

Settlement of disputes

The West Bengal Sales Tax (Settlement of Dispute) Act, 1999 as amended till date.

T Tax
I Interest
P Penalty
L Late fee



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Govt. of WB



Contents

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- Arrear tax, penalty, late fee or interest in dispute
- What is the scheme?
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- Time limit



Acts covered under this SOD Act (relevant Acts)

- ❑ BENGAL FINANCE (SALES TAX) ACT, 1941
- ❑ BENGAL RAW JUTE TAXATION ACT, 1941
- ❑ WEST BENGAL SALES TAX ACT, 1954
- ❑ CENTRAL SALES TAX ACT, 1956
- ❑ W.B. MOTOR SPIRIT SALES TAX ACT, 1974
- ❑ WEST BENGAL SALES TAX ACT, 1994
- ❑ WEST BENGAL VALUE ADDED TAX ACT, 2003
- ❑ THE WEST BENGAL TAX ON ENTRY OF GOODS INTO LOCAL AREAS ACT, 2012



Arrear tax, penalty, late fee or interest in dispute

Sec. 2(1)(a): “arrear tax, penalty, late fee or interest in dispute” means –

- (i) tax, by whatever name called, which is payable by an assessee under the relevant Act, or
- (ii) penalty imposed or which can be imposed upon an assessee due to late payment or non-payment of tax as mentioned in sub-clause (i), or for default in furnishing return in accordance with the provisions of the relevant Act, or
- (iii) penalty imposed or which can be imposed upon an assessee in cases other than cases mentioned in sub-clause (ii) in accordance with the provisions of the relevant Act; or
- (iv) late fee which is payable by an assessee under the relevant Act, or
- (v) interest which is payable by an assessee under the relevant Act,

which, as the case may be, is in dispute in any proceeding including audit, special audit, assessment, appeal, revision or review or for recovery of arrears of dues, reduced by, any deposit already made as per provisions of the relevant Act for entertainment of any appeal or revision thereunder, and/or any amount already paid, whether by way of deposit, security or otherwise, in terms of any order passed by any court or tribunal, or otherwise, and/or any amount recovered through any recovery proceedings including any garnishee proceeding, under the relevant Act, and pending before any authority on the 10th day of February, 2023

Calculation of arrear tax, penalty, late fee or interest in dispute

Example-I

Details of a case under VAT/CST Act, 1956

1. Tax disputed in appeal etc. /tax payable as per demand notice (where no appeal was preferred) as on **10.02.2023**:
 - 1.1 Tax admitted in return or in writing: Rs. 200/-
 - 1.2 Tax disputed on account of non-furnishing of Forms/certificates: Rs. 500/-
 - 1.3 Tax disputed on account of other: Rs. 300/-
 - 1.4 Total demand: Rs. 1000/-
2. Tax paid /deposited/ recovered after assessment **till 14.04.2023**:
 - 2.1 Admitted: Rs. 160/-
 - 2.2 15% of tax disputed in appeal etc. on account of Form: (15% of Rs. 500/-) Rs. 75/-
 - 2.3 15% of tax disputed on other grounds: (15% of Rs. 300/-) Rs. 45/-

Calculation of arrear tax, penalty, late fee or interest in dispute

Example-I (contd.)

Calculation

3. Calculation of remaining balance of tax in dispute relating to 1.2 :

3.1 Full rate of tax on concerned goods: 14.5%

3.2 Tax already paid in return: @2% (say)

3.3 Total turnover not supported by forms : Rs. 4000/-

3.4 Tax in dispute: Turnover of Rs. 4000/- x 12.5%= Rs. 500/-

3.5 Additional form received for turnover of, say, Rs. 3000/-

3.6 **Remaining balance of tax in dispute:** Rs. (4000-3000) 1000/- x 12.5% = Rs. 125/-

4. Arrear tax in dispute in terms of amended definition u/s 2(1)(a):

4.1 On account of non-furnishing of Forms/certificates :

[Remaining balance of tax in dispute i.e., Rs.125 **minus** Tax deposited i.e., Rs. 75] = **Rs. 50/-**

4.2 On account of other grounds:

[Tax disputed i.e., Rs.300 **minus** Tax deposited i.e., Rs. 45] = **Rs. 255/-**

Calculation of arrear tax, penalty, late fee or interest in dispute

Example-II

Details of a case under VAT/CST Act, 1956 **solely** on account of non-furnishing of Forms/certificates

1. Tax disputed in appeal etc. /tax payable as per demand notice (where no appeal was preferred) as on **10.02.2023**:
 - 1.1 Tax disputed on account of non-furnishing of Forms/certificates: Rs. 500/-

2. Tax paid /deposited/ recovered after assessment **till 14.04.2023**:
 - 2.2 15% of tax disputed in appeal etc. on account of Form: (15% of Rs. 500/-) =Rs. 75/-

Calculation of arrear tax, penalty, late fee or interest in dispute

Example-II (contd.)

Calculation

3. Calculation of remaining balance of tax in dispute relating to Example II :

3.1 Full rate of tax on concerned goods: 14.5%

3.2 Tax already paid in return: @2% (say)

3.3 Total turnover not supported by forms : Rs. 4000/-

3.4 Tax in dispute: Turnover of Rs. 4000/- x 12.5%= Rs. 500/-

3.5 Additional form received for turnover of, say, Rs. 3600/-

3.6 **Remaining balance of tax in dispute:** Rs. (4000-3600) 400/- x 12.5% = Rs. 50/-

4. Arrear tax in dispute in terms of amended definition u/s 2(1)(a):

4.1 On account of non-furnishing of Forms/certificates :

[Remaining balance of tax in dispute i.e., Rs. 50 **minus** Tax deposited i.e., Rs. 75] = (-) **Rs. 25/-**

N.B.- In the present case, application for SOD can be made **without payment of any tax**, and the case can be settled.

Calculation of arrear penalty, late fee or interest in dispute

Example-I (contd.)

Calculation

5. Calculation of arrear interest in dispute :

5.1 Interest payable as per AO/disputed in appeal etc.: Rs. 100/-

5.2 Interest paid/recovered till 14.04.2023: Rs. 20/-

5.3 Arrear interest in dispute: Rs. (100-20)= Rs. 80/-

6. Calculation of arrear late fee in dispute :

6.1 Late fee payable as per AO/disputed in appeal etc.: Rs. 50/-

6.2 Late fee paid/recovered till 14.04.2023: Rs. 10/-

6.3 Arrear late fee in dispute: Rs. (50-10)= Rs. 40/-

7. Calculation of arrear return related penalty in dispute :

7.1 Return related penalty payable as per AO/disputed in appeal etc.: Rs. 120/-

7.2 Such penalty paid/recovered till 14.04.2023: Rs. 30/-

7.3 Arrear return related penalty in dispute: Rs. (120-30)= Rs. 90/-

Calculation of arrear tax, penalty, late fee or interest in dispute

Example-III Details of a stand alone (other than Return-related) penalty case

1. Calculation of arrear Penalty in dispute

1.1 Penalty as per order/disputed in appeal etc. : Rs. 2,00,000/-

1.2 Penalty paid/recovered till 14.04.2023: Rs. 10,000/-

1.3 Deposited as per order of Tribunal till 14.04.2023: Rs. 30,000/-

1.4 Arrear penalty in dispute (other than return-related): $[1.1 - (1.2 + 1.3)] = \text{Rs. } 1,60,000/-$

Example-IV Details of a Entry tax case

2. Calculation of arrear Entry tax in dispute

2.1 Entry tax as per order etc./disputed in appeal etc. : Rs. 100/-

2.2 Entry tax paid/deposited till 14.04.2023: Rs. 20/-

2.3 Arrear Entry tax in dispute: $\text{Rs. } (100 - 20) = \text{Rs. } 80/-$

Definition of Applicant extended

“applicant” means-

- ✓ a dealer”
 - ✓ a “transporter, carrier or transporting agent”*
 - ✓ an “occupier of a jute mill” or a “shipper of jute”
- AND includes-
- ✓ legal heir, successor, assignee or nominee of such dealer, transporter etc. where the business of such dealer, transporter etc. has ceased to exist or has been discontinued
 - ✓ in case of Entry tax, a dealer or an importer other than a dealer

[* sec.2(b) substituted to include transporter as an applicant]

What is the scheme?



Application for SOD can be filed in respect of -

Any case pending.....



on or before 10.02.2023

for any period



up to 30.6.2017

case initiated/order issued....



by any authority

dispute in.....



arrear tax, interest, late fee and penalty

If the case has been referred to CO/TRO on or before 10.02.2023 or pending before any authority on or before 10.02.2023 is also eligible for the Scheme.

If prosecution is instituted, no application for SOD can be filed.



Definition of “case pending” [r. 2(a)]

“case pending” means a case which is pending on the 10th day of February, 2023 under the relevant Act, before any authority under that Act, for which–

- (i) an audit, special audit or assessment has been made, or an appeal, revision or review petition has been filed, or a revision or review proceeding has been initiated, or a notice or order has been issued intimating the applicant for payment of tax, penalty, late fee or interest, or a notice has been issued in any proceeding proposing payment of tax, penalty, late fee or interest, or
- (ii) a proceeding for recovery of arrears of dues has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913, or to a Tax Recovery Officer under the relevant Act, on or before the 10th day of February, 2023,

and includes a case in respect of arrear tax, penalty, late fee or interest in dispute relating to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2 (*Entry Tax*), whether or not the applicant is in possession of any evidence of a notice or order issued;

What is the scheme?

Rule 2(a): “case pending” in simple terms means -

A case which is pending..



On 10.02.2023

For which.....

- (i) An audit, special audit or assessment has been made; or
- (ii) An appeal, revision or review petition has been filed; or
- (iii) A revision or review proceeding has been initiated; or
- (iv) A notice or order has been issued intimating the applicant for payment of tax, interest, late fee or penalty; or
- (v) A notice has been issued in any proceedings under the relevant Acts proposing payment of tax, interest, late fee or penalty;
- (vi) Also include a case in respect of entry tax whether or not the applicant is in possession of any evidence of a notice or order issued.

What is the scheme?

Matters pending
before the
WBTT/High
Court/
Supreme Court



- Any case for a period up to 30.6.2017
- Case pending on or before 10.02.2023
- No prosecution has been instituted
- Leave of Court to be produced with the application or within 2 months of filing of application/such further time as may be allowed
- In cases where order has been passed before filing of application but after 10.02.2023, the applicant shall attach copy of order in lieu of Leave of Court with Form 1.

Amount payable to settle a case involving tax in dispute (other than entry tax)?

Arrear Tax in respect of:

- admitted tax in return or in writing [s.7(1)(a)(ia)]



100%

ATD and full payment with application

Arrear Tax in dispute in respect of:

- non-furnishing of CER/ DFs [s.7(1)(a)(i)]



~~25~~ 15%

on ATD and full payment with application

- all other tax in dispute [s.7(1)(a)(ii)]



~~25~~ 15%

on ATD and full payment with application

Interest in dispute for -

- any case [s.7(1)(b)]



0%

of interest in dispute, if filed with disputed tax also.

Penalty in dispute for [s.7(2)(a)]:

- late/non-payment of tax
- default in furnishing return



0%

of penalty in dispute.

Late fee in dispute for [s.7(1)(ab)]:

- any case



0%

of Late Fee in dispute.

Amount payable to settle a case of non-return penalty (other than entry tax)?

Penalty in dispute for

[s.7(1)(ac)]:

➤ a case of non-return related penalty

[Standalone penalty cases.

For example cases u/s 77, 96, 66AA of VAT]



of penalty in dispute

OR

Rs. 15000/-

whichever is lower

The provision for settlement of penalty case u/s 2(1)(a)(iii) (other than return-related penalty) has been re-positioned under section 7(1)(ac) in place of section 7(2)(b)

What is the scheme for entry tax?

Arrear Tax in respect of:

➤ Entry tax [s.7(1)(aa)(i)]



ATD and full payment with application

Interest in dispute for -

➤ any case [s.7(1)(b)]



of interest in dispute.

Late fee in dispute for [s.7(1)(aa)(ii)]:

➤ Entry tax



of Late Fee in dispute.

All types of Penalty in dispute for [s.7(2)(a) & (c)]:

➤ Entry tax (other than return related)



of penalty in dispute.

Calculation payment required to be made for Example I

Calculation

1. Tax admitted in return or in writing: Rs. 200/-
Less, Admitted tax paid/deposited/recovered till 14.04.2023 : Rs. 160/-
Admitted tax due (payable for settlement) : Rs. (200-160) = **Rs. 40/-**
2. **Arrear tax in dispute** in terms of amended definition u/s 2(1)(a):
 - 2.1 **On account of non-furnishing of Forms/certificates :**
[Remaining balance of tax in dispute i.e., Rs.125 **minus** Tax deposited i.e., Rs. 75] = **Rs. 50/-**
 - 2.2 **On account of other grounds:**
[Tax disputed i.e., Rs.300 **minus** Tax deposited i.e., Rs. 45] = **Rs. 255/-**
 - 2.3 Total arrear tax in dispute: [2.1+2.2]= Rs. 305/-
 - 2.4 Payment required to be made: 15% of Rs. 305/- = **Rs. 46/-** (rounded off)
3. Total amount payable for settlement: **Rs. (40+46) = Rs. 86/-**
Arrear interest, late fee and penalty in the present case shall be waived

Calculation of payment required to be made for settlement

Calculation of payment to be made for a stand alone penalty case (Example III)

1.4 **Arrear non-return penalty in dispute:** $[1.1-(1.2+1.3)] = \text{Rs. } 1,60,000/-$

Amount to be paid: 2% of Rs, 1,60,000/- = **Rs. 3,200/-** (which is lower than Rs. 15,000/-)

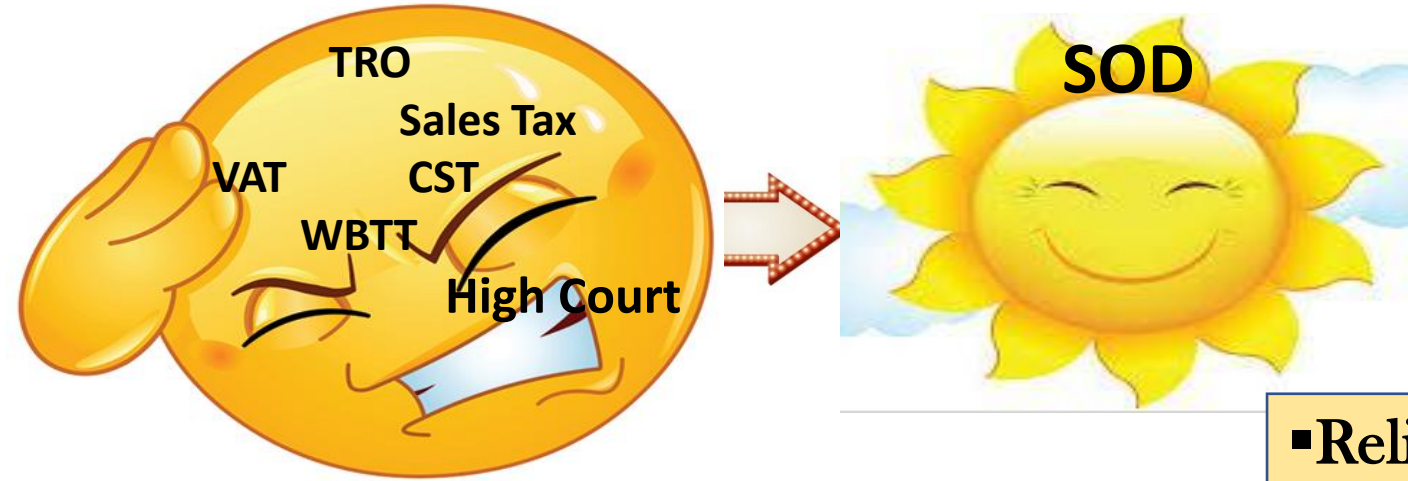
Calculation of payment to be made for a Entry tax (Example IV)

2.3 **Arrear Entry tax in dispute:** $\text{Rs. } (100-20) = \text{Rs. } 80/-$

Amount to be paid: **50%** of Rs. 80/- = **Rs. 40/-**

Interest, late fee and penalty waived

Benefits?



Just pay 15% of Arrear Tax in dispute and settle the case.
Relief of **85%** of tax.

- Relief of 100% penalty relating to non/short-payment of tax or non-furnishing of return.

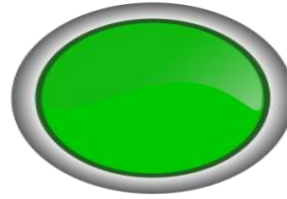
- Relief of 100% Interest
- Relief of 100% Late fee
- Relief of 98% of standalone Penalty*
(* Maximum amount payable 15000/-)

- Reduce burden of proceedings pending before different authority including CO/TRO/WBTT/HC/SC



Illustration: Whether eligible for SOD

Case exclusively involving interest is pending.



Sec 7(1)(b)

In a case tax, interest has been paid but late fee is pending.



Sec 7(1)(ab)

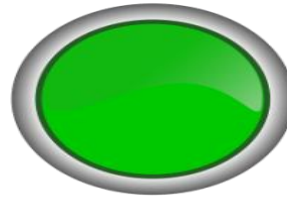
Sec 7(1)(aa)(ii) for entry tax

In a case tax, interest has been paid but penalty is pending.



Sec 7(2)(a)

In a case, tax, interest and penalty due, but application for interest & penalty.



Explanation III of Sec 7

Illustration: Whether eligible for SOD

Final hearing in appeal taken but order is not issued within 10.02.2023.



Based on last demand notice

SMR notice given but order not issued within 10.02.2023.



4(a)(iii)



AO + SMR notice both combined

Intimation made through e-mail for payment of tax, interest, late fee or penalty



4(a)(iv)



Based on intimation

Illustration: Whether eligible for SOD

Bank garnishee made -
dues partly realised -
case pending



Based on last demand
notice

Dues have been intimated
to Interim Resolution
Professional / Resolution
Professional.



IRP/RP can apply with
the payment of
applicable dues

Payment has been made
against disputed tax under
protest.



Illustration: Whether eligible for SOD

No intimation /
computation sheet /
demand notice received
against Entry tax



Based on self
declaration.

Demand notice / revised
demand notice received
but no further appeal has
been made



Based on last demand
notice received within
10.02.2023

Illustration I : Amount payable for SOD

In a case, dues of tax of Rs.7 L and interest of Rs.3 L are referred to TRO on or before 10.02.2023.

**TRO realized tax of Rs.5L.
Interest of Rs.3 L is due.**

**What amount to be paid for
SOD application?**

In this case both tax and, TRO realized tax for Rs.5L. The dealer can file SOD for both Tax and Interest.

As per the present Scheme, Arrear tax in dispute is : Rs. (7-5) lakh = 2 lakh

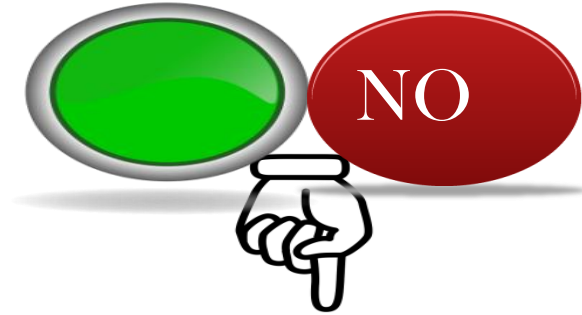
AND

Amount payable for SOD on or after 15.04.2023 and before making the application:
Tax = 15% of Rs.2 lakh = Rs. 30,000/-.
Interest shall be waived.

Illustration: Whether eligible for SOD

A case is referred to TRO exclusively for un-realised interest of Rs 15 lakh. TRO has realised a sum of Rs 3 lakh so far. Case was referred to TRO within 10.02.2023.

Whether the dealer can file SOD application to waive interest?



As per Sec 2(1)(a) the arrear tax, penalty, late fee or interest in dispute includes dispute in any proceeding for recovery of arrears of dues. Again sec 7(1)(b) states “*where the dispute relates to any arrear interest in dispute for non-payment of any arrear tax in dispute..... the interest shall be waived.*”

The conjoint reading of the above reveals that there must be any amount of arrear tax in dispute in the same case and only in that case interest shall be waived.

Illustration II : Amount payable for SOD

Disputed tax in a case under VAT Act (other than form related dispute) is Rs. 40 lakh in appeal.

The dealer deposited Rs.6 lakh at the time of filing appeal petition.

How much amount he has to pay for settlement?

Ans: Since the dealer has already deposited Rs. 6L,
ATD is Rs. (40-6) lakh = Rs. 34 lakh

So, he is required to pay 15% of Rs. 34 lakh i.e., Rs. 5.10 lakh to settle the case

Download **Form 1** available in the SOD Tile in the website
www.wbcomtax.gov.in

Fill up the **Form** and **pay*** the amount of tax/penalty payable (through
GRIPS Portal)

Generate Reference Number through the link provided in SOD Tile

Print the Acknowledgement generated

Apply manually in **Form 1** in Duplicate

*For payment of tax/penalty under the BF(ST) Act, Bengal Raw Jute Taxation Act, WBST Act, 1954 & Motor Spirit Sales Tax Act- select the option "SST" from the drop-down menu

Designated authority (to whom application to be made)

Sl. No	Dispute Related to	Cases pending as on 10.02.2023 or before	Designated Authority
1.	Arrear tax, interest and late fee pending in Appeal/Revision/ Review &	Circle	Addl. CCT/Sr. JCCT/JCCT of Circle
	Penalty related to return pending in Appeal/Revision/ Review	Large Taxpayer Unit	Spl. CCT/ Addl. CCT/Sr. JCCT of Large Taxpayer Unit
2.	Penalty related to violation of provisions for movement of goods initiated by BOI/Range/CS	Bureau of Investigation/ Range/Central Section	Addl. CCT/Sr. JCCT /JCCT of BOI/Zones of BOI
3.	All other cases, other than at serial nos. 1 & 2 above	Charge /Large Taxpayer Unit/ BOI/Range/Central Section	Jurisdictional Assessing Authority of the Charge/ LTU

In those cases where Appeal/Revision/Review applications have been disposed after 10.02.2023 but before filing SOD applications, the said applications to be presented before designated authority referred to in col. 3 of sl. no. 1.

Important Points regarding Application

- Separate application to be filed for each case [S.5(2)].
- Concerned order/notice etc. to be attached [Please see sl. No. 19 of Form 1]
- Application to cover entire dispute of a case and not a part of dispute [S.7 Exp.III]
- No court fee is required for making an application.
- Payment for settlement (if required) to be made before filing application and details of payment to be furnished in the application [S.6]
- Wherever applicable, leave from Tribunal/Court or receipt of application made for obtaining leave is required to be furnished along with Form 1
- Leave is required to be furnished **within 2 months** from the date of application or within such further date as may be provided

Important Points regarding Application

- Provisional Certificate in Form 2 becomes final, if no Notice in Form 3 is issued [S.8(1)]
- Settlement of dispute may be refused for reasons to be recorded in writing [S.8(2)]
- Settled cases can be revoked only in a case where SOD is done by suppressing of fact or providing false information [S.12]
- In settled cases Appeal/Revision is deemed to be withdrawn by the applicant from the date of filing of Form 1 [S.10]
- In case of revocation/refusal of settlement, Appeal/Revision shall stand restored immediately and shall be disposed of under the relevant Act [S.12]
- Designated authority to keep Assessing/ Appellate/ Revisional authority / CO/ TRO informed by issuing Form 4 within 7 days [S.13 & r.8]

Time Limit and Forms to be issued

Period of dues	Upto 30.6.2017
Pending before any authority	On or before 10.02.2023
Cases referred to CO/TRO	Upto 10.02.2023
Leave to be produced in case of WBTT/HC/SC	With application or within 2 months from date of application
Last date of filing application for SOD	31.05.2023
Form 2 (Provisional Certificate)	Within 15 working days
Form 3 (in case of discrepancy)	Within 3 months following the month of application
Reply against Form 3	Within 15 days of receipt of Form 3
Form 3A/order of refusal	After expiry of time allowed in Form 3 or extended further
Communication in Form 4	Ordinarily within 7 days of Application received/ Order passed u/s 8/ Revocation of certificate of settlement u/s 12

THANK YOU

**DIRECTORATE OF COMMERCIAL TAXES
GOVERNMENT OF WESTBENGAL**

