

Bihar Settlement of Taxation Disputes Act, 2016

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Act 7 of 2016

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Bihar Settlement of Taxation Disputes Act, 2016(Bihar Act No.7 of 2016)[Dated 7.4.2016]Preamble:
- An Act to provide for settlement of disputes arising from proceedings under Part I of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) [as its stood before it's repeal by section-94 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005)] and disputes arising from proceedings till financial year 2011-12 under the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the Central Sales Tax Act, 1956 (Act 74 of 1956), the Bihar Taxation on Luxuries in Hotels Act, 1988 (Bihar Act 5 of 1988) the Bihar Entertainment Tax Act, 1948 (Bihar Act XXXV of 1948) , the Bihar Electricity duty Act, 1948 (Bihar Act 36 of 1948) and the Bihar Tax on Advertisement Act, 2007.Be it enacted by the Legislature of the State of Bihar in the Sixty Seventh year of the Republic of India as follows:-

1. Short title, extent, commencement and eligibility criteria.

(1)This Act may be called the Bihar Settlement of Taxation Disputes Act, 2016.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force at once and remain effective upto three months from the date of its notification;Provided that the State Government may, by a notification published in the official Gazette in this behalf, extend the said period of three months by such further period, not exceeding three months, as may be specified in the said notification.(4)It shall be applicable to all such disuputes arising out from the proceedings under the law till the financial year 2011-12 and application for settlement of dispute shall be furnished by the party before fifteen days of the expiry of the Act and payment of settlement amount shall be deposited till the expiry of the Act.

Chapter I

Preliminary

2. Definitions.

- In this Act, unless otherwise requires in the context -(a)"admitted tax" means the amount of tax admitted as being payable in the returns filed by the party under the law;(b)"appeal" means an appeal under the law pending before the Joint Commissioner of Commercial Taxes (Appeal) or the Deputy Commissioner of Commercial Taxes (Appeal) appointed and having territorial jurisdiction under section-9 of the Bihar Finance Act, 1981, Part I or section 10 of the Bihar Value Added Tax Act, 2005;(c)"assessed tax" means tax determined as being payable under an order of assessment or reassessment under the law;(d)"dispute" means an appeal, revision, review, reference, Writ Petition or Special Leave Petition arising out of any order passed under the law and pending before, as the case may be, the following: -(i)the Joint Commissioner of Commercial Taxes (Appeal) or the Deputy Commissioner of Commercial Taxes (Appeal),(ii)the Joint Commissioner of Commercial Taxes (Administration),(iii)the Commissioner of Commercial Taxes,(iv)Commercial Taxes Tribunal,(v)the High Court,(vi)the Supreme Court of India, and includes,(1)a levy of tax, interest or penalty by an authority appointed or prescribed or authorized under the law or,(2)a proceeding for recovery of tax, interest or penalty initiated by or pending before any authority appointed or prescribed or authorised under the law or the Bihar and Orissa Public Demand Recovery Act, 1914;(e)In respect of a dispute "disputed amount" means, any tax, interest or penalty which is not admitted as being payable by the party;(f)"form" means a form appended to this Act ;(g)"law" means Part I of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) [as it stood before its repeal by section 94 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005)], the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the Central Sales Tax Act, 1956 (Act 74 of 1956), the Bihar Taxation on Luxuries in Hotels Act, 1988 (Bihar Act 5 of 1988) the Bihar Entertainment Tax Act, 1948 (Bihar Act XXXV of 1948), the Bihar Electricity Duty Act, 1948 (Bihar Act 36 of 1948) and Bihar Tax on Advertisement Act,2007.(h)"party" means a person who files an application under this Act for settlement of any dispute;(i)"Act" means the Bihar Settlement of Taxation Disputes Act, 2016;(j)"prescribed authority", for the purposes of this Act, means:(i)In respect of any appeal pending, the Joint Commissioner of Commercial Taxes (Appeal) or the Deputy Commissioner of Commercial Taxes (Appeal), before whom appeal is pending;(ii)Dispute pending before the Commissioner of Commercial Taxes or the Tribunal or the High Court or the Supreme court in which the disputed amount is more than rupees One Crore, the Commissioner of Commercial Taxes.(iii)Dispute pending before the Commissioner of Commercial Taxes or the Tribunal or the High Court or the Supreme Court in which the disputed amount is upto rupees One Crore, the concerned Joint Commissioner of Commercial Taxes (Administration), under whose jurisdiction the party is registered or the order of disputed amount has been passed.(iv)In respect of any other disputed cases pending before the Joint Commissioner of Commercial Taxes (Administration), the Joint Commissioner of Commercial Taxes (Administration)(k)"revision" means a petition for revision under the law pending before the the Commissioner of Commercial Tax appointed under section-9 of Part I of the Bihar Finance Act, 1981 or section-10 of the Bihar Value Added Tax Act, 2005 or Tribunal under the Act ;(l)"settlement amount" means the amount upon payment of which the dispute shall be settled;(m)"Tribunal" means the Commercial Taxes Tribunal constituted under section-8 of Part I of the Bihar Finance Act, 1981 or section-9 of the Bihar Value Added Tax Act, 2005;(n)"turnover returned" means the gross turnover recorded in the returns filed by the party under the law;(o)other expressions not defined herein shall have the meanings respectively assigned

to them under the law.

Chapter II

Settlement of Disputes

3. Settlement amount.

(1) where the dispute relates to proceeding till financial year 2004-05, the settlement amount shall be at the rate specified in column (3) of the amount of dispute as mentioned in column (2) of the Table- I, and where the dispute relates to proceeding from financial year 2005-06 to financial year 2011-12, the settlement amount shall be as per Table-II below :-Table - I

| Sl. No. | Particulars of the dispute | Settlement Amount |
|---------|---|--|
| 1 | 2 | 3 |
| 1 | Dispute arising out of non-submission of Form-IXC or Form IX in support of any claim preferred under Part I of the Bihar Finance Act, 1981. | Ten percent of disputed amount of tax. |
| 2 | Where the amount of arrear tax in dispute does not exceed Rs. 10,00,000 (Ten Lakh) other than mentioned in Sl. No. 1. | Twenty five percent of arrear tax in dispute |
| 3 | Where the amount of arrear tax in dispute exceeds Rs. 10,00,000 (Ten Lakh) but does not exceed Rs. 1,00,00,000 (one crore) other than mentioned in Sl. No. 1. | Rs. 2,50,000 (Two Lakh fifty thousand) plus thirty two percent of the amount by which the amount of arrear tax in dispute exceeds Rs. 10,00,000 (Ten Lakh). |
| 4 | Where the amount of arrear tax in dispute exceeds Rs. 1,00,00,000 (one crore) other than mentioned in Sl. No. 1. | Rs. 31,30,000 (Thirty one Lakh thirty thousand) plus forty percent of the amount by which the amount of arrear tax in dispute exceeds Rs. 1,00,00,000 (one crore). |
| 5 | For dispute arising out of an order levying penalty or interest under the law | Ten percent of disputed amount of penalty or interest, as the case may be |

Table - II

| Sl. No. | Amount of arrear in dispute | On payment made within one month from the date of commencement of this Act |
|---------|---|--|
| 1 | 2 | 3 |
| 1 | For the amount of arrear tax in dispute does not exceed Rs. 10,00,000 (Ten Lakh). | Twenty eight percent of arrear tax in dispute |
| 2 | For the amount of arrear tax in dispute exceeds Rs. 10,00,000 (Ten Lakh) but | Rs. 3,00,000 (Three Lakh) plus thirty seven percent of the amount by which the amount of arrear tax in |

| | | |
|---|---|---|
| | does not exceed Rs. 1,00,00,000 (one crore). | dispute exceeds Rs. 10,00,000 (Ten Lakh) . |
| 3 | For the amount of arrear tax in dispute exceeds Rs. 1,00,00,000 (one crore). | Rs. 36,30,000 (Thirty six Lakh thirty thousand) plus forty five percent of the amount by which the amount of arrear tax in dispute exceeds Rs. 1,00,00,000 (one crore). |
| 4 | For dispute arising out of an order levying penalty or interest under the law | Ten percent of disputed amount of penalty or interest, as the case may be |

Explanation I. - Settlement amount shall not include payment of admitted tax and the party shall deposit total amount of admitted tax. Explanation II. - If a party wishing to settle a dispute, has already deposited any amount of dispute which is equal or more than the settlement amount, before the commencement of this settlement scheme, the said amount would be considered as payment of settlement amount. Although the amount deposited in excess of the settlement amount will not be refunded. Explanation III. - If a party wishing to settle a dispute, has deposited any amount of dispute before the commencement of this settlement scheme, the said amount would be considered as payment of settlement amount and the party will have to pay the difference amount only. (2) Notwithstanding anything contained in any law for the time being in force but subject to the other provisions of this Act, any dispute in respect of which the amount specified in sub-section (1) has been deposited into Government Treasury, in the manner and within the time specified in this Act, shall be deemed to have been settled and it shall not be proceeded before any appellate authority.

Chapter III

Manner of Settlement of Disputes

4. Application for settlement.

(1) Any party wishing to settle a dispute shall furnish to the prescribed authority, an application in form SET-I, before fifteen days of the expiry of the Act. (2) Separate application for settlement of dispute in form SET-I, shall be furnished for every dispute before the prescribed authority along with - (a) bearing adhesive court-fee stamp for one hundred rupees and shall be accompanied by notice of demand issued by an authority appointed or prescribed or authorized under the law and an affidavit by the party to the effect that the facts contained therein are true and correct, (b) Accompanied by copies of returns/annual return and proof of tax payment (Copies of challan along with treasury certificate) in support of payment of admitted tax; Provided that if dispute is not related with assessed tax but related with imposition of penalty or interest only; copies of returns/annual return shall not be required to enclose. (c) accompanied by a certified copy of the application for appeal, in the case of a appeal petition pending before the Joint Commissioner Commercial Taxes (Appeal) or Deputy Commissioner Commercial Taxes (Appeal), (d) accompanied by a certified copy of the application for revision, in the case of a revision petition pending before Commissioner Commercial Taxes, (e) accompanied by a certified copy of the application for revision, in the case of a revision petition pending before the Tribunal, (f) accompanied by a certified copy of the reference or Writ Petition or Special Leave Petition, in the case of a reference or Writ Petition or

Special Leave pending before the High Court or the Supreme Court, as the case may be, (g) accompanied by a certified copy of assessment order/imposition of interest and penalty order/scriutny order. (h) applicant shall compulsorily mention his e-mail ID and telephone number on prescribed place of SET-I (i) accompanied by copies of challans along with treasury certificate if a party wishing to settle a dispute, has deposited any amount of dispute before the commencement of this settlement scheme. (3) The said application will be signed and verified in the manner provided in the form by the proprietor of the business; or, in the case of a firm, by the partner authorized to act on behalf of the firm; or, in the case of business of an undivided Hindu family, by the Karta of the family; or, in the case of a company incorporated under the Companies Act, 1956 (Act 1 of 1956) or a corporation constituted under any law, by the managing director or principal executive officer thereof; or, in the case of a society, club or association of persons or body of individual or a department of Government or local authority, by the principal executive officer, or officer in charge thereof; or, by the declared manager in all cases: (4) The office of the prescribed authority shall grant a receipt in form SET-II to the party making an application under sub-section (1) as token of receipt of the said application.

5. Disposal of application.

(1) No application shall be considered by the prescribed authority unless the application conforms to the period and requirements of Section- 4. (2) The prescribed authority shall reject the incomplete and inaccurate application by an order in writing in form SET-III, a copy of which shall be forwarded to the party within seven days of the application being rejected; Provided that the rejection as aforesaid shall not debar the party from filing a fresh application. (3) The prescribed authority shall verify the computation of disputed amount and the settlement amount furnished by the party in the application in form SET-I and, within seven days of such verification, intimate the party in writing to deposit the settlement amount into Government Treasury and furnish the copy of the challan evidencing such payment within the time and in the manner specified in Clause (a) of sub-section (4); Provided that if no such intimation is sent to the party within fifteen days of the receipt of the application or the revised application, as the case may be the computation of the disputed amount, the settlement amount and the application for settlement shall be deemed to have been accepted and the party shall proceed to deposit the settlement amount as so deemed within the time and in the manner specified in Clause (a) of sub-section (4). (4) (a) Upon receipt of the intimation under sub-section (3), the party shall deposit into Government Treasury, in the manner provided in rule-27 of the Bihar Value Added Tax Rules, 2005, the settlement amount specified in Section- 3. The payment of settlement amount shall be deposited till the expiry of the Act. (b) The party shall, within seven days of the deposit of the entire settlement amount as aforesaid, file before the appropriate Court or authority a petition withdrawing the dispute. Explanation. - For the purposes of this clause the expression "appropriate Court or authority" shall mean; (i) the Joint Commissioner of Commercial Taxes (Appeal) or the Deputy Commissioner of Commercial Taxes (Appeal), in case of an appeal; (ii) the Joint Commissioner of Commercial Taxes (Administration), in case of a miscellaneous revision pending before the Joint Commissioner of Commercial Taxes (Administration); (iii) the Commissioner of Commercial Taxes, in case of a revision petition pending before the Commissioner of Commercial Taxes; (iv) the Tribunal, in case of a revision petition pending before the Tribunal; (v) the High Court, in case of a reference or Writ Petition; and (vi) the

Supreme Court of India, in case of a Special Leave Petition.(5)The prescribed authority shall, within seven days of the deposit of the entire settlement amount, as required by clause (a) of sub-section (4), and filing of the withdrawal petition of the dispute, as required by clause (b) of sub-section (4), make an order in form SET-V settling the dispute; Provided that if the party does not produce the evidences of the deposit of the entire settlement amount as required by clause (a) of sub-section (4) and filing of the withdrawal petition of the dispute as required by clause (b) of sub-section(4), the prescribed authority shall give an opportunity in form SET-VI of being heard and if any reasonable ground is not provided by the party, the prescribed authority shall reject the application for settlement of dispute in form SET-VII(6)Upon an order of settlement of a dispute relating to -(i)a revision petition pending before the Tribunal, or(ii)a reference, or(iii)a Writ Petition, or(iv)a Special Leave Petitionbeing passed under sub-section (5), the said revision, reference, Writ Petition or Special Leave Petition shall be deemed to have been dismissed as withdrawn and notwithstanding anything to the contrary contained in any order or judgment of any Court or Tribunal, the said revision, reference, Writ Petition or Special Leave Petition shall be deemed never to have been preferred by the party.(7)Upon an order of settlement being passed under sub-section (5), the prescribed authority shall -(a)in the case of settlement of a dispute relating to an appeal or revision, other than a revision pending before the Tribunal, record an order in the relevant proceeding to the effect that the proceeding need not be proceeded with in view of the dispute having been settled, mentioning therein the details of such settlement,(b)in the case of a settlement of a dispute (other than a dispute specified in clause (a) of this sub-section or a dispute pending before the Tribunal, any High Court or the Supreme Court) communicate, within seven days, to the authority before which such dispute is pending, a true copy of the order of settlement and the concerned authority shall, upon receipt of the said order, record an order in the relevant proceeding to the effect that the proceeding need not be proceeded with in view of the dispute having been settled, mentioning therein the details of such settlement.Explanation. - For the purposes of this sub-section, the expression "relevant proceeding" shall mean the proceeding of appeal, revision, review, reference, writ Petition or Special Leave Petition arising out of any order passed under the law and shall include a proceeding for recovery of tax, interest or penalty initiated by and pending before any authority appointed or prescribed or authorised under the law or the Bihar and Orissa Public Demand Recovery Act, 1914.

Form Set-I(Form of application for settlement of dispute under the Bihar Settlement of Taxation Disputes Act, 2016)[See Section 4(1)&4 (2)]

Before the.....I, (full name in block letters), son of residing at, Telephone No..... email ID..... *carrying on business under the trade name or on behalf of the(name of the *partnership firm/company/AOP/HUF/etc.) and having registration No. under the Bihar Finance Act, 1981, Bihar Value Added Tax Act, 2005/Other Acts request that the following case be settled.*A The case is pending before the *B The details of proceedings arising out of an offence alleged to have been committed are as follows :-*C A notice of demand arising out of scrutiny/assessment/reassessment imposition of penalty or interest for the year has been served on *me/us by (name of the authority), which is inconsistent and the amount of admitted tax/assessed tax/penalty/interest in such order of scrutiny/assessment/reassessment penalty or interest are given below -(a)Amount of admitted tax :(b)Amount paid as admitted tax :(c)Process no and date of demand notice :(d)Amount of dues as per demand notice :(e)Amount of

disputed demand-(i)tax levied due to non filing of form IX or IXC under Bihar Finance Act, 1981(ii)amount demanded in respect of assessed tax other than mentioned in above (i)(iii)amount of interest levied(iv)amount of penalty levied(2)The details of amount already deposited against disputed amount before commencement of this settlement scheme-

Challan no. Date on account ofTax/Interest/Penalty Amount deposited

3. *I/We want to get the case(s) settled upon payment of Rs.on account of assessed tax, upon payment of Rs. on account of interest and upon payment of Rs. on account of penalty, or such sum as may be agreed upon. *I/We undertake to pay the amount as may be agreed upon in the appropriate Government Treasury within such time as may be directed.

Declaration:I, (full name in block letters) declare that the information and particulars furnished in this application are correct and complete.

Date : (Signature of the applicant)

*Strike out whichever is not applicable (Status)

SET-II(Form of Acknowledgement under the Bihar Settlement of Taxation Disputes Act , 2016)[See Section-4(4)]Office of theReceipt No.Date -Received from an application in form SET-ICheck slip

¹ an affidavit by the party to the effect that the facts contained therein are true and correct is enclosed in relation to section-4 (2)(a) { |

| - | 2 | Copies of challan along with treasury certificate is enclosed in support of payment of admitted tax in relation to section-4 (2)(b) |

| - | 3 | Copy of annual return is enclosed or not. |

| - | 4 | Copy of demand notice regarding dispute is enclosed |

| - | 5 | Proof regarding dispute is enclosed |

| - | 6 | e-mail ID & telephone no. is mentioned in SET-I |

|-| 7| Certified copies of assessment/re-assessment/penalty/ scrutiny are enclosed|

|-| 8| Proof of payment (Challans along with treasury certificate) of any amount deposited against disputed amount before commencement of this Act is enclosed|

|-| 9| Amount of dispute involved in the application|

|}

Place : Signature of receiving officer

Seal : Designation

Set-III (Form of Order of rejection under the Bihar Settlement of Taxation Disputes Act, 2016) [See Section-5(2)] Office of the (1) Name and style of business in respect of which application in form SET-I has been received: (2) Complete Address of the said business: (3) Registration number: (4) Case/CWJC/SLP/Reference No. of dispute: (5) Nature of demand involved in dispute: (6) Period to which dispute relates: Order The aforesaid application in form SET-I filed by you and acknowledged vide receipt No. date of this office,

1. does not conform to the requirements of section-4

2. is incomplete

3. is incorrect

4. is accompanied by incomplete evidence in respect of dispute and disputed amount

5. any other reason-

Thus, the said application in form SET-I is hereby rejected in accordance with the provisions of section-5(2) of the Bihar Settlement of Taxation Disputes Act, 2016.

Place : Signature

Date : Seal : Designation

Memo No. Date -

Copy forwarded to (Circle Incharge), Circle / (Dealer).

Place : Signature

Date : Seal : Designation

Form SET-IV (Order under section-5(3) of the Bihar Settlement of Taxation Disputes Act, 2016) [See Section-5(3)]

1. Name and style of business in respect of which application for settlement has been received:

2. Receipt No. and date vide which application in form SET-I acknowledged:

3. Complete Address of the said business :

4. Registration number:

5. Case/CWJC/SLP/Reference No. of dispute:

6. Nature of demand involved in dispute:

7. Period to which dispute relates:

OrderThe amount payable for settlement in relation to application filed in SET-1 is calculated below-account of disputed Tax -on account of interest imposed -on account of penalty imposed -Total Amount -You are hereby directed to produce evidence of payment under (Act) by(Date). If any amount has been deposited against disputed amount before commencement of this Act, you are required to produce copy of challans along with treasury certificate.

Place : Signature

Date :Seal : Designation

Memo No.Copy forwarded to (Dealer) Date -

Place : Signature

Date :Seal : Designation

Form SET-V(Order of Settlement under the Bihar Settlement of Taxation Disputes Act, 2015)[See Section-5(5)](1)Name and style of business in respect of which this application has been received:(2)Complete Address of the said business:(3)Registration number:(4)Case/CWJC/SLP/Reference No. of dispute:(5)Nature of demand involved in dispute:(6)Period to which dispute relates:(7)Settlement amount as per form SET-IV issued under letter no. Dated(i)on account of disputed Tax -(ii)on account of interest imposed -(iii)on account of penalty imposed -(8)Amount deposited against dispute(i)on account of disputed Tax -(ii)on account of interest imposed -(iii)on account of penalty imposed -OrderThe dispute whose details are set out above is hereby settled in accordance with the provisions of sub-section (5) of section-5 of the Bihar Settlement of Taxation Disputes Act, 2016.

Place : Signature

Date :Seal : Designation

Memo No. Date -

Copy forwarded to Commissioner-Cum-Principal Secretary, Bihar, Patna/ Circle Incharge,
..... Circle/ (dealer)

Place : Signature

Date : Seal : Designation

Form Set-VI (Notice under the Bihar Settlement of Taxation Disputes Act, 2016) [See Proviso to Section-5(5)] (1) Name and style of business in respect of which this application has been received: (2) Complete Address of the said business: (3) Registration number: (4) Case/CWJC/SLP/Reference No. of dispute: (5) Nature of demand involved in dispute: (6) Period to which dispute relates: (7) Settlement amount as per form SET-IV issued under letter no. Dated (i) on account of disputed Tax -(ii) on account of interest imposed -(iii) on account of penalty imposed -(8) Amount deposited against dispute (i) on account of disputed Tax -(ii) on account of interest imposed -(iii) on account of penalty imposed -Order You have not produced complete evidences in respect of payment of settlement amount regarding dispute mentioned above; neither you have produced evidences regarding filing of the withdrawal petition of the dispute as required under clause (b) of sub-section (4) of Section-5. You are hereby given an opportunity to show cause at the following place and time as to why not your application for settlement of dispute should be rejected. Authority before whom to appear-Place-Date-Time-Signature Designation Seal: Note:- Failure on the part of the party to comply with the terms of this notice entails rejection of application for settlement of dispute without any further hearing to the party. Form Set-VII (Notice of rejection of application under the Bihar Settlement of Taxation Disputes Act, 2016) [See Proviso to Section 5(5)] (1) Name and style of business in respect of which this application has been received: (2) Complete Address of the said business: (3) Registration number: (4) Case/CWJC/SLP/Reference No. of dispute: (5) Nature of demand involved in dispute: (6) Period to which dispute relates: (7) Settlement amount as per form SET-IV issued under letter no. Dated (i) on account of disputed Tax -(ii) on account of interest imposed -(iii) on account of penalty imposed -(8) Amount deposited against dispute (i) on account of disputed Tax -(ii) on account of interest imposed -(iii) on account of penalty imposed -Order You have not produced complete evidences in respect of payment of settlement amount regarding dispute mentioned above; neither you have produced evidences regarding filing of the withdrawal petition of the dispute as required under clause (b) of sub-section (4) of Section-5. You have been given an opportunity to show cause in this regard on dated ----- . But no action was taken by you on the above date. Therefore the application filed by you for settlement of above dispute is being rejected. Signature Designation Seal: