

# **Tax Alert: Himachal Pradesh government introduces Himachal Pradesh (Legacy Cases Resolution) Scheme, 2019**

**Issued on: 2 March 2020**



## Summary

The government of Himachal Pradesh has introduced legacy dispute resolution scheme called **the Himachal Pradesh (Legacy Cases Resolution) Scheme, 2019 (the Scheme)**, for the settlement of legacy cases pertaining to the erstwhile Central Sales Tax Act, 1956 and Himachal Pradesh VAT Act, 2005. The Scheme is intended to dispose legacy assessment cases and arrears under litigation.

## Key features

### Applicability

The scheme is applicable to:

- settlement of any **additional demand pending** for recovery pertaining to a financial year (FY) in respect of which assessment has been made, or
- settlement of **pending assessment** and settlement of any demand on account of tax, penalty and interest that may accrue as a result of disposal of such pending assessment under a subsumed enactment.

### Declaration

In order to avail the scheme, the declarant is required to file a declaration in **Form LCRS-01** along with the proof of payment of settlement fee **by 30 April 2020**.

### Non-eligibility

A declarant shall not be eligible to make a declaration under the scheme if:

- Appeal pending before the appellate forum has not been withdrawn by the day of submission of declaration under the scheme.
- Criminal proceedings have been initiated for any reason including tax fraud.
- A notice has been issued for an erroneous refund
- All statutory forms<sup>1</sup> required to be produced for applicability of concessional rate of tax under the subsumed enactment have not been produced either at the time of assessment or have not been filed along with the declaration under the scheme and the tax due as per returns has not been paid.

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<sup>1</sup> Form 'C' 'F', 'H', 'E1', 'E2' as defined under the Central Sales Tax Act, 1956 and Form 'D', 'ND' as defined under the Himachal Pradesh Value Added Tax Act, 2005

## Settlement Fee

Scenario	Settlement fee
Returns filed and payment made within due date	No fee
Tax due have been paid however returns have been filed late	10% of the tax paid after the due date of filing the return or payment of tax
Returns have not been filed with respect to a FY	110% of the tax amount applicable on the taxable turnover in such FY
Statutory forms have not been produced either at the time of assessment or along with the declaration under the scheme and the tax due as per returns has been paid	Settlement fee shall be the <b>higher of:</b> <ul style="list-style-type: none"> <li>• 100% of the tax paid or tax required to be paid against such forms</li> <li>• 1% of the transaction value in the form.</li> </ul>

## Restrictions against settlement fee

Any amount paid as settlement fee:

- shall not be paid through Input Tax Credit (ITC)
- shall not be taken as ITC or entitle any other person to take ITC as the recipient
- shall not be refundable under any circumstances

## Adjustment of pre-deposit

- Any amount paid as pre-deposit at any stage of the appellate proceedings<sup>2</sup> or as part of recovery proceedings<sup>3</sup> may be adjusted for payment of the settlement fee.
- However, if pre-deposit amount exceeds the settlement fee, excess amount shall not be refunded.

## Our comments

After Maharashtra, Karnataka and Gujarat, the government of Himachal Pradesh has undertaken a welcome and much awaited initiative by introducing a legacy dispute resolution scheme. It will help in fast track clearance of pending litigations under the erstwhile state laws and thereby reduce working capital blockages for taxpayers at large as also unlock revenue for the government.

<sup>2</sup> under the subsumed enactment or deposited voluntarily

<sup>3</sup> against the additional demand for that FY

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