



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

WRIT PETITION No. 12770 of 2021

M/S HINDUSTAN EQUIPMENT PVT. LTD (UNIT 1)

Versus

***STATE OF M.P. THROUGH COMMERCIAL TAX DEPARTMENT
AND OTHERS***

Appearance:

Shri Harshvardhan Sharma – Advocate for the petitioner.

Shri Bhuwan Gautam – Govt. Advocate for the respondent / State.

WITH

WRIT PETITION No. 1493 of 2022

***M/S RATHI IRON AND STEEL INDUSTRIES LTD. THROUGH ITS
AUTHORIZED SIGNATORY SANDEEP JAIN***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Harshvardhan Sharma – Advocate for the petitioner.

Shri Bhuwan Gautam – Govt. Advocate for the respondent / State.

WRIT PETITION No. 1498 of 2022

***M/S RATHI IRON AND STEEL INDUSTRIES LTD. THROUGH ITS
AUTHORIZED SIGNATORY SANDEEP JAIN***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Harshvardhan Sharma – Advocate for the petitioner.

Shri Bhuwan Gautam – Govt. Advocate for the respondent / State.

WRIT PETITION No. 1522 of 2022

M/S JAIDEEP ISPAT AND ALLOYS PRIVATE LIMITED (UNIT II)

Versus

***THE STATE OF MADHYA PRADESH AND OTHERS*****Appearance:**

Shri Harshvardhan Sharma – Advocate for the petitioner.

Shri Bhuwan Gautam – Govt. Advocate for the respondent / State.

Reserved on : 25.06.2025

Delivered on : 30.06.2025

ORDER

Per: Justice Vivek Rusia

Regard being had to the similitude of the controversy involved in the aforesaid petitions, they have been heard analogously and disposed of by this common order. For the sake of convenience, facts of Writ Petition No.12770 of 2021 are taken.

02. Petitioner is engaged in the manufacturing of machinery types of equipment in its factory situated at Sanwer Road, Indore (M.P.). The petitioner's assessment for the financial year 01.04.2012 to 31.03.2013 under the Central Sales Tax Act was completed and an additional demand of Rs.20,88,443/- was issued against the petitioner. The aforesaid demand was calculated due to the non-submission of C-Forms. The petitioner preferred an appeal before the Deputy Commissioner, Commercial Tax, Division-I by depositing the additional demand of Rs.5,24,000/-. Vide order dated 20.04.2016, the appellate authority granted the tax relief of Rs.5,04,362/-, therefore, as per the order of the First Appellate Authority, the demand was reduced to Rs.10,60,081/-.

03. The petitioner challenged the order of First Appellate Authority before the Madhya Pradesh Commercial Tax Appellate Board, Indore on 17.06.2016 by depositing 20% of the balance amount of Rs.2,12,021/-.

04. During the pendency of this appeal, the State Government came up with the ordinance in the name of The Madhya Pradesh Karadhan



Adhiniyamon Ki Puranee Bakaya Rashi Ka Samadhan Adhyadesh, 2020 (hereinafter referred to as "**the Ordinance**"). According to the petitioner, Clause 'f' of Section 2(1) defines the 'disputed amount'. According to this any demand against which the litigation has been filed before the appellate authority. Therefore, for the purpose of settlement under this Ordinance, the disputed amount will be the amount pending in the litigation before the MPCTAB. The petitioner applied in a prescribed form on 21.01.2021 to get the benefit of the Ordinance. The petitioner deposited the amount of Rs.3,17,622/- which is a 50% amount of the demand of tax. Respondent No.3 vide notice dated 03.02.2021 rejected the claim of the petitioner in order to pay an extra amount to the tune of Rs.5,29,475/- which is equal to the 100% of the remaining balance amount of the arrears of tax.

05. According to the petitioner, respondent No.3 wrongly considered the case of the petitioner under Category 1 of Section 4(1) of the Ordinance which deals with the amount related to the statutory certificate/declaration. Instead of category 3 which deals with the disputed amount. Being aggrieved by the order dated 10.02.2021, the petitioner filed an appeal dated 25.03.2001 before respondent No.2. Vide order dated 18.06.2021, the appeal has been dismissed. Hence, this writ petition before this Court.

06. Respondents have filed the reply in order to justify the impugned action. According to the respondents, the statutory certificates are defined in Section 2(k) of the Ordinance which categorically provides that the statutory certificates means declaration and certificates mentioned under rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957. Accordingly, the form (c) is the declaration certificate provided under Rule 12(1). Since the case of the petitioner falls under the first category i.e. amount related to the statutory



certificate and it is an admitted case of the petitioner also that the additional amount enforced on the petitioner is due to non-receipt of C-forms. Hence, the petition is liable to be dismissed.

We have heard learned counsel for the parties at length and perused the entire record.

07. Section 4(1) of the Ordinance says that the settlement amount to be paid alongwith each application for settlement of the old arrears shall be as per the following table:

No. (1)	Type of the Cases (2)	Amount to be paid related to tax for settlement (3)	Amount to be paid related to interest and or penalty for settlement (4)
1.	Amount related to statutory certificates/declarations	100% of the remaining balance amount of the arrear of tax in dispute, outstanding on the date of application reduced by the amount of tax involved in the value of acceptable certificates/declarations submitted by the applicant or the amount already paid towards such arrear of tax, whichever is higher.	10% of the demand of interest as per statutory order
2.	Undisputed amount	Balance amount reduced by the amount already paid against extra demand of tax in any statutory order on the date of application	<p>(a) 10% if paid on or before the 60th day of coming into force of this Ordinance.</p> <p>(b) 20% if paid after the 60th day but before the 90th day of coming into force of this Ordinance.</p> <p>(c) 30% if paid after the 90th day, but before the 120th day of coming into force of this Ordinance:</p> <p>Provided that in no case shall any refund be given if the amount already paid exceeds the above-given limit.</p>



3.	Disputed amount	50% of the demand of tax in any statutory order. If the amount already paid exceeds 50% then no refund shall be given	<p>(a) 5% of the demand, if paid within 60 days of coming into force of Ordinance. If the amount already paid exceeds 5% then no refund shall be given.</p> <p>(b) 10% of the demand, if paid after 60 days of coming into force of the Ordinance. If the amount already paid exceeds 10% then no refund shall be given.</p>
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08. According to the petitioner, the disputed amount means any demand against which the litigation has been filed before any appellate authority or forum and the case of the petitioner falls into this category because his appeal is pending before the appellate authority. Therefore, the valuation made in the appeal shall be the disputed amount for the purpose of settlement under the Ordinance. According to the respondents, the case of the petitioner falls into the first category which deals with the amount related to statutory certificate and declaration. The petitioner prepared a table to show that the balance tax and penalty in the pending litigation is only Rs.3,17,622/-.

09. As per the order of the appellate authority dated 22.04.2016, the demand remains against the petitioner is Rs.10,60,081/- + Rs.5,24,000/- already deposited by the petitioner at the time of filing the appeal. The appellate authority has only granted a waiver of Rs.5,04,362/-, therefore, the remaining demand against the petitioner is Rs. 15,84,081/- which is going to be a subject matter of appeal before the appellate board. The petitioner has wrongly calculated the balance tax and penalty of Rs.3,17,622/-. Now, the issue is whether the case of the petitioner falls in category (1) of Section 4 or category 3.

10. According to the respondents, this amount is related to the statutory certificate/declaration, so the case will fall under category 1.



However, according to the petitioner, this appeal was pending at the time of issuance of this Ordinance, and the disputed amount is liable to be considered for settlement in this ordinance. It is correct that the demand was made against the petitioner on the basis of Form-C certificate which the petitioner had challenged before the Assessment Officer as well as before the appellate authority and now the issue is pending before the board. As per the order of the First Appellate Authority the demand has been reduced to 15,84,081/- because in the appeal the petitioner submitted Section 29 Form-C valued Rs.46,76,808/- which has been accepted by the appellate authority and reduced Rs.15,84,081/- which is a disputed amount in the appeal, therefore, the case of the petitioner falls under Section 4(1) & (3) of the Ordinance.

11. Had the petitioner submitted an application for settlement under the Ordinance during the pendency of the proceeding before the Assessment Officer, then certainly this case would have fallen under category 1, but now that stage has crossed. The petitioner's case is pending before the appellate authority as per the definition of 2(f) the settlement amount is liable to be calculated on the basis of the disputed amount.

12. In view of the above, the impugned order dated 10.02.2021 passed by the Assistant Commissioner, Commercial Tax, Circle-11, Indore (M.P.) and order dated 18.06.2021 passed by the Deputy Commissioner, Commercial Tax, Indore (M.P.) as well as impugned notice dated 03.02.2021 (Annexure P/6) are hereby *set aside*. The claim of the petitioner be processed under Category 3 of Section 4(1) of the Ordinance.

13. With the aforesaid, this **Writ Petition No.12770/2021** is **allowed**.



14. As a consequence, all the aforesaid connected writ petitions, i.e. **Writ Petition Nos.1493/2022, 1498/2022 & 1522/2022** are also **allowed.**

15. Let a photocopy of this order be kept in the record of all the connected writ petitions.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

Divyansh