Tax Practitioners Association Indore

Webinar

Birds Eye View on VAT Samadhan Scheme 2020

Chairman of the Session

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Extent/Scope of the scheme

a) The benefit of the scheme will be available for following Acts, Administered by Commercial Tax Deptt. of M.P.

1 The M.P. General Sales Tax Act, 1958 ; or

2 The M.P. Vanijiyik Kar Adhiniyam, 1994; or

3 M.P. Vat Act, 2002; or

Extent/Scope of the scheme

4 Central Sales Tax Act, 1959; or

5 M.P. Hotel Tatha Vas Me Vilas par Kar Act,1988; or

6 M.P. LEAT/Luxury/Entertainment Tax Act, 2011

and includes the rules made or notification issued thereunder;

Extent/Scope of the scheme

b) The benefit of the scheme **will NOT be provided** for following Acts administered by Commercial tax Deptt.

1 Entry Tax Act, 1976

2 Professional Tax Act, 1995

Type of Arrears Covered

c) The old arrears may includes the following demand created by statutory order passed in Assessment and Re-assessment proceedings under relevant Acts.

1 Tax

2 Interest

3 Penalty

Type of Arrears Covered

d) Which types of old arrears will be covered under settlement scheme.

1 Disputed Tax, Interest and Penalty,

- For which litigation is filed before appellate authority/forum.
- But the arrear against which Govt. filed any case, on or before 26-09-2020 will not be covered under the scheme.

Type of Arrears Covered

2 Un-disputed Tax, Interest and Penalty.

- The amount which is not disputed.
- Which is not related to statutory certificate/ declaration.

Type of Arrears Covered

3 Tax & Interest imposed on non-submission of statutory certificate/declaration such as :

- C-Form,
- F-Form,
- H-Form,
- E-1 Forms

Arrears Not Covered in Scheme

g) The old arrears which are NOT COVERED under the scheme :-

1 If the demand of old arrears was created in pursuance of any SEARCH & SEIZURE CONDUCTED, under any relevant Act, on the business premises of the dealer/person.

Amount Covered in Arrears

2 If the demand of old arrears, was created in pursuance of movement of goods with a view to evade payment of tax under the relevant Act.

3 If the demand of old arrears is related to deferment of tax scheme issued by State Government under relevant Act from time to time.

Amount Covered in Arrears

e) Which amount will be considered for settlement of old arrears.

1 Old arrears which was created under relevant Act.

2 Which is due to payment for the period ended on or before 31.03.2016.

Who can apply for Settlement

f) The benefit of the scheme will be provided to following person.

1 The person in whose Assessment and Re-assessment cases, demand was created by Officer of the CT Department.

Who can apply for Settlement

2 Any other person,

- Who is duly authorised by the dealer (in whose case demand was created) &
- Who is willing to settle the amount of old arrears
- For availing the benefits of settlement scheme.

Settlement Amount

h) What is the settlement amount.

- The settlement amount, is the amount which is to be deposited along with application for settlement, as calculated according to the table given in the scheme.

- Additional settlement to be paid
- In pursuance of notice issued by competent authority, as per section 6(2) of the scheme.

Settlement Amount:- Treatment of composite amount deposited before filing application

3 In case any amount was deposited towards Tax/interest /Penalty then the benefit of settlement will be provided

4 On the net amount of Tax, Interest & Penalty due on the date of filing of application.

5 If it is not possible to locate the bifurcation of the composite amount deposited by the applicant,

6 Then it shall be adjusted proportionately.

Settlement of separate Interest & Penalty orders

Settlement of independent order of penalty or interest:

- In case the application is being filed against an independent order of penalty or interest
- The same shall be considered only
- If the relevant tax demand has been paid or
- Settlement order is passed under this ordinance.

Example - Calculation of Settlement Amount

Calculation of Samadhan Rashi (Disputed in 1st Appeal)

Vat	(Tax, Interest & Penalty Shown Separately in Order)				
S.No.	Particular	Tax Amount	Interest Amount	Penalty Amount	Total Amount
1	Tax , Interest & Penalty Imposed	550000	80000	20000	650000
2	Less:- ITR	-85000	0	0	-85000
3	Less:- Deposit Along With Returns	-150000	-5000	0	-155000
4	Extra Tax Demand As per Assessment Order	315000	75000	20000	410000

Case Pending in 1st Appeal

S.No.	Particular	Tax Amount	Interest Amount	Penalty Amount	Total Amount
4	Extra Tax Demand As per Assessment Order & Balance Amount Payable on the date of application	315000	75000	20000	410000
5	Samadhan Rashi to be Deposit	157500 50% of Tax	3750 5% of Int	1000 5% of Penalty	162250
6	10% Amt. Deposited While Filing Appeal	-31500	-7500	-2000	-41000
	Balance Samadhan Rashi Payable	126000	-3750	-1000	121250
	Relief Under Scheme	157500	67500	18000	243000

Example - Calculation of Settlement Amount

Calculation of Samadhan Rashi (Disputed in 2nd Appeal)

Vat	(Tax, Interest & Penalty Shown Separately in Order)				
S.No.	Particular	Tax Amount	Interest Amount	Penalty Amount	Total Amount
1	Tax , Interest & Penalty Imposed	550000	80000	20000	650000
2	Less:- ITR	-85000	0	0	-85000
3	Less:- Deposit Along With Returns	-150000	-5000	0	-155000
4	Extra Tax Demand As per Assessment Order	315000	75000	20000	410000

Case Pending in 2^{nd} Appeal

S.No.	Particular	Tax Amount	Interest Amount	Penalty Amount	Total Amount
4	**Extra Tax Demand As per Assessment Order**	**315000**	**75000**	**20000**	**410000**
5	**10% Amt. Deposited While Filing Appeal**	-31500	-7500	-2000	-41000
6	**Balance Before Disposal of 1st Appeal**	**283500**	**67500**	**18000**	**369000**
7	Relief in 1st Appeal	-15000	-10000	-5000	-30000
8	**Balance Amount Payable (Case pending in 2nd Appeal)**	**268500**	**57500**	**13000**	**339000**

Case Pending in 2nd Appeal

S.No.	Particular	Tax Amount	Interest Amount	Penalty Amount	Total Amount
8	Balance Amount Payable (Case pending in 2nd Appeal)	268500	57500	13000	339000
9	Samadhan Rashi to be Deposit	134250 50% of Tax	2875 5% of Int	650 5% of Penalty	137775
10	Less :- Amt. Dep. While Filing 2nd Appeal	-53700 20% dep. sec.46(6)	-11500 20% dep. sec.46(6)	-2600 20% dep. sec.46(6)	-67800 20% dep. sec.46(6)
11	Balance Samadhan Rashi Payable (9-10)	80550	-8625	-1950	80550
12	Relief Under Scheme	134250	46000	10400	190650

Example - Calculation of Settlement Amount

Calculation of Samadhan Rashi (Un-Disputed Matter)					
Vat	(Tax, Interest & Penalty Shown Separately in Order)				
S.No.	Particular	Tax Amount	Interest Amount	Penalty Amount	Total Amount
1	Tax , Interest & Penalty Imposed	550000	80000	20000	650000
2	Less:- ITR	-85000	0	0	-85000
3	Less:- Deposit Along With Returns	-150000	-5000	0	-155000
4	Extra Tax Demand As per Assessment Order	315000	75000	20000	410000

S.No.	Particular	Tax Amount	Interest Amount	Penalty Amount	Total Amount
4	**Extra Tax Demand As per Assessment Order**	**315000**	**75000**	**20000**	**410000**
5	**Samadhan Rashi to be Deposit (100% of tax & 10% of Int & Penalty)**	**315000** **100% of arrear of tax**	**7500** **10% of arrear of Interest**	**2000** **10% of arrear of Penalty**	**324500**
	Relief Under Scheme	**0**	**67500**	**18000**	**85500**

Example - Calculation of Settlement Amount

Settlement Amount of Tax-For disputed Certificates / Declarations										
S.No.	Particulars	Tax Amount								Int.
1	Demand after Assessment	100	100	100	100	100	100	100	100	40
2	Less : Tax on Certificates / Declarations received after Assessment (till the date of application)	0	-10	-30	-50	-70	-80	-90	-100	0
3	Balance (1-2)	100	90	70	50	30	20	10	0	40
4	Amount paid after Assessment @ 10%	-10	-10	-10	-10	-10	-10	-10	-10	-4
5	Balance payable (refund) after Appeal / Revision / 34-A (3-4)	90	80	60	40	20	10	0	-10	36
6	Settlement Amount Higher of 3 or 4	100	90	70	50	30	20	10	10	4
7	Extra Amount payable, if opt for Settlement Scheme (6-5)	10	10	10	10	10	10	10	20	-32

Settlement Amount of Tax-For disputed Certificates/ Declarations

S.No.	Particulars	Tax Amount								Int.
1	Demand after Assessment	100	100	100	100	100	100	100	100	40
2	Less : Tax on Certificates / Declarations received after Assessment	0	-10	-30	-50	-70	-80	-90	-100	0
3	Balance (1-2)	100	90	70	50	30	20	10	0	40
4	Amount paid after Assessment @ 25%	-25	-25	-25	-25	-25	-25	-25	-25	-10
5	Balance payable (refund) after Appeal / Revision / 34-A (3-4)	75	65	45	25	5	-5	-15	-25	30
6	Settlement Amount Higher of 3 or 4	100	90	70	50	30	25	25	25	4
7	Extra Amount payable, if opt for Settlement Scheme (6-5)	25	25	25	25	25	30	40	50	-26

Procedure for apply

i) Procedure for submission of application for settlement of old arrears :-

- The application for settlement in Form No. 1
- To be filed, along with relevant documents
- Within 120 days from 26.09.2020.
- The Govt may extend the date in public interest.

Procedure for apply

- The applications are to be submitted separately for each of the demands under each relevant Act.

- The applicant has to sign a declaration (enclose in the Form-1) certifying that the information submitted in the application for settlement are true the best of the knowledge and belief.

Procedure for apply

- Document to be submitted with application
  - Copy of assessment/re-assessment order creating extra tax demand against which the application for settlement is filed.

Procedure for apply

- Copy of self-attested Appeal/Revision/Other Judicial order, allowing any partial relief in tax/interest/penalty.
- Copy of Self-attested challan deposited after passing of assessment/penalty orders.
- Challan of settlement amount paid electronically.
- Any other relevant documents.

Procedure for apply

- The application for settlement is to be filed before :-
  - If the amount not exceeded Rs. 5 lakh

    – before the jurisdictional ACTO.
  - If the amount not exceeded Rs. 15 lakh

    – before the jurisdictional CTO.
  - For any amount (above Rs. 15 lakh)

    – before the jurisdictional AC.

iv) Procedure for apply-- Condition of Settlement :-

- **The applicant has to make disclosure**
- **About any pending appeal, revision or any petition**
- **Before any authority or forum with respect to old arrears.**
- **The applicant has to also furnish and undertaking that after availing the benefits of settlement,**
- **He** shall **withdraw** **such pending appeal.**

Disposal of Application

- If the application is found incomplete or incorrect,
- The competent authority shall issue notice within 30 days of filling of application to rectify the mistake
- Within 7 days of service of such notice.

Disposal of Application

- If the applicant fails to comply with the notice U/S 6 (2) correcting the defect or making the payment of additional settlement amount,
- Then the competent authority may
- For reason to be recorded in writing & after allowing opportunity
- Reject the application by an order in writing.

Disposal of Application– issuance of settlement order

- Issuance of Settlement Order in From-3
- If the competent authority is satisfied about all the conditions,
- He will pass the settlement order within 75 days of filling application
- In which he will specify the amount of settlement &
- The amount of weaver of old arrear.

Withdrawal of appeal/revision/petition :-

- After settlement order has been passed,
- The applicant shall produce application before appellate/revision/or any other authority
- For withdraw of such proceedings
- Within 7 days of receiving of settlement order.

Withdrawal of appeal/revision/ Petition –

Fails to submit the Evidence of submission of withdrawing letter :

- In case the applicant fails to produce evidence of submission of withdrawing letter–
- The settlement order shall be liable to be revoked
- By the competent authority
- After allowing opportunity in this regard.

Disposal of Application

Relief from any further action after settlement

- The applicant shall be deemed to have discharged his liability
- To make payment of the old arrear &
- No further action of imposing penalty, interest shall be taken under the relevant Act
- On the basis of amount deposited & weaved as per settlement order.

Challenging the statutory order:

- The applicant shall have no right
- To challenge the settlement order in any appeal or forum
- The applicant shall also not eligible for refund of any amount deposited in settlement of arrears.

Adjustment of amount deposited in case of rejection of settlement application:

- In case the application for settlement is rejected,
- The settlement/additional settlement amount
- Shall be adjusted against
- The old arrears and
- Shall not be refunded to the applicant.

Stay of recovery proceedings

- If the Application for settlement is filed against any old arrears
- Then the recovery of such old arrear shall remain stayed
- Till the final disposal of settlement application.

Stay of recovery proceedings.....Contd.

- In case of rejection of application due to non submission of reply of notice issued u/s 6(2) for removing defects and making additional payment, the stay of recovery shall continue :
  - Till the period of 30 days (of received of rejection letter) of filling of appeal u/s 8 not expired.
  - Till the rejection of appeal, if the appeal is filed.
  - Till the final disposal of the application if the case is remanded u/s 8(4).

Rectification of Settlement order

iii) Rectification of Mistake of settlement order :

- On an application submitted by the applicant within 30 days of receipt of settlement order
- The competent authority may rectifying the settlement order correcting any clerical or arithmetical mistake, Omissions
- Within 90 days of receipt of application

- Rectification By Competent Auth.

  ...On his own motion or on direction of CCT

- Can rectify S.O Within 90 days of passing of such order,
- If the rectification adversely affects the applicant
- The officer has to issue the notice in Form-4 & pass the order after allowing proper opportunity of being heard.

Appeal :-

- The appeal against order passed under proviso to section 6(2) shall lie to the divisional D.C. having jurisdiction over the case.

Appeal ….. Contd.

- The appeal against following orders may be filed within 30 days from service of such order:

- Order Rejecting the application of settlement passed under proviso to 6 (2)

- (rejection of application due to non-submission of reply of notice issued to correct the defects and to make payment of additional amount of settlement.)

Appeal ….. Contd.

- Appeal does not lies against the following orders
- CCT'S order to transfer of settlement application u/s 3(3)
- Against order of settlement passed u/s 6(3)
- Order of rejection of settlement application which was remanded u/s 8(4)
- By appellate authority

Appeal ….. Contd.

- **Disposal of appeal :-** Within 60 days from the date of filling.

- The appellate authority may
- Set aside the order of rejection of the application
- Remand the application to the competent authority for reconsideration.
- Reject the appeal –

Order passed by appellate authority shall be final.

Revocation of settlement order :-

- If it appears to the competent authority that the applicant obtain the benefit of settlement:–
  - By suppressing any material information or particular or
  - Furnishing any incorrect or false information or
  - If any suppression of material facts
  - Concealment of any particular are found in any proceedings

Revocation ……Contd.

- Competent authority may
- for reason to be recorded in writing &
- After allowing opportunity,

  revoked the order of settlement
- within 5 calendar year of passing settlement order.
- Amount of settlement deposited by the applicant
- shall be adjusted against the outstanding dues.

Power of commissioner to transfer the proceedings

- Power of commissioner to transfer appeal cases.

- The commissioner may,
- Either on this own motion or
- On an application submitted by an appellant,
- Transfer any or all appeals from one Appellate authority to another -- u/s 7 of the ordinance.

Power of Commissioner under this ordinance :-

- The commissioner may, from time to time,
- Issue instruction & directions as he may deem fit
- For carrying out the purpose of ordinance, including directions under section 7 and 9 of ordinance.
- CCT may, by order specify the forms and annexures required for the purpose of ordinance.

Power of commissioner to transfer the proceedings….. Contd.

- Power of CCT to transfer application of settlement
- The commissioner may,
- Either on this own motion or
- On an application submitted by an appellant,
- Transfer the application of settlement
- From one competent authority to another. S 3(3)

Power to make rules :-

- The State Govt. may, by notify. , make rules to carry out the provisions of ordinance.
- All rules made under this section shall, as soon as, may be after they are made, be laid on the table of the legislative assembly.


Thank you