

ANDHRA PRADESH SALES TAX SETTLEMENT OF DISPUTES RULES, 2001

CONTENTS

1. Short title and commencement
2. Definitions
3. Competent authority
4. Application for settlement
5. Determination of the amount payable by the applicant
6. Certificate of settlement
7. Refusal for settlement of dispute
8. Revocation of certificate of settlement

ANDHRA PRADESH SALES TAX SETTLEMENT OF DISPUTES RULES, 2001

In exercise of the powers conferred by sub-section (1) of Section 15 of the Andhra Pradesh Sales Tax (Settlement of Disputes) Ordinance, 2001 (Andhra Pradesh Ordinance No.3 of 2001), the Governor of Andhra Pradesh hereby makes the following Rules

1. Short title and commencement :-

(1) These rules may be called the Andhra Pradesh Sales Tax Settlement of Disputes Rules, 2001.

(2) They shall come into force at once.

2. Definitions :-

In these rules unless the context otherwise requires_

(a) "Ordinance" means the Andhra Pradesh Sales Tax Settlement of Disputes Ordinance, 2001.

(b) "Relevant Act" means :

(i) The Andhra Pradesh General Sales Tax Act, 1957 (Act No.VI of 1957);

(ii) The Central Sales Tax Act, 1956 (Act No.74 of 1956);

(iii) The Andhra Pradesh Entertainment Tax Act, 1939 (Act No.10 of 1939) and also include the rules made or notifications issued

thereunder.

(c) "Applicant" means a registered or unregistered dealer as defined under the relevant Act and shall also include a proprietor, owner or a lessee of a cinema theatre or any other place of entertainment under the relevant Act.

(d) "Form" means a form appended to these rules.

(e) "Arrear tax, penalty and interest in dispute" means

(i) Tax by whatever names it is called payable by an applicant under the relevant Act.

(ii) Penalty payable by an applicant under the relevant Act.

(iii) Interest payable by an applicant under the relevant Act. Which as the case may be is rupees one crore and below in an assessment year and is in dispute in any appeal/revision pending before any Appellate/Revisional Authority as on 31-3-2001 under the relevant Act and not paid by the applicant as on 31-3-2001 the tax or penalty or interest payable by the applicant under the relevant Act which will arise on confirmation of the show-cause notice issued to the applicant as on 31-3-2001 in connection with any pending revision before any authority under the relevant Act.

(f) Unless there is anything repugnant in the subject or context all the expressions used in these rules, which are not defined, but defined in the relevant Act or the rules made or notifications issued under the relevant Act shall have the same meaning as in the relevant Act or rules made or notifications issued thereunder.

3. Competent authority :-

The Deputy Commissioner of Commercial Taxes shall be the competent authority as specified in Section 7 of the ordinance in respect of any applicant within their jurisdiction.

4. Application for settlement :-

(1) An application made under sub-section (1) of Section 10 of the Ordinance shall be in Form-I and in triplicate.

(2) The application shall be accompanied by documentary evidence to show that the Appeal/Revision relating to the arrear Tax, Penalty or interest for the settlement of which the application has been made is pending before the Appellate or Revisional Authority concerned as on 31-3-2001 and not disposed of as on the date of

filing application in Form-I by the applicant.

(3) The applicant shall make a declaration in the application stating that it is agreeable to him to treat the appeal or revision pending before any Appellate/Revisional Authority as the case may be for the settlement of which the application has been made shall be withdrawn immediately after settlement of the dispute by the competent Authority under sub-section (1) of Section 12 of the Ordinance.

(4) The applicant shall submit a separate application for each assessment year under the relevant Act.

(5) The application shall be accompanied by a treasury receipt or a demand draft of a Scheduled Bank drawn in favour of the assessing authority in support of having paid the fee of Rs.100/- (Rupees One hundred only).

(6) The application shall be sent to the competent authority either by post or shall be presented in person.

(7) The competent authority on receipt of the application shall acknowledge the same on the triplicate of the application.

(8) If the competent authority finds any defect or omission in the application he shall forthwith return the same for rectification of the defect or omission and permit to resubmit the same within ten (10) days from the date of receipt of the application.

(9) The competent authority may call for the assessment file, appeal or revision and other records from such authorities which he thinks necessary to verify the correctness of the application.

(10) The competent authority shall send the duplicate copy of the application to the appellate authority or revisional authority as the case may be and also intimate the fact of receiving the application to the assessing officer concerned.

5. Determination of the amount payable by the applicant :-

(1) The competent authority shall determine the amount payable by the applicant under sub-section (2) of Section 11 of the ordinance after verification of necessary records and pass orders in Form-II.

(2) A copy of the order passed in Form II shall be sent to the applicant, the assessing Officer and appellate authority or revisional

authority concerned within seven days of passing such order.

(3) The amount payable by an applicant shall be determined as specified hereunder.

(a) Phase-I :-The following rates shall be applicable in determining the amount payable by the applicants who file their applications during the period from 1-8-2001 to 31-8-2001.

(i) Where the dispute relates to any arrear tax, at the rate of fifty percentum of the arrear tax in dispute.

(ii) where the dispute relates to any arrear penalty at the rate of ten percentum of the arrear penalty in dispute.

(iii) Where the dispute relates to any arrear interest at the rate of ten percentum of the arrear interest in dispute.

(b) Phase-II :-The following rates shall be applicable in determining the amount payable by the applicants who file their applications during the period from 1-9-2001 to 30-9-2001.

(i) Where the dispute relates to any arrear tax, at the rate of sixty percentum of the arrear tax in dispute.

(ii) Where the dispute relates to any arrear penalty, at the rate of twenty percentum of the arrear penalty is dispute.

(iii) where the dispute relates to any arrear interest at the rate of twenty percentum of the arrear interest in Dispute.

(4) If an applicant remits any amount after 1-4-2001 till the date of filing of application in Form-I towards the arrear tax, penalty or interest in dispute, the same shall be reduced from the amount of 50% or 60% tax and/or 10% or 20% penalty or interest determined by the competent authority as payable by the applicant as per the provisions of sub-rule (3) and the applicant is required to pay only the balance amount of the disputed arrear tax, penalty or interest for settlement of the dispute. If the applicant paid any amount which is more than 50% of the disputed amount, no refund will be given by the department.

(5)

(a) The amount determined as payable by the applicant by the competent authority shall be paid in one lump sum, _

(i) by remittance in cash into the Government treasury; or

(ii) by means of a crossed demand draft/Bankers cheque in favour of the assessing officer concerned.

(b) The applicant shall intimate the fact of such payment to the competent authority along with proof thereof within seven days of making such payment.

6. Certificate of settlement :-

(1) The certificate of settlement under sub-section (1) of Section 12 of the ordinance shall be in Form-III setting therein the particulars of arrears, the sum payable under the ordinance after determination towards full and final settlement of arrears and the sum waived.

(2) The Certificate of settlement shall be communicated to the applicant by the applicant's assessing authority, appellate authority or revisional authority within fifteen days from the date of passing of such order.

(3) The assessing officer on receipt of the certificate of settlement shall eliminate the arrears that were waived by the competent authority.

(4) The appellate authority or revisional authority on receipt of the certificate of settlement shall treat the appeal or revision as withdrawn or dropped as the case may be and pass orders to that effect.

7. Refusal for settlement of dispute :-

(1) The order of refusal to settle the dispute under sub-section (2) of Section 12 of the ordinance, shall be in Form IV.

(2) The order of refusal shall be communicated to the applicant by assessing authority, appellate authority or revisional authority within fifteen days from the date of passing of such order.

(3) On receipt of the order of refusal to settle the dispute from the competent authority, the appellate authority or the revisional authority shall proceed with the appeal or revision in accordance with the provisions of the relevant Act.

8. Revocation of certificate of settlement :-

(1) The revocation of certificate of settlement under Section 14 of the ordinance, shall be in Form V.

(2) The order of revocation shall be communicated to the applicant, assessing authority, appellate authority or revisional authority within fifteen days from the date of passing of such order.

(3) On revocation of certificate of settlement, the appeal or revision as the case may be whichever is made under the relevant Act, covered by such certificate of settlement shall stand revived immediately upon such revocation and such appeal or revision 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 has ever been made under these rules.

(4) On revocation of a certificate of settlement, the amount paid by the applicant under sub-section (3) of Section 11 of the Ordinance shall be treated to have been paid under the relevant Act for the assessment year for which the certificate of settlement has been revoked.

(5) Any amount paid by an applicant under sub-section (3) of Section 11 of the Ordinance shall not be refundable under any circumstances. Separate Application should be filed for each Assessment Year