

# GOVERNMENT OF WEST BENGAL

## LAW DEPARTMENT

### Legislative

## West Bengal Act XVI of 1994

### THE WEST BENGAL FINANCE ACT, 1994.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 6th April, 1994.]

[6th April, 1994.]

*An Act to amend the Bengal Finance (Sales Tax) Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Rural Employment and Production Act, 1976, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Multi-storeyed Building Tax Act, 1979 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982.*

WHEREAS it is expedient to amend the Bengal Finance (Sales Tax) Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Rural Employment and Production Act, 1976, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Multi-storeyed Building Tax 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-fifth 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, 1994.
- (2) It shall come into force on the 11th day of April, 1994.

Short title  
and  
commence-  
ment.

(Section 2.)

Amendment  
of Ben. Act  
VI of 1941.

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

(1) in section 2,—

(a) in clause (1a-1),—

- (i) for *Explanation 1*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 15th day of April, 1993:—

*“Explanation 1.—A transporter who, while carrying goods in his goods vehicle within the meaning of section 14C fails to disclose the name and address of the consignee or consignor in West Bengal or fails to furnish copy of invoice, challan, transport receipt or consignment note or document of like nature in respect of any goods, shall be deemed to be a casual trader in respect of such goods carried in his goods vehicle.”;*

- (ii) for *Explanation 2*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 15th day of April, 1993:—

*“Explanation 2.—An owner or lessee of a godown or warehouse, who fails to disclose the name and address of the owner of any goods stored in such godown or warehouse, shall be deemed to be a casual trader in respect of such goods.”;*

- (b) after clause (c), the following clause shall be inserted:—

‘(cc) “enrolled” means enrolled under sub-section (3) of section 6F;’;

- (c) for clause (hb), the following clause shall be substituted:—

‘(hb) “tax” means the tax payable under this Act;’;

- (d) in clause (i), for sub-clause (ii), the following sub-clause shall be substituted:—

“(ii) separately charged as turnover tax payable under section 6B during such period.”;

(2) in section 4,—

- (a) in sub-section (6), after the words “who is not registered” in the two places where they occur, the words “or enrolled” shall be inserted;

XVI of 1994.]

(Section 2.)

- (b) in sub-section (7), after the word “registered” in the two places where it occurs, the words “or enrolled” shall be inserted;

(3) in section 5,—

(a) in sub-section (1),—

- (i) in clause (a), for the words “and hosiery goods,” the words “, gas mantle and hosiery goods,” shall be substituted;

- (ii) for clause (b), the following clause shall be substituted:—

“(b) three *per centum* of such part of his taxable turnover as represents sales of footwears of all descriptions when sold at a price not exceeding two hundred rupees per pair and ready-made garments, other than hosiery goods and garments made of *khaddar* or *khadi*;”;

- (iii) clause (bbb) shall be omitted;

- (iv) after clause (c), the following clause shall be inserted:—

“(c1) five *per centum* of such part of his taxable turnover as represents sales of goods specified in the first column of Schedule V, subject to the conditions and exceptions, if any, set out in the corresponding entry in the second column thereof;”;

- (v) in clause (cc), for the words “four *per centum*”, the words “five *per centum*” shall be substituted;

- (vi) in clause (cc1), for the words “four *per centum*”, the words “five *per centum*” shall be substituted;

- (vii) in clause (ccc), for the words “four *per centum*”, the words “five *per centum*” shall be substituted;

- (viii) in clause (cccc),—

(A) in sub-clause (i), for the words “eight *per centum*”, the words “ten *per centum*” shall be substituted;

(B) in sub-clause (ii), for the words “eleven *per centum*”, the words “fifteen *per centum*” shall be substituted;

(Section 2.)

- (ix) clause (d) shall be omitted;
- (x) to clause (d1), the following proviso shall be added:—

“Provided that the tax payable by the Canteen Stores Department of the Government of India or the Regimental or Unit-run canteen attached to the military units in West Bengal shall be levied at the rate of five *per centum* of such part of its taxable turnover as represents sales of goods included in Schedule IV when an officer, not below the rank of a Commanding Officer, certifies in writing that such goods have been sold to the members of the Defence Forces of India;”;

- (xi) in clause (dd), for the words “twenty *per centum*”, the words “fifteen *per centum*” shall be substituted;
- (xii) for clause (e), the following clause shall be substituted:—

“(e) ten *per centum* of such part of his taxable turnover as represents sales of goods other than those referred to in clauses (a), (aa), (aaa), (b), (bb), (bbb), (c), (c1), (cc), (cc1), (ccc), (cccc), (d1) and (dd).”;

- (b) in sub-section (2),—

- (i) in clause (a),—

(A) in sub-clause (ii), the words, letters and figures “and goods referred to in serial No. 46 of Schedule II” shall be omitted;

- (B) after sub-clause (ve), the following sub-clauses shall be added:—

“(vf) sales of foreign liquor, whether made in India or not, including brandy, whisky, vodka, gin, rum, liqueur, cordials, bitters and wines or a mixture containing any of these, as also beer, ale, porter, cider, perry and other similar potable fermented liquors, purchases whereof made on or after the 11th day of April, 1994, are shown to the satisfaction of the

XVI of 1994.]

(Section 2.)

Ben. Act V  
of 1909.

Commissioner to have been made by him in West Bengal from a registered dealer other than a registered dealer who has liability to make payment of excise duty as required by the Bengal Excise Act, 1909 but has not made payment of such excise duty payable by him in respect of such goods;

- (vg) sales of foreign liquor, whether made in India or not, including brandy, whisky, vodka, gin, rum, liqueur, cordials, bitters and wines or a mixture containing any of these, as also beer, ale, porter, cider, perry and other similar potable fermented liquors, when the registered dealer selling such goods has liability to make payment of excise duty as required by the Bengal Excise Act, 1909 but has not made payment of such excise duty payable by him in respect of such goods.

*Explanation.*—For the removal of doubt, it is hereby declared that no turnover representing sales of goods referred to in sub-clause (vf) or sub-clause (vg) by a registered dealer shall be deducted under that clause where the registered dealer selling such goods makes payment of excise duty in respect of such goods under the Bengal Excise Act, 1909;”;

- (ii) in the second *Explanation*, clause (b) shall be omitted;
- (4) section 6AA shall be omitted;
- (5) in section 6B,—
- (a) in sub-section (1),—
- (i) in clause (a), the word, figure and letters”, section 6AA” shall be omitted;
- (ii) in clause (b), for the words, figures and letters beginning with “during any year” and ending with “immediately following such year”, the words, figures and letters “calculated from the commencement of any year ending on or after the 11th day of April, 1994, exceeds twenty-five lakh rupees at any time within such year shall, in addition to the tax payable by him under section 5 and section 6D, if any, be liable to pay, with

(Section 2.)

effect from the date immediately following the day on which such aggregate first exceeds twenty-five lakh rupees or from the 11th day of April, 1994, whichever is later," shall be substituted;

- (iii) in clause (d), for the words "during any year again exceeds rupees twenty-five lakhs be liable to pay from the first day of the year immediately following such year", the words, figures and letters "calculated from the commencement of any year ending on or after the 11th day of April, 1994, again exceeds twenty-five lakh rupees at any time within such year, be liable to pay, with effect from the date immediately following the day on which such aggregate again first exceeds twenty-five lakh rupees or from the 11th day of April, 1994, whichever is later," shall be substituted;

(b) in sub-section (3),—

- (i) in clause (a), for the words "rupees fifty crores", the words "one crore rupees" shall be substituted;

- (ii) clause (aa) shall be omitted;

- (iii) for clause (b), the following clause shall be substituted:—

"(b) one *per centum* of such part of the turnover as specified in sub-section (2), if the provisions of clause (a) do not apply:";

- (iv) clause (c) shall be omitted;

- (v) for the proviso, the following proviso shall be substituted:—

"Provided that the turnover tax payable by a dealer under clause (a) shall not exceed a sum equivalent to the aggregate of one-half of the turnover tax payable by him in accordance with the said clause and ten *per centum* of the amount by which his aforesaid aggregate of the gross turnover under this Act and the gross turnover under the West Bengal Sales Tax Act, 1954, exceeds one crore rupees.";

West Ben.  
Act IV of  
1954.

- (c) sub-section (4) shall be omitted;

(6) in section 6D, in sub-section (1), in clause (b),—

- (a) in sub-clause (ii), for the words, figures and letters beginning with "during any year" and ending with "immediately following such year", the words, figures and letters "calculated from the commencement of any year ending on or after the 11th day of April, 1994, exceeds two lakh rupees at any time within such year

XVI of 1994.]

*(Section 2.)*

shall, in addition to the tax payable by him under section 5 and section 6B, if any, be liable to pay, with effect from the date immediately following the day on which such contractual transfer price first exceeds two lakh rupees or from the 11th day of April, 1994, whichever is later," shall be substituted;

- (b) in sub-clause (iv), for the words "during any year again exceeds rupees two lakhs, be liable to pay from the first day of the year immediately following such year", the words, figures and letters "calculated from the commencement of any year ending on or after the 11th day of April, 1994, again exceeds two lakh rupees at any time within such year, be liable to pay with effect from the date immediately following the day on which such contractual transfer price again first exceeds two lakh rupees or from the 11th day of April, 1994, whichever is later," shall be substituted;

- (c) after sub-section (3), the following sub-section shall be inserted:—

“(3A) Where a dealer enters into a contract with, and engages, another dealer for execution of a works contract, whether in part or in full, the contractual transfer price relating to the execution of such works contract executed by that other dealer shall, subject to the production of the proof of payment of tax by that other dealer, be deducted from the contractual transfer price of the dealer who engages the other dealer for execution of the works contract.”;

- (7) after section 6E, the following section shall be inserted:—

“Payment of a lump sum in lieu of tax under section 5.

6F. (1) Notwithstanding anything contained in sub-section (1) of section 5, any dealer, who is not registered under this Act and whose gross turnover during a year does not exceed five lakh rupees, may, subject to the restrictions and conditions specified hereinafter and as may be prescribed, opt for payment of a lump sum of four thousand rupees for such year in lieu of the tax payable by him under sub-section (1) of section 5:

Provided that if a dealer is liable to pay tax under section 6D, he shall not be eligible for payment for that year in accordance with the provisions of this section.

*(Section 2.)*

(2) A dealer who opts under sub-section (1) to make payment of the lump sum shall, in the prescribed manner, pay on or before such date as may be prescribed such lump sum into a Government Treasury or the Reserve Bank of India and shall furnish to the Commissioner a receipted challan from such Treasury or Bank showing the payment of such sum in such manner and by such date as may be prescribed.

(3) The Commissioner shall, on furnishing of the receipted challan referred to in sub-section (2) by the dealer, enrol the dealer in the prescribed manner and thereafter allot an enrolment number to the dealer in the prescribed manner.

(4) If any enrolled dealer makes the payment of lump sum for any year as referred to in sub-section (1), the provisions of section 7, section 10 or section 11 shall not apply to such enrolled dealer in respect of the year for which he makes lump sum payment.

(5) Any dealer whose gross turnover during any year exceeds five lakh rupees shall cease to be eligible for lump sum payment for such year and he shall, from the commencement of such year, be liable to make payment of tax at the rate specified in sub-section (1) of section 5, and the lump sum payment, if any, made by such dealer for such year shall be adjusted with the amount of tax payable under sub-section (1) of section 5.

(6) If a certificate of registration is granted to a dealer under sub-section (2a) of section 7, such dealer shall furnish returns along with receipted challans showing payment of tax in accordance with the provisions of sub-section (5) by such date and in such manner as may be prescribed.”;

(8) in section 7, after sub-section (2), the following sub-sections shall be inserted:—

“(2a) If a dealer who is not registered under this Act opts to make lump sum payment under sub-section (1) of section 6F and subsequently ceases or is found to have ceased, under sub-section (5) of that section, to be eligible to make such lump sum payment, he shall make an application under sub-section (2) of this section for registration and the prescribed authority shall, on such application, grant such dealer a certificate of registration under sub-section (3) with effect from the commencement of the year in respect of which he ceases to be liable to make lump sum payment under section 6F.



XVI of 1994.]

*(Section 2.)*

- (2b) The lump sum paid, if any, by a dealer under section 6F in respect of any year during which he gets himself registered, shall be adjusted against tax payable by him under sub-section (1) of section 5 for any period or periods of such year.”;
- (9) in section 10E, in sub-section (1), the words, figures, letter and brackets “shall, subject to the provisions of sub-section (4) of section 6B,” shall be omitted;
- (9A) in the *Explanation* to section 10F, the words, figures and letter “or section 10G” shall be omitted;
- (9B) in section 10G, in sub-section (1), for the second proviso, the following proviso shall be substituted:—
- “Provided further that notwithstanding anything contained in the foregoing provisions of this sub-section or the rules made thereunder, a registered dealer, who has established a new industrial unit on or after the 1st day of April, 1989, and not later than the 31st day of May, 1990, or has expanded on or after the 1st day of April, 1989, and not later than the 31st day of May, 1990, his existing industrial unit established before the 1st day of April, 1989, shall be entitled to the remission of tax payable under this Act in respect of any period commencing on or after the 1st day of April, 1989, and ending on or before the 31st day of March, 1992, and all other provisions of this section and the rules made thereunder shall apply to such dealer;”;
- (10) in section 22, in sub-section (1), clause (aa) shall be omitted;
- (11) in section 26, in sub-section (2), after clause (dddd), the following clause shall be inserted:—
- “(dddd1) the restrictions and conditions subject to which a dealer may opt for payment of lump sum, the manner in which and the date by which a dealer shall pay lump sum, the manner in which and the date by which a receipted challan is to be furnished, the manner in which the Commissioner shall enrol the dealer and the date by which and the manner in which the dealer shall furnish returns, under section 6F;”;

(Section 2.)

(12) in Schedule I,—

(a) for item 26 and the entries relating thereto in column 1, the following item and entries in column 1 and column 2 respectively shall be substituted:—

“26. Water. Except drinking water, mineral water, or aerated water, when sold in bottles or sealed containers.”;

(b) after item 116 and the entries relating thereto in column 1, the following items and entries in column 1 shall be inserted:—

“117. Computer software.

118. Football and table-tennis bat and ball.”;

(13) Schedule II shall be omitted;

(14) in Schedule III,—

(a) item 4 and the entries relating thereto in column 1 and column 2 shall be omitted;

(b) item 5 and the entries relating thereto in column 1 shall be omitted;

(15) for Schedule IV, the following Schedule shall be substituted:—

“SCHEDULE IV

[See section 5(1)(d-1)]

**Goods taxable at the rate of fifteen per centum**

Serial No.	Description of goods
1.	Air-conditioner, air-cooler, air-conditioning plant, and spare parts, accessories and components thereof.
2.	Apparatus for making coffee under pressure, commonly known as espresso.
3.	Arms of all types including rifles, revolvers and pistols, and ammunition for the same.
4.	Article, other than utensil, made wholly or principally of stainless steel.
5.	Carpets of all varieties and descriptions.
6.	Clocks, time-pieces and watches of all types and parts thereof.
7.	Cooked food, other than those referred to in items 101, 102 and 103 in Schedule I, served in, or supplied from, any air-conditioned—
	(a) hotel,
	(b) restaurant,
	(c) refreshment room,
	(d) club, or
	(e) eating-house.

**XVI of 1994.]**

*(Section 2.)*

Serial No.	Description of goods
8.	Cushion, mattress, pillow and other articles made wholly or partly of artificial or synthetic resin or plastic foam.
9.	Cushion, mattress, pillow and other articles made wholly or partly of rubber foam.
10.	Diamond.
11.	Dyes (other than textile dyes) and pigments.
12.	Electronic toy including video game, electronic game and electronic game kit.
13.	Fancy leather goods, that is to say, brief-case, attache-case, ornamented vanity-bag and hand-bag made of leather.
14.	Foreign liquor, whether made in India or not, including brandy, whisky, vodka, gin, rum, liqueur, cordials, bitters and wines or a mixture containing any of these, as also beer, ale, porter, cider, perry and other similar potable fermented liquors.
15.	Footwears of all descriptions, when sold at a price exceeding two hundred rupees per pair.
16.	Fur and article made of fur.
17.	Iron and steel safe and almirah.
18.	Lift, whether operated by electricity or steam, and spare parts, accessories and components thereof.
19.	Moulded furniture, brief-case, suit-case and other cases and boxes, excluding school-boxes, made of fibre glass, polyvinyl chloride (P.V.C.), plastic or other synthetic substances.
20.	Pearl—real, artificial or cultured.
21.	Perfume.
22.	Precious stone (other than diamond)—real or artificial.
23.	Sanitary ware and sanitary fitting.
24.	Sound transmitting equipment including amplifier and loud-speaker.
25.	Spare parts, accessories and components of— <ul style="list-style-type: none"><li>(a) sound transmitting equipment, amplifier and loud-speaker,</li><li>(b) television set,</li><li>(c) television monitor,</li><li>(d) video cassette recorder,</li><li>(e) video cassette player,</li><li>(f) radio, and</li><li>(g) transistor radio.</li></ul>

(Section 3.)

Serial No.	Description of goods
26.	Telephone and spare parts, accessories and components thereof.
27.	Typewriter and other office machines and apparatuses (including tabulating, duplicating, cash registering, cheque writing, accounting, statistical indexing, card punching) and spare parts, accessories and components thereof.
28.	Upholstered wooden furniture.
29.	Vacuum cleaner.”;

(16) after Schedule IV, the following Schedule shall be added:—

“SCHEDULE V

[See section 5(1)(c1)]

**Goods taxable at the rate of five per centum**

Serial No.	Description of goods
1.	Gold or silver ornaments, whether set with stone or other material or not, including gold and silver filigree.
2.	Spectacles.
3.	Umbrella and spare parts and components thereof.”.

Amendment  
of Ben. Act  
IV of 1944.

3. In the Bengal Agricultural Income-tax Act, 1944,—
  - (1) section 7 shall be renumbered as sub-section (1) of that section, and—
    - (a) in sub-section (1), as so renumbered, after clause (9), the following clause shall be inserted:—
 

“(9a) any sum of allowance computed under sub-section (2);”;
    - (b) after sub-section (1), the following sub-section shall be inserted:—
 

“(2) Where an assessee has, out of his total agricultural income, utilized any amount during the previous year for the purposes as may be specified in such industrial development scheme as may be framed by the State Government and notified in this behalf,

XVI of 1994.]

(Section 3.)

the assessee shall be given an allowance of a sum equal to the amount, or the aggregate of the amounts so utilized, not exceeding twenty *per centum* of his such income, and such allowance shall be computed before the loss, if any, brought forward from the earlier year is set off under section 26:

Provided that where such assessee is a firm, any association of persons or any body of individuals, such allowance shall not be considered in the computation of the income of any partner of such firm or any member of such association of persons or such body of individuals, as the case may be.”;

- (2) for section 26A, the following section shall be substituted:—

“Advance tax. 26A. (1) Notwithstanding anything contained in this Act, every assessee shall pay to the credit of the State Government agricultural income-tax in advance during any financial year in such number of equal instalments, not exceeding four, and by such dates, as may be prescribed in respect of his total agricultural income which would be chargeable to agricultural income-tax for the assessment year immediately following that financial year, and such tax shall be called advance tax.

(2) Subject to the provisions of sub-section (1) of section 26B, advance tax payable by an assessee under sub-section (1) shall be calculated on his total agricultural income of the latest previous year in respect of which he has been assessed or his total agricultural income received in the previous year immediately preceding the financial year for which advance tax is payable, whichever is higher:

Provided that if the assessee is a partner of a firm and the assessment of the firm has been completed for a previous year later than that for which the last assessment of the assessee has been completed, his share in the profits from the agricultural income of the firm shall, for the purpose of this sub-section, be included in his total agricultural income of the latest assessment of the firm.”;

- (3) in section 26B,—

(a) in sub-section (1), for the words, figures and letter beginning with “If an assese” and ending with“, by reason of”, the words, figures, letter and brackets “If an assessee finds at any time before the date prescribed under sub-section (1) of section 26A that by reason of” shall be substituted;

*(Section 4.)*

- (b) in sub-section (2), for the words, figures and letter "on or before the date prescribed under section 26A", the words "by such date as may be prescribed" shall be substituted;
- (4) 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, 1994:—

"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	70 paise in the rupee."

Amendment  
of West Ben.  
Act IV of  
1954.

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

- (1) in section 2, in clause (e), for sub-clause (iii), the following sub-clause shall be substituted:—

"(iii) the amount, if any, separately charged as turnover tax payable under section 4AAA during such period:";

- (2) in section 4, the words "and fertilisers", wherever they occur, shall be omitted;

- (3) in section 4AAA,—

- (a) in sub-section (1),—

- (i) in clause (b), for the words, figures and letters beginning with "during any year" and ending with "immediately following such year", the words, figures and letters "calculated from the commencement of any year ending on or after the 11th day of April, 1994, exceeds twenty-five lakh rupees at any time within such year, shall, in addition to the tax payable by him under section 4, be liable to pay, with effect from the date immediately following the day on which such aggregate first exceeds twenty-five lakh rupees or from the 11th day of April, 1994, whichever is later," shall be substituted;

- (ii) in clause (d), for the words "during any year again exceeds rupees twenty-five lakhs, be liable to pay from the first day of the year immediately following

XVI of 1994.]

*(Section 4.)*

such year", the words "calculated from the commencement of any year ending on or after the 11th day of April, 1994, again exceeds twenty-five lakh rupees at any time within such year, be liable to pay, with effect from the date immediately following the day on which such aggregate again first exceeds twenty-five lakh rupees or from the 11th day of April, 1994, whichever is later," shall be substituted;

(b) in sub-section (3),—

(i) in clause (a), for the words "rupees fifty crores", the words "one crore rupees" shall be substituted;

(ii) clause (aa) shall be omitted;

(iii) for clause (b), the following clause shall be substituted:—

"(b) one *per centum* of such part of the turnover as specified in sub-section (2) if the provisions of clause (a) do not apply:";

(iv) clause (c) shall be omitted;

(v) for the proviso, the following proviso shall be substituted:—

"Provided that the turnover tax payable by a dealer under clause (a) shall not exceed a sum equivalent to the aggregate of one-half of the turnover tax payable by him in accordance with the said clause and ten *per centum* of the amount by which his aforesaid aggregate of the gross turnover under this Act and the gross turnover under the Bengal Finance (Sales Tax) Act, 1941, exceeds one crore rupees.";

(c) sub-section (4) shall be omitted;

(4) section 4B shall be omitted;

(5) in section 8G, in sub-section (1), the words, figures, letters and brackets " , subject to provision of sub-section (4) of section 4AAA," shall be omitted;

(Section 5.)

(5A) in the *Explanation* to section 8H, the words, figure and letter “and section 8I” shall be omitted;

(5B) in section 8I, in sub-section (1), for the second proviso, the following proviso shall be substituted:—

“Provided further that notwithstanding anything contained in the foregoing provisions of this sub-section or the rules made thereunder, a registered dealer, who has established a new industrial unit on or after the 1st day of April, 1989, and not later than the 31st day of May, 1990, or has expanded on or after the 1st day of April, 1989, and not later than the 31st day of May, 1990, his existing industrial unit established before the 1st day of April, 1989, shall be entitled to the remission of tax payable under this Act in respect of any period commencing on or after the 1st day of April, 1989, and ending on or before the 31st day of March, 1992, and all other provisions of this section and the rules made thereunder shall apply to such dealer.”;

(6) in section 16, in sub-section (1), clause (a1) shall be omitted.

Amendment  
of West Ben.  
Act XXI of  
1972.

5. In the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972,—

(1) in section 2,—

(a) in clause (b), the words “and includes performance by any singer, musician or bandsman” shall be omitted;

(b) for clause (d), the following clause shall be substituted:—

‘(d) “luxury” means provision for—

(i) air-conditioning through air-conditioner or central air-conditioning or any other mechanical means, or

(ii) air-cooling through air-cooler,

provided in any of the rooms, or any part of a building, constituting a hotel or restaurant;’;

(2) in section 4, in clause (b), for the words “twenty-five *per centum* of the daily charges realised or realisable for an occupied room”, the words “twenty-five *per centum* of the daily charges realised or realisable, as the case may be, for an occupied room” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1985.



XVI of 1994.]

(Sections 6, 7.)

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

“Provided further that the prescribed authority may, on application or on its own motion, review, on or before the 31st day of March, 1996, any assessment made, on or before the 31st day of March, 1994, under sub-section (2) of section 5 of the tax payable by a proprietor under clause (b) of section 4.”.

6. In the West Bengal Rural Employment and Production Act, 1976, in sub-section (2A) of section 4, for the words “twelve paise”, the words “eight paise” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1994.

Amendment  
of West Ben.  
Act XIV of  
1976.

7. 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 7,—

- (a) after sub-section (4), the following sub-section shall be inserted:—

“(4a) No assessment under sub-section (2), sub-section (3) or sub-section (4) shall be made after the expiry of four years from the end of the year in respect of which or part of which the assessment is made:

Provided that any assessment in respect of any of the years or parts of years ending on or before the 31st day of March, 1994, shall, notwithstanding the provisions of this sub-section, be made on or before the 31st day of March, 1998:

Provided further that the period during which the prescribed authority is restrained from commencing or continuing any proceeding for any assessment as aforesaid by an order of the West Bengal Taxation Tribunal established under section 3 of the West Bengal Taxation Tribunal Act, 1987, or the Supreme Court of India shall be excluded in computing the time limited by this sub-section:

Provided also that when a fresh assessment is required to be made in pursuance of an order under sub-section (7), or sub-section (8), of this section or section 14, or in pursuance of any other order of the Supreme Court of India or the West Bengal Taxation Tribunal, such fresh assessment shall be made at any time within four years from the date of such order.”;

West Ben.  
Act VIII of  
1987.

*(Section 7.)*

- (b) for sub-section (6), the following sub-section shall be substituted:—

“(6) Notwithstanding anything contained in sub-section (2), returns furnished by an employer, registered under this Act, in accordance with the provisions of sub-section (2) of section 6 in respect of the year or years comprising period or periods commencing on and from the day immediately following the latest year or part of the latest year comprising period or periods for which assessment has been made under sub-section (2) or deemed to have been made under sub-section (6) as in force before the 11th day of April, 1994, and ending on or before the 31st day of March, 1994 (hereinafter referred to as the eligible period) shall be accepted as correct and complete and all assessments in respect of such eligible period shall, subject to the provisions of sub-section (7), be deemed to have been made on the 30th day of June, 1994:

Provided that if—

- (a) an employer registered under this Act fails to furnish any return for any period or periods of a year or part of a year on or before the 30th day of June, 1994, or

- (b) the accounts, registers or documents of an employer registered under this Act are seized under sub-section (3) of section 17,

the provisions for assessment under this sub-section shall not apply in respect of the year or part of a year referred to in clause (a) or in respect of the employer registered under this Act referred to in clause (b), as the case may be.”;

- (c) for sub-section (7), the following sub-sections shall be substituted:—

“(7) Where the prescribed authority is satisfied on information or otherwise that a registered employer has concealed any salaries and wages paid by him or has furnished incorrect particulars of salaries and wages in the return furnished under section 6 resulting in reduction

XVI of 1994.]

(Section 8.)

of the amount of tax payable by him under this Act in respect of any of the years or part of a year of the eligible period, the prescribed authority shall, subject to such conditions as may be prescribed, within six years from the date of assessment made under sub-section (6) reopen such assessment in respect of the years comprising such periods and, after giving such employer a reasonable opportunity of being heard, make fresh assessment under sub-section (2) for such year or such part of the year to the best of his judgement, and, in making fresh assessment under sub-section (2) in respect of any such employer for any period, direct such employer to pay, in addition to the tax due, a sum, not less than twice and not more than thrice the amount of tax assessed, by way of penalty.

(8) If any registered employer applies on or before the 30th day of June, 1995, for revision of any assessment made under sub-section (6) in respect of any year on the ground that due to his error in fact or in law excess tax has been paid by him for such year and if the prescribed authority is *prima facie* satisfied about the ground, he may reopen such assessment and make a fresh assessment under sub-section (2).”;

- (2) in section 9, after sub-section (3), the following sub-section shall be added:—

“(4) Interest payable under sub-section (2) or sub-section (3) shall be determined in such manner, by such date, and by such authority, as may be prescribed.”.

8. In the West Bengal Multi-storeyed Building Tax Act, 1979, in section 3, in sub-section (3), in item I,—

- (a) for sub-item (i), the following sub-item shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1994:—

“(i) where the annual value does not exceed Rs. 60 per square metre      Rupees two per square metre.”;

- (b) sub-item (ii) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1994;

- (c) in sub-item (iii), for the words “Rupees two per square metre.”, the words “Rupees two and a half per square metre.” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1994.

Amendment  
of West Ben.  
Act XVII of  
1979.

(Section 9.)

Amendment  
of West Ben.  
Act VI of  
1982.

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

- (1) in the long title, the words “on and from the holders of television sets, video cassette recorder sets and video cassette player sets” shall be omitted;
- (2) in the preamble, the words “on and from the holders of television sets, video cassette recorder sets and video cassette player sets” shall be omitted;
- (3) in section 4A,—

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

“(1) Subject to the provisions of sub-section (2) and other provisions elsewhere contained in this Act, there shall be levied on, and collected from, a holder of a video cassette recorder set or sets or a holder of a video cassette player set or sets a tax, in addition to the tax referred to in section 4, where such holder makes any public performance or exhibition of film through a video cassette recorder set or a video cassette player set against payments made or to be made by persons admitted to witness such performance or exhibition at the rates specified below:—

(a) if the place of any performance or exhibition is within the area of Calcutta as described in Schedule I to the Calcutta Municipal Corporation Act, 1980,—

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|--|---------------------|
| (i) in the case where the number of seats does not exceed 100                  | Rs. 900 per week,   |
| (ii) in the case where the number of seats exceeds 100 but does not exceed 200 | Rs. 1,200 per week, |
| (iii) in the case where the number of seats exceeds 200                        | Rs. 1,500 per week; |

(b) if the place of any performance or exhibition is within the area of a municipal corporation, other than Calcutta referred to in clause (a), or a municipality or a notified area,—

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|--|---------------------|
| (i) in the case where the number of seats does not exceed 100                  | Rs. 600 per week,   |
| (ii) in the case where the number of seats exceeds 100 but does not exceed 200 | Rs. 900 per week,   |
| (iii) in the case where the number of seats exceeds 200                        | Rs. 1,250 per week; |

West Ben.  
Act LIX of  
1980.

XVI of 1994.]

(Section 9.)

- (c) if the place of any performance or exhibition is within an area other than the area referred to in clause (a) or clause (b) Rs. 600 per week;

- (b) after sub-section (4), the following sub-section shall be inserted:—

“(4a) Where any owner, or any person for the time being in possession, of a satellite transmission receiver receives through dish antenna the signal of any performance, film or any other programme telecast and, by using modulator or amplifier, makes arrangement for exhibition of such performance, film or programme to customers through his television set or television set of the customers for payment received or receivable by such owner or person, as the case may be, he shall be liable to pay a tax at such rate, not exceeding one thousand and five hundred rupees per week per set of satellite transmission receiver with dish antenna, as may be specified in a notification issued by the State Government in this behalf and different rates may be specified for different areas:

Provided that if the owner or person is a holder of a video cassette player set or video cassette recorder set and is liable to pay tax under sub-section (4) and transmits the performance, film or programme referred to in this sub-section through the same cable referred to in sub-section (4), he shall not be liable to pay tax under this sub-section or *vice versa*.”;

- (c) after sub-section (7), the following sub-section shall be added:—

“(8) The provisions of sub-section (5), sub-section (6) and sub-section (7) shall apply *mutatis mutandis* in respect of an owner or a person liable to pay a tax under sub-section (4a).”;

- (4) in section 5, in sub-section (4), after the words, figures, letter and brackets “sub-section (4) of section 4A”, the words, figure, letter and brackets “or any owner or person liable to pay tax under sub-section (4a) of that section” shall be inserted;

*(Section 9.)*

- (5) in section 6, in sub-section (1), for the words “shall be leviable in respect of any television set, video cassette recorder set or video cassette player set owned and used”, the words “under this Act shall be payable” shall be substituted;
- (6) section 8 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted:—

“(2) The prescribed authority may search any building, premises or place where it has reason to believe that any satellite transmission receiver including dish antenna with modulator or amplifier is kept and the owner of which, or the person in possession of which, is liable to pay tax under sub-section (4a) of section 4A, and ask the person or persons in whose building, premises or place such satellite transmission receiver with modulator or amplifier is found, necessary questions for determination of the liability to pay tax.”;
- (7) in section 9,—
  - (a) after the words “a video cassette player set”, the words, figures, letters and brackets “or from the person liable to pay tax under sub-section (4a) of section 4A” shall be inserted;
  - (b) after the words “such holder”, the words “or such person, as the case may be,” shall be inserted;
- (8) in section 10, in sub-section (1), after the words “a video cassette player set”, the words “or any person” shall be inserted.