

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act I of 1992

THE WEST BENGAL FINANCE ACT, 1992.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 27th March, 1992.]

[27th March, 1992.]

An Act to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Raw Jute Taxation Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal Urban Land Taxation Act, 1976; 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 XI
of 1941.
Ben. Act IV
of 1944.
West Ben. Act
IV of 1954.
West Ben. Act
V of 1972.
West Ben. Act
XXI of 1972.
West Ben. Act
XI of 1974.
West Ben. Act
VIII of 1976.
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 Raw Jute Taxation Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal Urban Land Taxation Act, 1976, 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-third 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, 1992.

(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.

Short title
and com-
mencement.

(Sections 2, 3.)

Amendment
of Ben. Act V
of 1922.

2. In the Bengal Amusements Tax Act, 1922, in section 3, in sub-section (3),—

- (1) in the Table, in the entries relating to item (c) in column 1, the words “, sports and games” shall be omitted;
- (2) the second proviso shall be omitted.

Amendment
of Ben. Act
VI of 1941.

3. In the Bengal Finance (Sales Tax) Act, 1941,—

- (1) in section 2, in clause (hb), for the words, figure and letter “or section 6D and includes”, the words, figures, letters and brackets “or sub-section (3) of section 6D, and includes the amount payable under sub-section (4) of section 6D and” shall be substituted;

(2) in section 6B,—

- (a) in sub-section (3), for clause (a), the following clauses shall be substituted:—

“(a) two *per centum* of such part of the turnover as specified in sub-section (2), if the aggregate of the gross turnover under this Act and the gross turnover under the West Bengal Sales Tax Act, 1954, of the dealer liable to pay such tax exceeds rupees fifty crores during the year in respect of which or part of which the turnover tax is levied;

West Ben.
Act IV
of 1954.

(aa) one and a half *per centum* of such part of the turnover as specified in sub-section (2), if the aggregate of the gross turnover under this Act and the gross turnover under the West Bengal Sales Tax Act, 1954, of the dealer liable to pay such tax exceeds rupees one crore but does not exceed rupees fifty crores during the year in respect of which or part of which the turnover tax is levied;”;

- (b) in clause (c), after the word, letter and brackets “clause (a)”, the word, letters and brackets “, clause (aa)” shall be inserted;

- (c) in the proviso, for clause (i), the following clauses shall be substituted:—

“(i) under clause (a) shall not exceed a sum equivalent to the aggregate of three-fourths of the turnover tax payable by him in accordance with the said clause and twenty *per centum* of the amount by which his aforesaid gross turnover exceeds rupees fifty crores;

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(Section 3.)

- (ia) under clause (aa) shall not exceed a sum equivalent to the aggregate of two-thirds of the turnover tax payable by him in accordance with the said clause and fifteen *per centum* of the amount by which his aforesaid gross turnover exceeds rupees one crore; and”;
- (3) in section 6D, after sub-section (3) ending with the words, figure and brackets “as specified in sub-section (2)”, the following sub-sections shall be inserted:—
 - “(4) Notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), subject to such conditions and restrictions as may be prescribed, the Commissioner may, if a registered dealer liable to pay tax under clause (b) of sub-section (1) opts under sub-section (5), accept by way of composition in lieu of the tax payable under sub-section (3) by such dealer during any period, an amount computed at the rate of two *per centum* of the amount received or receivable during such period as valuable consideration or part of such valuable consideration on account of any works-contract executed wholly or partly during that period wherein transfer of property in goods (whether as goods or in some other form) is involved.
 - (5) Any dealer who intends to opt to avail himself of the provisions of sub-section (4) may apply in such form and within such time as may be prescribed to the Commissioner or such other authority as may be prescribed to be permitted to pay the amount under that sub-section and, on being so permitted, shall pay such amount in respect of any period and furnish return therefor in accordance with the provisions of section 10.
 - (6) An option exercised under sub-section (5) in respect of any period shall remain in force for not less than three complete years and where any dealer intends to withdraw such option prospectively, he shall apply to the Commissioner or such other authority as may be prescribed not less than six months before the end of a year.”;
- (4) in section 10A, in the proviso to sub-section (2), for the words “estimate the tax payable for such period on the basis of such assessment after giving the dealer an opportunity of being heard.”, the words “apportion the tax payable for such period on the basis of such assessment.” shall be substituted;

(Section 4.)

- (5) in section 11, for sub-section (2i), the following sub-section shall be substituted:—

"(2i) No determination under sub-section (2h) of this section in respect of interest payable under sub-section (1) or sub-section (2) of section 10A shall be made after the date of assessment under sub-section (1) of this section in respect of the period for which such determination is made or after the expiry of one year from the date of coming into force of the West Bengal Finance Act, 1992, whichever is later.";

- (6) in section 26, in sub-section (2), after clause (dddd) the following clause shall be inserted:—

"(dddd) the conditions and restrictions subject to which the Commissioner may accept the amount by way of composition under sub-section (4), the form in which, the time within which, and the authority to whom, a dealer may apply under sub-section (5), or sub-section (6), of section 6D;"

- (7) in Schedule I, for item 114 and the entries in column 1, the following item and entries shall be substituted:—

"114. Dot pens and refills and cartridges thereof, fountain pens and writing ink."

Amendment
of Ben. Act
XI of 1941.

4. In the Bengal Raw Jute Taxation Act, 1941,—

- (1) in section 8B, in the proviso to sub-section (2), for the words "estimate the tax payable for such period on the basis of such determination after giving the occupier of a jute-mill or shipper of jute an opportunity of being heard.", the words "apportion the tax payable for such period on the basis of such determination." shall be substituted;

- (2) in section 9, for sub-section (1b), the following sub-section shall be substituted:—

"(1b) No determination under sub-section (1a) of this section in respect of interest payable under sub-section (1) or sub-section (2) of section 8B shall be made after the date of determination of tax and penalty (if any) under sub-section (1) of this section in respect of the period for which such determination of interest is made or after the expiry of one year from the date of coming into force of the West Bengal Finance Act, 1992, whichever is later.";

- (3) in section 21, to sub-section (1), the following proviso shall be added:—

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(Sections 5, 6.)

"Provided that no appeal shall be entertained by the authority, the Commissioner, or the Collector, as aforesaid, as the case may be, unless such authority, Commissioner or Collector, as the case may be, is satisfied that such amount of the tax as the appellant may admit to be due from him has been paid."

5. In the Bengal Agricultural Income-tax Act, 1944,—

Amendment
of Ben. Act
IV of 1944.

- (1) in section 24, for sub-section (1), the following sub-section shall be substituted:—

"(1) Every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax, shall furnish a return in the prescribed form, verified in the prescribed manner, setting forth his total agricultural income and, except in the case of a company, firm, or other association of persons, also his total world income during the previous year and such other particulars as may be prescribed, before the expiry of three months from the end of the previous year or before the 30th day of June next following the previous year, whichever is later:

Provided that on an application made in the prescribed manner, the Agricultural Income-tax Officer may, in his discretion, extend the date for furnishing the return, and shall, in the case of agricultural income assessable under section 8, allow such extension of such date as may be necessary to enable the assessee to file any certified copy of an assessment order under the enactments relating to Indian income-tax.";

- (2) in section 27, in sub-section (2), the words, figures and brackets "before the publication of the notice referred to in sub-section (1) of section 24 or" shall be omitted;
- (3) in section 32, in sub-section (1), in clause (a), the words "by notice given" shall be omitted;
- (4) in section 61, in sub-section (4), for the words, figures and brackets "within thirty days of the publication of the notice under sub-section (1) of section 24 or where a notice under sub-section (2) of that section is served," the words, figures and brackets "within sixty days from the end of the previous year or, where a notice under sub-section (2) of section 24 is served," shall be substituted.

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

Amendment
of Ben. Act
IV of 1954.

- (1) in section 2,—

(a) after clause (cccc), the following clause shall be inserted:—
'(1d) "sale" means any transfer of property in notified commodities for cash or deferred payment or other valuable consideration, and includes—

(Section 6.)

- (i) any delivery of notified commodities on hire purchase or any system of payment by instalments;
- (ii) any supply, by way of or as part of any service or in any other manner whatsoever, of notified commodities, being food or any other article for human consumption or any drink or non-alcoholic beverage, where such supply or service is for cash, deferred payment or other valuable consideration,
and such delivery or supply of any notified commodities shall be deemed to be a sale of those notified commodities by the person making the delivery or supply and a purchase of those notified commodities by the person to whom such delivery or supply is made, but does not include a mortgage, hypothecation, charge or pledge;";
- (b) in clause (d) after the words "containers or other materials for the packing of notified commodities", the words "or for anything done by the dealer in respect of the notified commodities at the time of, or before, delivery thereof, other than the cost of freight or delivery or the cost of installation, or interest, when such cost or interest is separately charged" shall be added;
- (2) in section 4AAA,—
 - (a) in sub-section (3), for clause (a), the following clauses shall be substituted:—
 - "(a) two *per centum* of such part of the turnover as specified in sub-section (2), if the aggregate of the gross turnover under this Act and the gross turnover under the Bengal Finance (Sales Tax) Act, 1941, of the dealer liable to pay such tax exceeds rupees fifty crores during the year in respect of which or part of which the turnover tax is levied;
 - (aa) one and a half *per centum* of such part of the turnover as specified in sub-section (2), if the aggregate of the gross turnover under this Act and the gross turnover under the Bengal Finance (Sales Tax) Act, 1941, of the dealer liable to pay such tax exceeds rupees one crore but does not exceed rupees fifty crores during the year in respect of which or part of which the turnover tax is levied;";

Ben. Act VI
of 1941.

I of 1992.]

(Section 7.) .

- (b) in clause (c), after the word, letter and brackets "clause (a)", the word, letters and brackets ", clause (aa)" shall be inserted;
- (c) in the proviso, for clause (i), the following clauses shall be substituted:—
 - "(i) under clause (a) shall not exceed a sum equivalent to the aggregate of three-fourths of the turnover tax payable by him in accordance with the said clause and twenty *per centum* of the amount by which his aforesaid gross turnover exceeds rupees fifty crores;
 - (ia) under clause (aa) shall not exceed a sum equivalent to the aggregate of two-thirds of the turnover tax payable by him in accordance with the said clause and fifteen *per centum* of the amount by which his aforesaid gross turnover exceeds rupees one crore; and";
- (3) in section 8A, in the proviso to sub-section (2), for the words "estimate the tax payable for such period on the basis of such assessment after giving the dealer an opportunity of being heard.", the words "apportion the tax payable for such period on the basis of such assessment." shall be substituted;
- (4) in section 9, for sub-section (6), the following sub-section shall be substituted:—
 - "(6) No determination under sub-section (5) of this section in respect of interest payable under sub-section (1) or sub-section (2) of section 8A shall be made after the date of assessment under sub-section (2) or sub-section (3) of this section in respect of the period for which such determination is made or after the expiry of one year from the date of coming into force of the West Bengal Finance Act, 1992, whichever is later."

7. In the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, in section 21,—

- (a) in sub-section (1),—
 - (i) for the words "Where the prescribed authority has found", the words "Where it is claimed by a dealer and the prescribed authority has found" shall be substituted;
 - (ii) for the words "no tax is leviable" in the two places where they occur, the words, figure, letter and brackets "subject to the provisions of sub-section (1A), no tax is leviable" shall be substituted;

Amendment
of West Ben.
Act V of
1972.

(Sections 8-10.)

- (b) after sub-section (1), the following sub-sections shall be inserted:—

"(1A) Every dealer to whom a transport pass has been granted under sub-section (1) shall furnish to the prescribed authority within the prescribed time such evidence in such manner as may be prescribed to prove that the specified goods to which such transport pass relates has not been consumed, used or sold in the Calcutta Metropolitan Area.

(1B) If any dealer fails to comply with the provisions of sub-section (1A) in respect of the whole or any part of the specified goods referred to therein, the whole or such part of the specified goods shall be deemed to have been consumed, used or sold in the Calcutta Metropolitan Area.";

- (c) in sub-section (2), after the words, figure and brackets "in sub-section (1) is consumed, used or sold", the words, figures, letter and brackets ", or is deemed under sub-section (1B) to have been consumed, used or sold, or appears from the particulars furnished under section 31 to have been consumed, used or sold," shall be inserted;

- (d) after sub-section (2), the following sub-section shall be inserted:—

"(3) If any dealer contravenes the provisions of sub-section (1A), in addition to the tax levied under sub-section (2), a penalty of a sum not exceeding the amount of such tax may, after such dealer being given a reasonable opportunity of being heard, be imposed by the prescribed authority."

Amendment
of West Ben.
Act XXI of
1972.

8. In the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, in section 4, in clause (b), for the words "fifteen *per centum* of the daily charges of a room", the words "twenty-five *per centum* of the daily charges realised or realisable for an occupied room" shall be substituted.

Amendment
of West Ben.
Act XI of
1974.

9. In the West Bengal Motor Spirit Sales Tax Act, 1974, in section 4A, in sub-section (1), for the words "one and a half *per centum*", the words "two *per centum*" shall be substituted.

Amendment
of West Ben.
Act VIII of
1976.

10. In the West Bengal Urban Land Taxation Act, 1976, in section 2, in sub-section (1), after clause (c), the following clause shall be inserted:—

'(ca) "land appurtenant", in relation to a building, means the land contiguous to the land occupied by such building;"

(Section 11.)

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

Amendment
of West Ben.
Act VI of
1979.

- (1) in section 5, in sub-section (6),—
 - (a) for the words "rupees twenty for each day", the words "rupees twenty for each English calendar month" shall be substituted;
 - (b) for the words "rupees five for each day", the words "rupees ten for each English calendar month" shall be substituted;
- (2) in section 6, in sub-section (3), for the words "rupees five for each day", the words "rupees ten for each English calendar month" shall be substituted;
- (3) for section 9A, the following section shall be substituted:—

"9A. (1) If any employer, who has been liable to obtain a certificate of registration under sub-section (1) of section 5, or any person who has been liable to obtain a certificate of enrolment under sub-section (2) of that section, obtains a certificate of registration or certificate of enrolment, as the case may be, during the period commencing from the 1st day of April, 1991 and ending on the 31st day of August, 1992 and pays the entire amount of tax due from him by the 30th day of September, 1992, no penalty shall, notwithstanding the provisions of sub-section (6) of section 5, be imposed.

(2) Notwithstanding the provisions of sub-section (2) or sub-section (3) of section 9, no interest shall be payable by any employer or person who has been registered or enrolled during the period commencing from the 1st day of April, 1991 and ending on the 31st day of August, 1992, where such registered employer or enrolled person pays the entire amount of tax due from him on or before the 30th day of September, 1992.";

- (4) in section 19, for the provisos, the following proviso shall be substituted:—

"Provided that the provisions of this section shall not apply to a person or employer referred to in sub-section (1) of section 9A where he complies with the provisions contained therein in relation to the period commencing on the date of his liability to pay tax and ending on the 30th day of September, 1992.";

- (5) in the Schedule,—
 - (a) in serial No. 12,—

- (i) against item (a), in column 3, for the figures "900", the figures "2,500" shall be substituted;
 - (ii) against item (b), in the entry in column 2, the words "and employers of residential hotels of 3-star category and above" shall be omitted;

(Section 11.)

- (iii) after item (b), the following item and entries relating thereto in column 1, column 2 and column 3 shall be inserted:—
 - "(bb) Owner or occupier or
lessee of residential
hotels of 3-star category
and above 2,500 per annum.";
- (iv) in item (c), in the entry in column 2, for the word "employers", the words "owners or occupiers or lessees" shall be substituted;
- (v) in item (d), in the entry in column 2, the word "ganja," shall be omitted;
- (vi) in item (e),—
 - (A) in the entry against sub-item (i), in column 2, the words ", Video Parlours and Video Rental Libraries" shall be omitted;
 - (B) after sub-item (ii) in column 2, the following sub-item and entries relating thereto in column 2 and column 3 shall be added:—
 - "(iii) Video Parlours and
Video Rental
Libraries 2,500 per annum.";
- (vii) in item (f), in column 3, for the figures "900", the figures "2,500" shall be substituted;
- (b) for serial No. 12A and the entries relating thereto in columns 1, 2 and 3, the following serial No. and entries shall be substituted:—
 - "12A. Owners or lessees of—
 - (a) Beauty Parlours (Non-air-conditioned) 900 per annum.
 - (b) Beauty Parlours (Air-conditioned) 2,500 per annum.
 - (c) Health Resorts or Slimming Centres 2,500 per annum.
 - (d) Air-conditioned hair-dressing saloons 2,500 per annum.
 - (e) Air-conditioned restaurants 2,500 per annum.";
- (c) in serial No. 21, in the entry relating thereto in column 3, for the figures "900", the figures "2,500" shall be substituted.

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(Section 12.)

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

Amendment
of West Ben.
Act VI of
1982.

- (1) in section 4A,—
 - (a) in sub-section (1),—
 - (i) in clause (a), for the words "one thousand", the words "one thousand and two hundred" shall be substituted;
 - (ii) in clause (b), for the words "seven hundred and fifty", the words "nine hundred" shall be substituted;
 - (iii) in clause (c), for the words "five hundred", the words "six hundred" shall be substituted;
 - (b) in sub-section (3),—
 - (i) in clause (a), for the words "ten thousand", the words "twelve thousand" shall be substituted;
 - (ii) in clause (b), for the words "one thousand", the words "one thousand and two hundred" shall be substituted;
- (2) in section 5,—
 - (a) in sub-section (1), in clause (c), for the words "rupees one hundred", the words "rupees ten" shall be substituted;
 - (b) in sub-section (2), in clause (c), for the words "rupees one hundred", the words "rupees ten" shall be substituted;
 - (c) in sub-section (3), for the words "rupees fifty per week", the words "rupees ten per week" shall be substituted;
 - (d) in sub-section (4), for the words "twenty-five rupees per week", the words "rupees five per week" shall be substituted;
- (3) in section 6A,—
 - (a) for the words, letters and figures "ending on the 31st day of December, 1990," the words, letters and figures "ending on the 31st day of December, 1992," shall be substituted;
 - (b) for the words, letters and figures "before the 31st day of December, 1990.", the words, letters and figures "before the 31st day of December, 1992." shall be substituted.