of tax determined and recommended to be payable by the auditor, in the audit report submitted as per section 61 of the Value Added Tax Act, 2005 and accepted by the assessee, either wholly or partly; or
- (f) the tax deducted at source (“TDS”) by the employer under the Value Added Tax Act; or
- (g) the tax collection made under section 31A of the Value Added Tax Act; or
- (h) the tax payable by the enrolment certificate holder under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975; or
- (i) the tax deducted by the employer under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975; or
- (j) the amount of set-off disallowed under rule 52A or 52B of the Value Added Tax Rules, which is eligible to be claimed in the subsequent period.

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