

Office of the
Commissioner of Sales Tax,
8th floor, Vikrikar Bhavan,
Mazgaon, Mumbai-400010.

TRADE CIRCULAR

To,

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No. VAT/MMB-2015/47/2016-17/ADM-8 date 3rd September, 2016.
Trade Cir. No. 24T of 2016

Subject : Clarification under Settlement of Arrears in Disputes Act, 2016

Ref. : (1) The Maharashtra Settlement of Arrears in Disputes Act, 2016. (Act No. XVI of 2016)
(2) Trade Circular No. 10T of 2016 dated 3rd May 2016
(3) Trade Circular No. 10(A) T of 2016 dated 3rd May 2016.
(4) Trade Circular No. 19T of 2016 dated 30th June 2016
(5) Trade Circular No. 20T of 2016 dated 19th July 2016.
(6) Trade Circular No. 21T of 2016 dated 24th August 2016

Gentlemen/Sir/Madam,

1. After Commencement of the Maharashtra Settlement of Arrears in Disputes Act, 2016 (hereinafter referred to as "Settlement Act") various Trade Circular(s) cited at Ref. (2) to (6) above were issued. Aforesaid Trade Circulars has explained various aspects and queries related to the availment of benefits under the Settlement Act.
2. The representations and queries have been received with regards to the following issues:
 - (1) Condition of stay;
 - (2) Proof of withdrawal of appeal;
 - (3) Penalty order under section 61(2) and obligation to submit Audit Report in Form-704;
3. It has been brought to the notice of this office that aforesaid issues are causing impediments and also slowing down the process of availment of the benefits under the Settlement Act. In view of these

representations, the following clarification and revised instructions are issued:

(1) Condition of Stay:

- (a) In earlier FAQ's issued vide Trade Circular 20T of 2016, with regards to the condition of stay, it was stated that the Order of the Stay should be valid till the date of withdrawal of the appeal. Due to this, the Nodal Officers are insisting upon the stay that is valid till the date of withdrawal of appeal. This creates some hardship.
- (b) In order to mitigate this issue, the instructions given earlier are modified and now, applicant may submit any kind of stay which may be valid till the date of withdrawal of appeal order or not.
- (c) The answer to FAQ given earlier stands modified as above. Therefore, the applicant is required to enclose the copy of the order of ad-interim stay, interim stay or final stay.

(2) Proof of Withdrawal Of Appeal:

- (a) In earlier FAQ's with regards to the proof of withdrawal of appeal it was stated that the applicant should submit the copy of the order of the withdrawal as passed by the Appellate Authority. As discussed above, this issue is also examined and following revised instructions are issued:
 - (i) The applicant now is required to submit the proof of submission of request letter for withdrawal of appeal, either in full or partial, to the appellate authority with whom the said appeal is pending.
 - (ii) The acknowledgement of receipt of request letter for withdrawal of appeal as aforesaid should be treated as sufficient proof for withdrawal of appeal.

(b) Instructions to Appellate Authorities:

- (i) The appellate authorities are now directed to take on record the letter requesting the withdrawal of appeal and give appropriate acknowledgement in this behalf.

- (ii) It is further directed that no appellate authority shall refuse to give appropriate acknowledgement towards receipt of request letter for withdrawal of appeal. Any complaint with regards to this will be viewed seriously. All the concern should take note of it.
- (iii) The appellate authority after receipt of said application should examine the same and pass the appropriate order allowing the withdrawal of appeal either fully or partially as sought by the appellant.
- (iv) The appellate authority on the basis of the facts and circumstances of the case, if decides to reject the request for withdrawal of appeal; this may be done only with application of mind and for the reasons recorded in writing.
- (v) After allowing or rejecting the withdrawal of appeal the copy of the said order shall be sent to the Nodal Officer to whom the said case is assigned as also to the appellant.

(c) Instructions to Nodal Officer:

- (i) The Nodal officer should accept the application for availing the benefits under the Settlement Act. As discussed, the Nodal Officers are directed to consider these applications vis-à-vis instructions revised as aforesaid.
- (ii) The Nodal Officer should co-ordinate with the appellate authorities and request for the copy of the order of the withdrawal of appeal and keep such copy of the order of the withdrawal on record.
- (iii) The Nodal Officer must ensure that the copy of the order of withdrawal is on record and thereafter the order of settlement shall be passed.
- (iv) The immediate supervisory authority should monitor the receipt of order of withdrawal of appeal and passing of

the Settlement Order. In any case there should not be unjustifiable delay.

(3) Penalty order under section 61(2) and obligation to submit Audit Report in Form-704:

- (i) In earlier FAQ's No. 33 issued it was stated as under:
“**Ans.** The audit report in respect of periods stated in aforesaid query can be filed either in the old format or, as the case may be, existing format depending upon the convenience and ease. The said submission of Audit Report shall be treated as good compliance. Thus on fulfilment of other conditions given in Settlement Act this may qualify for the benefits”.
- (ii) As stated above, the benefits in respect of penalty will be available subject to the condition that the applicant has submitted the F-704 either in the old format or, as the case may be, existing format depending upon the convenience and ease.
- (iii) Audit Report in respect of the period(s) under Settlement Act if filed on or before 31st October 2016, then the applicant will be allowed 100% waiver of the penalty so imposed.
- (iv) The Nodal Officer is directed to confirm that the applicant has filed the Audit Report and then only allow the benefits under the Settlement Act.
4. Needless to state that the instructions issued as above will be applicable in respect of all the applications whether received before or after the issuance of this Trade Circular
5. All the authorities are directed to follow these instructions scrupulously.

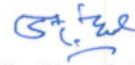
Yours faithfully,



(Rajiv Jalota)

Commissioner of Sales Tax,
Maharashtra State, Mumbai.

No. VAT/MMB-2015/47/2016-17/ADM-8 date 3rd September, 2016.
Trade Circular No. 24 of 2016.



(A.S. Gorde)

Deputy Commissioner of Sales Tax,
(Act & Rule), M.S., Mumbai.

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The Joint Commissioner of Sales Tax (Mahavikas) with a request to upload this Circular on Departments Web-site.