

Bihar Settlement of Taxation Disputes Act, 2019

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Act 20 of 2019

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Bihar Settlement of Taxation Disputes Act, 2019(Bihar Act 20 of 2019)Last Updated 10th February, 2020Preamble. - 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 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 Bihar Tax on Entry of goods into Local Areas for Consumption, use or Sale Therein Act, 1993 (Bihar Act No16 of 1993), 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 Tax on Advertisement Act,2007,[as they stood before their repeal by section 173 of the Bihar Goods and Services Tax Act, 2017(Bihar Act No. 12 of 2017)],the Bihar Electricity Duty Act.1948 (Bihar Act 36 of 1948)[as it stood before its repeal by section 23 of the Bihar Electricity Duty Act, 2018 (Act 4 of 2018)] and the Central Sales Tax Act, 1956 (Act 74 of 1956),Be it enacted by the Legislature of the State of Bihar in the Seventieth 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, 2019.(2)It shall extend to the whole of the State of Bihar.(3)Save as otherwise provided, the provisions of this Act shall come into force on such date as the Commissioner of State Tax, by notification in the official Gazette, appoint: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.

Chapter I

Preliminary

2. Definitions.

- In this Act, unless otherwise required in the context -(a)"Act" means the Bihar Settlement of Taxation Disputes Act, 2019;(b)"admitted tax" means the amount of tax admitted as being payable in the returns filed by the party under the law;(c)"appeal" means an appeal under the law pending before the Additional Commissioner of State Tax (Appeals) or the Joint 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;(d)"arrear tax, penalty or interest, or fine in dispute" means,-(i)tax, by whatever name called, payable by an assessee upon assessment or re-assessment under the relevant Act, or,(A)as determined for delayed payment or non-payment of tax before assessment or re-assessment; or(B)as accrued in respect of non-payment of tax or, as the case may be, short payment of tax after assessment or re-assessment which is in dispute.(ii)penalty imposed upon an assessee for default in furnishing return in accordance with the provisions of the relevant Act, or,(iii)Interest payable by an assessee under Act,-(e)"assessed tax" means tax determined as being payable under an order of assessment or reassessment under the law;(f)"dispute" means case pending on the 31st day of December, 2019 in respect of any period ending on or before 30th day of June, 2017 under the Law for which-(i)a levy of tax, interest, fine or penalty by an authority appointed or prescribed or authorized under the law or,(ii)an assessment, re-assessment, scrutiny or any other order has been made; or(iii)an appeal, revision, miscellaneous revision, review,reference, Writ Petition or Special Leave Petition has been filed; or(iv)a revision or review proceeding has been initiated; or(v)a notice or order has been issued intimating the applicant for payment of tax, interest, fine or penalty; or(vi)a notice has been issued in any proceeding under the Law requiring payment of any tax, interest, fine or penalty; or(vii)a proceeding for recovery of tax, interest, fine 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;(g)"disputed amount", in relation to a dispute, means any tax, interest, fine or penalty which is due to be paid by the party;(h)"form" means a form appended to this Act ;(i)"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 Bihar Tax on Entry of goods into Local Areas for Consumption, use or Sale Therein Act, 1993 (Bihar Act No16 of 1993), 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 Tax on Advertisement Act,2007, [as they stood before their repeal by section 173 of the Bihar Goods and Services Tax Act, 2017(Bihar Act No. 12 of 2017)], the Bihar Electricity Duty Act.1948 (Bihar Act 36 of 1948) [as it stood before its repeal by section 23 of the Bihar Electricity Duty Act, 2018 (Act 4 of 2018)] and the Central Sales Tax Act, 1956 (Act 74 of 1956),(j)"party" means any person who is a party to a dispute under the Law and who files an application under this Act for settlement of any dispute;(k)"prescribed" means as prescribed in the Rules made under this Act;(l)"prescribed authority", for the purposes of this Act, means authorities referred to section 10 of Bihar Value added Tax Act 2005.(m)"revision" means a petition for revision under the law pending before the the Commissioner of Commercial Taxes 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 the Tribunal under the Act ;(n)"settled", in relation to a dispute, means disposal and conclusion of the proceeding in relation to such dispute;(o)"settlement amount" means the amount upon payment of which the

dispute shall be settled;(p)"statutory certificates/declarations" for the purpose of the Act means declarations and certificates mentioned under Rule 12 of the central sales Tax (Registration & Turnover Rules) 1957(q)"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(r)"turnover returned" means the gross turnover recorded in the returns filed by the party under the law;(s)words or expressions not defined herein shall have the meanings respectively assigned to them under the law.

Chapter II

Settlement of Disputes

3. Settlement amount.

(1)Subject to other provisions of this Act, a dispute pending under the law may, on an application being made in this behalf by a party, be settled upon payment of the settlement amount as specified in column 3 of the Table appended hereinbelow:Table

Sl.No.	Dispute relating to	Settlement amount
1	2	3
1.	Arrear of tax for non furnishing/non productionof statutory Certificates/ Declarations	100% of remaining balance amount of the arrearof tax in dispute, as reduced by the amount of tax involved inthe value of Certificates/Declarations in the possession of theapplicant till the date of application, or the amount alreadypaid towards such arrear, whichever is higher;
2.	Other Arrear of tax	35% of the arrear of tax in dispute or theamount already paid towards such arrear, whichever is higher;
3.	For dispute arising out of an order levyingpenalty, fine or interest under the law	10% of disputed amount of penalty or interest orthe fine, as the case may be, or the amount already paid towardssuch arrear, whichever is higher;

Explanation I. - Settlement amount shall not include any payment towards any arrear of admitted tax and the party shall deposit the total amount of admitted tax.Explanation II. - Where a party desirous of settling a dispute, has already deposited any amount in respect of the dispute which is equal to or more than the settlement amount, before the commencement of this Act, the said amount would be considered as payment of settlement amount and the amount deposited in excess of the settlement amount will not be refunded.Explanation III. - Where a party desirous of settling a dispute, has deposited any amount in respect of the dispute before the commencement of this Act, 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, shall be deemed to have been concluded and it shall not be continued

by any authority or Court before which such dispute is pending.(3)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 Section 5, the said revision, reference, Writ Petition or Special Leave Petition shall be deemed to have been disposed of in terms of the aforesaid settlement.

Chapter III

Manner of Settlement of Disputes

4. Application for settlement.

- Any party wishing to settle a dispute shall furnish to the prescribed authority, an application in such form and manner and within such time as may be prescribed.

5. Disposal of application.

(1)No application shall be considered by the prescribed authority unless the application conforms to the requirements of Section 4 and the rules made thereunder.(2)Every application furnished under section 4 shall be proceeded with in such manner and within such time as may be prescribed.

6. Power to make rules.

(1)The Government may by notification, make rules for carrying out the provisions of this Act.(2)Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provision are to be or may be made by rules.