

CIRCULAR No.13/08

Sub:- Kerala Finance Bill, 2008- Commercial Taxes Department - one time settlement of arrears – Amnesty Scheme, 2008-09-instructions issued - reg

Sub Clause (3) of Clause 3 of Kerala Finance Bill, 2008 read with Para 155 of Budget Speech 2008-09 provides for settlement of outstanding arrears relating to the period ending on 31st March, 2005 under the Act.

1. This facility of settlement of arrears, to be called the Amnesty Scheme,2008-09, is available to all outstanding arrears under KGST Act, 1963, Kerala Tax on Luxuries Act, 1976, KAIT Act, 1990,and CST Act, 1956 other than penalties under section 29A(4) of the KGST Act.
2. Accordingly, dealers who are in arrears relating to the period ending on 31st March, 2005 can opt for settling the arrears by availing reductions at the following rates:
 - in the case of demands relating to the periods up to and including 31st March 1991, a reduction of twenty five percent for the tax amount, and complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon;
 - in the case of demands relating to the period from 1st April, 1991 to 31st March, 1996, a complete reduction of the interest on the tax amount, and for the amount of penalty and interest thereon;
 - in the case of demands relating to the period from 1st April, 1996 to 31st March 2000, a reduction of ninety five percent of the interest on the tax amount, and for the amount of penalty and interest thereon;
 - in the case of demands relating to the period from 1st April, 2000 to 31st March 2005, a reduction of ninety percent of the interest on the tax amount, and for the amount of penalty and interest thereon; and
 - in cases where principal amount has already been remitted prior to coming into force of Section 55C of KGST Act, a reduction of ninety percent of the interest amount.
3. Demands relating to any period ending on 31st March, 2005 can be settled under this scheme. It is not necessary that the demands should be created before the said period.
4. Assessments completed under section 17D of KGST Act from 1/4/2008 shall not be considered for settlement under this scheme.
5. Penalty orders relating to any period up to 31st of March, 2005 which have been remanded or modified by any appellate/revisional authority shall be redone before 30th September, 2008, and those orders shall be entitled for settlement under this scheme.

6. Assessment of tax and imposition of penalty by a single order will not preclude the dealer from availing deductions declared under the scheme for penalty and interest thereon. In such cases, for the purpose of settlement under this scheme, the tax amount, penalty amount and interest due thereon has to be worked out separately and eligible deductions allowed.
7. The dealer shall file an application in the prescribed form annexed hereunder as Annexure I before the assessing authority on or before 30.06.08.
8. Only dealers who opt for settling all their outstanding arrears under an Act for a year shall be eligible to apply under this scheme.
9. On receipt of the application from the dealer, the assessing authority shall verify the correctness of the arrear position stated by the dealer with reference to assessment records and relevant registers, and intimate the dealer the amount payable under this section within 15 days positively, in Annexure II.
10. On receipt of the said intimation the dealer shall pay 25% of the said amount within 15 days, and the balance in 3 equal monthly installments commencing from the subsequent month.
11. While fixing the liability under the scheme care must be taken to see that proper credit has been given to all remittances made by the dealers. In the case of missing credits for want of receipted challans, certificates issued by banks in the cases of remittances made by cheques /demand drafts and authenticated statement issued in Form 21C under KGST Rules by awarders in the case of works contractors shall be considered for giving proper credit to the extent of the amount covered under such certificates.
12. The arrears advised for Revenue Recovery proceedings are also entitled for settlement under the said section. In such cases the assessing authority shall, on acceptance of the settlement scheme and after remitting 25% of the due amount as detailed above, withdraw the Revenue Recovery proceedings, and the dealer shall not be liable for any collection charge in respect of such collection.
13. However in case where requisition for Revenue Recovery has been issued in respect of any arrears for which application under the scheme has been filed, the assessing authority shall ascertain from the Revenue Recovery authorities within fifteen days of receipt of application in Annexure I the details of attachment of assets, if any, made in pursuance to such requisition, and the value thereof as disclosed in the attachment mahazar/sale notice. In such cases the settlement amount shall not be less than the value of such assets.
14. Since the amnesty scheme provides for outright settlement of arrears, appeals/ revisions/ court cases, if any pending, to which the option relates, have to be withdrawn unconditionally and proof thereof to be filed along with the 25% payment. Acknowledgement obtained from the concerned appellate/revisonal authority in token of having filed such a request can be accepted as a proof. The assessing authority shall however confirm that such cases are formally withdrawn within sixty days, and in case such withdrawal has not been effected, the permission given under this scheme shall be revoked after giving due notice to the dealer.
15. If the dealer defaults in making payment as per the permission given in Annexure II, the reduction granted shall be revoked by an order in writing by the

assessing authority after giving such dealer an opportunity of being heard within thirty days of the default.

16. An illustration for calculation of the amount payable under the scheme will be as under:

Rs in lks

Assessment Year to which the Case Pertains	Amount Outstanding					Amount Payable under Amnesty Scheme				
	Tax		Penalty		Total Due	Tax		Penalty		Total Payable
	Principal	Interest	Principal	Interest		Principal	Interest	Principal	Interest	
Upto 31-3-91	1.5	2	0.3	1	4.8	1.125	0	0	0	1.125
1-4-91 to 31-3-96	1.5	2	0.3	1	4.8	1.5	0	0	0	1.5
1-4-96 to 31-3-00	1.5	2	0.3	1	4.8	1.5	0.1	0.015	0.05	1.665
1-4-00 to 31-3-05	1.5	2	0.3	1	4.8	1.5	0.2	0.03	0.1	1.83

Note: The amount fixed as due under this Amnesty Scheme shall not be lower than the value of the assets of the defaulter under attachment or the collected tax.

17. All Assessing Authorities shall maintain a register in Annexure III containing details of arrears settled under the said section. The collection details shall be reported separately in the monthly diaries. The Deputy Commissioners shall give periodic progress report of the settlement of arrears under the said section to the Commissioner fortnightly.

All supervisory officers shall see that the above instructions are strictly complied with.

Commissioner

To
All Officers

Annexure I

(To be submitted in Duplicate)

Application for settlement of arrears under the Amnesty Scheme, 2008-09.

1. Name and address of the assessee
2. R.C. Number
3. Status Sole proprietorship/ Partnership / Company /Others
4. Type of Business Trading /Manufacturing/ Works Contract /Others

5. Details of arrears for which settlement has been opted.

Sl.No	Assmt. Year	Order		Outstanding Demands				Collected Tax	Under which Act
		No	Date	Tax		Penalty			
				Amount	Interest	Amount	Interest		
Total									

6. Appeal/Revision/Court cases if any pending details

Sl.No	Assmt. Year	Order		Amount	Appellate authority with whom pending	Appeal / Revision No	Present stage	Remarks
		No	Date					

7. Details of attachment of assets if any under Revenue Recovery .
8. Value of attached assets

DECLARATION

I Sri/Smt.....hereby declare that all the details stated above are true and correct to the best of my knowledge.

I further declare that I am competent to file this application in the capacity as the.....

I hereby opt for settlement of the arrears in pursuance of the scheme declared in Para 155 of the Budget Speech, 2008-09.

I hereby undertake to withdraw the appeals/revisions/court cases and other cases relating to these matters on acceptance of this application.

I further undertake that on acceptance of this application I shall abide the conditions of payment without fail.

Place
Date

Signature
Name and status

Annexure II

(To be prepared in Duplicate)

INTIMATION OF PAYMENT OF ARREARS UNDER THE AMNESTY SCHEME 2008-09

Name of office

Reg. No.

To

Sri/ M/s

On a consideration of the application dated/2008 filed by you for settlement of the outstanding arrears you have been found eligible. Accordingly, you are hereby permitted to settle the arrears as detailed hereunder:

SI No	Year	Principal amount	Interest due on the principal amount	Penalty	Interest due on penalty	Total
Total						

Twenty five percent of the above amount amounting to Rs...../-shall be remitted within fifteen days on receipt of this intimation and the balance in three equal monthly instalments @ Rs. /- starting from the month of...../2008.

The amount shall be remitted before 10th of every month

In case of default or in case any information furnished in Annexure I is found to be false, this permission is liable to be revoked.

Place

Date

Signature
Name and designation
of Assessing Authority

(Seal)

Annexure III**Register of Settlement of Arrears under the Amnesty Scheme 2008-09.**

[To be maintained by the assessing authority]

SI No	Name of dealer with RC No	Year	Principal tax amount		Interest on Prl tax amount		Penalty		Int on Penalty		Total		Payment Details
			Due	Payable	Due	Payable	Due	Payable	Due	Payable	Due [4+6+8+10]	Payable [5+7+9+11]	
1	2	3	4	5	6	7	8	9	10	11	12	13	