

M.P. Karon Ki Puranee Bakaya Rashi Ka Samadhan Adhiniyam, 2017

MADHYA PRADESH

India

M.P. Karon Ki Puranee Bakaya Rashi Ka Samadhan Adhiniyam, 2017

Act 21 of 2017

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M.P. Karon Ki Puranee Bakaya Rashi Ka Samadhan Adhiniyam, 2017(M.P. Act No. 21 of 2017)[Received the assent of the Governor on the 18th August, 2017; assent first published in the "Madhya Pradesh Gazette (Extraordinary)", dated 22.8.2017].An Act to provide for settlement of amount of old arrears under the Madhya Pradesh General Sales Tax Act, 1958 (repealed), the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995) (repealed), the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) and the Central Sales Tax Act, 1956 (No. 74 of 1956) administered by the Commercial Tax Department and matters connected therewith or incidental thereto.Be it enacted by the Madhya Pradesh Legislature in the Sixty-eighth year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Madhya Pradesh Karon Ki Puranee Bakaya Rashi Ka Samadhan Adhiniyam, 2017.(2)It extends to the whole of the State of Madhya Pradesh.(3)It shall come into force on the date of its publication in the Official Gazette.

2. Definition.

(1)In this Act, unless the context otherwise requires, -(a)"Appellate Authority" means the appellate authority specified in section 8;(b)"applicant" means a person, who is liable to pay old arrears under the relevant Acts and also includes a person willing to settle the amount of old arrears of any other person, who desires to avail the benefit of settlement by complying with the conditions under this Act;(c)"Commissioner" means the Commissioner of Commercial Tax appointed under section 3 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002);(d)"competent authorities" means the competent authorities specified in sub-section (2) of section 3;(e)"old arrears" means -(i)tax, by whatever name called, under any of the relevant Act;(ii)interest payable under relevant

Act;(iii)penalty imposed under relevant Act,in respect of any statutory order for which settlement is desired, pertaining to any order of assessment and/or penalty for any period ending on or before 31st March, 2012 which is due for payment as on the date of filing application under subsection (1) of section 5 :Provided that "old arrears" shall not include any demand created by any statutory order in result of any action taken under section 55 or 57 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) and any arrears related to deferment of tax schemes, issued by the State Government under the relevant Acts from time to time;(f)"order of settlement" means an order issued under this Act in respect of settlement of amount of old arrears under any of the relevant Act;(g)"relevant Acts" means -(i)the Madhya Pradesh General Sales Tax Act, 1958 (repealed);(ii)the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995) (repealed);(iii)the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002);(iv)the Central Sales Tax Act, 1956 (No. 74 of 1956); and includes the rules made or notifications issued thereunder;(h)"settlement amount" means the amount of old arrears to be paid by the applicant along with his application for the settlement;(i)"statutory order" means an order passed under the relevant Act, raising demand of tax and/or interest and/or penalty payable;(2)The words and expressions used in this Act, but not defined shall have the same meaning as assigned to them under the relevant Act.

3. Competent Authorities.

(1)The Commissioner of Commercial Tax shall be the Commissioner for the purposes of this Act.(2)Assistant Commissioner of Commercial Tax, Commercial Tax Officer and Assistant Commercial Tax Officer, as specified in sub-section (1) of section 3 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002), to assist the Commissioner, and having jurisdiction as specified in sub-section (4) of section 3 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) shall be the competent authorities for the purposes of this Act.(3)The competent authorities as specified in sub-section (2) shall have jurisdiction as per the following limits of the total amount of old arrears involved in all the applications filed by a single applicant -(i)Assistant Commercial Tax Officer for the amount not exceeding Rupees 5 Lakh,(ii)Commercial Tax Officer for the amount not exceeding Rupees 15 Lakh,(iii)Assistant Commissioner for any amount:Provided that the Commissioner, either on his own motion or on an application submitted by the applicant, may transfer any or all applications from one competent authority to the other.

4. Settlement amount.

(1)The settlement amount to be paid along with each application for settlement shall be 40 percent of the total amount of the old arrears or 100 percent of the tax amount involved in the old arrears, whichever is higher :Provided that where a separate penalty order has been passed for which application for settlement is furnished, then it shall be mandatory to pay the 100 percent amount of the tax outstanding, as per the relevant statutory order of assessment, which is linked with such separate order of penalty :Provided further that for calculation of settlement amount, if any part payment had earlier been made in relation to a statutory order, such paid amount shall be adjusted proportionately against the initially outstanding amount of tax, interest and penalty as per that statutory order, in proportion to the amount of tax, interest and penalty assessed in the statutory order.(2)The payment of the settlement amount shall be made electronically in the form of challan

prescribed under the relevant Act or, under sub-rule (6) of Rule 37 of the Madhya Pradesh Vat Rules, 2006, as the case may be.

5. Conditions of settlement.

(1)The applicant desiring settlement, shall apply to the competent authority, within 60 days from the date of coming into force of the Madhya Pradesh Karon Ki Puranee Bakaya Rashi Ka Samadhan Adhyadesh, 2017 (No. 3 of 2017) in the Form, as specified by the Commissioner, along with proof of payment of requisite settlement amount as per sub-section (1) of section 4 :Provided that the State Government may, if considers it necessary in the public interest, extend the said period for a further period of 30 days by a notification.(2)Separate applications shall be submitted by the applicant for each statutory order, under each relevant Act. A summary of all applications shall also be filed along with the applications in the Form, as specified by the Commissioner. All the applications shall be filed by an applicant in one attempt only.(3)The applicant shall disclose about any pending appeal, revision or any petition before any authority or forum with respect to such amount of old arrears under relevant Acts and in case any appeal, revision or any petition is pending before any authority or forum, an undertaking shall be furnished by him stating that in case of availing of the benefit of settlement under the Act, he shall withdraw such matter against the statutory order pending before any authority or forum. When the settlement order is passed by the competent authority, the applicant shall forthwith withdraw such pending relevant appeal, revision or any petition and shall produce appropriate evidence of doing so before the competent authority within 7 days of receiving the settlement order, failing which his order of settlement shall be liable to be revoked by competent authority after giving the applicant a reasonable opportunity of being heard.(4)The applicant shall pay an additional amount of settlement, if required to pay under sub-section (2) of section 6 and shall produce the evidence thereof before the competent authority.(5)After an order of settlement is passed under sub-section (3) of section 6. the applicant shall have no right to challenge the statutory order in any forum, in relation to which the settlement order has been passed.(6)Notwithstanding anything contained in any provision under this Act or in the relevant Acts, in no case any amount shall be refunded from the amount deposited by the applicant as settlement amount or additional settlement amount.(7)In case an application is rejected as per the provisions of this Act, the amount/additional amount of settlement deposited by the applicant shall be adjusted against the old arrears of the applicant.(8)Notwithstanding anything contained in any provisions of the relevant Act, where an application is filed under sub-section (1), the recovery of the old arrears, involved in the filed application, shall remain stayed till the final disposal of the application as per sub-section (3) of section 6 or as per proviso to sub-section (2) of section 6 :Provided that where an application is rejected as per proviso of sub-section (2) of section 6, such stay on recovery shall continue till the period for filing appeal under section 8 is not expired. If an appeal under section 8 is filed. such stay on recovery shall continue till the rejection of the appeal or till the final disposal of the application remanded under sub-section (4) of section 8.

6. Disposal applications.

(1)The competent authority shall make the scrutiny of the applications filed and if it is found incomplete or incorrect in any manner, a notice shall be issued to the applicant, within 30 days of

filing of the application, to rectify the same within a period of 7 days from communication of such notice.(2)The applicant shall, within 7 days from the communication of the notice, correct the defects and make the payment of additional amount of settlement, if any, and shall submit the details before the competent authority accordingly :Provided that where the applicant fails to comply With the provisions as above, the competent authority may, for reasons to be recorded in writing and after giving an opportunity of being heard, reject the application submitted for settlement by an order in writing.(3)The competent authority shall, after being satisfied about fulfilment of all the conditions of this Act by the applicant, pass the order of settlement for each application separately, specifying therein the amount of settlement accepted and the waiver of the amount of the old arrears. This order of settlement shall be passed within 75 days of filing the application by the applicant. This order shall be passed in the Form, as specified by the Commissioner:Provided that where an application is remanded under sub-section (4) section 8 to the competent authority for reconsideration, the order of settlement or the order of rejection of the application as per provisions of sub-section (i) or sub-section (2), as the case may be, shall be passed within 30 days of passing of the appeal order.(4)Notwithstanding anything contained in the relevant Act, the applicant shall be deemed to have discharged his liability to make payment of the amount of old arrears payable by him under the relevant Acts for which the order of settlement has been passed and no further action of imposing penalty/interest shall be taken under the relevant Act on the basis of the amount deposited and waived under this Act as per settlement order.

7. Rectification of mistakes.

- The competent authority may-(a)on his own motion at any time within 90 days from the date of passing order of settlement under sub-section (3) of section 6; or(b)on an application submitted by an applicant, within 90 days from the date of receipt of such application, pass an order rectifying the order of settlement under sub-section (3) of section 6, for correcting any clerical or arithmetical mistake or any error arising therein from any omission :Provided that-(i)competent authority shall not entertain any application by the applicant unless it is made within 30 days from the date of communication of the order under sub-section (3) of section 6 sought to be rectified;(ii)no such rectification shall be made if it adversely affects the applicant unless competent authority has given notice, in the form as specified by the Commissioner, to the applicant of his intention to do so and has given the applicant a reasonable opportunity of being heard.

8. Appeal.

(1)An appeal against the order passed under proviso to sub section (2) of section 6 shall lie to the Appellate Authority who shall be the Divisional Deputy Commissioner of Commercial Tax, having jurisdiction as specified in sub-section (4) of section 3 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002).(2)The applicant may file an appeal against the order passed under proviso to sub-section (2) of section 6 within 30 days from the date of communication of such order.(3)No appeal shall lie against the order of settlement passed under sub-section (3) of section 6.(4)The Appellate Authority shall dispose off every appeal within 30 days from the date of filing such appeal and in disposing of the appeal, the Appellate Authority may -(i)set aside the order of rejection of the application and remand the application to the competent authority for reconsideration, if it is found that proper

opportunity had not been given to the applicant before rejection of his application or the submission of the applicant needs to be reconsidered by the Competent Authority, or(ii)reject the appeal. .(5)No appeal shall lie against an order of rejection of a remanded application for settlement where such application had been remanded once under sub-section (4).

9. Revocation of order of settlement.

- Notwithstanding anything contained in this Act, where it appears to the competent authority, that the applicant has obtained the benefit of settlement, by suppressing any material information or particulars or by furnishing any incorrect or false information or, if any suppression of material facts, concealment of any particulars is found in the proceedings related to search and seizure under the relevant Act, the competent authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the order of settlement passed under sub-section (3) of section 6. In such case, the amount of settlement deposited by the applicant shall be adjusted against his outstanding dues.

10. Review.

- The Commissioner may, on his own motion, at any time, within twelve calendar months from the date of communication of order of settlement of old arrears, call for the record of such order and insofar as it is prejudicial to the interest of revenue, may serve on the applicant a notice and pass an order to the best of his judgment, where necessary.

11. Power of Commissioner under this Act.

(1)The Commissioner may,-from time to time, issue instructions and directions as he may deem fit for carrying out the purposes of this Act.(2)The Commissioner may, by order, specify the Forms and Annexure required for the purpose of this Act.

12. Power to make rules.

(1)The State Government may, subject to the previous publication in the official Gazette, make rules for carrying out the purposes of this Act.(2)All rules made under this section shall, as soon as after they are made, be laid on the table of Legislative Assembly.

13. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government Power to remove may, by an order in writing not inconsistent with the provisions of the Act, remove the difficulty: difficulties.Provided that such order shall not be made after the expiry of a period of one year from the commencement of this Act.

14. Repeal and saving.

(1)The Madhya Pradesh Karon Ki Puranee Bakaya Rashi Ka Samadhan Adhyadesh, 2017 (No. 3 of 2017) is hereby repealed.(2)Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.