Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Ordinance, 2019

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Basics

Scheme for Settlement of Arrears of Tax, Interest, Penalty or Late Fee levied or imposed under the Relevant Act is prescribed under the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Ordinance 2019 (referred as "Ordinance") published in Maharashtra Government Gazette dated 6th March 2019.

1.1 Acts covered under the Scheme

"Relevant Acts" covered under the Settlement Scheme are defined in Section 2(1)(k) of the Ordinance and includes the following acts including rules made or notifications issued under these acts -

- (i) The Central Sales Tax Act, 1956;
- (ii) The Bombay Sales of Motor Spirit Taxation Act, 1958;
- (iii) The Bombay Sales Tax Act, 1959;
- (iv) The Maharashtra Purchase Tax on Sugarcane Act, 1962;
- (v) The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975;
- (vi) The Maharashtra Sales Tax on the Transfer of Right to use any Goods for any Purpose Act, 1985;
- (vii) The Maharashtra Tax on entry of Motor Vehicles into Local Area Act, 1987;
- (viii) The Maharashtra Tax on Luxuries Act, 1987;
- (ix) The Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989;
- (x) The Maharashtra Tax on the Entry of Goods into Local Area Act, 2002; and
- (xi) The Maharashtra Value Added Tax Act, 2002.

1.2 Eligibility for Settlement

Any person who is liable to pay arrears of tax, interest, penalty or late fee levied or imposed under the Relevant Act and desires to avail the benefit of settlement, whether registered or not under the Relevant Acts will be eligible to make an application for settlement of arrears of tax, interest, penalty or late fee in respect of any period ending on or before 30th June, 2017.

IMP to note -

- (i) Registered as well as un-registered persons are eligible;
- (ii) The Arrears of any period ending on or before 30th June, 2017 covered;
- (iii) Arrears whether disputed in appeal under the Relevant Act or not are covered;
- (iv) Applicant who has availed benefits under any of the Amnesty Scheme declared by Government under any Government Resolution or under Maharashtra Settlement of Arrears in Disputes Act, 2016 shall also be eligible.

Settlement of Arrears of Tax, Interest, Penalty or Late Fee

Basics

1.3 Meaning of Arrears of Tax, Interest, Penalty or Late Fee

The term "arrears of tax, interest, penalty or late fee" is defined in Section 2(1)(c) of the Ordinance covering amount of tax, interest, penalty or late fee -

(i) payable as per any statutory order under the Relevant Act;

(a) It is clarified by way of defining statutory order in Section 2(1)(o) of the Ordinance to include any order passed under the Relevant Act raising the demand of tax, interest, penalty or late fee payable by applicant.

(b) Section 5(3) of the Ordinance specifies that No arrears of tax, interest, penalty or late fee shall be settled under the Ordinance in case the statutory orders are made after the 15th July, 2019.

(ii) admitted in the return or revised return filed and not paid wholly or partly;

(a) Section 5(3) of the Ordinance specifies that No arrears of tax, interest, penalty or late fee shall be settled under the Ordinance in case the returns or revised returns are filed after the 15th July, 2019.

(b) Second Proviso to Section 7(3) of the Ordinance also specifies that No arrears of tax, interest, penalty or late fee shall be settled under the Ordinance in case of revised returns if revision is done after 6th March 2019 resulting in reduction of tax or interest or both due to any reason including adjustment of set-off except due to any payment of tax or interest or both made in cash during the intervening period of filing original return and revised return after 6th March, 2019.

(iii) determined and recommended to be payable by the auditor in the Audit Report submitted as per Section 61 of the Value Added Tax Act and accepted by the assessee either wholly or partly.

NOTE - Clarification is required in above situation as in the definition of "un-disputed tax" given by Section 2(1)(q) of the Ordinance, clause (vi) covers "the amount of tax, interest or late fee determined and recommended to be payable by the auditor in the Audit Report submitted as per Section 61 of the Value Added Tax Act and accepted by the assessee either wholly or partly" and accordingly as per Section 7(6) the applicant is not entitled to any waiver in respect of un-disputed tax resulting the clause (iii) of Section 2(1)(c) having no applicability and scheme will not be applicable for the dues determined and recommended to be payable by the auditor in the Audit Report unless wholly NOT accepted by the assessee.

(iv) in respect of which a notice has been issued in relation to any proceeding under the Relevant Act;

(v) determined to be payable by assessee where no notice in relation to any proceeding under the Relevant Act is issued.

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Benefit under the Scheme

2.1 Nature of Benefit under Ordinance

Section 10 of the Ordinance specifies the extent of waiver and extent of payment required to avail the said waiver (referred to as "requisite amount") of the amount of arrears of tax, interest, penalty or late fee depending upon the period for which such settlement is sought for, the period during which the application form is submitted to avail the benefit of Scheme and the type of Arrears viz. un-disputed tax, disputed tax, Interest, Penalty, post-assessment penalty and Late Fee.

(1) Section 10 of the Ordinance divides the periods between -

(a) The periods ending on or before 31st March 2010; and

(b) The periods commencing on or after 1st April 2010 and ending on or before 30th June 2017.

(2) Section 4 of the Ordinance prescribes two durations (referred to as "First Phase" and "Second Phase") for the payment of requisite amount and the submission of application under the Ordinance as below -

First Phase	Second Phase
commencing on or after - **01-04-19**	commencing on or after - **01-07-19**
ending on or before - **30-06-19**	ending on or before - **31-07-19**

IMP to note -

(i) Under no circumstances, the applicant shall be entitled to get the refund of the amount paid under this Ordinance.

(ii) In case of revocation, amount will be treated as paid under Relevant Act.

2.2 Calculation of Amount of Arrears of Tax, Interest, Penalty or Late Fee

Section 5 of the Ordinance specifies that, notwithstanding anything contained in the Relevant Act or under Ordinance, -

(i) any payment made in respect of the statutory order either in the appeal or otherwise on or before 31st March 2019 shall first be adjusted towards the amount of tax and thereafter towards the interest and the balance remaining unadjusted towards the penalty and the late fee sequentially.

(ii) any payment made in respect of return dues or towards the payment of dues as per recommendations made by the auditor in the Audit Report and that are accepted by the dealer on or before 31st March 2019 shall be adjusted towards the amount of tax and thereafter towards the interest and the balance remaining unadjusted towards the penalty and the late fee sequentially.

After adjustment of amounts as above, the amount remaining outstanding, if any, as on 1st April 2019 shall be considered for the settlement and the requisite amount payable towards the settlement of outstanding amount and the waiver.

Settlement of Arrears of Tax, Interest, Penalty or Late Fee

Benefit under the Scheme

2.3 Extent of Payment and Extent of Waiver

(A) For the periods ending on or before 31st March 2010 (Annexure-A)

Sr. No.	Arrears Type (Amount of)	First Phase % of the amount in Column (b)		Second Phase % of the amount in Column (b)	
		Payment	Waiver	Payment	Waiver
(a)	(b)	(c)	(d)	(e)	(f)
1	Un-disputed Tax	100%	0%	100%	0%
2	Disputed Tax	50%	50%	60%	40%
3	Interest payable as per any statutory order or returns or revised returns	10%	90%	20%	80%
4	Outstanding penalty as per any statutory order	5%	95%	10%	90%
5	Post assessment interest or penalty leviable but not levied upto application filed	0%	100%	0%	100%
6	Late Fee payable in respect of returns filed during 1st April 2019 to 31st July 2019	0%	100%	0%	100%

(B) For the periods commencing on or after 1st April 2010 and ending on or before 30th June 2017 (Annexure-B)

Sr. No.	Arrears Type (Amount of)	First Phase % of the amount in Column (b)		Second Phase % of the amount in Column (b)	
		Payment	Waiver	Payment	Waiver
(a)	(b)	(c)	(d)	(e)	(f)
1	Un-disputed Tax	100%	0%	100%	0%
2	Disputed Tax	70%	30%	80%	20%
3	Interest payable as per any statutory order or returns or revised returns	20%	80%	30%	70%
4	Outstanding penalty as per any statutory order	10%	90%	20%	80%
5	Post assessment interest or penalty leviable but not levied upto application filed	0%	100%	0%	100%
6	Late Fee payable in respect of returns filed during 1st April 2019 to 31st July 2019	0%	100%	0%	100%

Settlement of Arrears of Tax, Interest, Penalty or Late Fee

Terms used while calculating the Benefit under Ordinance

2.4.1 Un-disputed Tax

The term "un-disputed tax" is defined in Section 2(1)(q) of the Ordinance means -

(i) the taxes collected separately under the Relevant Act;

(ii) the deductions allowed by the authorities in the statutory order for the taxes collected separately under the Relevant Act;

(iii) the taxes shown payable in the return or the revised return under the Relevant Act;

(iv) amount claimed by the dealer as deductions or allowed by the designated authority as per Rule 57 of the Value Added Tax Rules or similar rules made under other Relevant Act (deduction for inclusive of taxes);

(v) amount forfeited under the statutory order or excess tax collection shown in the return, revised return or Audit Report submitted under Relevant Act;

(vi) any amount of tax, interest or late fee determined and recommended to be payable by the auditor, in the Audit Report submitted as per Section 61 of the Value Added Tax Act, and accepted by the assessee either wholly or partly;

(vii) the tax deducted at source (TDS) by the employer under Relevant Act;

(viii) the tax collection made under Section 31A of Value Added Tax Act.

IMP to note -

(i) No Waiver is granted in respect of outstanding un-disputed tax.

(ii) In the case of taxes collected separately or deduction claimed of the taxes from the turnover qualifies to be treated as un-disputed tax.

(iii) In the case of amount determined and recommended to be payable by the auditor, in the Audit Report submitted as per Section 61 of the Value Added Tax Act, and accepted by the assessee either wholly or partly, the interest and late fee determined and recommended to be payable by the auditor also falls under un-disputed tax and No Waiver is allowable for amount of interest and late fee included in the same.

NOTE - Clarification is required whether the tax deducted at source (TDS) is not actually deducted and correspondingly not paid to Government and the tax collection is not actually collected and correspondingly not paid to Government and accordingly no credit of TDS or TCS is passed on to the supplier will be covered under un-disputed tax and thus required to be paid in full.

2.4.2 Disputed Tax

The term "disputed tax" is defined in Section 2(1)(g) of the Ordinance as the tax other than un-disputed tax.

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Settlement of Arrears of Tax, Interest, Penalty or Late Fee

Terms used while calculating the Benefit under Ordinance

2.4.3 Requisite Amount

The term "requisite amount" is defined in Section 2(1)(l) of the Ordinance as an amount required to be paid during the First Phase or Second Phase under Ordinance to avail the waiver and shall be aggregate of the following amounts paid during First Phase and Second Phase under Ordinance towards -

(i) un-disputed amount of tax, and

(ii) the amount of disputed tax, interest, penalty, late fee, post assessment penalty or post assessment interest whether levied or not

as determined under Section 10 of the Ordinance as per ratio specified in Annexure-A or Annexure-B appended to the Ordinance.

2.4.4 Requisite Amount where entry tax is payable

Section 10(2) of the Ordinance determines requisite amount in respect of the applicant who is liable to pay entry tax under the Tax on the Entry of Goods into Local Areas Act, notwithstanding anything contained in Ordinance or the Relevant Act, as below -

(i) determined in the Statutory Order; or

(ii) in case no order is passed then the entry tax that would have become payable under the Relevant Act,

OR

the amount reduced or denied under Rule 53 or Rule 54, respectively, from the set-off allowable under the Value Added Tax Rules or reduced or denied under corresponding rules from the set-off allowable under the Bombay Sales Tax rules,

whichever is less.

IMP to note -

(i) Where the applicant pays the requisite amount during the First Phase or Second Phase, the balance amount of tax remaining payable shall be waived by passing order under this Ordinance and the applicant will not be entitled to claim set-off under Value Added Tax Rules or the Bombay Sales Tax Rules of the taxes paid.

(ii) With respect to the interest levied as per any Statutory Order or where no order is passed, interest calculated on the tax payable under the Relevant Act (not the requisite amount) will be considered for determining the requisite amount and waiver amount in accordance with Annexure-A or Annexure-B depending upon period.

(iii) Similarly, with respect to the penalty levied as per any Statutory Order will be considered for determining the requisite amount and waiver amount In accordance with Annexure-A or Annexure-B depending upon period.

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Benefit under the Scheme

2.5 Calculation of Waiver in case requisite amount is paid short

Section 10(4) of the Ordinance prescribed that where payment made by the applicant is less than the requisite amount in accordance with the provisions of the Ordinance, the proportionate amount of waiver will be admissible in proportion to the requisite amount paid by the applicant,

Example - The Applicant has arrears of Rs.5,00,000/- as on 31st March 2019 for the period 2009-2010 as shown in column (b). He is intended to make the payment under Ordinance in First Phase before 30th June 2019. He is required to pay requisite amount as shown in column (d) as per applicable % mentioned in column (c) in accordance with Annexure-A totalling to Rs.3,00,000/-. However he has paid only Rs.2,70,000/- till 30th June 2019 and submitted the application for waiver. Proportionate requisite amount paid against each Arrear type is shown in column (e)

Arrears Type	Arrears as on 1st April 2019	Requisite Amount payable in Phase I as per Annexure-A		Share of Amount paid by Dealer	Requisite amount Short paid	Waiver not granted
		%	Amount			
(a)	(b)	(c)	(d)	(e)	(f)	(g)
		[Note 1]	(b)x(c)	[Note 2]	(d)-(e)	[Note 3]
Un-disputed Tax	230000	100%	230000	230000	0	0
Disputed Tax	120000	50%	60000	34285	25715	51430
Interest	75000	10%	7500	4286	3214	32140
Penalty	50000	5%	2500	1429	1071	21420
Post assessment interest or penalty	25000	0%	0	0	0	0
TOTAL	500000		300000	270000	30000	104990

1 As the applicant has made the application for the period 2009-2010 i.e. period ending on or before 31st March 2010 and also made the payment and submitted application before 30th June 2019 i.e. within the duration of First Phase, the extent of requisite amount payable prescribed in percentage is taken from Annexure-A [shown in column (c)]

2 Share of Amount paid by Dealer [column (e)] is calculated in proportion to the respective requisite amount payable for waiver as per column (d). As the amount paid is 57.1429% [Total of column (e) minus un-disputed tax viz.40,000 [2,70,000 - 2,30,000] divided by Total of column (d) minus un-disputed tax viz.70,000 [3,00,000 - 2,30,000], the amount paid in respect each arrears type is calculated at 57.1429% of respective requisite amount payable.

3 As the requisite amount is short paid, the proportionate waiver will not be granted. The proportionate waiver denial amount will be calculated by dividing requisite amount short paid [column (f)] by extent of requisite amount payable prescribed in percentage [column (c)].

Settlement of Arrears of Tax, Interest, Penalty or Late Fee

Benefit under the Scheme

2.5 Calculation of Waiver in case requisite amount is paid partly in both Phases

Section 11(2) of the Ordinance states that where on verification of application by designated authority payment made by the applicant is less than the requisite amount, a defect notice within 15 days from the date of receipt of application will be issued intimating the requisite amount short paid and the applicant shall within 15 days of the receipt of such notice, make payment and correct defects.

Example - In the example taken above, wherein Applicant has arrears of Rs.5,00,000/- as on 31st March 2019 for the period 2009-2010. He has made payment of Rs.2,70,000/- during First Phase before 15th June 2019 against requisite amount of Rs.3,00,000/- and submitted the application for waiver. A defect notice is issued on 25th June 2019 stating the shortfall of Rs.30,000/- to be paid. The Applicant pay the said amount on 5th July 2019 i.e during Second Phase. [It is important to note that even if period of 15 days from defect notice extends beyond 31st July 2019, any payment made after 31st July, 2019 will not be considered].

Arrears Type	Arrears as on 1st July 2019	Requisite Amount payable in Phase II as per Annexure-A %	Requisite Amount payable in Phase II as per Annexure-A Amount	Share of Amount paid by Dealer	Requisite amount Short paid	Waiver not granted
(a)	(b)	(c)	(d)	(e)	(f)	(g)
	[Note 1]	[Note 2]	(b)x(c)	[Note 3]	(d)-(e)	(f)/(c)
Un-disputed Tax	0	100%	0	0	0	0
Disputed Tax	51430	60%	30858	23479	7379	12298
Interest	32140	20%	6428	4891	1537	7685
Penalty	21420	10%	2142	1630	512	5120
Post assessment interest or penalty	0	0%	0	0	0	0
TOTAL	104990		39428	30000	9428	25103

1 As the payment on receipt of defect notice is paid on 5th July 2019 i.e. during the period of Second Phase, the amount for which waiver was not granted as per First Phase calculation becomes the outstanding at the beginning of Second Phase as per column (g) of Table shown earlier.

2 As the payment has been made for the period 2009-2010 and within the duration of Second Phase, the extent of requisite amount payable prescribed in percentage is taken from Annexure-A [shown in column (c)].

3 Share of Amount paid by Dealer [column (e)] is calculated in proportion to the respective requisite amount payable for waiver as per column (d). As the amount paid is 76.0881% [Total of column (e) minus un-disputed tax, if any pending viz.30,000 divided by Total of column (d) minus un-disputed tax, if any pending viz.39,428, the amount paid in respect each arrears type is calculated at 76.0881% of respective requisite amount payable.

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Settlement of Arrears of Tax, Interest, Penalty or Late Fee

Procedure for Applying Benefits under Ordinance

3.1 Conditions

(a) As per Section 5(3) of the Ordinance, No arrears of tax, interest, penalty or late fee shall be settled under the Ordinance, if statutory orders are made or returns or revised returns are filed after 15th July 2019.

(b) The applicant shall make a Application for the settlement of Arrears of Tax, Interest, Penalty or Late Fee on or before 30th June 2019 if he wants to take benefit in First Phase and on or before 31st July 2019 if he wants to take benefit in the Second Phase.

(c) Every application shall be accompanies by the proof of payment of the requisite amount and other documents mentioned in the Application Form.

(d) As per Section 8(1) of the Ordinance, if an appeal is pending before any appellate authority or Tribunal or Court against any statutory order, the same should be withdrawn un-conditionally by applicant, either wholly or partially.

(e) As per Section 8(3) of the Ordinance, if an appeal is withdrawn partially i.e. in respect of certain issues and he desires to continue the same for other issues, the withdrawal application should state details regarding issues withdrawn along with respective involved tax, interest, penalty or late fee.

(f) Every application shall be accompanies by the Application for Appeal Withdrawal [**FORM II** is notified] with acknowledgement of submission of such application to the concerned authority and if appeal withdrawal order is issued, the said order issued by the concerned authority.

(g) Section 7(8) of the Ordinance prescribes that before submission of the Application, if the applicant has taken credit of set-off in the Electronic Credit Ledger provided under Goods and Service Tax Act, the applicant must reverse the credit equivalent to the amount for which the settlement application is filed, by debiting the Electronic Cash Ledger or the Electronic Credit Ledger.

Example - The facts of the case are as follows -

(i) The Applicant has availed set-off of Rs.5,00,000/- in respect of the purchases effected from suspicious, cancelled and composition dealers in the return for the Quarter ending on 30th June 2017.

(ii) The Applicant return for Quarter ending on 30th June 2017 results in refund amounting to Rs.1,00,000/- after adjusting said set-off of Rs.5,00,000/- and the dealer has claimed the said refund through filing of TRAN-1 in the Electronic Credit Ledger under Goods and Service Tax Act.

ISSUE - The applicant is required to reverse Rs.1,00,000/- (the set-off carried forward through TRAN-1) or Rs.5,00,000/- (the amount for which settlement application is filed) or Rs.1,50,000/- (the amount for which waiver is applied being 30% of the disputed tax).

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Procedure for Applying Benefits under Ordinance

3.2 Transactions which will constitute an Issue

Section 9(1) of the Ordinance gives the power to the Commissioner to notify the transactions which may constitute an issue for the purpose of the Ordinance.

Section 9(2) of the Ordinance also specifies that decision of the Commissioner in relation to the classification of any transaction as an issue or otherwise shall be final and no appeal shall lie against such decision.

Accordingly, the Commissioner has issued a Notification No.Sett/MMB-2019/1/ADM-8 dated 7th March 2019 specifying the following transactions to constitute an issue for the purpose of settlement of arrears of tax, interest, penalty or late fee, levied, payable or imposed respectively under the Relevant Act in respect of specified period

(a) The declarations or, as the case may be, the certificates such as "C", "F", "H", "E-1", "E-2" or "I" as provided under the Central Sales Tax Act, 1956 and such declarations or certificates are defective, partly received or partly not received and additional tax liability is estimated therefore or Statutory order is passed disallowing the claim in that behalf;

(b) Where the set-off as provided under the Relevant Act is disallowed due to -

   (a) purchases made from non-genuine dealer;

   (b) purchases made from the dealer whose registration certificate cancelled at the time of such purchases;

   (c) purchases made from supplier who has not filed returns;

   (d) purchases made from supplier of goods who has paid lump-sum payment in lieu of tax i.e. composition dealer under Value Added Tax Act;

(c) Mis-match of set-off where gross purchases claimed by the buyer in Annexure-J2 of Audit Report or in return and gross sales declared by the supplier in Annexure-J1 of Audit Report or in returns does not match.

(d) Where in the opinion of the dealer, assessing authority or the appellate authority has committed an error in computation of the set-off or retention of set-off or denial of set-off as per any rule made in this behalf under the Value Added Tax Rules for the contingencies provided therein or any of the provision of the Relevant Act;

(e) Where assessing authority or the appellate authority has disallowed any deduction claimed by the applicant or has applied the wrong rate of tax in respect of any transaction of sales or certain income receipts are treated as taxable sales in their order.

It is also clarified that the interest, penalty or late fee associated with tax or return or otherwise, alone shall not constitute an issue.

Settlement of Arrears of Tax, Interest, Penalty or Late Fee

Procedure for Applying Benefits under Ordinance

3.3 Application

Section 7(1) of the Ordinance prescribed separate application for each class of arrears under the Relevant Act to be submitted on or before the last date of the First Phase or Second Phase in which applicant wants to take benefit.

The Commissioner has prescribed various Forms vide ORDER No.ORD/MMB-2019/1/2019/ADM-8 dated 7th March 2019.

Class of arrears are given in Clause (c) of Section 2(1) of the Ordinance as below-

(i) payable as per any statutory order under the Relevant Act;

Form I is notified as application for settlement of arrears of Tax, interest, Penalty or Late Fee payable as per Statutory Order

(ii) admitted in the return or revised return filed and not paid wholly or partly;

(a) Section 7(3) of the Ordinance provides that where an applicant desires to settle the arrears of return dues, he should submit a separate application for each of such return or revised return under each Relevant Act.

(b) First Proviso to Section 7(3) of the Ordinance provides that where an applicant desires to settle the arrears of return dues in respect of more than one return or revised return pertaining to a financial year, then he may submit a single application.

(iii) determined and recommended to be payable by the auditor in the Audit Report submitted as per Section 61 of the Value Added Tax Act and accepted by the assessee either wholly or partly.

(iv) in respect of which a notice has been issued in relation to any proceeding under the Relevant Act;

(v) determined to be payable by assessee where no notice in relation to any proceeding under the Relevant Act is issued.

Form IA is notified as application for settlement of arrears of Tax, interest, Penalty or Late Fee payable for others i.e. covered by item (ii) to (v) viz. other than Statutory Order.

IMP to note -

1. Separate Application needs to be submitted for each class of arrears and for each period, other than return dues as mentioned above if applicant desires as per First proviso to Section 7(3) of the Ordinance.
2. Application Forms needs to be submitted online on http://mahagst.gov.in
3. Each application should accompanied by proof of payment of the requisite amount and the documents mentioned in application Form.

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Procedure for Applying Benefits under Ordinance

3.4 Documents to be submitted

1. Proof of payment of the requisite amount as determined under Section 10;

   Section 10(3) specifies that the payment of requisite amount shall be made in the form of Chalan prescribed under the Relevant Act or as the case may be, in Form-MTR-6 prescribed under the Value Added Tax Rules.

2. Copy of statutory order against which settlement is sought for with Form I;
3. Original order of withdrawal of Appeal or in case the said order is not received then acknowledgement of request letter submitted for withdrawal of Appeal to the designated authority with Form I;
4. Copy of return or revised return or audit report recommendations against which settlement is sought for with Form IA;
5. Copy of the Notice in relation to the initiation of any proceedings in respect of which settlement is sought for with Form IA;
6. Copy of self calculation of tax, interest or late fee liability where no notice is issued and in respect of which settlement is sought for with Form IA;
7. Copies of challans of payment of amount paid after the date of order or against the outstanding dues in other cases till 31st March 2019.
8. Declaration as per format given in the Application Form.

3.5 Verification of Application

1. The designated authority will verify the correctness of particulars furnished in application and documents submitted with records.
2. On verification, if it is noticed that the said application is incorrect or incomplete or requisite amount paid is deficient, then the designated authority shall issue defect notice (**Form III** notified) within 15 days from the date of receipt of application and intimate the defects. [only once allowed].
3. The applicant within 15 days of the receipt of defect notice shall correct the defects and make payment, if short paid, and submit the application. However payment, if any, can not be made after 31st July, 2019.
4. The designated authority will verify correctness and completeness of application and compute the requisite amount and extent of waiver considering the Phase in which requisite amount is paid.
5. Where the applicant fails to correct defects communicated, the designated authority may after giving opportunity of being heard and recording reasons in writing pass appropriate order giving proportionate benefit as may be available and no application shall be rejected merely on the ground of less payment of requisite amount.

Settlement of Arrears of Tax, Interest, Penalty or Late Fee

Order of Settlement, Rectification, Review, Appeal etc.

4.1 Order of Settlement

Section 12(1) of the Ordinance specifies that if the designated authority is satisfied that the application has paid the requisite amount, he will pass an order and provide the copy of the same to the applicant.

Upon receipt of the order, the applicant, notwithstanding anything contained in the Relevant Act, shall be discharged of his liability to the extent of the amount of waiver specified in the Order of Settlement.

4.2 Rejection of Application

Section 12(2) of the Ordinance provides that if the application for settlement is not in accordance with the provisions of Ordinance, the designated authority may after giving an opportunity of being heard to applicant, issue order rejecting application.

However, the designated authority should give proportionate benefit as may be available and no application shall be rejected merely on the ground of less payment of requisite amount.

4.3 Rectification of Order

Section 12(3) of the Ordinance provides that the designated authority may, on his own motion or on application of the applicant, rectify any error apparent from the record within six months from the date of receipt of the order by the applicant.

However, no order adversely affecting the applicant will be passed without giving a reasonable opportunity of being heard.

4.4 Revocation of Order

Section 16(1) of the Ordinance states where it appears to the designated authority that the applicant has obtained the benefit of settlement by -

(a) suppressing any material information or particulars; or

(b) furnishing any incorrect or false information; or

(c) suppression of material facts or concealment of any particulars found in any proceedings related to search and seizure under the Relevant Act,

then the designated authority may revoke the said order, by recording the reasons in writing and giving an opportunity of being heard to the applicant, within two years from the end of the financial year in which the order has been served.

4.5 Review of Order

Section 17 of the Ordinance grants the power to the Commissioner to call for the record of order passed by the designated authority, on his own motion, within 12 months from the date of service of the order.

If the Commissioner notice an error in such order prejudicial to the interest of revenue, may serve on the applicant a notice and pass an order to the best of his judgment, where necessary.

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Settlement of Arrears of Tax, Interest, Penalty or Late Fee

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4.6 Appeal

An appeal against the Order passed under Section 12 i.e. Order of Settlement, Rejection of Application and Rectification of Order of Settlement can be filed within 60 days from the date of receipt of the order.

An appeal against the Order passed under Section 12 shall lie to -

(a) the Deputy Commissioner of Sales Tax, if the order is passed by the authority sub-ordinate to him;

(b) the concerned Joint Commissioner of Sales Tax, if the order is passed by the Deputy Commissioner of Sales Tax, concerned.

The Appeal can be filed after 60 days from the date of receipt of the order only if the delay is condoned by the concerned appellate authorities mentioned above.

4.7 Effects of Application, Order and Revocation of Order

1 Section 14(1) of the Ordinance provides that No appellate authority including Tribunal shall proceed to decide any appeal under the Relevant Act relating to the specified period in respect of and to the extend of one or more issues or all the issues for which an application is made by the applicant.

2 Section 14(2) of the Ordinance also provides that, notwithstanding anything contained in the Relevant Act, the assessing authority, the appellate authority including Tribunal, revisional authority or reviewing authority shall proceed to decide such assessment, appeal, revision or review in accordance with the Relevant Act -

   (a) to the extent of the issues for which no application is made; or

   (b) in case an order rejecting the application is passed and against which no appeal is filed.

3 Upon receipt of the order of Settlement, the applicant, notwithstanding anything contained in the Relevant Act, shall be discharged of his liability to the extent of the amount of waiver specified in the Order of Settlement.

4 An order issued shall be conclusive as to the settlement of arrears covered under that order and the matter covered by such order shall not be re-opened in any proceeding or review or revision or any other proceedings under the Relevant Act.

5 If an order is revoked, the assessment, revision, review or appeal under the Relevant Act covered by such order shall, notwithstanding anything contained, stand revived or reinstated immediately upon such revocation.

6 In the case of revocation of order, notwithstanding the period of limitation provided under the Relevant Act, such assessment, revision, review or appeal shall be made within two years from the date of passing revocation order.

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Settlement of Arrears of Tax, Interest, Penalty or Late Fee

List of FORMS notified for the purpose of Ordinance

The Commissioner of Sales Tax, Maharashtra State notified the following Forms for carrying out purposes of the Settlement of Arrears of Tax, Interest, Penalty or Late Fee Ordinance 2019 vide Order No.ORD/MMB-2019/1/2019/ADM-8 dated 7th March, 2019.

1	FORM I	Application for settlement of Arrears of tax, interest, penalty or late fee payable as per the statutory order
2	FORM IA	Application for settlement of Arrears of return dues or, tax, interest or late fee as recommended by the auditor in the audit report or any other arrears as per sub-clauses (ii) to (v) of sub-section (1) of section 2
3	FORM II	Application for Withdrawal of Appeal
4	FORM III	Notice of Defect on application for settlement of arrears
5	FORM IV	Order of Settlement / Rejection
6	FORM V	Notice for Rectification of Mistakes
7	FORM VI	Application for Rectification of Mistakes
8	FORM VII	Notice for Review

The following Forms are not yet notified -

1	Section 13	Appeal Form
2	Section 16	Order of Revocation
3	Section 16	Application to re-instate appeal on revocation of Order

Thank You

About Us

"Every Problem has a SOLUTION, just ASK it"

ASK Solutions with this belief started developing the solutions in the most important area of business viz. Accounting and Taxation.

Considering the business needs and the present available resources, having discussions with persons actually working in these fields and various experts in the field of Accounting and Taxation, we feel the need of a new approach.

Considering the various enactments with the constant changes and modifications and clarifications on various issues, compliances has become a big task for every businessman, Accountants and Consultants. Keeping this approach, availability of an up-to-date knowledge within the shortest available time has became the necessity. After considering the various opinions and suggestions expressed and received, we have also provided following solutions :

ASK Solutions	**www.solutionask.com**	
Mera Consultant	**www.meraconsultant.com**	**- An Online Consultant**
Mera Advisor	**www.meraadvisor.com**	**- An Online Advisor**
Mera Tax	**www.meratax.com**	**- An Online Tax Diary**
Mera Client	**www.meraclient.com**	**- An Online Office**
Mera CA	**www.meraca.com**	**- Email Service to Members**
Mera Solution	**www.merasolution.com**	**- A Solution Provider**

Our motive is to provide the solutions at the best minimum cost to the maximum users with the firm belief that "every problem has a solution, just ask it".

Contact Us

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