

The West Bengal Sales Tax (Settlement of Dispute) Act, 1999

WEST BENGAL

India

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Act 4 of 1999

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The West Bengal Sales Tax (Settlement of Dispute) Act, 1999 (West Bengal Act 4 of 1999) [Dated 5.4.1999.] Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, dated the 5th April, 1999. An Act to provide for expeditious enforcement of payment of arrear tax, penalty or interest in dispute under the sales tax laws in West Bengal by way of settlement of such dispute. Whereas it is expedient to provide for enforcement of payment of, and settlement of dispute relating to, arrear tax, penalty or interest under the West Bengal Sales Tax Act, 1994, and other laws referred to in sub-section (1) of section 106 of that Act, and for enforcement of payment of, and settlement of dispute relating to, arrear tax or penalty under the Central Sales Tax Act, 1956; It is hereby enacted as follows :-

1. Short title, extent and commencement.

- This Act may be called the West Bengal Sales Tax (Settlement of Dispute) Act, 1999. (2) It extends to the whole of West Bengal. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

(1) In this Act, unless the context otherwise requires, -(a) "arrear tax, penalty or interest in dispute" means, -(i) tax, by whatever name called, payable by an assessee upon assessment under the relevant Act, or (A) as determined for delayed payment or non-payment of tax before assessment; or (B) as accrued in respect of non-payment of tax or short payment of tax after assessment, (ii) penalty imposed upon an assessee for default in furnishing return in accordance with the provisions of the relevant Act, or (iii) interest payable to an assessee under the relevant Act, -which, as the case may be, is in dispute in any appeal or revision pending before the appellate authority or revisional authority on the [30th day of September, 2016] [Substituted by Act No. 11 of 2016, dated 30.12.2016.] under the

relevant Act. Explanation. - For the purposes of this Act, the interest referred to in item (B) of sub-clause (iii) shall be deemed to be an arrear interest in dispute; (b) "applicant" means "dealer", an "occupier of a jute mill" or a "shipper of jute" as defined in the relevant Act, and includes legal heir, successor, assignee or nominee of such dealer, occupier of a jute mill or a shipper of jute where the business of such dealer, occupier of a jute mill or shipper of jute has ceased to exist or has been discontinued prior to the date of coming into force of this Act, but does not include such dealer, occupier of a jute mill or shipper of jute, if any proceeding for prosecution has been instituted against him for any offence punishable under any of the provisions of the relevant Act; (c) "designated authority" means the authority appointed under section 3; (d) "prescribed" means prescribed by rules made under this Act; (e) "relevant Act" means - (i) the West Bengal Sales Tax Act, 1994, (ii) any of the Acts referred to in sub-section (1) of section 106 of the West Bengal Sales Tax Act, 1994, or (iii) the Central Sales Tax Act, 1956, and includes the rules made, or notification issued, under the Act referred to in sub-clause (i), sub-clause (ii) or sub-clause (iii). (2) Unless there is anything repugnant in the subject or context, all expressions used in this Act, which are not defined, but defined in the relevant Act, or used in the relevant Act, shall have the same meaning as in the relevant Act.

3. Designated authority.

- For carrying out the purposes of this Act, the State Government may, by notification published in the Official Gazette, appoint one or more authorities referred to in section 3, section 4 or section 5 of the West Bengal Sales Tax Act, 1994, to be the designated authority, and such authority shall exercise jurisdiction over such area or areas as the State Government may specify in the notification.

4. Eligibility for settlement.

(1) Subject to the other provisions of this Act, an applicant shall be eligible to make an application for settlement of arrear tax, penalty or interest in dispute in respect of any period for which an assessment has been made under the relevant Act and [an appeal or revision relating thereto which has been filed on or after the [31st March 2014] [Words, figures and letters '31st day of March, 2001,' first Substituted for the words, figures and letters '31st day of December, 1998,' by W.B. Act 16 of 2001, then the words, figures and letters '31st day of March, 2003,' Substituted for the words, figure and letters '31st day of March, 2001,' by W.B. Act 11 of 2003, then the words, figures and letters 'an appeal or revision relating thereto which has been filed on or after 1st day of April, 2003 but is pending on the '31st day of August, 2006,' Substituted for the words, figures and letters 'an appeal or revision relating thereto is pending on the '31st day of March, 2003,' by W.B. Act 18 of 2006, thereafter the words, figures and letters 'an appeal or revision relating thereto which has been filed on or after the 1st day of April, 2003 but is pending on the 30th day of November, 2006' Substituted for the words, figures and letters 'an appeal or revision relating thereto which has been filed on or after 1st day of April, 2003 but is pending on the 31st day of August, 2006,' by W.B. Act 3 of 2007 and finally the words, figures and letters within third brackets Substituted for the words, figures and letters 'an appeal or revision relating thereto which has been filed on or after the 1st day of April, 2003 but is pending on the 30th day of November, 2006' by W.B. Act 1 of 2008.] but is pending on the [30th day of September, 2016] [Substituted by Act No. 11 of 2016, dated

30.12.2016.]] before any appellate authority or revisional authority, [as the case may be.] [Words Substituted for the words 'as the case may be:' by W.B. Act 3 of 2007.][* * * * *] [[Proviso omitted by W.B. Act 3 of 2007, which was as under :-'Provided that an applicant shall not be eligible to make an application for settlement of dispute under this Act after the 31st day of December, 2003, for any period for which the appeal or revision has been presented on or before the 31st day of March, 2003.']](2)Notwithstanding anything contained in sub-section (1), an applicant shall not be eligible to make an application for settlement of arrear tax, penalty or interest in respect of any period under the relevant Act for which the appeal or revision has been finally heard by the appellate authority or the revisional authority, as the case may be.Explanation. - For the purposes of this sub-section, no appeal or revision shall be deemed to have been heard only by reason of any stay order having been passed by any appellate or revisional authority in connection with such appeal or revision.

4A. [Eligibility for settlement of dispute pending before the Tribunal or the High Court or the Supreme Court.] [Section 4A inserted by W.B. Act 14 of 2000.]

(1)Where any tax, penalty or interest due from any applicant is in dispute in respect of any period for which an assessment has been made under the relevant Act and where any application relating thereto is pending before the West Bengal Taxation Tribunal established under section 3 of the West Bengal Taxation Tribunal Act, 1987 (hereinafter referred to as the Tribunal), or the High Court, or the Supreme Court, on [the 30th day of September, 2016 relating to any period upto the 31st day of March, 2014] [Substituted by Act No. 11 of 2016, dated 30.12.2016.] then, notwithstanding anything contained elsewhere in this Act, -(a)such arrear tax, penalty or interest due shall be deemed to be "arrear tax, penalty or interest in dispute" within the meaning of clause (a) of sub-section (1) of section 2, and(b)such pending application shall be deemed to be a "revision pending" under this Act for the purpose of settlement of arrear tax, penalty or interest in dispute referred to in clause (a),]and such applicant shall be eligible to make an application for settlement of the arrear tax, penalty or interest in dispute, as referred to in clause (a), in accordance with the provisions of this Act and the rules made thereunder:Provided that the provisions of this sub-section shall apply only where, before making an application under this sub-section, the applicant obtains the leave of the Tribunal or the High Court or the Supreme Court, as the case may be, for settlement of such dispute under this Act.[* * * * *] [[Proviso first inserted by W.B. Act 11 of 2003, then omitted by W.B. Act 3 of 2007. The proviso was as under :-'Provided further that after the 31st day of January, 2007, the provisions for this sub-section shall not apply to the application pending before the Tribunal or the High Court or the Supreme Court, where such application has been made to the Tribunal, or the High Court or the Supreme Court as the case may be, on or before the 31st day of August, 2006.'.]](2)Notwithstanding anything contained in sub-section (1), an applicant shall not be eligible to make an application for settlement of arrear tax, penalty or interest in dispute, as referred to in clause (a) of that sub-section, in respect of any period under the relevant Act for which the revision pending, as referred to in clause (b) of that sub-section, has been heard in part, or has been heard but judgement has not been delivered, before the coming into force of this section, by the Tribunal or the High Court or the Supreme Court, as the case may be.Explanation. - For the purposes of this sub-section, no revision pending shall be deemed to have been heard in part only by

reason of any interim order having been passed by the Tribunal or the High Court or the Supreme Court, as the case may be, in connection with such revision pending.

5. Application by the applicant.

(1)[(a) An application for the purpose of section 4 shall be made to the designated authority by an applicant in such form, and in such manner, as may be prescribed, on or before the [31st day of January, 2017] [Sub-Section (1) renumbered as clause (a) and clause (b) inserted by W.B. Act 14 of 2000.] or by such later date as the State Government may, by notification in the Official Gazette, specify from time to time.](b)[An application for the purpose of section 4A shall be made to the designated authority by an applicant in such form, and in such manner, as may be prescribed, on or before the [31st day of January, 2017] [Sub-Section (1) renumbered as clause (a) and clause (b) inserted by W.B. Act 14 of 2000.] or by such later date as the State Government may, by notification in the Official Gazette, specify from time to time.](2)A separate application shall be made by an applicant for different periods under each of the relevant Acts.(3)The applicant shall send a copy of the application made under sub-section (1) to the appellate authority or the revisional authority before whom the appeal or revision, as the case may be, is pending, within seven days from the date of making such application before the designated authority:[Provided that in a case where the provisions of sub-section (4) apply, the application shall also send a copy of the application made under sub-section (1) to the revisional authority before whom the revision is pending for the same period.] [Proviso inserted by W.B. Act 15 of 1999.](4)[Where an appeal is pending before the appellate authority, and a revision is pending before the revisional authority, in respect of one and the same period, an application referred to in sub-section (1) shall only be made in respect of the pending appeal.] [Sub-Section (4) inserted by W.B. Act 15 of 1999.](5)[Where a certificate of settlement has not yet been issued under sub-section (1) of section 8 in respect of any application under sub-section (1) made before coming into force of this sub-section in respect of any period, the applicant may, on fulfilling the conditions and in the manner prescribed, apply for settlement of arrear tax, penalty or interest in dispute in respect of such period:] [Sub-Section (5) inserted by W.B. Act 11 of 2003.]Provided that upon making of an application under this sub-section, the application made before coming into force of this sub-section, shall be deemed to have been withdrawn by the applicant.

6. [Payment of amount payable by applicant. [[Section 6 Substituted by W.B. Act 11 of 2003, which was earlier as under:

'6. Determination of amount payable by the applicant. - (1) The designated authority shall, ordinarily within sixty days from the date of receipt of an application referred to in section 5, verify the correctness of the particulars furnished in such application with reference to the connected records available with the assessing authority, appellate authority or any other authority with whom such records may be available, as the case may be.(2)Where the designated authority is satisfied about the correctness of the particulars set forth in the application made by an applicant, he shall determine, by an order in writing, the amount payable by the applicant for the purpose of settlement of arrear tax, penalty or interest in dispute at the rate specified in section 7:Provided that while determining the amount payable by the applicant for the purpose of settlement of arrear tax, penalty

or interest, the designated authority shall take into account any amount of arrear tax, penalty or interest in dispute, paid by the applicant before making an application under section 5 and deduct the amount so paid by him from the amount determined as payable by the applicant under this sub-section: Provided further that the amount payable by an applicant as determined under this sub-section shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, then, 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. (3) After the amount payable by an applicant is determined under sub-section (2), the designated authority shall, subject to such conditions and restrictions (including payment by instalments) as may be prescribed require the applicant, by a notice in such form as may be prescribed, to pay the amount so determined under sub-section (2) within thirty days from the date of receipt of such notice by the applicant or within such further time as may be prescribed: Provided that no notice shall be issued by the designated authority where the application made by an applicant relates only to an arrear penalty in dispute. (4) The amount required to be paid in terms of the notice issued under sub-section (3) shall be paid into the Reserve Bank of India or any appropriate Government Treasury in such manner as is specified in the relevant Act. (5) A copy of duly receipted challan showing payment of the amount specified in the notice issued under sub-section (3) shall be furnished to the designated authority by the applicant within fifteen days, or within such further time as the designated authority may allow, of making payment in accordance with the provisions of sub-section (4).'] (1) Save as otherwise provided in the proviso to sub-section (1) of section 8, every applicant shall, before making the application under section 5 for settlement of any arrear tax, penalty or interest in dispute for any period, pay the amount calculated at the rate specified in section 7 into the Reserve Bank of India or any appropriate Government Treasury in such manner as is specified in the relevant Act. (2) A copy of duly receipted challan showing payment of the amount payable for settlement shall be furnished to the designated authority along with the application made under section 5.]

7. Rate applicable in determining the amount payable.

- [(1) The amount payable by an applicant for settlement of dispute under this Act shall be determined [* * * * *] [Sub-Section (1) Substituted by W. B. Act 11 of 2003, which was earlier as under: '(1) The amount payable by an applicant for settlement of dispute under this Act shall be determined under sub-section (2) of section 6 - (a) where the dispute relates to any arrear tax in dispute, at the rate of thirty-three per centum of the arrear tax in dispute; or (b) where the dispute relates to any arrear interest in dispute, at the rate of five per centum of the arrear tax in dispute for the period to which such interest relates, or the amount of the arrear interest in dispute, whichever is less.'], - (a) [where the dispute relates to arrear tax in dispute and the application under section 5 is made on or before the 31st day of March, 2009, at the rate specified in column (3) of the amount of arrear tax in dispute as mentioned in column (2) against the serial No. as mentioned in column (1) of the Table below or the actual amount paid in respect of such arrear tax in dispute, whichever is higher:] [Clause (a) first Substituted by W.B. Act 11 of 2003, then again Substituted by W.B. Act 18 of 2006, thereafter Substituted by W.B. 3 of 2007 and finally Substituted by W.B. Act 1 of 2008. Previous clause (a) was as under: - '(a) where the dispute relates to any arrear tax in dispute and the application under section 5 is made on or before the 30th day of June, 2007 at the rate of forty-six per centum of the arrear tax in dispute, whichever is higher; or'.]] Table

Serial No.	Amount of arrear tax in dispute	Rate
(1)	(2)	(3)
1.	Where the amount does not exceed Rs. 2,00,000	Twenty-five per centum
2.	Where the amount exceeds Rs. 2,00,000 but does not exceed Rs. 10,00,000	Rs. 50,000 plus twenty-eight per centum of the amount by which the amount of arrear tax in dispute exceeds Rs. 2,00,000
3.	Where the amount exceeds Rs. 10,00,000 but does not exceed Rs. 50,00,000	Rs. 2,74,000 plus thirty-one per centum of the amount by which the amount of arrear tax in dispute exceeds Rs. 10,00,000
4.	Where the amount exceeds Rs. 50,00,000 but does not exceed Rs. 1,00,00,000	Rs. 15,14,200 plus thirty-four per centum of the amount by which the amount of arrear tax in dispute exceeds Rs. 50,00,000
5.	Where the amount exceeds Rs. 1,00,00,000 but does not exceed Rs. 2,00,00,000	Rs. 32,14,000 plus thirty-seven per centum of the amount by which the amount of arrear tax in dispute exceeds Rs. 1,00,00,000
6.	Where the amount exceeds Rs. 2,00,00,000;	Rs. 69,14,000 plus forty per centum of the amount by which the amount of arrear tax in dispute exceeds Rs. 2,00,00,000; or

(b)[where the dispute relates to any arrear interest in dispute, -] [[Clause (b) Substituted by W.B. Act 1 of 2008, which was earlier as under :-'(b) where the dispute relates to any arrear interest in dispute and -(i)there is also some arrear tax in dispute for the period to which such interest relates, at the rate of five per centum of the arrear tax in dispute, whichever is less;(ii)where is no arrear tax in dispute for the period to which such interest relates, at the rate five per centum of the arrear interest in dispute.']](i)at the rate of two per centum of the arrear interest in dispute, where the application under section 5 is made to the designated authority between the 1st day of April, 2008 and the 30th day of September, 2008;(ii)at the rate of three per centum of the arrear interest in dispute, where the application under section 5 is made to the designated authority between the 1st day of October, 2008 and the 31st day of December 2008;(iii)at the rate of five per centum of the arrear interest in dispute, where the application under section 5 is made to the designated authority between the 1st day of January, 2009 and the 31st day of March, 2009.(2)The arrear penalty in dispute shall be waived.

8. Settlement of dispute and issue of certificate of settlement.

- [(1) The designated authority shall, within seven working days of the receipt of the application under section 5 along with the copy of duly receipted challan showing payment of the amount payable for settlement, issue a provisional certificate of settlement to the applicant in such form as may be prescribed:Provided that where no payment is required to be made by an applicant, the designated authority shall issue the provisional certificate of settlement within [fifteen working days] [[Sub-Section (1) Substituted by W.B. Act 11 of 2003, which was earlier as under: '(1) The

designated authority, in being satisfied about the payment of the amount which the applicant is required to pay by virtue of the notice under sub-section (3) of section 6, shall settle the dispute in respect of which an application has been made under sub-section (1) of section 5 and issue a certificate of settlement for such dispute, in such form as may be prescribed, to the applicant, ordinarily within thirty days of receipt of the copy of duly receipted challan in support of payment made by the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of such arrear tax, penalty or interest dispute: Provided also that in a case where the provisions of sub-section (4) of section 5 apply and a certificate of settlement is issued under this sub-section in respect of appeal pending for a period, the revision pending for such period shall also be deemed to have been settled upon the issue of such certificate of settlement. ']] of the receipt of the application under section 5, notwithstanding that no receipted copy of challan has been furnished along with the application under section 5:] Provided further that the designated authority may, within a period of three months following the month in which the application under section 5 is made, verify the correctness of the declaration made and the amount paid on the basis of such declaration, and if the designated authority finds any discrepancy in the declaration or finds any short payment of the amount payable for settlement, such authority shall issue a notice to the applicant asking him to rectify the discrepancy or to make payment of the amount short paid: Provided also that, where -(a) the notice referred to in the second proviso is not issued, the provisional certificate of settlement issued to the applicant shall, on the expiry of the period referred to in the proviso, become final and the dispute in respect of which the application has been made shall be deemed to have been settled for the purposes of this Act and the relevant Act: (b) the notice referred to in the second proviso is issued, the dispute shall not be deemed to have been settled until the discrepancy or the short payment, mentioned in that notice is rectified or made to the satisfaction of the designated authority and the designated authority signifies such satisfaction to the applicant in writing: Provided also that in a case where the provisions of sub-section (4) of section 5 apply and a provisional certificate is issued under this sub-section in respect of the appeal pending for a period the revision pending for such period shall also be deemed to have been settled under clause (a) of the third proviso, on expiry of the period mentioned in the second proviso. (2) The designated authority, for reasons to be recorded in writing, may refuse to settle a dispute, or rectify or amend a certificate of settlement issued under sub-section (1): Provided that no order adversely affecting the applicant shall be passed without allowing the applicant a reasonable opportunity of being heard.

9. Bar on reopening of settled cases.

- A certificate of settlement issued under sub-section (1) of section 8 shall be conclusive as to the dispute to which it relates, and no matter covered by such certificate of settlement shall be reopened in any proceeding of review or revision, or in any other proceeding, under the relevant Act.

10. Withdrawal of appeal and revision.

- Notwithstanding anything to the contrary contained in any provision in the relevant Act, the appeal or revision for any period pending before the appellate or the revisional authority, [or the Tribunal or the High Court or the Supreme Court] [Words inserted by W.B. Act 14 of 2000.], as the

case may be, in respect of which a certificate of settlement is issued under sub-section (1) of section 8, shall be deemed to have been withdrawn by the applicant from the date of making of the application by the applicant under sub-section (1) of section 5; [Provided that where the provisions of sub-section (4) of section 5 apply, and a certificate of settlement is issued under sub-section (1) of section 8, in respect of the appeal pending for any period, the revision pending for such period shall also be deemed to have been withdrawn by the applicant upon the issue of such certificate of settlement from the date of making of the application by the applicant under sub-section (1) of section 5.] [Proviso inserted by W.B. Act 15 of 1999.]

11. Appellate and revisional authority not to proceed in certain cases.

- No appellate authority or revisional authority shall proceed to decide any appeal or revision [or both, as the case may be,] [Words inserted by W.B. Act 15 of 1999.] under the relevant Act relating to any period in respect of which an application has been made by an applicant under section 5: Provided that such authority shall proceed to decide such appeal or revision [or both, as the case may be,] [Words inserted by W. B. Act 15 of 1999.] for such period in accordance with the provisions of the relevant Act, if a certificate of settlement referred to in sub-section (1) of section 8 is refused to the applicant by an order passed by the designated authority in writing under sub-section (2) of section 8.

12. Revocation of certificate of settlement.

(1) Notwithstanding anything contained in section 9 or section 10, where it appears to the designated authority that an applicant has obtained the benefit of settlement under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the certificate of settlement issued under sub-section (1) of section 8. (2) If a certificate of settlement is revoked under sub-section (1), [the appeal or revision or both,] [Words Substituted for the words 'the appeal or revision,' by W.B. Act 15 of 1999.] as the case may be, under the relevant Act, covered by such certificate of settlement, shall, notwithstanding the provision of section 9 or section 10, stand revived or reinstated immediately upon such revocation, [and such appeal or revision or both, as the case may be,] [Words Substituted for the words 'and such appeal or revision,' by W.B. Act 15 of 1999.] shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrear tax, penalty or interest in dispute [in such appeal or revision or in both, as the case may be,] [Words Substituted for the words 'in such appeal or revision,' by W.B. Act 15 of 1999] has ever been made under this Act.

13. Information to be sent to the authorities under the relevant Act.

- The designated authority shall keep the assessing authority, the appellate authority or the revisional authority, who for the time being, has jurisdiction over the applicant under the relevant Act, informed, inter alia, of -(a) Making or an application by an applicant under section 5; (b) passing of any order by the designated authority under section 8; or (c) revocation of any certificate of settlement under section 12, in such form and manner, and within such time, as may be prescribed.

14. No refund of amount paid under the Act.

- Any amount paid by an applicant under section 6 shall not be refundable under any circumstances; Provided that in the case of revocation of a certificate of settlement in accordance with section 12, the amount paid by the applicant under section 6 shall be treated to have been paid under the relevant Act for the period for which the certificate of settlement has been revoked.

15. Power of the State Government to make rules.

- The State Government may, by notification published in the Official Gazette, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act, and such rules may provide for all or any of the matters which, under any provision of this Act, is required to be prescribed or to be provided by rules.

16. Power to remove difficulties.

- If any difficulty arises in giving effect to any or the provisions of this Act, the State Government may, by order not inconsistent with the provisions of this Act, remove the difficulty: Provided that no such order shall be made after the expiry of two years from the date of coming into force of this Act.