

Office of the  
Commissioner of State Tax,  
Maharashtra State  
8th Floor, GST Bhavan,  
Mazgaon, Mumbai-10.

**TRADE CIRCULAR**

To,

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No. Sett./MMB-2019/1/2018-19/ADM-8 dated the 15<sup>th</sup> May 2019.

**Trade Circular No. 20T of 2019**

**Subject : Clarification and FAQ's on Settlement of Arrears of Tax, Interest, Penalty or Late Fee Ordinance, 2019.**

**Ref. :** (1) The Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Ordinance, 2019 (Mah. Ord. No. V of 2019 dated 6<sup>th</sup> March 2019)  
(2) Trade Circular No. 9T of 2019 dated 8<sup>th</sup> March 2019.  
(3) User manual for preparation and uploading of Form-I and Form-IA.  
(4) User manual for creation of User Profile by Un-registered dealer and the dealer who has not created the User Profile on SAP system.

Gentlemen/Sir/Madam,

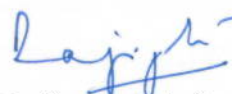
1. You are well aware that the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Ordinance, 2019 (Mah. Ord. No. V of 2019) (hereinafter referred to as "Ordinance") dated 6<sup>th</sup> March 2019 has been promulgated and is effective from 6<sup>th</sup> March 2019. In order to clarify and explain the provisions of the Ordinance a Trade Circular cited at Ref. (2) above was issued. Further, to facilitate the preparation of application in Form-I and Form-IA and its uploading as also for e-payment of the requisite amount, a User manual(s) cited at Ref. (3) and (4) is/are also issued and kept at "What's New" Section and link is <https://mahagst.gov.in/en/whats-new/61>.
2. Further, a Trade Circular 9T of 2019 dated the 8<sup>th</sup> March 2019 was issued to explain the legal provisions as also the procedural aspects. In Para 3.12(8) of the aforesaid Trade Circular it was stated that,-

*“It may be noted that the appellate authorities are required to pass an order allowing the withdrawal of the appeal in the Form to be provided in this behalf.”*

It has been represented by the appellate authorities that standard Form for the purpose of passing the withdrawal of appeal will lead to the certain complications as the appeal involves different points of disputes therefore it would not be advisable to provide a standard template for the said purpose. In view of this the appellate authorities may devise their own template for the appeal withdrawal order. However, care may be taken by the appellate authority as well as the appellant so that the transactions/issues for which the appeal is withdrawn for the purpose of settlement and certain issues for which the appeal is continued should be clearly identifiable. Preferably the appellate authorities should take the list of the transactions/invoices for which appeal is withdrawn and the appeal is continued. As a result, the instructions given in the Para 3.12(8) as above stands modified accordingly.

3. This office has received the representations from the Trade and Associations with a request to clarify certain difficulties related to the provisions of the Ordinance more particularly relating to determination of requisite amount, un-disputed tax to be paid under the Ordinance, issue based withdrawal of the appeals etc. This office has examined the aforesaid representations and queries raised therein. On this background, certain issues and queries raised through such representations are clarified herewith as FAQ. This Trade Circular is being issued to answer the queries or the issues raised in the form of most Frequently Asked Questions (FAQ).
4. It is further clarified that the subsequent set of FAQ's will be added to this Trade Circular when the need arises. The Trade and Associations may e-mail their queries at [<vatamnesty2019@gmail.com>](mailto:vatamnesty2019@gmail.com)

**Yours faithfully,**



**(Rajiv Jalota)**

Commissioner of State Tax,  
Maharashtra State, Mumbai.

**Frequently Asked Questions (FAQ) and it's Answers**  
**(Dated 15<sup>th</sup> May 2019)**

**Q. 1** What are arrears that are available for the settlement under the Settlement Ordinance? Whether the application is to be made mandatorily electronically?

**Ans.** (1) As per section 2(1)(c) of the Settlement Ordinance the arrears means amount of tax, interest, penalty or late fee,-

- (a) payable as per any statutory order which pertains to period upto 30<sup>th</sup> June 2017 and which is passed on or before the 15<sup>th</sup> July 2019.
- (b) admitted in the return or the revised return (return dues-short filing amount) and which has remained un-paid partly or wholly and such return is filed on or before the 15<sup>th</sup> July 2019.
- (c) determined and recommended to be payable by the auditor, in Form-704 and whether accepted or not.
- (d) in respect of which a notice for assessment is issued or notice in Form-604 or any notice communicating the risk has been issued.
- (e) determined to be payable by the assessee and where no notice has been issued.

(2) The amount of tax, interest and penalty that is outstanding as on 1<sup>st</sup> April 2019 shall be available for the settlement.

(3) The application for the settlement of tax, interest, penalty or late fee shall be made electronically on the MGSTD portal i.e. at <https://mahagst.gov.in> in Form-I or Form-IA depending upon the class of arrears.

**Q. 2** What is the meaning of un-disputed tax and whether benefits of waiver under Settlement Ordinance is available in respect of the un-disputed tax?

**Ans.** (1) The section 2(1)(q) of the Ordinance defines the term “un-disputed tax”. The following is referred to as the un-disputed tax:

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

- (v) an amount forfeited under the statutory order or excess tax collection shown in the return, revised return or, Audit report, as the case may be, submitted under the Relevant Act; or
  - (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; or
  - (vii) the tax deducted at source (TDS) by the employer under the Relevant Act; or
  - (viii) the tax collection made under section 31A of the Value Added Tax Act;
- (2) It may be noted that **NO** waiver is available towards the said “un-disputed tax”. and the applicant is required to make the full payment of the said un-disputed tax.

(For further details please refer the Trade Circular 9T of 2019 dated the 8<sup>th</sup> March 2019 [3.11(8)].

**Q. 3** An Assessment order under the Maharashtra Value Added Tax Act, 2002 (hereinafter referred to as “MVAT Act”) for the period **2014-15** was passed on 20<sup>th</sup> April 2018.

(1) The demand raised under the said Assessment order is as under:

- (a) Tax-----Rs. 5,00,000/-
- (b) Interest-----Rs. 2,50,000/-
- (c) Penalty-----Rs. 75,000/-.
- (d) Total-----Rs. 8,25,000/-**

(2) Against this order the M/s ABC has made the payment of Rs. 2,00,000/- on 19<sup>th</sup> May 2018. Thereafter, neither any payment was made nor any appeal was filed. Now, dealer desires to opt for the settlement of tax, interest, and penalty. Whether M/s ABC is eligible for the settlement of aforesaid arrears as reduced by the payment of Rs. 2,00,000/- and how the amount of Rs. 2,00,000/- paid on 19<sup>th</sup> May 2018 is to be adjusted?

**Ans.** (1) M/s ABC would be eligible to opt for the settlement of arrears of tax, interest and penalty for the amount stated in the Assessment order as reduced after the payment of Rs. 2,00,000/-.

(2) As per section 5 of the Settlement Ordinance, M/s ABC is entitled to first adjust the amount of Rs. 2,00,000/- paid prior to the 31<sup>st</sup> March 2019 in the Para-(3) below:

(3) Determination of outstanding amount as on 1<sup>st</sup> April 2019:

- (a) In order to adjust the amount of Rs. 2,00,000/- paid prior to 1<sup>st</sup> April 2019, it is essential to ascertain the amount of un-disputed tax and disputed tax. For this, the provisions of section 2(1)(q) shall be kept in mind. In the light of aforesaid following assumptions are made:

**Table-1**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Figures</b>	
(1)	Tax Outstanding as per Assessment Order (Rs.)	5,00,000	
(a)	<b>Un-disputed tax amount (Rs.)</b>	<b>3,00,000</b>	
(b)	<b>Disputed tax amount (Rs.)</b>	<b>2,00,000</b>	
(c)	<b>Ratio of disputed and un-disputed tax</b>	<b>60:40</b>	
(2)	Paid prior to the 31st March 2019 (Rs.)	2,00,000	
(3)	<b>Balance Outstanding tax as on 1st April 2019 (Rs.)</b>	<b>3,00,000</b>	
(4)	<b>Applying the ratio of 60:40 to the balance amount of Rs. 3,00,000/- to arrive at un-disputed tax and disputed tax amount comes to (Rs.)</b>	<b>Un-disputed tax</b>	<b>1,80,000</b>
		<b>Disputed tax</b>	<b>1,20,000</b>

- (b) M/s ABC is required first to determine the ratio of the un-disputed tax and the disputed tax and determine the amount of tax outstanding as on 1<sup>st</sup> April 2019. Accordingly, the ratio of un-disputed tax and disputed tax comes to 60:40, respectively.

(4) Determination of requisite amount for **First Phase** would be as under:

**Table-2**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Amount of arrears as on 1st April 2019</b>	<b>Requisite Amount for the First Phase</b>		<b>Eligible waiver</b>
			<b>%</b>	<b>Amount</b>	
(1)	(a) Un-disputed tax	1,80,000	100	1,80,000	00
	(b) Disputed tax	1,20,000	70	84,000	36,000
(2)	Interest	2,50,000	20	50,000	2,00,000
(3)	Penalty	75,000	10	7,500	67,500
(4)	<b>Total requisite amount payable</b>			<b>3,21,500</b>	<b>3,03,500</b>

- (a) In the manner given above the applicant M/s ABC needs to calculate the un-disputed tax, disputed tax and requisite amount.
- (b) It shall be kept in mind that in case the payment on account of requisite amount is made less than the required then M/s ABC shall be entitled to get the benefit in proportionate amount paid during the First Phase i.e. on or before the 30<sup>th</sup> June 2019. [Please refer to the Trade Circular No. 9T of 2019 dated the 8<sup>th</sup> March 2019 Para-3.14(4) Page No. 28 to 32]
- (5) Thus, in above example to get the waiver towards the disputed tax, interest and penalty said M/s ABC needs to pay the requisite amount at **Rs.3,21,500/-** and submit application in Form-I on or before the 30<sup>th</sup> June 2019 for settlement on MGSTD portal.

- Q. 4** (1) M/s XYZ reseller of stationery items who was liable to obtain registration under the MVAT Act with effect from 15<sup>th</sup> April 2015 however, it has remained un-registered (U.R.D.) till 30<sup>th</sup> June 2017. Now, M/s XYZ desires to settle the arrears of tax (here the said dealer being U.R.D. has not collected any taxes) and interest for the period 15<sup>th</sup> April 2015 to 31<sup>st</sup> March 2016, 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2017 and 1<sup>st</sup> April 2017 to 30<sup>th</sup> June 2017.
- (2) Whether such dealer is required to obtain registration under the MVAT Act? Please state the procedure to be followed for availing the benefits under the Settlement Ordinance.

- Ans.** (1) As per the provisions of section 6(1) of the Settlement Ordinance, such un-registered person is eligible to submit application for aforesaid period in order to settle the arrears of tax, interest and penalty, if any.
- (2) Needless to state that to settle arrears for U.R.D. period the applicant shall not be required to obtain the registration under the MVAT Act (as after 1<sup>st</sup> July 2017 MVAT is applicable for only 6 goods). [For further details please refer Para 3.5 of the Trade Circular 9 T of 2019 dated the 8<sup>th</sup> March 2019].
- (3) The MGSTD has provided the facility to un-registered person to create user profile on the basis of the Permanent Account Number (PAN) provided under the Income Tax Act, 1961. For creation of user profile, the MGSTD portal will provide access to the said URD dealer on the basis of the PAN. With the use of said PAN a Unique Identification Number (UIN) beginning with 77 will be generated. This UIN is required to be used in order to submit the application.

It shall be kept in mind that the payment of the requisite amount is to be made with the use of the same PAN on the basis of which UIN is created.

- (4) For further details please refer Manual for Creation of User Profile and e-payment to be made under the Settlement Ordinance. These manuals are kept at the MGSTD web-site. The link is <https://www.mahagst.gov.in/en/whats-new/61>.
- (5) The applicant subject to the fulfillment of conditions relating to the submission of application and payment of the requisite amount [determined as per section 4 and 10 read with Annexure-A and Annexure-B] is eligible to settle the said arrears.
- (6) However, it may please be noted that for the Professions Tax Act to get the benefits under the Ordinance in respect of the un-registered period it is mandatory to obtain the registration. Also, for the tax payers dealing in the Six commodities under MVAT Act (before and after the 1<sup>st</sup> July 2017) and who desires to settle the arrears of tax, interest or the penalty, if any in respect of un-registered period then such tax payer shall be required to obtain the registration under the MVAT Act.

- Q. 5**
- (1) M/s ABC Enterprises was liable to obtain the registration with effect from 10<sup>th</sup> May 2013. However it has obtained the registration on 5<sup>th</sup> April 2016, which was late. As a result there is an un-registered period from the 10<sup>th</sup> May 2013 to 4<sup>th</sup> April 2016 i.e. 10<sup>th</sup> May 2013 to 31<sup>st</sup> March 2014, 1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2015, 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016 and 1<sup>st</sup> April 2016 to 4<sup>th</sup> April 2016.
  - (2) As required by rule 18(1A) of the MVAT Rules M/s ABC Enterprises has filed the returns for the period mentioned above and taken the set-off and accordingly after claim of set-off, the tax liability is discharged. However, the taxes disclosed in the return are paid late. The interest for such delayed payment of tax is outstanding as on date.
  - (3) M/s ABC Enterprises has submitted an application for administrative relief on 20<sup>th</sup> April 2016. Assessments for U.R.D. period are not yet complete as also no orders are passed in respect of the application filed for administrative relief.
  - (4) On this background, the dealer desires to opt for the settlement of arrears of tax liability that may arise due to disallowance of set-off, interest on delayed

payment of tax and also interest or the penalty, if any that may be imposed for failure to obtain registration within prescribed time limit. Please state the procedure to opt for the settlement of arrears for the aforesaid period(s).

**Ans.** (1) The Commissioner of State Tax, Maharashtra State has already issued the instructions to all the jurisdictional Joint Commissioners to dispose of the pending applications for administrative relief. In this case, it is advised that the applicant, may pursue the matter for disposal of the application for administrative relief. In case of difficulty, it may be brought to the notice of the concerned Zonal Additional Commissioner. The Zonal Additional Commissioner may intervene in the matter so that such applications are disposed of on priority. This approach will help such dealers to participate for the settlement of arrears.

(2) However, in the absence of the administrative order and the assessment order, the said dealer, may compute the arrears considering the following aspects:

- (a) Self-assess the interest payable on delayed payment of the tax paid as per return.
- (b) Self-assess the tax liability and the interest payable thereon as if the entire set-off so claimed in the return(s) would be disallowed for remaining un-registered as on the date of effecting the purchases. The self-assessed tax liability on account of disallowance of set-off so computed would be treated as disputed tax liability and the said dealer after payment of such percentage of tax amount and the interest payable thereon will get waiver in terms of section 4 and Annexure-A and Annexure-B appended to the Settlement Ordinance.
- (c) It shall be kept in mind that the said dealer shall also determine the interest payable in respect of the tax liability determined [on account of disallowance of set-off] from the due date till the date of payment of the requisite amount;

**OR**

- (d) Self-assess the interest payable for delay in the payment and for obtaining late registration till the date of said payment and penalty as if the administrative relief order would be passed in favour of the dealer. The dealer is required to self-assess the interest payable (from the due



date till the date of payment of said tax) and determine the requisite amount in respect of such interest i.e. 20% of the interest so determined to be payable and 10% of the maximum penalty, if any that may be imposed.

- (e) To avail the said benefits the application and the payment of the requisite amount shall be made on or before the 30<sup>th</sup> June 2019 else the interest and penalty shall be required to be paid as prescribed for the Second Phase i.e. **30% and 20%** respectively. In case the payment as above, is not made then the benefits shall be granted proportionately.

- Q. 6** (1) M/s PQR had availed the benefits under **Settlement Act, 2016** by withdrawing the appeal in respect of the certain issues and continued the appeal for certain other issues.
- (2) For certain issues M/s PQR has availed the benefits under Settlement Act, 2016 and the settlement order was passed accordingly.
- (3) Now, applicant desires to withdraw the appeal that was continued as stated above and avail the benefits under the Settlement Ordinance-2019. Whether, the applicant would be eligible to withdraw the appeal and avail the benefits as per Settlement Ordinance-2019?

- Ans.** (a) As per the provisions of section 6(2) of the Settlement Ordinance even though M/s PQR has availed the benefits under the earlier Settlement Act-2016 he would be eligible to avail the benefits under the Settlement Ordinance-2019 provided the appeal so continued is withdrawn.
- (b) The applicant will be required to determine the requisite amount considering the Phases given in section 4 of the Ordinance and section 10 read with Annexure-A and Annexure-B appended to Settlement Ordinance.

- Q. 7** Whether the applicant is required to make separate application under each of the Relevant Act for each of the statutory order?

- Ans.** As per the provisions of section 7(1) of the Settlement Ordinance the applicant in order to get the benefits of settlement of arrears as per statutory order is required to make the application in Form-I separately under each of the Relevant Act and for each of the Statutory order.

- Q. 8** (1) M/s XYZ Enterprises has filed the returns and shown the tax and interest payable upto the date of submission of the said returns. The details are as under:

**Table**

<b>Sr.</b>	<b>Month(s)</b>	<b>Tax</b>	<b>Interest</b>
(1)	December-2015	3,00,000	50,000
(2)	January-2016	2,00,000	25,000
(3)	February-2016	2,50,000	40,000
(4)	March-2016	3,50,000	80,000
	<b>Total</b>	<b>11,00,000</b>	<b>1,95,000</b>

(2) Whether M/s XYZ Enterprises would be eligible to opt for the settlement and what would be the requisite amount in case the application and the payment of the requisite amount is paid during the First Phase?

- Ans.** (1) M/s XYZ Enterprises would be eligible for the settlement of the tax and interest admitted in the return which has remained un-paid.
- (2) The requisite amount for the First Phase shall be as computed considering the following:

**Table-1**

<b>Sr. No.</b>	<b>Month(s)</b>	<b>Tax</b>	<b>Interest upto the date of submission of return(s)</b>	<b>Interest from the due date till the date of payment of requisite amount*</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>
(1)	Dec.-2015	3,00,000	50,000	70,000
(2)	Jan.-2016	2,00,000	25,000	35,000
(3)	Feb.-2016	2,50,000	40,000	55,000
(4)	Mar.2016	3,50,000	80,000	95,000
(5)	<b>Total</b>	<b>11,00,000</b>	<b>1,95,000</b>	<b>2,55,000</b>

**Table-2**

<b>Requisite amount for the First Phase (in Rs.) and waiver</b>				
<b>Sr. No.</b>	<b>Tax (100%)</b>	<b>Interest* (20 %)</b>	<b>Total</b>	<b>Waiver in interest</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>
(1)	3,00,000	14,000	3,14,000	56,000
(2)	2,00,000	7,000	2,07,000	28,000
(3)	2,50,000	11,000	2,61,000	44,000
(4)	3,50,000	19,000	3,69,000	76,000
(5)	<b>11,00,000</b>	<b>51,000</b>	<b>11,51,000</b>	<b>2,04,000</b>

**\*20% of the amount in column (e) of Table-1 above.**

- (3) It is to be kept in mind that the M/s XYZ Enterprises would be required to compute the interest from the due date [as given in rule 45 read with rule 17 of the MVAT rules] till the date of payment of the requisite amount. To avail the benefits the dealer would be required to calculate the 20% of the interest as given in column (c) + tax as shown in column (b) of the Table-2 above. The requisite amount towards the tax and interest payable in this example would be at Rs. 11,51,000/- as shown in column (d) of the said Table-2.
- (4) As is seen from above Table-2 that the M/s XYZ Enterprises would be required to pay entire tax admitted in the return and that has remained unpaid. No waiver is available towards the aforesaid tax amount stated in section 2(1) (q)(ii) as the taxes shown payable are treated as un-disputed tax.
- (5) Thus the dealer on payment of un-disputed tax at Rs. 11,00,000/- and the interest of Rs. 51,000/- i.e. the total of Rs. 11,51,000/- would be entitled to the waiver in interest of Rs. 2,04,000/-.
- (6) To settle the tax and interest in respect of aforesaid returns for financial year 2015-16 the dealer may make a single application and it would not be necessary to file application for settlement qua return.

- Q. 9** (1) The applicant M/s ABC and Company for period 2014-15 has filed the Audit Report in Form-704. The Auditor has made the following recommendations. The status of acceptance by the dealer is also as given in Table below:

**Table-1**

Sr. No	Particulars	Auditor's Recommendations		Amount Accepted by dealer	
		VAT (Rs)	CST (Rs)	VAT (Rs)	CST (Rs)
(1)	Pay additional tax liability of Rs.	4,00,000	00	4,00,000	00
(2)	Pay interest under-section 30(2) of Rs.	1,50,000	00	1,50,000	00

- (2) As seen from the above Table that M/s ABC and Company has accepted the recommendations made by the auditor.
- (3) Please state considering the definition of un-disputed tax and the disputed tax i.e. section 2(1)(q)(iv) and 2(1)(g) of the Ordinance whether the amount of tax and interest as recommended by the auditor is to be treated un-disputed tax or disputed tax?

**Ans.**

- (a) It is seen from the above Table that the auditor has made recommendations under the MVAT Act about additional tax liability of Rs. 4,00,000/- and interest under section 30(2) to be payable by the dealer.
- (b) As per section 2(1)(q)(iv) of the Settlement Ordinance the amount of tax, interest or late fee recommended by the auditor and to the extent accepted by the dealer is **treated as un-disputed.**
- (c) Therefore, in the instant example M/s ABC and Company has accepted the additional tax liability of Rs. 4,00,000/- and interest of Rs. 1,50,000/- under section 30(2) of the MVAT Act, recommended by the auditor hence to settle this amount under the Settlement Ordinance the dealer shall be required to make the payment of the entire amount of tax and interest.
- (d) However, as the Rs. 4,00,000/- tax recommended by the auditor and as accepted by the dealer has not been paid till date therefore there would be additional interest liability to be computed from the due date till the date of payment of the requisite amount. Assume this interest comes to Rs. 50,000/-
- (e) To opt for the settlement of arrears of Rs. 5,50,000+50,000=6,00,000/- as shown in Table below, the dealer would also be required to pay the 20% of Rs. 50,000/- (interest on Rs. 4,00,000/-) i.e. Rs. 10,000/- provided that the payment and the application is submitted in the First Phase i.e. on or before the 30<sup>th</sup> June 2019.

- (f) In view of above, the dealer would be required to pay the requisite amount with the waiver as given in the Table-2 below:

**Table-2**

Sr. No	Particulars	Amount payable	Requisite amount for the First Phase		Waiver available
			%	Amt.	
(1)	Tax	<b>4,00,000</b>	<b>100</b>	4,00,000	NIL
(2)	Interest	<b>1,50,000</b>	<b>100</b>	1,50,000	NIL
(3)	Self-assessed interest on Rs. 4,00,000/-.	<b>50,000</b>	<b>20</b>	10,000	40,000
<b>Total</b>		<b>6,00,000</b>		<b>5,60,000</b>	<b>40,000</b>

- (g) As can be seen from the Table above that the dealer would be required to make the **payment of requisite amount of Rs. 5,60,000/ with a waiver of Rs. 40,000/- towards self-assessed interest.**

- Q. 10** (1) The applicant M/s ABC and Company for period **2015-16** has filed the Audit Report in Form-704. The auditor has made the following recommendations. The status of acceptance by the dealer is as given in Table below

**Table-1**

Sr. No	Particulars	Auditor's Recommendations		Accepted Amount by the dealer	
		VAT (Rs)	CST (Rs)	VAT (Rs)	CST (Rs)
(a)	(b)	(c)	(d)	(e)	(f)
(1)	Pay additional tax liability of Rs.	1,00,000	2,50,000	1,00,000	1,60,000
(2)	Pay interest under-section 30(2) of Rs.	50,000	90,000	50,000	60,000
(3)	Late fee	5,000	5,000	5,000	5,000
(4)	<b>Total</b>	<b>1,55,000</b>	<b>3,45,000</b>	<b>1,55,000</b>	<b>2,25,000</b>

- (2) In the instant case the Auditor has recommend the additional tax and interest liability under MVAT Act and under CST Act as shown in the Table above.
- (3) The dealer has accepted the auditor's recommendations in respect of MVAT and CST liability as shown in the column (e) and (f) of the Table above. Considering the definition of un-disputed tax and disputed tax whether the

amount of tax and interest under section 30(2) under the MVAT Act/CST Act to be treated as un-disputed tax or disputed tax?

- Ans.** (a) As stated in answer to the preceding question as per section 2(1)(q)(iv) it is clear that to the extent of the tax, interest and late fee recommended to be payable by the auditor and accepted by the dealer said amount of tax, interest or late fee is treated as **un-disputed tax.**
- (b) **Further the amount of tax, interest or late fee that is recommended by the auditor and not accepted by the dealer would be available for the settlement. Whether the tax is un-disputed or is disputed will depend upon the definition provided in section 2(1)(q) of the Ordinance.**
- (c) It may be borne in mind that no waiver towards the arrears of late fee shall be available in case the returns are filed on or before the 31<sup>st</sup> March 2019.
- (d) On this background, to settle aforesaid amount of tax, interest and late fee dealer would be required to pay the requisite amount as given in the Table below:

**Table-2**  
**Under MVAT Act**

<b>Sr. No</b>	<b>Particulars</b>	<b>Tax</b>	<b>Interest</b>	<b>Late fee</b>	<b>Total</b>
(1)	Recommendations made by the auditor	1,00,000	50,000	5,000	<b>1,55,000</b>
(2)	Acceptance by the dealer	1,00,000	50,000	5,000	<b>1,55,000</b>
(3)	<b>Un-disputed amount</b>	1,00,000	50,000	5,000	<b>1,55,000</b>
(4)	<b>Disputed amount</b>	00	00	00	<b>00</b>
(5)	<b>Requisite amount to be paid</b>				
(6)	100% of Un-disputed tax	<b>1,00,000</b>	<b>50,000</b>	<b>5,000</b>	<b>1,55,000</b>

**Table-3**  
**Under CST Act**

Sr. No	Particulars	Tax	Interest	Late fee	Total
(1)	Recommendations made by the auditor	2,50,000	90,000	5,000	<b>3,45,000</b>
(2)	Acceptance by the dealer	1,60,000	60,000	5,000	<b>2,25,000</b>
(3)	<b>Un-disputed amount</b>	<b>1,60,000</b>	<b>60,000</b>	<b>5,000</b>	<b>2,25,000</b>
(4)	<b>Disputed amount</b>	90,000	30,000	00	<b>1,20,000</b>
(5)	<b>Requisite amount to be paid</b>				
(6)	Un-disputed amount <b>100%</b>	1,60,000	60,000	5,000	2,25,000
(7)	Disputed amount	90,000	30,000	00	1,20,000
(8)	%	<b>70%</b>	<b>20%</b>	<b>100%</b>	
(9)	Requisite amount for disputed amount	63,000	6,000	00	69,000
(10)	<b>Total (6+9)</b>	<b>2,23,000</b>	<b>66,000</b>	<b>5,000</b>	<b>2,94,000</b>

**Note:** Wherever, in the examples given in this Trade Circular the term “disputed tax” is used it is presumed that the said ‘disputed tax’ does not fall under the definition of un-disputed tax as covered under 2(1)(q) of the Settlement Ordinance.

- (e) As discussed in the preceding question the dealer would be required to determine the interest in respect of the tax amount that desired to be settled. The said interest shall be calculated from the due date to the date of payment of requisite amount. **Say this interest on MVAT and CST tax liability to be settled comes to Rs. 30,000/- and 15,000/-, respectively the dealer would be required to pay 20% of the Rs.30,000/- and Rs. 15,000/- at Rs. 6,000/- and Rs. 3,000/- respectively and submit application during the First Phase.**
- (f) It is clear from the above example that the recommendations made by the auditor and acceptance by the dealer and the definition of un-disputed tax are important factors that determines whether the particular amount is un-disputed or not. Thus to settle the tax and interest liability given in Table above the amount as aforesaid dealer would be required to make the payment of requisite amount as given under:
- MVAT Act-----Rs, 1,61,000/- (Rs. 1,55,000+6,000) and
  - CST Act-----Rs. 2,97,000/-(Rs. 2,94,000+3,000)

**Q. 11** (1) The applicant M/s ABC and Company for period **2016-17** has filed the Audit Report in Form-704. The auditor has made the recommendations on the basis of the fact that the dealer has collected the tax @ 12.5% but in the

return the tax liability is wrongly computed @ 5%. The goods sold are taxable @ 12.5%.

- (2) On this basis the auditor has recommended the additional tax and interest on the said differential tax liability. However, the dealer has in **Letter of submission** appended to Audit Report in Form-704 has not accepted the recommendations made by the auditor.
- (3) Now dealer desires to opt for settlement of the tax and the interest as recommended by the auditor. Under these circumstances whether said dealer is eligible to opt for the settlement of the tax and interest so recommended by the auditor. What would be the requisite amount to be paid for settlement of said tax and interest and whether the tax so recommended and not accepted by the dealer is to be treated as un-disputed tax or disputed tax?

- Ans.** (1) Yes, M/s ABC and Company would be eligible for the settlement of tax and interest as recommended by the auditor in the Audit Report in Form-704. To elaborate let us assume the following.
- (a) The additional tax liability recommended -----Rs. 5,00,000/-
  - (b) Interest on the aforesaid amount-----Rs. 1,00,000/-
  - (c) The tax liability is on account of tax collected at @ 12.5% but in return the tax computed @ 5%.
- (2) On the basis of the aforesaid assumptions the requisite amount payable would be as determined in the Table given below:

**Table**

Sr. No	Particulars	Tax	Interest	Total
(1)	Recommendations made by the auditor	5,00,000	1,00,000	<b>6,00,000</b>
(2)	Acceptance by the dealer	00	00	<b>00</b>
(3)	<b>Un-disputed amount</b>	<b>5,00,000</b>	<b>00</b>	<b>5,00,000</b>
(4)	<b>Disputed amount</b>	00	1,00,000	<b>1,00,000</b>
(5)	Un-disputed amount to be paid <b>100%</b>	<b>5,00,000</b>	<b>00</b>	<b>5,00,000</b>
(6)	Self-assessed interest on Rs. 5,00,000/-	00	30,000	30,000
(7)	To settle the interest pay 20% of Rs.1,00,000+ 30,000= 1,30,000/-	00	26,000	26,000
(8)	<b>Total (5+7)</b>	<b>5,00,000</b>	<b>26,000</b>	<b>5,26,000</b>



- (3) In this example, it is seen that the dealer has not accepted the recommendations made by the auditor despite this the amount of tax of Rs. 5,00,000/- is treated as un-disputed tax due to the fact that as per the definition of “un-disputed tax” given in section 2(1)(q)(i) of the Settlement Ordinance the taxes collected separately are treated as **un-disputed tax**.
- (4) Therefore, in this example the said tax of Rs. 5,00,000/- shall be treated as un-disputed tax and hence the requisite amount shall be 100% of the said tax amount i.e. Rs. 5,00,000/-.
- (5) Further, in this example the dealer has not accepted the recommendations made by the auditor in respect of additional interest liability also therefore, the requisite amount towards the interest liability of Rs. 1,00,000/- i.e. 20% would be Rs. 20,000/- provided that the application and payment of the requisite amount is paid during the First Phase i.e. on or before the 30<sup>th</sup> June 2019.
- (6) The interest for delayed payment of Rs.5,00,000/- is to be calculated as the self-assessed interest of Rs.30,000/- as given at Sr. No. (6) of the Table above would also be available for the settlement. Such interest amount shall be calculated from the due date [for the late payment of Rs. 5,00,000] till the date of payment. This has been explained in the Table above.
- (7) Thus, the requisite amount for the First Phase i.e. in case the dealer makes the payment of requisite amount of Rs. 5,26,000/- and submits the application on or before the 30<sup>th</sup> June 2019 then said dealer would be eligible to settle the said amount of tax and interest as shown in the Table above.

- Q. 12** (1) The Audit Report for the period **2015-16** was submitted, and in the said Audit Report auditor has recommended the additional tax liability at Rs. 6,00,000/- and consequential interest under section 30(2) of the MVAT Act at Rs. 2,00,000/- both the amounts were accepted by the dealer and the revised return was accordingly filed showing the amount of tax of Rs. 6,00,000/- and interest of Rs. 2,00,000/- as payable in the return.
- (2) The concerned Nodal Officer has issued the demand notice as per the provisions of section 32A of the MVAT Act. However, till date said tax and interest admitted in the return has remained un-paid.

(3) Now, dealer desires to opt for the Settlement of said tax and interest amount. Whether M/s XYZ and Company would be eligible to opt for settlement and what would be requisite amount in this behalf?

- Ans.**
- (1) M/s XYZ and Company would be subject to the conditions of payment of requisite amount and submission of application and other conditions would be eligible to opt for the settlement of said amount of tax of Rs. 6,00,000/- and interest of Rs. 2,00,000/-.
  - (2) Section 32A of the MVAT Act provides for the issuance of the demand notice for the amount that is recommended by the auditor, in the Audit Report and accepted by the dealer. Under such circumstances, the Nodal Officer without resorting to the assessment proceedings may directly issue demand notice and initiate the recovery proceedings.
  - (3) As stated in the earlier examples and as per the provisions of section 2(1)(q)(iv) of the Settlement Ordinance the amount of tax and interest recommended to be payable by the auditor and accepted by the dealer is treated as “un-disputed tax” and therefore to settle the arrears of tax and interest the dealer would be required to pay 100% amount of tax and interest i.e. in this case Rs. 6,00,000+Rs. 2,00,000= Rs.8,00,000/-.
  - (4) Despite the fact that the demand notice is issued under section 32A of the MVAT Act or said arrears of tax and interest even considered in the Assessment Order shall be treated as “un-disputed tax”. It may also be noted that the interest on delay in payment of tax as per Demand Notice issued under section 32 or 32A of the MVAT Act attracts the additional interest. The applicant needs to compute such interest from the due date to the date of such payment. On computation of such interest the applicant is required to pay the requisite amount towards the said interest depending upon the Phase and the period under consideration.

**Q. 13** (1) The notification as per section 9(1) issued on 7<sup>th</sup> March 2019 has notified the transactions that may be treated as issues. The arrears of the tax, interest or the penalty against certain transactions thereby becomes eligible to avail the benefits treating them as an issue. What is the significance of the said notification and

(2) As per clause (3) of the said notification it is stated that the

*“(3) For the removal of doubts, it is hereby declared that the interest, penalty or late fee associated with tax or return or otherwise, alone shall not constitute an issue.”*

Does this mean that the tax payer is not entitled to submit the application for settlement of arrears only in respect of interest or only in respect of penalty along with the tax associated with such interest and penalty is also outstanding?

- Ans.**
- (1) The Commissioner in exercise of the powers conferred under section 9(1) of the Settlement Ordinance has issued the notification and notified the transactions that may be treated as an issue.
  - (2) The transaction that may be treated as an issue under said notification signifies that the applicant may decide to opt for the settlement of arrears in respect of certain issues whether the appeal is filed or not. In case appeal is filed the applicant may opt for certain issues raised in appeal and in respect of certain other issues may desire to continue the appeal.
  - (3) The clause (3) of the said notification provides that the applicant is not allowed to settle only penalty or only interest treating it as issue even though the associated tax with such interest and/or penalty is outstanding.
  - (4) In this context the notification provides that in case tax, interest, penalty or late fee is outstanding then to settle these arrears the applicant needs to submit application for settlement of tax, interest, penalty or late fee together.
  - (5) To illustrate
    - (a) Say M/s XYZ Enterprises was assessed for the period 2014-15. The demand as per assessment order is as under:

(i) Tax-----	Rs. 2,00,000/-
(ii) Interest-----	Rs. 50,000/-
(iii) Penalty-----	Rs. 25,000/-
<b>(iv) Total-----</b>	<b>Rs. 2,75,000/-</b>
    - (b) The dealer has filed the appeal and made the part payment of Rs.10,000/-.
    - (c) In instant example, the dealer desires to withdraw the appeal only in respect of interest and penalty so as to settle the said arrears of interest and penalty and desires to continue the appeal for the tax amount of Rs.1,90,000/-. Under such circumstances, the notification dated 7<sup>th</sup> March 2019 prohibits the settlement only in respect of interest or penalty or both (i.e. excluding the tax).

(d) Needles to state, in this scenario, the applicant is allowed to settle the arrears of tax, interest and penalty together.

(6) To explain further, even in the cases where the entire outstanding tax is paid and where the interest and penalty is outstanding in those cases the applicant would be entitled to settle the said arrears of interest and penalty together.

(7) In other words, the applicant is allowed to settle the penalty amount only if associated tax and interest is fully paid.

**Q. 14** (1) For the period **2013-14** the Nodal Officer has passed Assessment Order on 29<sup>th</sup> March 2018 and the deferred the penalty to be imposed under section 29(3) of the MVAT Act. Subsequently, on 5<sup>th</sup> September 2019, an order imposing the said penalty was passed. Against both these orders i.e. Assessment Order and penalty order the dealer has filed an appeal.

(2) Whether under aforesaid circumstances the dealer is allowed to withdraw the appeal filed against the order imposing penalty and opt for the settlement of the said penalty amount without opting for the settlement of tax associated with such penalty although said penalty is imposed under subsequent order passed separately?

**Ans.** (1) As discussed above, the clause (3) of the notification dated 7<sup>th</sup> March 2019 prohibits the tax payer to opt for the settlement only in respect of the penalty or only in respect of interest without settlement of the outstanding tax associated with said penalty or the interest.

(2) Therefore, in this scenario, the tax payer is required to submit the application for settlement of interest and penalty as well as associated outstanding tax even though two order are distinct i.e. one is Assessment Order and other one penalty order. To settle tax, interest and penalty as per the assessment order and penalty amount as per the order passed imposing penalty, such applicant shall be required to file **two separate** applications and make the payment of the requisite amount towards the tax as well as interest and penalty payable as per aforesaid orders.

**Q. 15** (1) For the period **2015-16** M/s ABC and Company has filed the Audit Report in Form-704 which is late and also the said Audit Report was not complete. The Nodal Officer as per section 61(2) and 61(2A) of the MVAT Act has passed

the penalty order and imposed the penalty equal to the 1/10<sup>th</sup> % of total sales.

(2) Whether M/s ABC and Company would be eligible to opt for the Settlement specifically in the light of the clause (3) of the notification dated 7<sup>th</sup> March 2019.

**Ans.** (1) M/s ABC and Company is eligible to opt for the settlement of arrears of penalty imposed for late submission of Audit Report in Form-704 as also for the filing the Audit Report which is not complete. The penalty under section 61(2) and 61(2A) of the MVAT Act is not associated with any tax and therefore, clause (3) of the notification is not applicable to the present circumstances.

(2) In view of this, M/s ABC and Company would be entitled for the settlement of amount of penalty imposed as per the section 61(2) and 61(2A) of the MVAT Act with the payment of the requisite amount calculated depending upon the Phases and the period.

**Q. 16** (1) For the period **2016-17** M/s ABC and Company has filed the Audit Report in Form-704 after the due date i.e. late.

(2) No order imposing the penalty as per section 61(2) of the MVAT Act is passed nor any show-cause is issued in this behalf. Under such circumstances whether M/s ABC and Company would be allowed to settle the penalty as may be imposed under section 61(2) of the MVAT Act as self-assessed penalty.

**Ans.** Yes. M/s ABC and Company may self-assess the penalty that may be imposed under section 61(2) of the MVAT Act. Such penalty shall be self-assessed to the extent of the maximum amount of penalty that may be imposed i.e. the penalty equal to the one tenth per cent of the turnover of the sales. After self-assessing the penalty amount as above the dealer shall determine the requisite amount towards penalty amount so self-assessed and pay the requisite amount towards said penalty amount i.e. 10% and submit the application during the First Phase i.e. on or before the 30<sup>th</sup> June 2019.

**Q. 17** (1) In case of M/s ABC and Company for month of April-2016 and August-2016 an order charging interest under section 30(2) of the MVAT Act was passed.

(2) Also the said dealer has filed the revised return for the month of September-2016 and accepted the amount to be payable with the interest under section 30(4) of the MVAT Act.

(3) Whether, the M/s ABC and company is eligible to opt for settlement of arrears of interest as aforesaid?

**Ans.** (1) The Ordinance provides for the settlement of arrears of interest irrespective of the fact whether the interest charged is appealable or non-appealable or is charged under section 30(2) or 30(4) of the MVAT Act or any other section of the MVAT Act or under any section of the Relevant Act.

(2) The requisite amount for the settlement of aforesaid interest arrears has to be determined in terms of section 4 read with section 10 and Annexure-A and Annexure-B appended to the Settlement Ordinance.

(3) Considering that the dealer submits application as well as makes the payment of the requisite amount in respect of the interest as aforesaid, on or before the 30<sup>th</sup> June 2019, then, in this scenario M/s ABC and Company would be required to make the payment of the requisite amount at 20% of the total interest amount payable under section 30(2) and 30(4) of the MVAT Act.

**Q. 18** (1) Whether the dealer can settle the interest payable under the Relevant Act for un-assessed period on the basis self-assessment?

(2) Please state the procedure to be followed to avail benefits under the Settlement Ordinance.

**Ans.** (1) Yes, the dealer is eligible to settle the interest payable under the Relevant Act say under MVAT Act for the un-assessed period and even when such interest is not shown payable in the return or the Form-704 or where no orders are passed towards charging the interest under section 30(2).

(2) For this, the said dealer would be required to self-assess the interest so payable for delayed payment of tax. To avail the benefits under the Settlement Ordinance the interest under section 30 of the MVAT Act and likewise the interest under other Relevant Act shall be calculated from the due date for such delayed payment of tax till the date of payment of the same.

(3) Say for example tax due and payable as per August-2016 return was paid late by 12 months. The self-assessed interest payable under section 30(2) of the MVAT Act say comes to Rs. 1,00,000/-. For settlement of interest arrears

of Rs. 1,00,000/- the said dealer shall pay Rs. 20,000/- and submit the application on or before the 30<sup>th</sup> June 2019.

- (4) On payment of Rs. 20,000/- and submission of application in Form-IA Category-IV i.e. self-assessed liability where no notice is issued the dealer can seek the waiver of Rs.80,000/-.

**Q. 19** Under what circumstances the Post Assessment Interest (PAI) under the MVAT Act or the Post Assessment Penalty (PAP) under the BST Act is required to be paid. Whether such dealer is eligible to avail the benefits under the Settlement Ordinance?

- Ans.** (1) The Post Assessment Interest (PAI) under the MVAT Act is payable when the dealer fails to make the payment of the tax shown payable in the Demand notice issued under section 32 or 32A of the MVAT Act in respect of the statutory order. The tax, interest and penalty amount so demanded needs to be paid within thirty days from the date of service of the said Demand Notice.
- (2) Similarly, under Bombay Sales Tax Act, 1959 upto 21<sup>st</sup> April 1987 dealer was required to pay penalty in the nature of interest i.e. the Post Assessment Penalty (PAP) and thereafter post assessment interest (PAI).
- (3) Where tax payable as per the Demand Notice i.e. as per statutory order is paid beyond the due dates i.e. late, then, the assessing authorities issues the orders charging the PAI or the PAP. On the basis of the said statutory order dealer is eligible to avail the benefits in respect of the interest under the Settlement Order depending upon the Phases and the period.
- (4) Even if the PAI or PAP orders are not passed by the Nodal Officer in that case the dealer may self-assess the PAP or the PAI and accordingly opt for the settlement.

**Q. 20** (1) How to calculate the PAI in respect of assessment order where part of the tax payable as per AO is paid albeit late by 24 months.

(2) Please explain determination of PAI and the requisite payment to be paid.

- Ans.** (1) Queries have been received with regards to the calculation of the PAI to be payable under the MVAT Act. It is explained with the examples as given below:
- (2) Consider the following:

**(a) Period of Assessment-----2012-13**

(b) Date of service of Demand Notice-----10-04-2016

(c) Due date for payment of dues as per AO-----09-05-2016

(d) Date of payment -----08-05-2018

**Table-1**

Sr. No.	Particulars	Amount in Rs.
(1)	Tax	5,00,000
(2)	(a) Un-disputed tax	3,00,000
	(b) Disputed tax	2,00,000
	(c) Ratio un-disputed and disputed tax	<b>60:40</b>
(3)	Amount paid on 8 <sup>th</sup> May 2018.	2,00,000
(4)	Balance arrears of tax as on 1 <sup>st</sup> April 2019 <b>(1)-(3)</b>	3,00,000
(5)	Interest	75,000
(6)	Penalty	50,000
(7)	<b>Amount outstanding as on 1<sup>st</sup> April 2019.</b>	<b>4,25,000</b>

**(2) Determination of requisite amount**

**Table-1**

Sr. No.	Particulars	Amount in Rs.	Requisite amount payable for the First Phase		Waiver amount
(1)	<b>Tax</b>	3,00,000			
	(a) Un-disputed tax	1,80,000	100%	1,80,000	00
	(b) Disputed tax	1,20,000	70%	84,000	36,000
(2)	Interest	75,000	20%	15,000	60,000
(3)	Penalty	50,000	10%	5,000	45,000
(4)	<b>Total</b>	<b>4,25,000</b>		<b>2,84,000</b>	<b>1,41,000</b>

(3) Thus, it may be seen from the above example that the applicant has settled the outstanding arrears of Rs. 4,25,000 along with the interest and penalty as shown in the Table-2 above.

(4) It shall be noted that there is no necessity of calculation of the PAI in respect of the amount of Rs. 2,00,000/- paid on 8<sup>th</sup> May 2018 as per the Settlement Ordinance the PAI which is leviable but not levied till the date of application is waived automatically and hence it is not necessary to mention the said PAI in application in Form-IA.

(5) The requisite amount towards the arrears of tax, interest and penalty of Rs. 4,25,000/- outstanding as on 1<sup>st</sup> April 2019 would be settled after payment



of the requisite amount of Rs. 2,84,000/-. On such payment of the requisite amount dealer shall be entitled for the waiver of Rs.1,41,000/-.

- Q. 21** (1) How to calculate the PAI in respect of assessment order **where entire amount of tax, interest and penalty payable as per as per AO** is paid albeit late by 24 months.
- (2) Please explain determination of PAI and the requisite payment to be paid.

**Ans.** (1) Consider the following:

- (a) **Period of Assessment**-----**2014-15**
- (b) Date of service of Demand Notice-----15-04-2016
- (c) Due date for payment of dues as per AO-----14-05-2016
- (d) Date of payment -----13-05-2018

**Table-1**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Amount in Rs.</b>
(1)	Tax	2,00,000
(2)	Interest	80,000
(3)	Penalty	60,000
(4)	Entire amount of tax, interest and penalty as above is paid on 13-05-2018 hence balance <b>outstanding as on 1<sup>st</sup> April 2019.</b>	<b>NIL</b>

**(6) Determination of requisite amount:**

**Table-2**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Amount in Rs.</b>	<b>Requisite amount payable for the First Phase</b>		<b>Waiver amount</b>
(1)	PAI on Rs. 2,00,000	25,000	20%	5,000	20,000
(2)	<b>Total</b>	<b>25,000</b>		<b>5,000</b>	<b>20,000</b>

- (2) It may be seen from the above example that the applicant has self-assessed PAI on Rs.2,00,000/- (which was paid on 13<sup>th</sup> May 2018 i.e. late by 24 month) at Rs. 25,000/- which is leviable but not levied till the date of application. Except said PAI there are no arrears outstanding as on 1<sup>st</sup> April 2019 although the same is self-assessed.
- (3) In order to settle the said self-assessed PAI of Rs. 25,000/- the applicant is required to pay 20% i.e. Rs. 5,000/- and submit the application in Form-1A

under Category-IV on or before the 30<sup>th</sup> June 2019 i.e. during the First Phase.

(4) It shall be kept in mind that in case the entire demand of tax, interest and penalty is paid and no order of interest for PAI is passed then, under such circumstances the applicant is required to self-calculate the PAI as given in above example and pay the requisite amount as above.

- Q. 22** (1) In case of a Deferral Unit the assessment orders are passed and accordingly we have received the installment order towards the taxes collected and deferred. The installments as per the aforesaid assessment order are paid but after the due dates given in the installment order i.e. they are paid late.
- (2) Suppose as of date we have not received any order demanding the interest in respect of such delayed payment of installments whether the said Deferral Unit should calculate the interest on its own or entire interest payable on such delayed payment of installment is eligible for waiver being the Post Assessment Interest.

- Ans.** (1) For delay in the payment of the installments (as granted by the Installment Order), the Deferral Unit is liable to pay the interest considering the period of delay. Therefore, under these circumstances the deferral unit shall calculate the interest and make the payment of the requisite amount depending upon the period and the Phase involved.
- (2) Say in case of M/s XYZ Pvt. Ltd. installment order for five installment of Rs. 10,00,000/- each were passed. The dealer has made the payment in respect of all five installments but the said installment were paid late. The interest order for such late payment of installments were not passed.
- (3) On this background, M/s XYZ Pvt. Ltd. needs to self-assess the interest liability on account of delay in payment of five installments. Say such self-assessed interest comes to Rs. 3,00,000/-.
- (4) Under such circumstances M/s XYZ Pvt. Ltd. is required to pay the requisite amount in respect of Rs. 3,00,000/- i.e. as per period and phase.

- Q. 23** (1) An assessment order for period 2006-07 and 2008-09 was passed which resulted into additional demand due to disallowance of set-off. Against said orders the assessee has preferred an appeal. The appellate authority has decided the appeal say on 10<sup>th</sup> April 2019 and for the period 2006-07

determined the refund of Rs. 25,00,000/- and demand of tax and interest of Rs. 10,00,000/- for period 2008-09. In respect of both these appeals the appellate authority directed the assessing authority to take action as per the provisions of the MVAT Act.

(2) What actions are expected to be taken by the assessing authority and whether dealer would be entitled to get the entire refund for the period 2006-07 of Rs. 25,00,000/- first and then settle the arrears of Rs. 10,00,000/- treating as disputed tax.

**Ans.** (1) In this example after receipt of the order from the appellate authority for the period 2006-07 and 2008-09 the assessing authority for period 2008-09 shall as per the proviso to the sub-section (1) of section 50 of the MVAT Act adjust the arrears of Rs. 10,00,000/- against the refund of Rs.25,00,000/- and grant only the balance amount of Rs. 15,00,000/- (25,00,000-10,00,000) as refund.

(2) After adjustment as above the balance arrears for the period 2008-09 shall be NIL. In other words, for the period 2008-09 there remains NO arrears of tax, interest or penalty for settlement.

**Q. 24** Kindly clarify the chronological order in which the refund under any Relevant Act is to be adjusted in respect of different assessment periods and also in respect of nature of dues i.e. tax, interest and /or penalty so as to arrive at the arrears of tax, interest and penalty for settlement?

**Ans.** (1) The refund shall be successively adjusted against outstanding dues in chronological order of assessment periods. In case there are dues under more than one Act for the same assessment period, the dues for all the Acts for that assessment period will first be adjusted and the balance refund, if any, will be adjusted against dues for next assessment period.

(2) Inter-se priority of dues for same assessment period under various Acts for adjustment of refund will be at the dealer's option.

(3) This is explained with the help of following examples:

<b>Particulars</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>
Tax(Rs)	1,00,000	50,000	<b>(R)2,50,000</b>	5,00,000
Interest(Rs)	50,000	20,000	-	1,50,000
Total(Rs)	1,50,000	70,000	<b>(R)2,50,000</b>	6,50,000

**(R)-stands for refund.**

(4) Adjustment of the refund for year 2013-14 of Rs. 2,50,000 is to be adjusted as given below:

**(a) Adjustment of refund for period 2011-12 dues:**

<b>Particulars</b>	<b>Tax</b>	<b>Interest</b>	<b>Total</b>	<b>Refund adjustment</b>
Demand for period 2011-12	1,00,000	50,000	1,50,000	
Less: Refund of Rs. 1,50,000 for period 2013-14			1,50,000	1,50,000
<b>Balance dues/refund remaining un-adjusted</b>			<b>Nil</b>	<b>1,00,000</b>

**(b) Adjustment of refund for period 2012-13:**

<b>Particulars</b>	<b>Tax</b>	<b>Interest</b>	<b>Total</b>	<b>Refund adjustment</b>
Demand for period 2012-13	50,000	20,000	70,000	
<b>Less:</b> Adjustment of Refund of Rs. 70,000 for period 2013-14			70,000	70,000
<b>Balance dues/refund remaining un-adjusted</b>			<b>Nil</b>	<b>30,000</b>

**(a) Adjustment of refund for period 2014-15:**

<b>Particulars</b>	<b>Tax</b>	<b>Interest</b>	<b>Total</b>	<b>Refund adjustment</b>
Demand for period 2014-15	5,00,000	1,50,000	6,50,000	30,000
<b>Less:</b> Adjustment of Refund of Rs. 30,000 for period 2013-14			30,000	
<b>Balance demand outstanding available for the settlement</b>		<b>Tax</b>	<b>4,70,000</b>	
		<b>Interest</b>	<b>1,50,000</b>	
		<b>Total</b>	<b>6,20,000</b>	<b>Nil</b>

- (5) It may be seen from the aforesaid Tables that the refund for period 2013-14 is first adjusted towards the liability of period 2011-12 and then towards the liability of period 2012-13 and finally the remaining amount of refund of Rs. 30,000/- is adjusted against the demand of period 2014-15. After adjustment as aforesaid the dealer would be eligible to opt for the settlement of tax and interest amount of Rs. 4,70,000 and Rs. 1,50,000/- respectively.
- (6) Further, it is clarified that, even though in the above circumstance the dealer may not desire to avail benefits under Settlement Ordinance in respect of dues for assessment period 2011-12 and 2012-13, even then, the refund shall be adjusted as per the provisions of section 50 of the MVAT Act i.e. in the above manner only in order to work out the arrears eligible for Settlement.

- Q. 25** (1) Ours is a Partnership firm with 25 employee on the payroll. We are in the business since last 8 years. However, we have yet not obtained registration under the Professions Tax Act, 1975. We have also not obtained registration as enrollment for the firm and the partners too.
- (2) Whether, we are eligible to make the application under the Settlement Ordinance and whether we need to obtain the registration before we apply for the settlement.

(3) Also please state whether the Professions Tax to be paid on account of salary given to employee as well as on account enrollment for firm and partners would be un-disputed or disputed?

**Ans.** (1) Partnership Firm and its partners would be required to get enrollment under the PT Act. The firm and its partner after enrollment would be required to pay the PT for FOUR years. Also the registration certificate under the PT Act-for paying PT towards employee salary would also be needed to be obtained. The PT towards employee salary would be required to be paid for FOUR years.

(2) The tax payable on account of employee's salary as also the liability of PT for the firm and partners would be treated as **un-disputed tax**. In other words, there would not be any waiver available in respect of the PT that remained un-paid. However, the said firm and partners would be entitled for certain percentage of waiver in the interest and penalty (for remaining un-registered under the PT Act) on payment of the requisite amount depending upon the Phases and periods.

**Q.26** (1) Whether the late fee waiver is available for the returns that are filed on or before the 31<sup>st</sup> March 2019?

(2) Can we get the late fee waiver in respect of the returns under the Relevant Act that pertains to the period ending on or before the 30<sup>th</sup> June 2017 and same are filed during the period of 1<sup>st</sup> April 2019 to 31<sup>st</sup> July 2019.

**Ans.** (1) The late fee gets attracted when the return is filed after the due date. It shall be kept in mind that no waiver of the late fee is available in respect of the returns that are filed on or before the 31<sup>st</sup> March 2019. The entire amount of late fee, in case remained un-paid needs to be paid.

(2) The late fee waiver is available in respect of the returns pertaining to the period ending on or before the 30<sup>th</sup> June 2017 provided that such returns are filed during the period from 1<sup>st</sup> April 2019 till the 31<sup>st</sup> July 2019.

(3) It may also be noted that in respect of the returns upto 30<sup>th</sup> June 2017 in case they are filed upto aforesaid period then the late fee gets waived at on successful submission of the said returns. In case there is no tax or the interest liability as per the returns so filed then, it is not necessary to make an application under the Settlement Ordinance.

**Q.27** (1) The employer has deducted the tax at source. The contractor has not produced the TDS Certificate at the time of assessment for the period 2013-14. The Assessing authority has disallowed the TDS claim on account of failure of the employer to deposit the said tax in Government Treasury. As a result the demand is raised.

(2) Whether the said demand of tax on account of disallowance of the TDS credit would be eligible for settlement. And if yes then whether said demand would be disputed or un-disputed?

**Ans.** Yes, the said contractor would be eligible to settle the demand of tax, interest and the penalty payable as per the order of assessment. The demand of tax raised due to failure to produce the TDS Certificate would be un-disputed tax. The dealer on payment of said tax 100% and 20% and 10% of the interest and penalty, respectively would be eligible to get the waiver towards interest and penalty provided the application for settlement is made on or before the 30<sup>th</sup> June 2019.

**Q. 28** In view of the definition of the un-disputed tax given in section 2(1)(q) of the Settlement Ordinance, whether the tax payable shall mean the net tax payable after adjustment of set-off?

**Ans.** Section 2(1)(q)(iii) of the Settlement Ordinance provides that the taxes shown payable as per the return or the revised return are treated as un-disputed tax. The taxes shown payable as per return in case of registered dealer shall always mean taxes payable after the adjustment of set-off. However, in case of un-registered dealer, the tax payable as per return means tax payable without the adjustment of set-off as the unregistered dealer is not entitled to claim the set-off.

**Q. 29** Where against the outstanding dues as on 1<sup>st</sup> April 2019, any sums are recovered through the action of the Nodal Officer under special mode of recovery or on payment of the installments granted, whether such amount recovered/paid be treated as payment made under the Settlement Act?

**Ans.** Yes, any recovery made through the action of the Nodal Officer or amount paid on account of installments on or after 1<sup>st</sup> April 2019 shall be treated as the payment towards the requisite amount paid under the Ordinance provided that the said dealer avails the benefits under the settlement for that

period. However, it may be noted that in such cases no refund shall be allowed.

**Q. 30** (1) An Assessment Order under CST Act for period 2015-16 is passed on 20<sup>th</sup> August 2017. The demand raised is as under:

- (a) Tax-----10,00,000/-
- (b) Interest----- 4,00,000/-
- (c) Penalty-----5,00,000/-
- Total-----19,00,000/-**

(2) Dealer has filed the appeal on 10<sup>th</sup> September 2017 and made the payment of Rs. 3,50,000/- for non-receipt of declarations and 10% part payment was made for balance amount of the tax raised due to other issues. Whether the said dealer would be eligible for the settlement of arrears. What would be the treatment for the amount made in the appeal?

**Ans.** (1) The dealer would be eligible for the settlement of the arrears as on the 1<sup>st</sup> April 2019.

(2) The settlement of the aforesaid arrears would be as under:

**Table-1**

<b>Sr. No.</b>	<b>Demand of tax due to disallowance</b>	<b>Tax due</b>	<b>Paid in appeal</b>	<b>Balance outstanding as on 1<sup>st</sup> April 2019</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>
(1)	High-seas sales	2,00,000	20,000	1,80,000
(2)	Export sales	1,50,000	15,000	1,35,000
(3)	Tax rate Diff.	3,00,000	30,000	2,70,000
(4)	Forms under CST	3,50,000	3,50,000	00
(5)	<b>Total</b>	<b>10,00,000</b>	<b>4,15,000</b>	<b>5,85,000</b>



(3) **Determination of Requisite amount**

**Table-2**

Sr. No.	Particulars	Amount of arrears	Requisite amount For the First Phase		Waiver
			%	Amount	
(1)	Un-disputed tax	00	00	00	00
(2)	Disputed tax	5,85,000	70%	4,09,500	1,75,500
(3)	Interest	4,00,000	20%	80,000	3,20,000
(4)	Penalty	5,00,000	10%	50,000	4,50,000
(5)	<b>Total amount</b>	<b>14,85,000</b>	<b>100%</b>	<b>5,39,500</b>	<b>9,45,500</b>

(4) It can be seen from the Table above that the part payment made in the appeal is to be reduced from the liability of tax arising on account of various issues as shown in column (d) of the Table-1 above. Accordingly, 10% of the amount paid in the appeal is reduced from the tax payable on account of various issues given in Table-1 except for non-receipt of declarations where 100% amount paid in appeal is adjusted against the demand of tax. Therefore, against the non-receipt of declaration the dealer can only settle the corresponding interest and penalty. In order to avail the benefits under the Settlement Ordinance, the applicant shall be required to withdraw appeal un-conditionally.

(5) The tax outstanding is to be treated as disputed tax and accordingly, the requisite amount and waiver is calculated as shown in Table-2 above.

**Q. 31** (1) In case of M/s ABC Pvt. Ltd. Assessment Order for the period 2008-09 was passed on 30<sup>th</sup> June 2013 under CST Act. The demand is as given below:

- (a) Tax-----6,00,000/-
- (b) Interest-----2,00,000/-
- (c) Penalty-----1,50,000/-
- Total-----9,50,000/-**

(2) The entire demand as above is due to the non-production of the declaration in Form-C and therefore the tax liability is calculated @ 12.5% rate. Against aforesaid order appeal was filed on 15<sup>th</sup> July 2013. The appellate authority has decided the part-payment towards the tax and interest at Rs. **2,00,000/- and Rs. 50,000/-**, respectively.

(3) Under aforesaid circumstances, M/s ABC Pvt. Ltd. desires to withdraw appeal for certain issues and desires to continue for some other issues. Whether M/s ABC Pvt. Ltd. would be eligible to take benefits under the Settlement Ordinance and how the part-payment made in appeal will be appropriated?

**Ans.** (1) The dealer would be eligible for the settlement of the arrears as on the 1<sup>st</sup> April 2019 determined on pro-rata basis.

(2) It is presumed that dealer desires to withdraw the appeal for certain transactions having tax liability say of Rs. 4,00,000/- and desires to continue in appeal for certain transactions having tax liability say of Rs. 2,00,000/-.

(3) As per the provisions of section 5 of the Ordinance the amount paid in appeal shall first be adjusted towards the tax, therefore, the amount of Rs. 2,00,000/- and Rs. 50,000/- paid towards the interest shall first be adjusted against towards the tax. Thus by applying the principles laid down in the section 5 the entire amount of Rs. 2,50,000/- needs to be adjusted towards the tax amount only. As the dealer is withdrawing the appeal for Rs. 4,00,000/- and continuing the appeal for Rs. 2,00,000/- hence the amount paid in appeal of Rs. 2,50,000/- is to be accordingly appropriated on pro-rata basis. The ratio for the demand withdrawn from appeal and the continued in appeal comes to **67:33**.

(a) The amount of tax, interest and penalty continued in appeal and where appeal is withdrawn is presented in the Table-1 below:

**Table-1**

<b>Sr. No.</b>	<b>Demand in Rs.</b>	<b>Amount continued in appeal</b>	<b>Amount for which appeal is withdrawn</b>	<b>Total</b>
(1)	Tax	2,00,000	4,00,000	6,00,000
(2)	Interest	66,000	1,34,000	2,00,000
(3)	Penalty	49,500	1,00,500	1,50,000
(4)	<b>Total</b>	<b>3,15,500</b>	<b>6,34,500</b>	<b>9,50,000</b>

(b) Thus the balance amount continued in appeal and arrears available as on 1<sup>st</sup> April 2019 after considering the part payment made in

appeal of Rs. 2,50,000/- would be appropriated as given in the Table below:

**Table-2**

<b>Sr. No.</b>	<b>Tax demand in Rs.</b>	<b>Amount</b>	<b>Appropriation of part payment</b>	<b>Balance arrears</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>
(1)	Continued in appeal	2,00,000	82,500 (33% of 2,50,000)	1,17,500
(2)	Withdrawn from appeal	4,00,000	1,67,500 (67% of 2,50,000)	2,32,500
(3)	<b>Total</b>	<b>6,00,000</b>	<b>2,50,000</b>	<b>2,50,000</b>

(c) The figures in the Table-2 column (d) above are arrived after reducing the part payment in proportion to the amount continued in appeal and amount for which the appeal is withdrawn. The ratio applied is 67:33. After such appropriation the amount of tax, interest and penalty is accordingly determined.

**(4) Determination of Requisite amount**

**Table-3**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Amount</b>	<b>Requisite amount for the First Phase</b>		<b>Waiver amount</b>
			<b>%</b>	<b>Amount</b>	
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>	<b>(f)</b>
(1)	Un-disputed tax	00	00	00	00
(2)	Disputed tax	2,32,500	70%	1,62,750	69,750
(3)	Interest	1,34,000	20%	26,800	1,07,200
(4)	Penalty	1,00,500	10%	10,050	90,450
(5)	<b>Total amount</b>	<b>4,67,000</b>	<b>100%</b>	<b>1,99,600</b>	<b>2,67,400</b>

(a) As can be seen from the Table-3 above amount of tax of Rs. 2,32,500/- would be eligible for the settlement provided that for the corresponding amount of interest and penalty dealer also avails the benefits together.

(b) Accordingly, for 67% of total interest and penalty amount the dealer would be required to withdraw the appeal un-conditionally and submit

the application for settlement with the payment of the requisite amount of Rs. 1,99,600/- to be made on or before the 30<sup>th</sup> June 2019 i.e. in the First Phase.

- Q. 32** (1) Comprehensive assessment order under the MVAT Act for period 2015-16 is passed on 25<sup>th</sup> March 2019. The order of the assessment is received by the dealer on 5<sup>th</sup> April 2019. The order is resulted into the demand of tax, interest and penalty which is as given below:

<b>Sr. No.</b>	<b>Demand in Rs.</b>	<b>MVAT</b>
(1)	Tax	3,00,000
(2)	Interest	1,00,000
(3)	Penalty	50,000
(4)	<b>Total</b>	<b>4,50,000</b>

- (2) The reason given in the assessment order for the demand of tax is due to disallowance of set-off under the MVAT Act. On 25<sup>th</sup> April 2019 against the MVAT dues the dealer has made the payment of Rs.1,50,000/-.
- (3) Whether the dealer is eligible for the settlement of arrears of tax, interest and penalty under the both MVAT Act?

- Ans.** (1) Yes, dealer would be eligible settle the arrears of tax, interest and penalty. The amount of Rs. 1,50,000/- paid on 25<sup>th</sup> April 2019 would be treated as the requisite amount. In view of this, the requisite amount payable under the MVAT Act would be as given in below:

(a) The determination of requisite amount under:

<b>Sr. No.</b>	<b>Particulars</b>	<b>Amount</b>	<b>Requisite amount for the First Phase</b>		<b>Waiver amount</b>
			<b>%</b>	<b>Amount</b>	
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>	<b>(f)</b>
(1)	Un-disputed tax	00	00	00	00
(2)	Disputed tax	3,00,000	70%	2,10,000*	90,000
(3)	Interest	1,00,000	20%	20,000	80,000
(4)	Penalty	50,000	10%	5,000	45,000
(5)	<b>Total amount</b>	<b>4,50,000</b>	<b>100%</b>	<b>2,35,000</b>	<b>2,15,000</b>

\*The amount of Rs. 1,50,000/- paid earlier would also be considered as the payment of the requisite amount.

(b) In this case the dealer has made the payment of Rs. 1,50,000/- on 25<sup>th</sup> April 2019 hence as per the provision of the Ordinance said payment would be treated as the payment towards requisite amount.

(2) Therefore, the dealer would be required to make the additional payment of Rs. 60,000/- towards the tax amount and Rs. 20,000/- and Rs. 5,000/- as requisite amount towards interest and penalty, respectively. After payment of the amount as aforesaid the dealer would be entitled for the waiver of Rs. 2,15,000/-.

**Q. 33** (1) For period 2016-17 no notice is received for the assessment under the MVAT Act as also no risk is communicated. The grounds and reason for the self-assessed liability is as given below:

**Table-1**

<b>Sr. No.</b>	<b>Grounds for self-assessed liability</b>	<b>Tax</b>	<b>Interest</b>	<b>Penalty</b>	<b>Total</b>
(1)	Tax rate difference	1,00,000	15,000	1,00,000	2,15,000
(2)	Disallowance of set-off	60,000	10,000	60,000	1,30,000
(3)	Certain income treated as taxable	90,000	12,000	90,000	1,92,000
(4)	Total	2,50,000	37,000	2,50,000	5,37,000

(2) Whether the dealer is eligible to self-assess the tax liability on above grounds and pay the requisite amount in the First Phase. The aforesaid liability of tax is neither determined by the auditor nor the said liability is un-disputed as said tax is not attributable to the factors considered for determining the un-disputed tax under section 2(1)(q) of the Ordinance.

**Ans.** (1) Yes, dealer would be eligible to self-assess the tax liability as given in the Table above and pay the requisite amount considering the said tax as disputed tax.

**Table-2**

Sr. No.	Particulars	Amount	Requisite amount for the First Phases		Waiver amount
			%	Amount	
(a)	(b)	(c)	(d)	(e)	(f)
(1)	Un-disputed tax	00	00	00	00
(2)	Disputed tax	2,50,000	70%	1,75,000	75,000
(3)	Interest	37,000	20%	7,400	29,600
(4)	Penalty	2,50,000	10%	25,000	2,25,000
(5)	<b>Total amount</b>	<b>5,37,000</b>	<b>100%</b>	<b>2,07,400</b>	<b>3,29,600</b>

- (2) For settlement of aforesaid arrears of tax, interest and penalty the dealer would be required to pay an amount of Rs.2,07,400/- to get the waiver of Rs. 3,29,600/-. For this the dealer would be required to make the application in Form-IA and fill the details in the Category-IV as self-assessed liability. It may please be noted that for better compliance the dealer shall prepare a self-explanatory working for the same.
- (3) It shall also be kept in mind that Form-IA Category-IV at present does not have a field for "Penalty" however, due to the persistent demand from the Trade said field is proposed to be added to the Form-IA. Till such time the penalty amount as self-assessed may be given in column meant for Late fee.

- Q. 34** (1) For the period 2015-16 the Assessment Order under MVAT Act and the CST Act was passed on the 31<sup>st</sup> March 2019 and the same was received on 15<sup>th</sup> April 2019. The dealer is dealing in the goods covered under the Schedule E of MVAT Act taxable at 12.5%.
- (2) Under MVAT Act the demand is due to the disallowance of set-off on the ground of mis-match and un-match and the tax rate difference (tax collected at higher rate 12.5% but wrongly paid at 5% i.e. lower rate). Under CST demand is due to the disallowance of declarations in Form-C and tax rate difference.
- (3) The dealer desires to prefer appeal for tax liability under MVAT Act due to the tax rate difference and desires to avail the benefits under the Settlement

Ordinance for tax liability on account of disallowance of set-off due to mismatch and un-match, without filling the appeal. For tax liability under CST Act the dealer desires to prefer appeal for the tax rate difference and partly for liability due to the disallowance of declarations and desires to avail the benefits under the Settlement Ordinance for tax liability partly due to the disallowance of declarations.

**Ans.** (1) The aforesaid query can be answered with following example.

**Table-1**

<b>Sr. No.</b>	<b>Demand in Rs.</b>	<b>MVAT</b>	<b>CST</b>
(5)	Tax	4,50,000	3,00,000
(6)	Interest	45,000	80,000
(7)	Penalty	1,65,000	90,000
(8)	<b>Total</b>	<b>6,60,000</b>	<b>4,70,000</b>

(2) As stated above dealer desires to partly go for the settlement and partly file appeal in respect of certain issues under the MVAT Act and the CST Act. The issues wise tax liability is given in the Table-2 below:

**Table-2**  
**Demand under MVAT**

<b>Sr. No.</b>	<b>Grounds for self-assessed liability</b>	<b>Tax</b>	<b>Interest</b>	<b>Penalty</b>	<b>Total</b>
(1)	Tax rate difference	1,00,000	10,000	36,667	1,46,667
(2)	Disallowance of set-off on account of mismatch	1,50,000	15,000	55,000	2,20,000
(3)	Disallowance of set-off on account of un-match	2,00,000	20,000	73,333	2,93,333
(4)	Total	4,50,000	45,000	1,65,000	6,60,000

**Demand under CST Act**

<b>Sr. No.</b>	<b>Grounds for self-assessed liability</b>	<b>Tax</b>	<b>Interest</b>	<b>Penalty</b>	<b>Total</b>
(1)	Tax rate difference	1,00,000	26,664	29,997	1,56,661
(2)	Disallowance of declarations	2,00,000	53,336	60,003	3,13,339
(3)	<b>Total</b>	<b>3,00,000</b>	<b>80,000</b>	<b>90,000</b>	<b>4,70,000</b>

(3) As stated above, the dealers desire to prefer an appeal for certain issues and desires to opt for the settlement as detailed in the Table-3 below:

**Table-3**  
**(Under MVAT and CST)**

<b>Sr. No.</b>	<b>Tax demand in Rs.</b>	<b>Amount under VAT</b>	<b>Amount under CST</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>
(1)	Appeal to be preferred	1,00,000	2,00,000
(2)	No appeal is to be preferred	3,50,000	1,00,000
(3)	<b>Total</b>	<b>4,50,000</b>	<b>3,00,000</b>

(4) Under the MVAT Act the dealer desires to go into the appeal for the levy of the tax of Rs.1,00,000/- due to tax rate difference. For this the dealer may pay 10% of the said demand and produce before the appellate authority as well as the assessing authority the Chalan towards the payment of the requisite amount and proof towards submission of application for Settlement. On the basis of the said documents the appellate authority as well as the assessing authority will allow the admission of appeal and settlement of the arrears opted for. This will facilitate the filing of appeal as well to opt for Settlement.



**Table-4**  
**(Under MVAT Act)**

Sr. No.	Particulars	Amount	Requisite amount for the First Phases		Waiver amount
			%	Amount	
(a)	(b)	(c)	(d)	(e)	(f)
(1)	Un-disputed tax	00	00	00	00
(2)	Disputed tax	3,50,000	70%	2,45,000	1,05,000
(3)	Interest	35,000	20%	7,000	28,000
(4)	Penalty	1,28,333	10%	12,833	1,15,500
(5)	<b>Total amount</b>	<b>5,13,333</b>	<b>100%</b>	<b>2,64,833</b>	<b>2,48,500</b>

- (5) Likewise under CST Act out of demand of Rs. 3,00,000/- i.e. Rs. 1,00,000/- for tax rate difference and Rs. 2,00,000/- on account of non-production of declarations the dealer desires to prefer an appeal for the levy of tax at the higher rate which comes to Rs. 1,00,000/- and for levy of tax of Rs. 1,00,000/- for non-production of declarations which he hope to received subsequently. In view of this the dealer would be required to pay Rs. 10,000/- and Rs. 1,00,000/- as a pre-deposit, respectively.
- (6) As stated above out of Rs. 2,00,000/- tax levied for non-production of declarations the dealer desires to opt for settlement only for the tax of Rs. 1,00,000/-. The effect of opting for the settlement would be as under:
- (a) Now for tax of Rs. 2,00,000/- levied due to the tax rate difference and non-production of declarations dealer like to prefer an appeal with the payment of pre-deposit as stated above.
- (b) And for the remaining tax amount of Rs. 1,00,000/- dealer desires to opt for the settlement and does not desire to prefer an appeal. Therefore, in this scenario, the dealer would be required to determine the requisite amount considering the Phase and the period as discussed in Table below:
- (7) Thus, the dealer is required to pay 10% amount as pre-deposit towards the levy of tax due to the tax rate difference and pay the 100% of the tax demand due to the non-production of the declarations in Form-C and produce before the appellate authority and the assessing authority the

Chalan towards the payment of pre-deposit and the requisite amount and proof towards submission of application for Settlement as well as preferring appeal. On the basis of the said documents the appellate authority as well as the assessing authority will allow the admission of appeal and settlement of the arrears opted for. This will facilitate the filing of appeal as well to opt for Settlement.

- (8) The requisite amount on account of Rs. 1,00,000/-tax due to non-production of declarations in Form-C and its corresponding interest and penalty is considered to determine the requisite amount towards said tax and penalty as given in the Table-5 below:

**Table-5  
Under CST Act**

Sr. No.	Particulars	Amount	Requisite amount for the First Phases		Waiver amount
			%	Amount	
(a)	(b)	(c)	(d)	(e)	(f)
(1)	Un-disputed tax	00	00	00	00
(2)	Disputed tax	1,00,000	70%	70,000	30,000
(3)	Interest	26,668	20%	5,334	21,334
(4)	Penalty	30,002	10%	3,000	27,002
(5)	<b>Total</b>	<b>1,56,670</b>	<b>100%</b>	<b>78,334</b>	<b>78,336</b>

- (9) In cases where the statutory orders are received on or after 1<sup>st</sup> April 2019 the dealer may settle the part of the dues as per the said order and then prefer an appeal or vice-versa. The aforesaid procedure may be followed to prefer an appeal or settle the dues as per these orders.

**Q. 35** The payment of the requisite amount in Form-MTR-6 needs to be paid online. However it is not clear as to how the payment made towards the tax, interest, penalty or late fee to be mentioned in the said Chalan. The Nodal Officers are insisting that the payment of the requisite amount be made under the head of tax, interest, penalty of the late fee. Please clarify.

**Ans.** The payment of the requisite amount shall be made in the Chalan Form-MTR-6. The applicant is expected to preferably put the figures in the respective heads of tax, interest, penalty or the late fee. However, in case the mistakenly the payments of the


tax, interest, penalty or the late fee are mentioned interchangeably then Nodal Officer shall consider the said combined payment to be made towards the settlement of arrears and accordingly appropriate the same towards the requisite amount to be paid. The credit of the payment so made shall not be denied merely because said payment is mentioned in wrong heads. payment

**No. Settle./MMB-2019/1/ADM-8**

**dated the 15<sup>th</sup> May, 2019.**

**Trade Circular No. 20T of 2019**

Copy forwarded to the Joint Commissioner of State Tax (MAHAVIKAS) with the request to upload this Trade Circular on Department's web-site.

  
**(Shriram H. Umale)**  
Joint Commissioner of State Tax,  
(HQ)-1, Maharashtra State,  
Mumbai.