

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act VI of 1991
THE WEST BENGAL FINANCE ACT, 1991.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 14th August, 1991.]

[14th August, 1991.]

An Act to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982.

Ben. Act V of 1922.
 Ben. Act VI of 1941.
 Ben. Act IV of 1944.
 West Ben. Act IV of 1954.
 West Ben. Act XI of 1974.
 West Ben. Act VI of 1979.
 West Ben. Act VI of 1982.

WHEREAS it is expedient to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982, for the purposes and in the manner hereinafter appearing;

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

1. (1) This Act may be called the West Bengal Finance Act, 1991. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different provisions of this Act.
2. In the Bengal Amusements Tax Act, 1922, in section 3, in sub-section (3), after the proviso, the following proviso shall be added:— Amendment of Ben. Act V of 1922.

"Provided further that no entertainments tax under this section shall be charged, levied and paid for admission to any football match."
3. In the Bengal Finance (Sales Tax) Act, 1941,— Amendment of Ben. Act VI of 1941.
 - (1) in section 2,—
 - (a) in clause (g),—
 - (i) in sub-clause (ii), for the words "consideration, or", the word "consideration," shall be substituted;

(Section 3.)

- (ii) in sub-clause (iii), after the word "consideration," the word "or" shall be added;
- (iii) after sub-clause (iii), the following sub-clause shall be inserted:—
 - "(iv) any supply of goods by any unincorporated association or body of persons to members thereof for cash, deferred payment or other valuable consideration,";
- (b) after clause (ha), the following clause shall be inserted:—
 - '(haa) "Special Commissioner" means the Special Commissioner of Commercial Taxes appointed under sub-section (1) of section 3C;';
- (c) in clause (hb), after the words, figure and letter "or section 6D", the words, figure and letters "and includes the additional sales tax payable under section 6AA" shall be added;
- (d) in clause (i), for the words ", if any, refunded by the dealer in respect of any goods returned by the purchaser within such period:", the words, figures, letters and brackets—
 - ", if any,—
 - (i) refunded by the dealer in respect of any goods returned by the purchaser within such period, or
 - (ii) separately charged as additional sales tax payable under section 6AA during such period:"

shall be substituted;

- (2) after section 3B, the following section shall be inserted:—

"Special Commissioner. 3C. (1) The State Government may appoint a person to be Special Commissioner of Commercial Taxes.

(2) The Special Commissioner shall have such powers, and shall be entitled to exercise such duties, of the Commissioner as the State Government may, by notification in the *Official Gazette*, direct.

(3) Reference to the Commissioner in this Act with respect to the powers and duties specified in the notification under sub-section (2) shall be deemed to include reference to the Special Commissioner.

(4) The Commissioner may, notwithstanding anything contained in sub-section (2), withdraw to himself from the Special Commissioner any case or matter which the Special Commissioner is competent to deal with in exercise or performance of the powers or duties referred to in sub-section (2).

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(Section 3.)

45 of 1860. (5) The Special Commissioner shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.;"

(3) in section 5,—

(i) in sub-section (1),—

(a) in clause (aa), the words "and lottery tickets" shall be omitted;

(b) in clause (cc), after the words and figures "Road Transport Corporation Act, 1950", the words and figures "or the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988" shall be added;

(c) in clause (dd), the words "sales of lottery tickets and" shall be omitted;

(ii) in sub-section (2), in clause (a), in sub-clause (vb), the words "lottery tickets," shall be omitted;

(4) after section 6A, the following section shall be inserted:—

6AA. Every dealer liable to pay tax under section 4 or sub-section (3) of section 8 shall, in addition to the tax payable by him under sub-section (1) or sub-section (6) of section 5 or section 6B or section 6D, pay an additional sales tax at the rate of fifteen *per centum* of the total amount of the tax payable by him for any period under sub-section (1) of section 5:

Provided that no additional sales tax shall be payable under this section by any dealer on that part of the total amount of tax levied under sub-section (1) of section 5 which is payable by him on such taxable turnover as represents—

- 74 of 1956.
- (a) sales of goods specified in section 14 of the Central Sales Tax Act, 1956;
 - (b) sales of edible oils;
 - (c) sales of tea;
 - (d) such other sales as may be prescribed.;"

(5) in section 6B, in sub-section (1),—

(a) in clause (a), for the word and figure "section 5", the words, figures and letters "section 5, section 6AA" shall be substituted;

(b) in clause (b), for the word and figure "section 5", the words, figures and letters "section 5, section 6AA" shall be substituted;

(6) in section 7, in sub-section (1),—

(a) for the word, figure and letter "section 6C", the words, figures and letters "section 6AA, section 6C" shall be substituted;

(b) in the proviso, for the word, figure and letter "section 6C", the words, figures and letters "section 6AA or section 6C" shall be substituted;

(Section 3.)

- (7) in section 19,—
- (a) after the words "the Commissioner", the words, figure and letter "or the Special Commissioner or an Additional Commissioner appointed under section 3A" shall be inserted, and
 - (b) for the words "to assist him", the words "to assist the Commissioner" shall be substituted;
- (8) in section 21A,—
- (a) for the words "Tribunal, Commissioner" in the two places where they occur, the words, figure and letter "Tribunal or the Commissioner or the Special Commissioner or the Additional Commissioner appointed under section 3A" shall be substituted, and
 - (b) for the words "to assist him" in the two places where they occur, the words "to assist the Commissioner" shall be substituted;
- (9) in section 26, in sub-section (2), after clause (dd), the following clause shall be inserted:—
- "(ddl) such other sales referred to in clause (d) of the proviso to section 6AA;"
- (10) in Schedule I,—
- (a) in item 41, after sub-item (c) and the entry relating thereto in column 1, the following sub-item and entries in column 1 and column 2 shall be added:—
 - "(d) *Khaddar or Khadi* as defined in the West Bengal Village Industries Board Act, 1959, made of silk yarn. Except when sold by a dealer who does not manufacture such goods in his *khadi* production unit approved or certified by the *Khadi* and Village Industries Commission.";
 - (b) after item 112 and the entry relating thereto in column 1, the following items and entries in column 1 shall be added:—
 - "113. Lottery tickets.
 - 114. Fountain pens, ball pens and dot pens.
 - 115. Solar thermal devices.
 - 116. Cardiac pacemaker, heart valve and accessories thereof.";

West Ben.
Act XIV
of 1959.

(Section 4.)

(11) in Schedule II,—

(a) serial No. 3 and the corresponding entries under the heading "Description of goods" shall be omitted;

(b) for serial No. 12 and the corresponding entries under the heading "Description of goods", the following serial No. and entries under the heading "Description of goods" shall be substituted:—

"12. Sound transmitting equipments including loud-speakers and spare parts thereof but excluding telephones, spare parts and accessories thereof."

(c) serial No. 26 and the corresponding entries under the heading "Description of goods" shall be omitted;

(d) after serial No. 42 and the corresponding entries under the heading "Description of goods", the following serial Nos. and entries under the heading "Description of goods" shall be added:—

"43. Machines or devices for converting mechanical energy into electrical energy, commonly known as generators, generating sets or gen-sets.

44. Devices for storage and supply of electricity, commonly known as inverters.";

(12) in Schedule IV, after serial No. 12 and the corresponding entries under the heading "Description of goods", the following serial Nos. and entries under the heading "Description of goods" shall be added:—

"13. Refrigerators, spare parts, accessories and components thereof.

14. Telephones, spare parts and accessories thereof.

15. Lifts, whether operated by electricity or steam, and spare parts, accessories and components thereof."

4. In the Bengal Agricultural Income-tax Act, 1944, in the Schedule, for paragraph B, the following paragraph shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1991:—

Amendment
of Ben. Act
IV of 1944.

"B. In the case of every domestic company, firm or other association of persons,—

	Rate
(a) In a case where the total agricultural income does not exceed one lakh rupees	65 paise in the rupee
(b) In a case where the total agricultural income exceeds one lakh rupees but does not exceed five lakh rupees	75 paise in the rupee

(Section 5.)

	Rate
(c) In a case where the total agricultural income exceeds five lakh rupees but does not exceed ten lakh rupees	80 paise in the rupee
(d) In a case where the total agricultural income exceeds ten lakh rupees	83 paise in the rupee".

Amendment
of West Ben.
Act IV of
1954.

5. In the West Bengal Sales Tax Act, 1954,—

- (1) in section 2, in clause (e),—
 - (a) in sub-clause (i), the word “and” shall be omitted;
 - (b) in sub-clause (ii), for the word and figure “section 4:”, the words and figure “section 4, and” shall be substituted;
 - (c) after sub-clause (ii), the following sub-clause shall be added:—
 - “(iii) the amount, if any, separately charged as additional sales tax payable under section 4B during such period.”;
- (2) in section 3, for sub-section (1), the following sub-sections shall be substituted:—
 - “(1) For carrying out the purposes of this Act, the State Government shall prescribe an authority (hereinafter referred to as the prescribed authority) and may, by notification in the *Official Gazette*, appoint any other officer to exercise such of the powers, and perform such of the duties, of the prescribed authority as may be specified in such notification.
 - (1A) The prescribed authority may withdraw to himself from the officer appointed under sub-section (1) any case or matter with which such officer is competent to deal in exercise or performance of the powers or duties referred to in sub-section (1).”;
- (3) after section 4AAAA, the following section shall be inserted:—

“Liability to pay additional sales tax. 4B. Every dealer liable to pay tax under sub-section (1) of section 4 shall, in addition to the tax payable by him under that section, section 4AAA or section 23A, pay an additional sales tax at the rate of fifteen *per centum* of the total amount of tax payable by him for any period under sub-section (1) of section 4 and section 23A:

Provided that no additional sales tax shall be payable under this section by any dealer on that part of the total amount of tax levied under sub-section (1) of section 4 and section 23A which is payable on such turnover as represents—

(Section 6.)

- (a) sales of goods specified in section 14 of the Central Sales Tax Act, 1956, if any, notified under section 25 of this Act; 74 of 1956.
- (b) such other sales as may be specified by the State Government by notification in the *Official Gazette*.”;
- (4) in section 20,—
- (a) for the words “, the prescribed authority or such persons appointed to assist such authority”, the words, figures and brackets “or the prescribed authority or the officer appointed under sub-section (1) of section 3 or such persons appointed to assist the prescribed authority” shall be substituted, and
- (b) for the words, figures and brackets “, the prescribed authority or any person appointed to assist such authority under sub-section (2) of section 3”, the words, figures and brackets “or the prescribed authority or the officer appointed under sub-section (1) of section 3 or any person appointed to assist the prescribed authority under sub-section (2) of section 3 as may be prescribed under this section” shall be substituted.
6. In the West Bengal Motor Spirit Sales Tax Act, 1974,—
- (1) in section 2, in clause (e), for the words “as tax under this Act”, the words, figure and letter “as tax under section 4B of this Act” shall be substituted; Amendment of West Ben. Act XI of 1974.
- (2) after section 4A, the following section shall be added:—
- “Liability to pay additional sales tax. 4B. Every dealer liable to pay tax under section 4 shall, in addition to the tax payable by him under that section and section 4A, pay an additional sales tax at the rate of fifteen *per centum* of the total amount of the tax payable by him under section 4 for every month:
- Provided that no additional sales tax shall be payable by any dealer under this section on that part of the total amount of tax charged and levied under section 4 which is payable by him on such turnover of sales as represents—
- (a) Kerosene oil, referred to in item 2A as specified in column 1 of the Table appended to sub-section (2) of section 4;
- (b) Motor spirit, referred to in item 3 as specified in column 1 of the Table appended to sub-section (2) of section 4.”.

(Sections 7, 8.)

Amendment
of West Ben.
Act VI of
1979.

7. In the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, in the Schedule,—

- (a) after serial No. 5 and the entries relating thereto in column 2 and column 3, the following serial No. and entries in column 2 and column 3 respectively shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991:—

“5A. Stevedores, clearing agents, 900 per annum.”;
customs agents, licensed shipping
brokers or licensed boat suppliers.

- (b) after serial No. 12 and the entries relating thereto in column 2 and column 3, the following serial No. and entries in column 2 and column 3 respectively shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991:—

“12A. Owners or lessees of—
(a) Beauty parlours 900 per annum
(b) Health resorts or slimming
centres 900 per annum
(c) Air-conditioned hair-dress-
ing saloons 900 per annum
(d) Restaurants with arrange-
ment for floor shows 900 per annum.”.

Amendment
of West Ben.
Act VI of
1982.

8. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982,—

- (1) in section 4A, after sub-section (3), the following sub-section shall be added:—

“(4) Where a holder of a video cassette recorder set or a holder of a video cassette player set or a holder of a television set transmits from such set for exhibition of performances, films or any other programmes through Cable television network to customers for payment received or receivable by such holder, he shall, in addition to the tax, if any, payable by him under section 4, be liable to pay a luxury-cum-entertainment and amusement tax at such rate not exceeding one thousand rupees per week per set as may be specified in a notification issued by the State Government in this behalf:

Provided that the State Government may specify different rates of tax payable under this section according to the use of television set, video cassette recorder set or video cassette player set in different areas of West Bengal:

The West Bengal Finance Act, 1991.

VI of 1991.]

(Section 8.)

Provided further that the provisions of this sub-section shall not apply to a holder of a video cassette recorder set or video cassette player set referred to in sub-section (3).”;

- (2) in section 5, after sub-section (3), the following sub-section shall be added:—

“(4) A holder of sets referred to in sub-section (4) of section 4A shall pay the amount of tax payable by him under that sub-section for a week to the prescribed authority in the prescribed manner within seven days from the end of such week or within such further time as the State Government may by notification extend, failing which he shall be liable to pay a penalty at the rate of twenty-five rupees per week or part thereof per set.”;

- (3) in section 6, sub-section (4) shall be omitted.
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