

भोपाल, दिनांक 26 सितम्बर 2020

क्र. 11303-196-इक्कीस-अ(प्रा.)— भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश कराधान अधिनियमों की पुरानी बकाया राशि का समाधान अध्यादेश, 2020 (क्रमांक 11 सन् 2020) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
अभय कुमार, अतिरिक्त सचिव.

MADHYA PRADESH ORDINANCE

No. 11 OF 2020

**THE MADHYA PRADESH KARADHAN ADHINIYAMON KI PURANEE BAKAYA RASHI KA
SAMADHAN ADHYADESH, 2020.**

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MADHYA PRADESH ORDINANCE
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**THE MADHYA PRADESH KARADHAN ADHINIYAMON KI PURANEE BAKAYA RASHI
KA SAMADHAN ADHYADESH, 2020**

[First Published in the "Madhya Pradesh Gazette (Extra-Ordinary)", dated the 26th september, 2020.]

Promulgated by the Governor in the seventy first year of the Republic of india

An ordinance to provide for settlement of amount of old arrears under the Madhya Pradesh general Sales Tax Act, 1958 (No. 2 of 1959) (repealed), the Madhya Pradesh Vanijiyak Kar Adhinyam, 1994 (No. 5 of 1995) (repealed) the Madhya Pradesh VAT Act, 2002 (No. 20 of 2002), the Central Sales Tax Act, 1956 (No. 74 of 1956), the Madhya Pradesh Hotel Tatha vas Grihon me Vilas Vastuon Par kar Adhinyam, 1988 (No. 13 of 1988) (repealed) and the Madhya Pradesh Vilasita Manoranjan, Amod Evam Vigyapan Kar Adhinyam, 2011 (No. 11 of 2011) (repealed) administered by the commercial Tax Department and matters connected therewith or incidental thereto.

WHEREAS, the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of india, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Madhya Pradesh Karadhan Adhinyamon Ki Puranee Bakaya Rashi ka Samadhan Adhyadesh, 2020

Short title,
extent and
commencement.

(2) It shall extend to the whole of the State of Madhya Pradesh.

(3) It shall come into force on the date of its publication in the Official Gazette.

2. (1) In this Ordinance, unless the context otherwise requires :—

Definitions.

(a) "Appellate Authority" means the Appellate Authority Specified in Section 8 of the Ordinance;

(b) "assessed tax" means tax determined as being payable under an order of assessment or reassessment under the relevant Act.

(c) "applicant" means a person, who is liable to pay old arrears under the relevant Acts and also includes a person willing to settle the amount of old arrears of any other person, who desires to avail the benefit of settlement by complying with the condition under this Ordinance.

(d) " Commissioner" means the Commissioner of Commercial Tax appointed under Section 3 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002);

(e) "Competent Authority" mean the Competent Authority specified in sub-section (2) of Section 3 of the Ordinance;

(f) "disputed" amount" means any demand against which a litigation has been filed before any Appellate Authority or Forum but shall not include any demand where the Government has filed any case against such demand before any Appellate Authority or Forum or before the coming into force of the Ordinance;

(g) "old arrears" means,—

- (i) tax, by Whatever name called, under the relevent Act;
- (ii) interest payable under relevent Act;

(iii) penalty imposed under relevant Act:

Provide that in respect of any statutory order for which settlement is desired, pertaining to any order of assessment reassessment and/or penalty and/or interest relating to any period ending on or before 31st March, 2016 Which is due for payment as on the date of filling application under sub-section (1) of Section 5:

Provided further that old arrears shall not include any demand created by any statutory order passed under relevant Act read with Section 55 or 57 of the Madhya Pradesh VAT Act, 2002 (No. 20 of 2002) and any arrears related to deferment of tax schemes, issued by the State Government under the relevant Acts, from time to time;

(h)“Order of settlement” means an order issued under this Ordinance in respect of settlement of amount of old arrears and waiver of the amount of old arrears under relevant Act;

(i) “relevant Act” means,—

- (i) The Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959) (repeated); or
- (ii) The Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995) (repeated); or
- (iii) The Madhya Pradesh Vat Act, 2002 (No. 20 of 2002); or
- (iv) The Central Sales Tax Act, 1956 (No. 74 of 1956); or
- (v) The Madhya Pradesh Hotel Tatha Vas Me Vilas Vastuon Par Kar Adhiniyam, 1988 (No. 13 of 1988) (repealed); or
- (vi) The Madhya Pradesh Vilasita Manoranjan, Amod Evam Vigyapan Kar Adhiniyam, 2011 (No. 11 of 2011) (repealed);

and includes the rules made or notification issued thereunder;

(j) “Settlement amount” means the amount to be paid by the applicant along with his application for the settlement of old arrears including the amount to be paid as per notice issued under sub-section (2) of Section 6;

(k)“Statutory certificates” for the purpose of this Ordinance means declarations and certificates mentioned under rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957;

(l) “statutory order” means the latest order passed under the relevant Act, raising demand of tax and/or interest and/or penalty payable thereunder;

(m) “undisputed amount” means an amount which is not disputed, or which is not related to statutory certificates or declarations.

(2) The words and expressions used in this Ordinance, but not defined shall have the same meaning as assigned to them under the relevant Act.

Competent authority.

3. (1) The Commissioner of Commercial Tax shall be the Commissioner for the purpose of this Ordinance.

(2) Assistant Commissioner of Commercial Tax, Commercial Tax Officer and Assistant Commercial Tax Officer as Specified in sub-section (1) of Section 3 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) and having jurisdiction as specified in sub-section (4) of Section 3 of the Madhya Pradesh Vat Act, 2002 shall be the competent authority for the purpose of this Ordinance.

(3) The Competent Authority as specified in sub-section (2) shall have the financial jurisdiction as per the following limits of old arrears with respect to an application,—

- (i) Assistant Commercial Tax Officer for the amount not exceeding Rs. 5 lakh;
- (ii) Commercial Tax Officer for the amount not exceeding Rs. 15 lakh
- (iii) Assistant Commissioner for any amount:

Provided that the Commissioner may either on his own motion or on an application submitted by an applicant, transfer any or all applications from one competent authority to another.

4. (1) The settlement amount to be paid along with each application for settlement of old arrears shall be as per the following table, namely :—

TABLE

No.	Type of the Cases	Amount to be paid related to tax for settlement	Amount to be paid related to interest and or penalty for settlement
(1)	(2)	(3)	(4)
1.	Amount related to statutory certificates/declarations.	100% of remaining balance amount of the arrear of tax in dispute, outstanding on the date of application reduced by the amount of tax involved in the value of acceptable certificates/declarations submitted by the applicant or the amount already paid towards such arrear of tax, whichever is higher.	10% of the demand of interest as per statutory order.
2.	Undisputed amount	Balance amount reduced by amount already paid against extra demand of tax in any statutory order on the date of application.	(a) 10% if paid on or before 60th day of coming into force of this Ordinance. (b) 20% if paid after 60th day but before 90th day of coming into force of this Ordinance. (c) 30% if paid after 90th day, but before 120th day of coming into force of this Ordinance: Provided that in no case shall any refund be given if amount already paid exceeds the above given limit.
3.	Disputed amount	50% of the demand of tax in any statutory order. If the amount already paid exceeds 50% then no refund shall be given.	(a) 5% of the demand, if paid within 60 days of coming into force of Ordinance. If the amount already paid exceeds 5% then no refund shall be given. (b) 10% of the demand, if paid after 60 days of coming into force of Ordinance. If the amount already paid exceeds 10% then no refund shall be given:

Provided that where settlement application is made for an independent penalty or interest order, it shall be considered only.

Provided that where settlement application is made for an independent penalty or interest order, it shall be considered only when the relevant tax demand has been paid or a settlement order is passed under this Ordinance:

Provided further that for calculation of settlement amount, if any composite part payment comprising tax/interest/penalty has been made in relation to a statutory order, such composite part payment amount shall be adjusted proportionately against the outstanding amount of tax, interest and penalty as per the statutory order, in proportion to the amount of tax, interest and penalty outstanding.

(2) The payment of the settlement amount shall be made electronically in the Form of Challan prescribed under the relevant Act or under sub-rule (6) of rule 37 of the Madhya Pradesh Vat Rules, 2006, as the case may be.

Conditions of settlement.

5. (1) The applicant desiring settlement of old arrears shall apply to the Competent Authority, within 120 days from the date of this Ordinance coming into force, in the Form, as specified by the Commissioner along with proof of payment of requisite settlement amount as per sub-section (1) of Section 4:

Provided that the State Government may, if considers it necessary in public interest extend the aforesaid time limit and the time limit specified in column (4) of the table in sub-section (1) of section 4 of this Ordinance.

(2) Separate applications shall be submitted by the applicant for each statutory order under each relevant Act.

(3) The applicant shall make disclosure about any pending appeal, revision or any petition before any Authority or Forum with respect to such amount of old arrears under relevant Acts and in case any appeal, revision or any petition is pending before any Authority or Forum, an undertaking shall be furnished by him stating that in case of availing the benefit of settlement under this Ordinance, he shall withdraw such matter against the statutory order pending before any other authority or Forum. When the settlement order is passed by the Competent Authority, the applicant shall forthwith produce such application regarding withdrawal of such pending relevant appeal, revision or any petition and shall produce appropriate evidence of doing so before the Competent Authority within 7 days of receiving the settlement order, failing which his order of settlement shall be liable to be revoked by the Competent Authority after giving the applicant a reasonable opportunity of being heard.

(4) The applicant shall pay an additional amount of settlement, if required to pay as per sub-section (2) of Section 6 and shall produce the evidence thereof before the Competent Authority.

(5) After an order of settlement is passed under sub-section (3) of Section 6, the applicant shall have no right to challenge the statutory order in any appeal or Forum, in relation to which the settlement order has been passed.

(6) Notwithstanding anything contained in any provision under Ordinance or in the relevant Acts, in no case shall any amount be refunded from the amount deposited by the applicant as settlement amount or additional settlement amount.

(7) In case an application is rejected as per the provisions of Ordinance, the amount / additional amount of settlement deposited by the applicant shall be adjusted against the old arrears of the applicant and shall not be refunded to him.

(8) Notwithstanding anything contained in any provisions of the relevant Act, where an application is filed under sub-section (1), the recovery of the old arrears, involved in the filed application, shall remain stayed till the final disposal of the application as per sub-section (3) of Section 6 or as per proviso to sub-section (2) of Section 6:

Provided that where an application is rejected as per the proviso of sub-section (2) of Section 6, such stay on recovery shall continue till the period for filing appeal under Section 8 is not expired. If an appeal under section 8 is filed, such stay on recovery shall continue till the rejection of the appeal or till the final disposal of the application, remanded under sub-section (4) of Section 8.

6. (1) The Competent Authority scrutinize the application filed and if it is found incomplete or incorrect in any manner, a notice shall be issued to the applicant within 30 days of filing of the application to rectify the same within a period of 7 days from the date of service of such notice.

Disposal of Applications.

(2) The applicant shall, within 7 days from the service of the notice, correct the defects and make the payment of additional amount of settlement, if any, and shall submit the details before the Competent Authority accordingly:

Provided that where the applicant fails to comply with the notice as above, the Competent Authority may, for reasons to be recorded in writing and after giving an opportunity of being heard, reject the application submitted for settlement by an order in writing:

Provided further that no interest shall be payable on the amount of additional demand of settlement deposited by the applicant under this sub-section.

(3) The Competent Authority shall, on being satisfied about fulfillment of all the conditions of this Ordinance by the applicant, pass the order of settlement for each application separately, specifying therein the amount of settlement and the waiver of the amount of the old arrears. The order of settlement shall be passed within 75 days of filing application by the applicant. This order shall be made in the Form, as specified by the Commissioner:

Provided that where an application is remanded under sub-section (4) of Section 8 to the Competent Authority for reconsideration, the order of settlement or the order of rejection of the application as per provision of sub-section (1) and (2), as the case may be, shall be passed within 30 days of passing of the order on appeal.

(4) Notwithstanding anything contained in the relevant Act, the applicant shall be deemed to have discharged his liability to make payment of the amount of old arrears payable by him under the relevant Acts for which the order of settlement has been passed and no further action of imposing penalty/ interest shall be taken under the relevant Act on the basis of the amount deposited and waived under this Ordinance as per settlement order.

7. The competent authority may,—

Rectification of mistakes.

- (a) on his own motion or on directions of the Commissioner; or
- (b) on an application submitted by an applicant within 30 days of receipt of the order of settlement;

pass an order, in case of clause (a) within 90 days of passing the order of settlement and in case of clause (b) within 90 days of receipt of the application, rectifying the order of settlement for correcting any clerical or arithmetical mistake or any error arising therein from any omission:

Provided that no such rectification shall be made if it adversely affects the applicant unless Competent Authority has given notice, in the Form as specified by the Commissioner to the applicant of his intention to do so and has given the applicant a reasonable opportunity of being heard.

8. (1) Notwithstanding any notification regarding jurisdiction of first Appellate Authority specified under relevant Act, an appeal against the order passed under proviso to sub-section (2) of Section 6 of this Ordinance shall lie to the Appellate Authority who shall be the Divisional Deputy Commissioner of Commercial Tax, having jurisdiction as specified in sub-section (4) of Section 3 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002).

Appeal.

(2) The applicant may file an appeal against the order passed under proviso to sub-section (2) of Section 6 or Sections 7 or 9 within 30 days from the date of service of such order.

(3) No appeal shall lie against an order passed under proviso to sub-section (3) of Section 3 or against the order of settlement passed under sub-section (3) of Section 6.

(4) The Appellate Authority shall dispose of every appeal within 60 days from the date of filing such appeal and in disposing of the appeal, the Appellate Authority may,—

(i) set aside the order of rejection of the application and remand the application to the Competent Authority for reconsideration, if it is found that proper opportunity of hearing had not been given to the applicant before rejection of his application or the submission of the applicant needs to be reconsidered by the Competent Authority; or

(ii) reject the appeal.

(5) No appeal shall lie against an order of rejection of a remanded application for settlement where such application had been remanded once under sub-section (4) supra.

(6) The order passed by the Appellate Authority shall be final.

(7) 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.

Revocation of order of settlement.

9. Notwithstanding anything contained in Ordinance, where it appears to the Competent Authority on his own motion or on directions of the Commissioner, that the applicant has obtained the benefit of settlement, by suppressing any material information or particulars or by furnishing any incorrect or false information or, if any suppression of material facts, concealment of any particulars are found in any other proceedings under the relevant Act, the Competent Authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the order of settlement passed under sub-section (3) of Section 6 within 5 calendar years of passing of settlement order. In such case, the amount of settlement deposited by the applicant shall be adjusted against his outstanding dues.

Power of Commissioner under this Ordinance.

10. (1) The Commissioner may, from time to time, issue instructions and directions as he may deem fit for carrying out the purposes of Ordinance, including directions under Section 7 and 9 of Ordinance.

(2) The Commissioner may, by order specify the Forms and Annexures required for the purpose of Ordinance.

Power to make rules.

11. (1) The State Government may, by notification, make rules to carryout the provisions of Ordinance.

(2) 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.

Power to remove difficulties.

12. If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of Ordinance, as appear to be necessary or expedient for removal of the difficulty.

Bhopal
Dated the 25th September, 2020

ANANDIBEN PATEL
Governor,
Madhya Pradesh.