



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Sales Tax & Luxury Tax
(Settlement of Arrears by Hoteliers)
Bill, 2004**

(BILL No. 14 of 2004)

^{AS}
~~For~~ to be introduced in the Legislative Assembly of the State of Goa

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
FEBRUARY, 2004**

**The Goa Sales Tax & Luxury Tax
(Settlement of Arrears by Hoteliers)
Bill, 2004**

(BILL No. 14 of 2004)

A

BILL

5 *to provide for the expeditious enforcement of payment of arrears of tax, relating to the period from 1.4.1999 to 31.3.2003 by hoteliers under the Sales Tax Law and Luxury Tax Law as in force in the State of Goa, by way of settlement, waiving interest and penalty.*

Be it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

10 1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004.

15 (2) It shall extend to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Definitions.*— (1) In this Act, unless the context otherwise requires,—

20 (a) “arrears of tax, penalty or interest” means—

(i) tax, by whatever name called, payable by a hotelier upon assessment or otherwise

under the relevant Act in respect of the specified period; or

(ii) penalty imposed upon a hotelier for default in furnishing returns and in payment of tax in accordance with the provisions of the relevant Act in respect of the specified period; or

(iii) interest payable by a hotelier under the relevant Act in respect of the specified period;

(b) "applicant" means a hotelier as defined in clause (e) hereto and include legal heirs, successors, assignees or nominees of such hotelier, where the business has ceased to exist or has been discontinued prior to the date of coming into force of this Act;

(c) "designated authority" means the authority specified in section 3;

(d) "Government" means the Government of Goa;

(e) "hotelier" shall mean and include those individuals, Companies or partnership concerns who are registered as hoteliers under the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988) and engaged in the business of providing residential accommodation to the public and/or those registered under the Goa Sales Tax Act, 1964 (Act 4 of 1964) and engaged in the business of selling or supplying cooked food and non-alcoholic beverages, as the case may be;

(f) "relevant Act" means,—

(i) the Goa Sales Tax Act, 1964 (Act 4 of 1964);

(ii) the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988);

(iii) the Central Sales Tax Act, 1956 (Act 74 of 1956);

(g) "specified period" means period commencing from 1st day of April, 1999 and ending with 31st day of March, 2003.

(2) Unless there is anything repugnant to the subject or context, all expressions used in this Act, which are not defined, but defined or used in the relevant Act, shall have the same meaning as assigned to them in the relevant Act.

3. *Designated authority.*— For carrying out the purposes of this Act, the authorities referred to in sections 3(2)(a) and 3(2)(aa) of the Goa Sales Tax Act, 1964 (Act 4 of 1964), or such other authority as the Commissioner may, under the relevant Act, by order made in that behalf nominate, shall be the designated authority and such authority shall have jurisdiction over such area or areas as exercised by it under the relevant Act.

4. *Eligibility for settlement.*— (1) Subject to other provisions of this Act, the applicant shall be eligible for settlement of arrears of tax, penalty and interest in respect of specified period, whether assessed or not, provided full payment of arrears of tax under the relevant Act is made on or before 31st day of March, 2004.

(2) If the assessment has not been taken up and returns are not filed in respect of specified period, either partly or wholly, the applicant shall furnish such returns alongwith the application for settlement.

5

(3) In case any appeal, revision or review has been filed and the arrears of tax, penalty and interest relating to specified period are disputed therein, the applicant shall pay by 31st day of March, 2004 the amount of tax assessed under the relevant Act.

10

(4) The hoteliers who are in default in payment of any dues on the date of filing of the application for settlement other than those which are in dispute in any appeal, revision or review, relating to the period prior to 1.4.1999, shall not be eligible for settlement.

15

5. *Application by the applicant.*— (1) An application, in duplicate, for the purpose of section 4 shall be made to the designated authority by an applicant in the form specified in Part I of the Schedule appended hereto on or before 31st day of March, 2004 separately for each of the years under each of the relevant Acts accompanied by receipted copies of chalans in proof of payment. The Government, by notification in the Official Gazette, may extend the said date including the one mentioned in sub-sections (1) and (3) of section 4 for further period not exceeding three months. The designated authority shall verify the correctness of the particulars furnished in the application with reference to connected records available with the assessing authority, appellate authority or any other authority with whom such records may be available, as the case may be.

20

25

30

35

(2) If the assessment of the specified period has been completed and the matter thereof is pending with reviewing, appellate or revisional authority, the applicant shall forward a copy of the application made under sub-section (1) to authority before whom the review, appeal or revision, as the case may be, is pending, within fifteen days from the date of making of such application before the designated authority.

5

10 6. *Settlement of arrears and issue of certificate of settlement.*— (1) The designated authority, on being satisfied about the payment of the amount which the applicant is required to pay i.e. full amount of tax payable under the relevant Act for the specified period and also the undisputed dues for the period prior to 1st April, 1999, shall issue a certificate of settlement for arrears, in form as specified in Part II of the Schedule appended hereto, to the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount towards penalty and/or interest to which he was liable before settlement.

10

15

20

(2) The designated authority, for reasons to be recorded in writing, may refuse to settle a dispute, on the ground that no question of settlement arises or rectify or amend a certificate of settlement issued under sub-section (1):

25

30

Provided that no order adversely affecting the applicant shall be passed without giving to the applicant any reasonable opportunity of being heard:

Provided further that appeal against the order of the designated authority shall lie with the

Commissioner and such appeal shall be made within a period of thirty days from the date of such order.

(3) Where the applicant has paid the full amount of arrears of tax under the relevant Act in settlement under this Act in respect of the specified period, either assessed or payable alongwith returns, the interest and penalty levied or leviable thereof, shall be deemed to have been waived.

(4) If any assessment for the specified period made subsequent to issue of certificate of settlement under this Act results in extra dues other than those for which a certificate of settlement has been issued, the hotelier shall be liable for interest and penalty on such extra dues assessed in addition to tax payable under the relevant Act.

7. Bar on re-opening of settled cases.— A certificate of settlement issued under sub-section (1) of section 6 shall be conclusive as to the settlement and no matter covered by such certificate of settlement shall be re-opened in any proceeding or review or revision under the relevant Act. However, nothing in this section shall prevent concerned Assessing Authority from taking assessment of the applicant as per provisions of the relevant Act if it has not been taken earlier. No interest and penalty shall, however, be leviable on the amount of arrears of tax settled.

8. Withdrawal of review application, appeal and revision.— Notwithstanding anything to the contrary contained in any provision in the relevant

Acts, the review, appeal or revision for the specified period pending before the reviewing, appellate or the revisional authority, as the case may be, in respect of which a certificate of settlement is issued under sub-section (1) of section 6 shall be deemed to have been withdrawn by the applicant from the date of making of the application under sub-section (1) of section 5.

9. Reviewing, appellate and revisional authority not to proceed in certain cases.— No reviewing authority, appellate authority or revisional authority shall proceed to decide any review, appeal or revision under the relevant Act relating to any period in respect of which an application has been made by an applicant under section 5:

Provided that such authority shall proceed to decide such review, appeal or revision for such period in accordance with the provisions of the relevant Act, if a certificate of settlement referred to in sub-section (1) of section 6 is refused to the applicant by an order passed by the designated authority in writing under sub-section (2) of section 6.

10. Revocation of certificate of settlement.— (1) Notwithstanding anything contained in section 7 or section 8, where it appears to the designated authority that an applicant has obtained the benefit of settlement under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may within one year of date of such certificate, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the certificate

of settlement issued under sub-section (1) of section 6.

(2) If a certificate of settlement is revoked under sub-section (1), the appeal or revision, as the case may be, under the relevant Act, covered by such certificate of settlement, shall, notwithstanding the provisions of section 7 or section 8, stand revived or reinstated immediately upon such revocation, and such appeal or revision shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrears of tax, penalty or interest in dispute in such appeal or revision has ever been made under this Act.

11. *No refund of amount paid under the Act.*— Any amount paid by an applicant under this Act shall not be refundable under any circumstances:

Provided that in the case of revocation of a certificate of settlement in accordance with section 10, the amount paid by the applicant under section 6 shall be treated to have been paid under the relevant Act for the period for which the certificate of settlement has been revoked.

12. *Power to remove difficulties.*— If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order published in the Official Gazette, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty.

Provided that no such order shall be made after the expiry of two years from the date of coming into force of this Act.

SCHEDULE
PART I
(See Section 5)

Application for settlement of arrears of tax, penalty or interest under section 5 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004.

To,
The Designated Authority,
.....
.....
.....

I,..... Proprietor Partner/Karta/Managing Director/Director/Principal Officer/Duly authorized Officer/President/Secretary/ /Legal heir/Successor/Assignee or Nominee on behalf of an applicant, being eligible under section 4 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004, hereby apply for settlement of arrears of tax, penalty or interest.

I furnish hereunder the requisite particulars:—

(1) Name of the applicant (here mention the name of the proprietor/partner/company, etc.) :

(2) Trade name of the business :

(3) Address of the principal place of business :

(4) Full postal address at which communication to be made :

(5) Number of the certificate of registration under the relevant Act to which the application relates :

- (6) (i) Period in respect of assessment of tax/imposition of penalty/determination of interest to which the application relates against which no appeal, revision or review is filed From ____ to ____ 5
- (ii) Arrears of tax
Arrears of penalty
Arrears of Interest 10
- (7) Particulars of the appeal or revision pending
- (i) (a) the designation of the appellate/revisional authority before whom the appeal revision is pending. 15
- (b) the date of presentation of the appeal/revision so pending before such authority. 20
- (c) the appeal or revision case No. 20
- (ii) Period to which relates From ____ to ____
- (a) Arrears of tax in dispute
(b) Arrears of interest in dispute
(c) Arrears of penalty in dispute 25
- (8) Return period for which return(s) is/are filed under section 4(2)

Arrears of tax i.e. tax due

- (i) From ____ to ____ 30
- (ii) 30
- (iii)
- (iv)

- (9) The arrears of tax, interest and penalty disputed in appeal or revision or review relating to period prior to 1.4.1999 and subsequent to 31.3.2003. 5

Year to which relates	No. of appeal/revision petition/review petition & date of filing	Amount Disputed			Undisputed Amount		
		Tax	Interest	Penalty	Tax	Interest	Penalty

- (10) Details of payments effected, if any, of undisputed amount of tax, interest and penalty as detailed in column (9) hereinabove Date of Payment Amount paid 15
- 20

VERIFICATION

I,....., solemnly declare that to the best of my knowledge and belief -

- (a) the particulars and information given in this application are correct and complete; 25
- (b) the amount of arrear of tax, interest or penalty shown hereinabove are truly stated and relate to the relevant period as mentioned in this application; and 30
- (c) I/the applicant am/is not otherwise ineligible for making this application in terms of the provisions of the Act.

.....
(Signature)

.....
(Name of the signatory in full)

Place:

Date: (Status in relation to the applicant)

Enclosure

(1) Quarterly returns for the quarter ending _____, _____, & _____ alongwith chalans for payment of tax due as per returns (column 8).

(2) Chalans for payment of undisputed amount mentioned in Column (9) and (10). 5

Date of payment Amount paid

- (1)
- (2)
- (3)

(3) Chalans for payment of assessed tax in respect of specified period for which no appeal, revision or review is pending (column 6). 10

Date of Payment Amount paid

PART II

(See section 6)

Certificate of settlement issued under sub-section (1) of section 6 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004

5 On the basis of an application made by (name of the applicant), who is carrying on/used to carry on the business in the trade name of at..... (address) and who is/were holding certificate of registration No..... under the (name of the relevant Act), 10 it is certified that:

* (1) Arrears of tax, penalty or interest arisen on account of the order of assessment for the period from to against which no appeal is preferred upto has been settled under sub-section (1) of section 6 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004. 15

(2) Arrear of tax, penalty or interest for the assessment period which was pending in appeal/revision/ review before (name of the appropriate appellate/revisional authority), being appeal/revision/review case No....., has been settled under sub-section (1) of section 6 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004. 20

* (3) The interest payable on the amount of tax of Rs..... in respect of the period from to is treated as waived alongwith penalty. 25

ISSUED this day of
Signature.....
30 Designation
(Appropriate designated authority)

(Seal)

*Strike out whichever is not applicable.

Statement of Objects and Reasons

The hotel industry in the State of Goa was adversely affected owing to sudden terrorist attack on America on 11th September, 2001. The industry was given partial relief by reducing the tax rates during 2002-03. Still, there are number of hotels which are in arrears of tax. To help and support them to continue in the business, it was proposed during Budget presentation for the year 2003-04 to formulate a Scheme to waive interest and penalty under the Sales Tax Laws and the Luxury Tax Laws, subject to full payment of dues within the specified period. The waiver of interest and penalty would also encourage prompt payment by hoteliers, speed up recovery and enhance the revenue collection for the year.

The Bill provides for waiver of interest and penalty levied/leviable in respect of the period commencing from 1st day of April, 1999 and ending with 31st day of March, 2003 subject to full payment of tax payable during the said period and also the undisputed dues of the period prior to 1.4.1999, on or before 31.3.2004.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill since no additional expenditure will be incurred on account of the proposed amendment.

Memorandum Regarding Delegated Legislation

Clause 5 of the Bill empowers the Government to extend the dates specified therein by notification in the Official Gazette. Clause 12 of the Bill empowers the Government to make order for removing difficulties encountered while implementing provisions of the Act.

The above delegations are of normal character.

Porvorim-Goa.
18th February, 2004.

(MANOHAR PARRIKAR)
Chief Minister

Assembly Hall,
Porvorim - Goa.
18th February, 2004

(S. A. NARVEKAR)
Secretary (Legislature)

Governor's Recommendation under Article 207 of the Constitution

In pursuance to article-207 of the Constitution of India, I, Kidar Nath Sahani, the Governor of Goa hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Bill, 2004.

KIDAR NATH SAHANI
Governor.