

COMMERCIAL TAXES DEPARTMENT

From

Thiru T. Jacob, I.A.S.,
Principal Secretary /
Commissioner of Commercial Taxes,
Chepauk, Chennai-5.

To

All Joint Commissioners
(Territorial)

Letter No. Drafting Cell-I/23465/2008, dt. 12.11.2008

Sir,

Sub : Tamil Nadu Sales Tax (Settlement of Arrears) Ordinance 2008 - Arrears of sales tax prior to 1.4.2002 - Certain guidelines issued - Frequently Asked Questions - Sent.

Ref : 1. Tamil Nadu Sales Tax (Settlement of Arrears) Ordinance 2008 (Ordinance 7/2008).
2. G.O. Ms.No. 101 & 102, CT & Regn. (D1) Department, dt. 31.10.2008.
3. Principal Secretary / Commissioner of Commercial Taxes' letter No. Drafting Cell-I/23465/2008, dt.5.11.2008.

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The Frequently Asked Questions with answers regarding Tamil Nadu Sales Tax (Settlement of Arrears) Ordinance, 2008 (one time settlement scheme) are sent herewith for your guidance and further action.

sd/- K.S. Segar,
**for Principal Secretary /
Commissioner of Commercial Taxes**

Copy to :

All Deputy Commissioners (Territorial)

//forwarded/by order//

Commercial Tax Officer.

Tamil Nadu Sales Tax (Settlement of Arrears) Ordinance 2008
ORDINANCE 7 / 2008

F.A.Q

1) Who is eligible for filing application under this scheme?

Any dealer who has been assessed to tax under the relevant Acts prior to 1.4.2002.

2) What are the relevant Acts?

- i) Tamil Nadu General Sales Tax Act, 1959
- ii) Tamil Nadu Additional Sales Tax Act, 1970
- iii) Tamil Nadu Sales Tax (Surcharge) Ac, 1971
- iv) Central Sales Tax Act, 1956

3) Which arrears are eligible for settlement?

Arrears of Tax, Surcharge, Additional Surcharge, Additional Sales Tax, Penalty and Interest demand raised prior to 1.4.2002.

4) Is there any condition for filing the application?

Yes. There should not be any appeal or revision pending before any court i.e. High Court or Supreme Court, on the date of application, against the assessment made on the date of filing of application.

5) To whom the application should be submitted?

The application should be submitted before the Designated Authority.

6) Who is the Designated Authority?

Deputy Commissioner (Commercial Taxes) of the Division, (now redesignated as Joint Commercial (Commercial Taxes) (Territorial) is the Designated Authority.

7) How the application should be submitted?

The application should be submitted in Form I in duplicate along with proof of payment of tax under the scheme and shall be accompanied by two copies of assessment orders.

8) What is the amount to be paid?

In case of assessment made on best of judgment due to non production of accounts:

Where there are arrears of tax, penalty and interest pending collection on the date of application, tax admitted as per returns filed and one third of enhanced tax arrears along with interest calculated at 6% per annum on the

amount payable under this scheme should be paid. The remaining amount including penalty and interest will be waived.

In case of assessment completed after check of accounts and based on the returns filed where demand raised excess of tax admitted:

Where there are arrears of tax, penalty and interest pending collection on the date of application, tax admitted as per returns filed and one third of enhanced tax arrears along with interest calculated at 6% per annum on the amount payable under this scheme should be paid. The remaining amount including penalty and interest will be waived.

In case of assessment completed based on the returns filed where tax is admitted:

Where there are arrears of tax, penalty and interest pending collection on the date of application, entire arrears of tax along with interest calculated at 6% per annum on the amount payable under this scheme should be paid. The entire amount penalty and remaining amount of interest will be waived.

In case of arrears of Penalty or Interest or both, where no arrears of tax:

10% of Penalty amount and 25% of Interest amount should be paid and the balance of Penalty amount and the Interest amount will be waived.

9) What is the time limit prescribed for submission of application?

Within 3 months from the date of commencement of this ordinance i.e. from 1.11.2008 to 31.1.2009.

10) From which date the ordinance come to effect?

The ordinance is effective from 1.11.2008.

11) Whether copies of application should be submitted to any other Authorities?

Copy of application should be submitted to:

- i) Assessing Authority
- ii) Appellate Authority if appeal is filed and is pending
- iii) Revisional Authority if Revision Petition is filed and is pending

12) What is the time limit prescribed for submission of copy of application?

Within 7 days from the date of making application before the Designated Authority.

13) Whether single application can be submitted for various years?

No. Separate application should be submitted for each assessment year.

14) Whether single application can be submitted for TNGST and CST Acts?

No. Separate application should be submitted for each Act.

15) Whether application should be submitted for Tax, Sc, Asc, AST separately?

Application for Tax, Sc, etc. need not be filed separately. It should be submitted for each year separately, which may contain Tax, Sc, etc.

16) Whether dealers who are in arrears of tax, due to deferral violation are eligible to avail this scheme?

Yes. They are also eligible to avail this scheme, but they have to pay Interest at 6% from the date of violation. In this case, the due date of payment of deferral amount should be prior to 1.4.2002. Assessments should have been completed prior to 1.4.2002.

17) Whether Sick units are eligible to avail this scheme?

Yes. They are also eligible to avail this scheme like other dealers.

18) What are the duties of the Designated Authority?

The Designated Authority will verify the application with reference to relevant records and determine the amount payable under this scheme and issue certificate of settlement of arrears in Form Vif the application is found to be correct.

After examination of records, if the Designated Authority finds that the applicant has not paid 90% of the due amount determined by him, he will reject the application.

If he finds that, the applicant has to be pay less than 10% of the due amount determined by him, he will issue demand notice in Form IV.

The Designated Authority will also inform the fact of making the said application in Form III within 30 days to the Assessing Authority, Appellate Authority or Revisional Authority {Rule 3(4)}

19) What is the time limit prescribed for payment of amount demanded by the Designated Authority?

Within 30 days from the receipt of demand notice issued by the Designated Authority.

20) Whether the Designated Authority can return the application?

Yes. The Designated Authority can return the application if he finds any defect or omission in the application, within 10 days from the date of receipt of application. {Rule 3(5)}

21) Whether the Designated Authority is empowered to call for any records?

Yes. The Designated Authority is empowered to call for any records to verify the correctness of the particulars furnished in the application.

{ Rule 3(6)}

22) What the Designated Authority will do after passing orders on the application?

The Designated Authority will inform the fact of passing order in Form VI to the Assessing Authority, Appellate Authority or Revisional Authority under the relevant Act

{Rule 5(2)}

23) Whether the Designated Authority is empowered to revoke the orders passed by him?

Yes. The Designated Authority is empowered to revoke the orders Passed by him, if he finds that the applicant has obtained the certificate under Section 8 by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars.

{Sec. 12}

24) What is the time limit for revoking the orders passed by the Designated Authority?

Within 2 years from the date of passing orders

25) What is time limit to inform the orders of revocation by the Designated Authority to the Assessing Authority?

Within 15 days from the date of revocation of the certificate.

26) Whether the intimation regarding revocation should be sent to other Authorities and if so, what is the time limit?

The Designated Authority will inform the fact of revocation to the Assessing Authority, Appellate Authority or Revisional Authority in Form VII within 15 days from the date of revocation.

{Rule 6(2)}

27) What is the method of payment of arrears?

By way of Cash, Cheque or Demand Draft drawn on any Nationalised Bank in favour of Assessing Officer, as specified under Rule 55 of the repealed Tamilnadu General Sales Tax Act, 1959.

28) Whether Appeal or Revision Petition filed by the applicant can be entertained after filing the application under this scheme?

No. Appeal or Revision Petition should not be entertained after receipt of copy of application filed under this scheme.

{ Sec. 11 }

29) In case of issue of revocation orders passed by the Designated Authority what will be position of Appeals or Revision petitions filed?

The Appeal or Revision Petition stand revived or reinstated immediately upon such revocation and it will be decided in accordance with the provisions of the relevant Act. {Sec.12(2)}

30) If the Designated Authority passed revocation orders, what will happen to the amount paid by the applicant?

The amount paid will be treated as payment towards the amount payable under the relevant Act for the assessment year for which the certificate is revoked. {Sec.12(3)}

31) Whether the orders passed by the Designated Authority can be revised by any authority?

Yes. The Commissioner of Commercial Taxes has got powers to modify the certificate issued by the Designated Authority within 90 days of issue of certificate by rectifying any error apparent on the fact of record. {Sec.8(3)}

Examples of payment of tax and interest along with application

Assuming that there is a delay of 3600 days in payment

a) In case of assessment made on best of judgment due to non production of accounts:

Amount of arrears as per return filed	Rs. 25000
Amount enhanced	Rs. 40000
Tax	30000
Penalty	9000
Interest levied for belated payment of tax	1000
Total Arrears	Rs. 65000

Amount to be paid along with application:

Amount of arrears as per return filed	Rs. 25000
+ One third of enhanced tax amount	Rs. 10000
+ Interest at 6% on Rs.35000/- for 3600 days	Rs. 20712

	Rs. 55712

b) In case of assessment completed after check of accounts and based on the returns filed where demand raised excess of tax admitted:

Amount of arrears as per return filed		Rs. 25000
Addition made by A.O. after check of accounts		Rs. 40000
Tax	30000	
Penalty	9000	
Interest levied for belated payment of tax	1000	
Total Arrears		Rs. 65000

Amount to be paid along with application:

Amount of arrears as per return filed		Rs. 25000
+ One third of enhanced tax amount		Rs. 10000
+ Interest at 6% on Rs.35000/- for 3600 days		Rs. 20712

		Rs. 55712

c) In case of assessment completed based on the returns filed where tax is admitted:

Amount of arrears as per return filed		Rs. 15000
Tax	13000	
Interest	2000	
Total Arrears		Rs. 15000

Amount to be paid along with application:

Amount of arrears of tax as per return filed		Rs. 13000
+ Interest at 6% on Rs.13000/- for 3600 days		Rs. 7693

		Rs. 20693

d) In case of arrears of Penalty or Interest or both, where no arrears of tax:

Penalty		Rs. 10000
Interest		Rs. 4000
Total Arrears		Rs. 14000

Amount to be paid along with application:

10% of Penalty amount of arrears		Rs. 1000
25% of Interest amount of arrears		Rs. 1000

		Rs. 2000

Working sheet for arriving at the amount to be determined by the Designated authority:

Name of the applicant	:		
Name of Assessment circle	:		
Designation of Assessing officer	:		
Year of assessment and Act	:		
Amount of arrears as on 31.3.2002:		Tax	Rs.
		Penalty	Rs.
		Interest	Rs.
		Total	Rs.
Date of expiry of Notice time	:		
Date of application filed under this scheme:			
No. of days delayed	:		
Category of arrears	:	a) Non production of accounts	
		b) After check of accounts	
		c) Accepted assessment	
		d) Arrears relating to Penalty/ Interest only	
Tax		Rs.	
Penalty		Rs.	
Interest		Rs.	
Total due		Rs.	
Amount paid along with application		Rs.	
Amount due to be paid if any		Rs.	

If the amount due to paid is less than 10%, demand notice is to be issued.

**sd/- T. Jacob,
Principal Secretary /
Commissioner of Commercial Taxes**

//forwarded / by order //

Commercial Tax Officer