Tax Settlement Commission Act, 2033 (1976)

Date of Authentication and Publication

2033.6.10 (26 Sept. 1976)

Amendment:

Republic Strengthening and Some Nepal Laws Amendment Act, 2066 (2010)¹

2066.10.7(21 Jan. 2010)

Act Number 30 of the year 2033 (1976)

An Act made to constitute a Tax Settlement Commission

Preamble: Whereas, it is expedient to constitute a powerful Tax Settlement Commission to assess and recover the due and outstanding taxes to be assessed and recovered pursuant to the Nepal laws in force in order to maintaining the convenience and economic interests of the general public;

Now, therefore, be it enacted by His Majesty King Birendra Bir Bikram Shah Dev on the advice and with the consent of the Rastriya Panchayat.

1. Short title, extension and commencement: (1) This Act may be called as the “Tax Settlement Commission Act, 2033(1976)”.

   (2) This Act shall extend throughout Nepal.

   (3) This Act shall come into force immediately.

2. Definitions: Unless the subject or the context otherwise requires, in this Act,-

¹ This Act came into force on 15 Jestha 2065(28 June 2008), ”Prasati” and the word ”Kingdom” has been deleted.
(a) “Commission” means the Tax Settlement Commission constituted pursuant to Section 3.

(b) "Tax" means any tax that is leviable pursuant to the Nepal laws in force.

(c) "Taxpayer" means a person who has the duty to pay tax pursuant to the Nepal laws in force.

(d) "Tax related matter" means a tax related matter that returns of tax are yet to be submitted to the tax officer or that the matter has been referred to the Revenue Tribunal but it is yet to be confirmed or that appeal has been made but final decision is yet to be made or that tax is outstanding and due after the expiration of the time-limit for making appeal to the Revenue Tribunal.

(e) "Notified order" means a notice published in the Nepal Gazette by the Government of Nepal under this Act.

3. **Constitution of Commission**: (1) The Government may, by a notified order, constitute a Tax Settlement Commission from time to time in order to take action on tax related matters and settle tax pursuant to this Act.

   (2) The Commission shall consist of Three members who have done special study and expertise on tax matters, as specified by the Government, and out of whom, one person shall be designated as the chairperson.

4. **Exercise of jurisdiction of Commission**: (1) All members shall collectively exercise jurisdiction of the Commission.

   (2) Majority opinion shall be deemed to be a decision of the Commission.
(3) If majority cannot be formed owing to different opinions of the Three members, the opinion of the chairperson shall be deemed to be the decision of the Commission.

(4) Notwithstanding anything contained in Sub-section (1), if two members are present, tax related matters may be tried and settled.

(5) If unanimity is not made in trying and settling tax related matters in presence of two members pursuant to sub-section (4), the opinion supported by the absentee member shall be deemed to be the opinion of the Commission. If majority cannot be made, it shall be as per Sub-section (3).

5. **Functions and duties of Commission:** (1) The tax related matters to be settled by the Commission and types thereof and the term/tenure of the Commission shall be as specified by the Government of Nepal by a notified order.

   (2) It shall be the duty of the Commission to complete the tax related functions within the period specified in the notice as referred to in Sub-section (1).

6. **Power of Commission:** (1) In taking action in relation to any tax, the Commission shall have all powers as the Director General, and tax officers, of the Department of Tax, Government of Nepal, have pursuant to the Nepal laws in force.

   (2) The Commission may assess tax by mutual negotiation with a tax payer.

   (3) The Commission may perform the functions assigned to it sitting in any place of Nepal.

   (4) The Commission may assign any of its functions to be performed by it to any tax officer.
7. **Tax related matters sub judice in Revenue Tribunal:** (1) On any tax related matter *sub judice* in the Revenue Tribunal on appeal, the appellant taxpayer may make an application, accompanied also by the reason, to the Commission for permission to have that matter decided by the Commission. When such application is made and the reason if found to be reasonable, the Commission may give permission to the applicant.

(2) Upon receipt of an application pursuant to Sub-section (1), the taxpayer shall make an application to withdraw his or her appeal from the Revenue Tribunal, and if an application is so made, the Revenue Tribunal shall give permission for the withdrawal of the appeal.

Provided that, the deposit furnished by such a taxpayer shall not be returned until the final decision is made by the Commission pursuant to Sub-section (3).

8. **Tax related matters on which time-limit for appeal has expired:**

(1) In tax related matter on which the time-limit for making appeal to the Revenue Tribunal against the decision of the tax officer, the concerned taxpayer may make an application, accompanied also by the reason, to the Commission to have that matter examined again and tax assessed by the Commission.

(2) If an application is made pursuant to Sub-section (1) and the Commission considers the reason to be reasonable, it may examine the tax assessment order already issued by the tax officer and reassess the tax.

9. **Figure of tax may differ in making reassessment of tax:** In assessing tax pursuant to Section 7 or 8, the Commission may assess tax in a manner that the figure of tax so assessed may differ from that assessed by the tax officer originally.
10. **To specify modus operandi:** Notwithstanding anything contained in the Nepal laws in force, the Commission may, as required, specify *modus operandi* in relation to the assessment and recovery of taxes for the purposes of this Act, and no question may be raised in any court in relation to the modus operandi so specified by the Commission and the observance of such modus operation.

11. **Duties of Tax Offices:** It shall be the duty of the Tax Offices to provide such required information and returns as demanded by the Commission in the course of discharging its functions and to recover and realize the taxes, fines, charges etc. assessed or determined by the Commission pursuant to the Nepal laws in force.

12. **Appeal:** (1) No appeal shall lie against the decision of tax assessment made by the Commission pursuant to Sub-section (2) of Section 6 and Sections 7 and 8.

   (2) In relation to any other decision except those set forth in Sub-section (1), only when the Supreme Court gives a leave to make an appeal to it upon considering any of the following question suffers direct legal error and the decision of the Commission may thus be reversed wholly or partly, appeal may be made to the Supreme Court against such a decision of the Commission:

   (a) Question of exercise of jurisdiction,

   (b) Question of interpretation of law,

   (c) Question that evidence required to be examined has not been examined and that evidence required not to be examined has been examined,

   (d) Question that violation of laws relating to procedures required to be observed mandatorily has been made.
13. **Deposit to be furnished in making appeal:** (1) In making an appeal against the decision of the Commission, no appeal may lie without furnishing the amount of assessed tax where assessment of tax has been made and the amount of fine where it has been imposed and both amounts where both have been made as deposit with such an office as designated by the Commission.

   (2) If the Commission so considers appropriate, it may allow to furnish half the amount to be furnished as deposit in cash and the half in wealth bail or money bail of a reliable person.

   (3) If, in taking action on and settling a tax related matter, the goods taking in custody or forfeited are perishable or their quality and value may depreciate, such goods shall be auctioned in accordance with the Nepal laws in force and the proceeds of sale shall be furnished as deposit and it shall be done as decided in relation to the tax related matter. In the case of motor vehicles or machineries, they may be handed over to their owners by taking the deposit of wealth guarantee or money bail of a reliable person.

14. **Documents to remain secret:** The documents presented in the Commission and matters known from any sources in the course of discharge of the functions of the Commission shall be kept secret. Such documents and secret matters shall not be published in any other act or be taken in evidence in any court except for the purposes of assessment or recovery of tax; and no authority may demand them for inspection or investigation except with the permission of the Government of Nepal.

15. **Dissolution of Commission:** (1) The Commission shall *ipsa facto* be dissolved after the completion of the period specified for the completion of functions by it.
(2) If, being unable to complete the functions assigned to it within the period specified pursuant to Section 5, the Commission makes an application, accompanied by the reason, for the extension of period or if the Government of Nepal, by a notified order, assigns other functions to the Commission, the Government of Nepal may, by a notified order, extend the period of the Commission.

(3) If it considers necessary to dissolve the Commission in the meantime for any reason, the Government of Nepal may, by a notified order, dissolve the Commission.

16. **Cases filed in the dissolved Commission:** If the Commission is dissolved prior to the completion of the functions assigned to it or in the meantime, the tax related matters tried by the Commission but yet to be settled shall be transferred to the concerned tax officer and the appeals returned from the Revenue Tribunal shall be transferred to the concerned Revenue Tribunal.

17. **Saving of act done in good faith:** No case or legal action may be instituted or taken against the Commission, any member of the Commission or any person acting as per the order and direction of the Commission for any act and action done or taken or purported to be done or taken in good faith in accordance with this Act or the Rules framed under this Act.

18. **Power to frame Rules:** The Government of Nepal may frame Rules for the accomplishment of the objectives of this Act.