

©

**GOVERNMENT OF WEST BENGAL
LEGISLATIVE DEPARTMENT**

West Bengal Act XVI of 1976

**THE WEST BENGAL ADVERTISEMENT TAX
ACT, 1976.**

[Passed by the West Bengal Legislature.]

*[Assent of the Governor was first published in the Calcutta
Gazette, Extraordinary, of the 1st April, 1976.]*

[1st April, 1976.]

*An Act to provide for the levy of a tax on advertisement exhibited by
cinematograph.*

WHEREAS it is expedient to provide for the levy of a tax on advertisement exhibited by cinematograph and for matters connected therewith or incidental thereto;

It is hereby enacted in the Twenty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Advertisement Tax Act, 1976. Short title
and
commence-
ment.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
 - (a) “business” means so much of the business of a proprietor as relates to exhibition of advertisements at a place of public exhibition;
 - (b) “cinematograph” includes any apparatus for the representation of moving pictures or series of pictures including slides;
 - (c) “film” means a cinematograph film containing an advertisement;
 - (d) “place” includes a house, building, tent, enclosure, open space and any description of transport, whether by land, water or air;
 - (e) “prescribed” means prescribed by rules made under this Act;

(Section 3.)

- (f) "proprietor" in relation to a place includes any person responsible for, or for the time being in charge of, the management thereof;
- (g) "public exhibition" means an exhibition to which persons are admitted on payment; and
- (h) "slide" means a slide containing an advertisement.

Tax on
advertis-
ment.

3. (1) For public exhibition of an advertisement at any place by cinematograph there shall be levied and collected an advertisement tax at the following rates, namely:—

- (i) when there is agreement that the advertisement is to be exhibited for a period of not less than seven days, at such rate not exceeding twenty-five *per cent.* of the amount received or to be received by the proprietor as the price for showing the advertisement, as may be fixed by the State Government by notification in the *Official Gazette*;
- (ii) in other cases,—
 - (a) in areas situated within the limits of the Calcutta Metropolitan Area as defined in the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, at the rate of one rupee per day per film, and thirty paise per day per slide,
 - (b) in other areas, at the rate of one-half of the rates specified in clause (a):

West Ben.
Act V of
1972.

Provided that—

- (i) where the length of a film exceeds thirty metres, the advertisement tax shall be at double the rate provided for in clause (a) or clause (b), as the case may be;
- (ii) no advertisement tax shall be payable for public exhibition of trailers or slides of feature films which are exhibited for advance publicity;
- (iii) no advertisement tax shall be payable on any slide or film exhibited for or on behalf of the Central or State Government or any local or statutory authority;
- (iv) the State Government may, subject to such terms and conditions as may be specified, by order, exempt any advertisement exhibited on behalf of a charitable or philanthropic organisation, from the liability to pay advertisement tax.

XVI of 1976.]

(Sections 4, 5.)

(2) The tax shall be levied upon, and collected from, the proprietor, but, subject to any agreement to the contrary, the amount paid by the proprietor may be recovered by him from the person for or on whose behalf the advertisement was exhibited.

(3) In computing the advertisement tax leviable under sub-section (1), the amount shall wherever necessary, be rounded off to the nearest paise, fractions of half a paise and over, being counted as one.

4. (1) Every proprietor shall submit to the State Government within such time, in such form and with such particulars, as may be prescribed, a return showing the amount of advertisement tax payable by him.

Payment of advertisement tax.

(2) Where a proprietor fails to submit a return within the prescribed time, or submits a return which is incomplete or inaccurate, the State Government or any officer authorised by the State Government in this behalf, shall assess the amount of advertisement tax leviable against such proprietor:

Provided that before such assessment is made the proprietor shall be given an opportunity of being heard:

Provided further that a proprietor, being aggrieved by an order of assessment, may file an appeal against the order to such officer as the State Government may authorise and the order passed by such officer shall be final.

(3) The time within which and the manner in accordance with which, the appeal may be filed shall be such, as may be prescribed.

5. (1) A proprietor shall—

(a) keep books, records and accounts in relation to his business in such form, for such period and in such manner as the State Government may prescribe;

(b) permit any officer to inspect and take copies of or extracts from any books, records, accounts or other documents in his possession or power which relate or appear to relate to the business.

Proprietor to keep books of account, etc.

(2) The State Government may require the proprietor to give such information relating to his business as the State Government may think necessary and in particular, to produce at a specified time and place books, records, accounts or other documents relating to the business.

(Sections 6-10.)

Punishment
for non-
compliance.

6. (1) A proprietor who fails to comply with any of the provisions of section 4 or section 5 shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

(2) Any person who contravenes any provision of this Act or any rule made thereunder for which no penalty has been provided for elsewhere shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

Compound-
ing of
offences.

7. Any officer authorised by the State Government in this behalf may recover from any person who has committed or has reasonably been suspected of having committed an offence against this Act or the rules made thereunder, by way of composition of such offence,—

- (a) where the offence consists of the failure to pay, or the evasion of, any advertisement tax payable under this Act, in addition to the tax so payable a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater; and
- (b) in other cases, a sum of money not exceeding five hundred rupees.

Power to
enter any
place for
purposes of
this Act.

8. (1) Any officer authorised by the State Government in this behalf may enter any place where any advertisement is being exhibited with a view to seeing whether the provisions of this Act or the rules made thereunder are being complied with.

(2) The proprietor of every such place shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

(3) If any person prevents or obstructs the entry of the inspecting officer, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, on conviction be punishable with a fine which may extend to five hundred rupees.

Recovery of
advertis-
ement tax.

9. Any sum due on account of the advertisement tax shall in addition to any other mode of recovery be also recoverable as an arrear of land revenue under the provisions of the Bengal Public Demands Recovery Act, 1913.

Ben. Act III
of 1913.

Delegation
of powers by
the State
Government.

10. Any of the powers and duties conferred or imposed upon the State Government by this Act may be exercised or performed, subject to such conditions as the State Government may prescribe, by an officer authorised by the State Government by general or special order.

XVI of 1976.]

(Sections 11, 12.)

11. (1) No prosecution, suit or other proceeding shall, without the sanction of the State Government, lie against any officer or servant of the State Government for any act done or purporting to be done under this Act. Bar of certain proceedings.

(2) No prosecution, suit or other proceeding shall lie against any such officer or servant for anything in good faith done or intended to be done under this Act.

12. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Without prejudice to the generality of the foregoing provisions such rules may provide for all or any of the purposes which may be, or are required to be, prescribed.
