

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XVI of 2001¹

THE WEST BENGAL FINANCE ACT, 2001.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*,
Extraordinary, of the 31st July, 2001.]

An Act to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Duty on Inter-State River Valley Authority Electricity Act, 1973, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Luxury Tax Act, 1994, the West Bengal Sales Tax Act, 1994, and the West Bengal Sales Tax (Settlement of Dispute) Act, 1999.

WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Duty on Inter-State River Valley Authority Electricity Act, 1973, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Luxury Tax Act, 1994, the West Bengal Sales Tax Act, 1994, and the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, for the purposes and in the manner hereinafter appearing;

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

2 of 1899.
Ben. Act V
of 1922.
Ben. Act X
of 1935.
Ben. Act IV
of 1944.
West Ben.
Act XXI of
1972.
West Ben.
Act VII of
1973.
West Ben.
Act VI of
1979.
West Ben.
Act XV of
1994.
West Ben.
Act XLIX of
1994.
West Ben.
Act IV of
1999.

¹For proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 30th July, 2001.

(Sections 1-3.)

Short title
and
commence-
ment.

1. (1) This Act may be called the West Bengal Finance Act, 2001.

(2) Save as otherwise provided, it shall come into force on such date, or shall be deemed to have come into force on such date not earlier than the first day on May, 1995, as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of this Act.

Application
and
amendment
of Act 2 of
1899.

2. (1) The Indian Stamp Act, 1899 (hereinafter referred to as the principal Act) shall, in its application to West Bengal, be amended for the purpose and in the manner hereinafter provided.

(2) In Schedule 1A to the principal Act, in article 40, for the entry in the second column, against item (b) in the first column, the following entry shall be substituted:—

“Rupees ten for every Rs. 500 or part thereof, for the amount secured by such deed, subject to the maximum of Rs. 1,00,000.”.

Amendment
of Ben. Act
V of 1922.

3. In the Bengal Amusements Tax Act, 1922,—

(1) in section 2, after clause (3a), the following clause shall be inserted, and shall be deemed to have been inserted, with effect from the 31st day of January, 1996:—

“(3b) “The Commissioner of Entertainments Tax” means the Commissioner of Agricultural Income-tax, West Bengal, appointed by the State Government under sub-section (2) of section 21 of the Bengal Agricultural Income-tax Act, 1944.”;

(2) in section 3,—

(a) in sub-section (3a),—

(i) for the words “seventy *per centum* of such value:”, the words “sixty-five *per centum* of such value:” shall be substituted;

(ii) in the second proviso, for the words “or Nepali”, the words “, Nepali or Santhali” shall be substituted;

(b) for sub-section (3c), the following sub-section shall be substituted:—

“(3c) Notwithstanding anything contained in sub-section (3a), the entertainments tax shall not be charged, levied or paid on such part of the value of each ticket for admission to any cinematograph exhibition as represents service charge realised separately from any person in respect of his admission to such cinematograph exhibition and such service charge shall be at a rate—

Ben. Act IV
of 1944.

(Section 3.)

- (i) not exceeding rupees two in the case of a fan-cooled cinema hall,
- (ii) not exceeding rupees two and fifty paise in the case of a blowercooled cinema hall, and
- (iii) not exceeding rupees three in the case of an air-conditioned cinema hall,

for the purpose of incurring expenditure towards electricity, repair, maintenance, and for the benefit of the employees, of such cinema hall and the service charge so realised shall be utilised in such manner as may be prescribed.”;

(c) in sub-section (3d),—

- (i) for the words, figure, letter and brackets “Notwithstanding anything contained in sub-section (3c), no claim”, the words, figure, letter and brackets “No claim under sub-section (3c)” shall be substituted;
- (ii) for the words “, for maintenance of such cinema hall or for providing air-conditioning facilities therein.”, the words, letter, figure and brackets “, for the purposes referred to in sub-section (3c).” shall be substituted;

(3) in section 11,—

- (a) in sub-section (1), after the words “The Collector”, the words “, the Commissioner of Entertainments Tax” shall be inserted;
- (b) in sub-section (2), after the words “The Collector”, the words “, the Commissioner of Entertainments Tax” shall be inserted;
- (c) in sub-section (3), after the words “the Collector”, the words “, the Commissioner of Entertainments Tax” shall be inserted;
- (d) sub-section (4) shall be renumbered as clause (a) of that sub-section and in clause (a), as so renumbered,—
 - (i) after the words “the Collector”, the words “, the Commissioner of Entertainments Tax” shall be inserted;
 - (ii) after clause (a), the following clauses shall be inserted:—

(Section 3.)

“(b) The Collector or the Commissioner of Entertainments Tax may forward to the Bureau of Investigation constituted under section 7 of the West Bengal Sales Tax Act, 1994, any case of alleged or suspected evasion of entertainments tax or show tax as well as malpractices connected therewith for investigation and enquiry and the said Bureau of Investigation shall send a report in respect thereof to the Collector or the Commissioner of Entertainments Tax, as the case may be.

West Ben.
Act XLIX of
1994.

(c) The Bureau of Investigation may, for the purpose of carrying out any investigation or making any enquiry referred to in clause (b), exercise all the powers under the section exercisable by different authorities referred to in this section.”;

(e) in sub-section (5), after the words “The Collector”, the words “, the Commissioner of Entertainments Tax” shall be inserted;

(4) in section 11A,—

(a) in sub-section (2), after the words “the Collector”, the words “, the Commissioner of Entertainments Tax” shall be inserted;

(b) sub-section (3) shall be renumbered as clause (a) of that sub-section and—

(i) in clause (a), as so renumbered, for the words “Such authority as the State Government may specify in this behalf”, the words “The Collector or the Commissioner of Entertainments Tax, as the case may be,” shall be substituted;

(ii) after clause (a), the following clause shall be inserted:—

“(b) On payment of the sum compounded under clause (a) no prosecution for any offence punishable under this Chapter, or the rules made thereunder, shall be instituted or proceeded with in respect of the same fact for which composition of such offence has been made under that clause.”;

(5) in section 11B, for the words “of the State Government”, the words “of the Collector, or the Commissioner of Entertainments Tax, as the case may be,” shall be substituted.

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(Sections 4-7.)

4. In the Bengal Electricity Duty Act, 1935,—

Amendment
of Ben. Act
X of 1935.

(1) after section 3A, the following section shall be inserted:—

“Review of order. 3B. Subject to such rules as may be prescribed, any assessment made or order passed under this Act or the rules made thereunder by any authority prescribed, may be reviewed by the said authority upon application or on his own motion, and, the West Bengal Commercial Taxes Appellate and Revisional Board referred to in section 7D may, in the like manner and for reasons to be recorded in writing, review any order passed by it.”;

(2) after section 7C, the following section shall be inserted:—

“Revision of order. 7CC. Such authority as may be prescribed, may, on his own motion or upon application, revise any assessment made or order passed under the Act or the rules made thereunder on such conditions, and in such manner, as may be prescribed.”.

5. In the Bengal Agricultural Income-tax Act, 1944, in the Schedule, for paragraph B, the following paragraph shall be substituted:—

Amendment
of Ben. Act
IV of 1944.

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

Rate of tax

on the whole of the total
agricultural income.

45 paise in the rupee.”.

6. In the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, in section 4, after the first proviso, the following proviso shall be added at the end:—

Amendment
of West Ben.
Act XXI of
1972.

“Provided further that no luxury tax shall be charged, levied and paid under clause (b) in respect of hotel situated outside the Calcutta Metropolitan Planning Area as described in the First Schedule to the West Bengal Town and Country (Planning and Development) Act, 1979.”.

7. In the West Bengal Duty on Inter-State River Valley Authority Electricity Act, 1973,—

Amendment
of West Ben.
Act VII of
1973.

(1) in section 2, to clause (b1), the following *Explanation* shall be added, and shall be deemed to have been added, on the 1st day of April, 1993:—

West Ben.
Act XIII of
1979.

(Section 8.)

'Explanation.—“Some other charge” shall include demand charge and power factor surcharge.’;

- (2) in the First Schedule, in Part A, in Section V, for the *Explanation I*, the following *Explanation* shall be substituted, and shall be deemed to have been substituted, on the 1st day of April, 1993:—

“Explanation I.—In this Part, where energy is consumed in any premises for lights and fans and for any other purposes in connection with industrial or manufacturing process, including cold storage, electrolysis or heating in electric furnaces, carried on therein, and the quantity of energy consumed for lights and fans is not separately indicated by meters or sub-meters, such quantity of energy consumed for lights and fans or for any other purposes shall be deemed to have been consumed for industrial purposes, and, notwithstanding anything contained in Part B of the Schedule, the duty shall be payable in accordance with the rate in article (1) or article (2), as the case may be, of this Part:

Provided that in respect of energy consumed in residences situated in such premises, the duty shall be payable in accordance with the rate in article (1) or article (2), as the case may be, of Part B of this Schedule.”.

Amendment
of West Ben.
Act VI of
1979.

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

- (1) in section 2, for clause (a), the following clauses shall be substituted:—

‘(a) “Bureau” means the Bureau of Investigation referred to in section 7 of the West Bengal Sales Tax Act, 1994;

(aa) “Commissioner” means the Commissioner of Profession Tax appointed under section 12;’;

- (2) in section 7,—

- (a) in sub-section (4a), for the first proviso, the following proviso shall be substituted:—

“Provided that any assessment in respect of any of the years or parts of years ending on or before the 31st day of March, 2000, shall, notwithstanding the provisions of this sub-section, be made on or before the 31st day of March, 2006;”;

West Ben.
Act XLIX of
1994.

XVI of 2001.]

(Section 8.)

(b) in sub-section (6),—

- (i) after the words, figure and brackets “in sub-section (2)”, the words, figures, letter and brackets “of this section or sub-section (1) of section 7A” shall be inserted;
- (ii) in clause (a), the words, figures and letters “by the 1st day of March, 1998” shall be omitted;
- (iii) in clause (b), the words, figures and brackets “before the coming into force of the West Bengal Taxation Laws (Amendment) Act, 1997” shall be omitted;
- (iv) for the words, figures and letters “the 31st day of March, 1996”, the words, figures and letters “the 31st day of March, 2000” shall be substituted;
- (v) for the words, figures and letters “the 31st day of March, 1998”, the words, figures and letters “the 31st day of December, 2001” shall be substituted;
- (c) in sub-section (6A), for the words, figures and letters “by the 30th day of September, 1998”, the words, figures and letters “by the 30th day of June, 2002” shall be substituted;
- (d) in sub-section (8), for the words, figures and letters “the 31st day of March, 1999”, the words, figures and letters “the 31st day of December, 2002” shall be substituted;

(3) in section 9A,—

- (a) in sub-section (1),—
 - (i) for the words, figures and letters “from the 1st day of April, 1991 and ending on the 31st day of August, 1992”, the words, figures and letters “from the 1st day of July, 2001 and ending on the 31st day of December, 2001” shall be substituted;
 - (ii) for the words, figures and letters “the 30th day of September, 1992”, the words, figures and letters “the 31st day of January, 2002” shall be substituted;

(Section 8.)

(b) in sub-section (2),—

(i) for the words, figures and letters “from the 1st day of April, 1991 and ending on the 31st day of August, 1992”, the words, figures and letters “from the 1st day of July, 2001 and ending on the 31st day of December, 2001” shall be substituted;

(ii) for the words, figures and letters “the 30th day of September, 1992”, the words, figures and letters “the 31st day of January, 2002” shall be substituted;

(4) after section 12, the following section shall be inserted:—

“Bureau.

12A. (1) Notwithstanding anything contained elsewhere in this Act, the Bureau may, on information or on its own motion, or on direction given by the State Government or the Commissioner, carry out investigation or make enquiry into any case of alleged or suspected evasion of tax under this Act and, into any malpractices connected therewith.

(2) The Bureau may, for the purpose of carrying out any investigation or making any enquiry referred to in sub-section (1), exercise all the powers referred to in section 17.

(3) After a case of alleged or suspected evasion of tax has been investigated or enquired into, the Bureau shall send a report thereon to the Commissioner for such action as may be deemed necessary for the levy, collection, assessment and recovery of tax.

(4) On receipt of a report, from the Bureau, the Commissioner may require the Bureau to transfer to him any accounts, registers or documents seized by the Bureau and such accounts, registers or documents shall be retained by him for further period, if necessary, subject to the provisions of sub-section (4) of section 17.

(5) The Commissioner shall assign such functions of the Bureau to such officers of the Bureau as he may deem fit, and any person appointed under sub-section (2) of section 12 to assist the Commissioner shall, when appointed in the Bureau, be competent to exercise all the powers which are exercisable by such person under this Act and the rules made thereunder.

(6) The officers appointed in the Bureau shall have jurisdiction over the whole of West Bengal.”;

(Section 8.)

- (5) for section 15, the following section shall be substituted:—

“Accounts.

15. (1) Every employer or person shall keep and maintain a true and up-to-date accounts and documents pertaining to his business, profession, trade or calling along with a true and up-to-date records relating to disbursement of salaries and wages in respect of his employees or workers and in addition to such accounts, documents and records, he shall maintain and keep such registers or accounts in such form as may be prescribed.

(2) Every employer or person referred to in sub-section (1) shall keep at his place of work all accounts, registers and documents which may be required by the Commissioner or an Additional Commissioner or any person appointed under sub-section (2) of section 12 to assist the Commissioner for the purpose of inspection under sub-section (2) of section 17, and shall not keep or remove elsewhere such accounts, registers and documents except in accordance with the requirements of law or except for any other purpose for which just cause is shown to the Commissioner or Additional Commissioner or the person appointed under sub-section (2) of section 12 to assist the Commissioner.

(3) Where an employer or person wilfully fails to maintain the books of accounts or other registers or documents as referred to under sub-section (1), or wilfully fails to comply with the requirements of sub-section (2), the Commissioner may, after giving him an opportunity of being heard, impose upon him a penalty not exceeding rupees one hundred for each day of such failure.”;

- (6) in section 16, in sub-section (1), for the words “in writing”, the words “in the prescribed form” shall be substituted;
- (7) in section 17, in sub-section (1), after the words “to produce”, the words “and explain” shall be inserted;
- (8) in section 18, for the proviso, the following proviso shall be substituted:—

“Provided that such excess amount shall first be adjusted towards the recovery of any amount due from an employer under the Act or from a person to whom a certificate of enrolment has been issued, and thereafter the balance amount, if any, shall be refunded.”;

(Section 8.)

(9) in section 19,—

(a) in sub-section (1),—

(i) after clause (a), the following clause shall be inserted:—

“(aa) fails to comply with any requirement under sub-section (1), or sub-section (2), of section 6, or ”;

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

“(bb) fails to comply with any requirement under sub-section (1), or sub-section (2), of section 8, or ”;

(iii) in the proviso, for the words, figures and letters “the 30th day of September, 1992”, the words, figures and letters “the 31st day of January, 2002” shall be substituted;

(b) after sub-section (6), the following sub-section shall be inserted:—

“(7) No prosecution for any offence enumerated hereinbefore in this section shall be instituted in respect of the same facts for which a penalty has been imposed under this Act and no such penalty shall be imposed where a prosecution is instituted under this section.”;

(10) after section 24, the following section shall be inserted:—

“Clearance certificate. 24A. (1) Notwithstanding anything contained in any other law for the time being in force,—

(a) no Government, local authority, educational institution, corporation or body corporate established by or under a Central or State Act shall place order with, or make purchases of any goods from, any person or make any payment to such person for such purchases, or

(b) no Government, local authority, educational institution, corporation or body corporate established by or under a Central or State Act, or company incorporated under the Companies Act, 1956, or co-operative society registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1983, shall enter into any contract with any person for execution by him of such contract and shall make payment to such person for execution of such contract, or

I of 1956.
West Ben.
Act XLV of
1983.

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(Section 8.)

- (c) no Government, local authority, educational institution, corporation or body corporate established by or under a Central or State Act, shall renew any licence issued by them to any person,

unless the Commissioner certifies in the prescribed manner that such person—

- (i) has no liability to pay tax or has not defaulted in furnishing any return or returns together with the receipted challan or challans showing payment of all tax payable under this Act, or
- (ii) has not defaulted in making payment of tax otherwise payable by, or due from, him under this Act, or
- (iii) has made satisfactory provision for securing the payment of tax by furnishing bank guarantee in favour of the Commissioner or otherwise,

as the case may be.

(2) The application for the certificate required under sub-section (1) shall be made by the person referred to in that sub-section to the Commissioner and shall be in such form and shall contain such particulars as may be prescribed.”;

(11) in the Schedule,—

- (a) against serial No. 1 in column (1), for item (x) and the entry relating thereto in column (2) and in column (3), the following items and entries relating thereto in column (2) and in column (3) shall be substituted:—

- “(x) Rs. 15,001 or more, but
less than Rs. 25,001 . . Rs. 130 per month,
- (xi) Rs. 25,001 or more, but
less than Rs. 40,001 . . Rs. 150 per month,
- (xii) Rs. 40,001 and above . . Rs. 200 per month.”;

- (b) against serial No. 2 in column (1), for the sub-item (x) and the entry relating thereto in column (2) and in column (3), the following sub-items and entries relating thereto in column (2) and in column (3) shall be substituted:—

- “(x) Rs. 1,80,001 or more, but
less than Rs. 3,00,001 . . Rs. 1560 per annum,
- (xi) Rs. 3,00,001 or more, but
less than Rs. 4,80,001 . . Rs. 1800 per annum,
- (xii) Rs. 4,80,001 and above . . Rs. 2400 per annum.”;

(Section 8.)

(c) against serial No. 3 in column (1), for item (x) and the entry relating thereto in column (2) and in column (3), the following items and entries relating thereto in column (2) and in column (3) shall be substituted:—

“(x) Rs. 1,80,001 or more, but
less than Rs. 3,00,001 . . Rs. 1560 per annum,

(xi) Rs. 3,00,001 or more, but
less than Rs. 4,80,001 . . Rs. 1800 per annum,

(xii) Rs. 4,80,001 and above. . Rs. 2400 per annum.”;

(d) against serial No. 9 in column (1), for the entries in sub-item (i) of item (a) in column (2), and the entries relating thereto in column (3), the following entries in sub-item (i) of item (a) in column (2) and the entries relating thereto in column (3) shall be substituted:—

“(i) such dealers other than those mentioned in sub-item (ii) whose annual gross turnover of sales is—

(A) less than
Rs. 2,00,000 Rs. 150 per annum,

(B) Rs. 2,00,000 or more,
but not exceeding
Rs. 7.5 lakhs Rs. 300 per annum,

(C) above Rs. 7.5 lakhs
but not exceeding
Rs. 25 lakhs Rs. 600 per annum,

(D) above Rs. 25 lakhs
but not exceeding
Rs. 50 lakhs Rs. 1200 per annum,

(E) above Rs. 50 lakhs
but not exceeding
Rs. 2 crore Rs. 2000 per annum,

(F) above Rs. 2 crore Rs. 2500 per annum.

Explanation.—For the purposes of this entry “annual gross turnover of sales” shall mean the turnover of sales as defined in the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994) during the immediately preceding year;’.

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(Section 9.)

9. In the West Bengal Luxury Tax Act, 1994, in the Schedule,—

Amendment
of West Ben.
Act XV of
1994.

- (1) in the entry relating to serial No. 9, after the words “Trousers and Jeans”, the words “Manufactured or made in India” shall be inserted;
- (2) in the entry relating to serial No. 10, after the words “Shirts and T-shirts”, the words “manufactured or made in India” shall be inserted;
- (3) in the entry relating to serial No. 11, after the words “Coat, Jacket, Blazer and Suit”, the words “manufactured or made in India” shall be inserted;
- (4) in the entry relating to serial No. 12 after the word “Watches”, the words “manufactured or made in India” shall be inserted;
- (5) in the entry relating to serial No. 15, after the words “Electric switches on plates of any type”, the words “manufactured or made in India” shall be inserted;
- (6) in the entry relating to serial No. 19, after the words “Home theatre equipment”, the words “manufactured or made in India” shall be inserted;
- (7) in the entry relating to serial No. 20, after the words “Music system”, the words “manufactured or made in India” shall be inserted;
- (8) in the entry relating to serial No. 21, after the words “Video camera”, the words “manufactured or made in India” shall be inserted;
- (9) after serial No. 21 and the entry relating thereto, the following serial Nos. and entries relating thereto shall be added:—
 - “22. Silk yarn not manufactured or made in India.
 23. Foreign liquor not manufactured or made in India.
 24. Toys not manufactured or made in India.
 25. Electrical and electronic goods, not manufactured or made in India, that is to say,—
 - (i) food processor, commonly known as mixer or grinder;
 - (ii) juicer;
 - (iii) electric round oven, microwave oven and tandoori oven;
 - (iv) rice cooker;
 - (v) deep fat frier;
 - (vi) inframatic;
 - (vii) water heater including immersion heater;

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- (viii) electric kettle;
- (ix) electric knife;
- (x) cooking range;
- (xi) dish washer;
- (xii) electric iron;
- (xiii) electric hair-drier;
- (xiv) electric hair remover;
- (xv) refrigerator;
- (xvi) television set;
- (xvii) air conditioner and air cooler;
- (xviii) video game, electronic game and electronic game kit;
- (xix) video compact disc;
- (xx) video camera; and
- (xxi) electronic music system including components and parts thereof.

- 26. Cosmetics not manufactured or made in India.
- 27. Umbrella not manufactured or made in India.
- 28. Tea not manufactured or made in India.
- 29. Glassware and crockery not manufactured or made in India.
- 30. Soap not manufactured or made in India.
- 31. Chocolate and confectionery not manufactured or made in India.
- 32. Readymade garments not manufactured or made in India.
- 33. Motorcycle not manufactured or made in India.
- 34. Motor vehicle not manufactured or made in India.”.

Amendment
of West Ben.
Act XLIX of
1994.

10. In the West Bengal Sales Tax Act, 1994,—

(1) in section 2,—

- (a) in clause (6), in sub-clause (c), the words and figures “or Schedule IV” shall be omitted;
- (b) in clause (17), the words “and includes blending of tea” shall be omitted;

(2) in section 13, in sub-section (1), clause (b) shall be omitted;

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(Section 10.)

- (3) in section 14,—
 - (a) in sub-section (1), for the words “other than”, the word “including” shall be substituted;
 - (b) in sub-section (2), for the words, letters and brackets “clause (a), clause (b),”, the words, letters and brackets “clause (b), clause (c),” shall be substituted;
- (4) in section 17, in sub-section (2),—
 - (a) in clause (b),—
 - (i) for sub-clause (i), the following sub-clause shall be substituted:—

“(i) four *per centum* of such part of his taxable turnover of sales as represents sales to a registered dealer of goods, other than goods specified in Part B of Schedule IV, of the class or classes specified in the certificate of registration of such dealer, as being intended for use by him directly in the manufacture in West Bengal of goods other than taxable goods, or newspapers for sales, other than the sale referred to in section 15, by him in West Bengal, and of containers and other materials for the packing of goods of the class or classes so specified;”;
 - (ii) in sub-clause (ii),—
 - (A) the words, figure and brackets “other than manufactured by way of blending in West Bengal of tea referred to in sub-clause (i),” shall be omitted;
 - (B) for the words “by him in West Bengal,” the words “by him,” shall be substituted;
 - (b) in clause (c), for the words and figures “in section 15, by him in West Bengal;”, the words and figures “in section 15, by him;” shall be substituted;
 - (c) after clause (c), the following clause shall be inserted:—

“(ca) four *per centum* of such part of his taxable turnover of sales as represents sales to a registered dealer of containers and other materials for the packing of goods which are intended for use by him in the packing in West Bengal of goods, other than taxable goods or newspapers, manufactured by him in West Bengal, for sale, other than the sales referred to in section 15, by him in West Bengal;”;

(Section 10.)

(d) in clause (e), after the words “for the time being in force,” the words and brackets “or the West Bengal Rural Energy Development Corporation Limited (A Government of West Bengal Undertaking)” shall be inserted;

(e) after clause (f), the following clause shall be inserted:—

“(fa) four *per centum* of such part of his taxable turnover of sales as represents sales of goods, other than goods specified in Part B of Schedule IV, to the Bharat Sanchar Nigam Limited:

Provided that the provisions of this clause shall apply subject to such conditions and restrictions as may be prescribed;”;

(f) in the second proviso, for the words, figure, letters and brackets “, except such sales referred to in sub-clause (i) of clause (b) as may be prescribed, the provisions of clause (b), clause (c),”, the words, letters and brackets “the provisions of clause (b), clause (c), clause (ca),” shall be substituted;

(5) in section 18, in sub-section (1),—

(a) after the words “fix the rate of tax”, the words “with prospective or retrospective effect,” shall be inserted, and shall be deemed to have been inserted, on the 1st day of May, 1995;

(b) the following proviso shall be added at the end:—

“Provided that the rate of tax not exceeding seventy-five *per centum* of the taxable turnover of sales of lottery tickets as specified in Schedule IV may be fixed.”;

(6) in section 20,—

(a) in sub-section (2), clause (b) shall be omitted;

(b) in sub-section (3), clause (d) shall be omitted;

(7) after section 22B, the following section shall be inserted:—

“Set-off of tax paid on purchase of raw jute.	22C. (1) There shall be a set-off of an amount equal to fifty <i>per centum</i> of the amount of tax paid by an occupier of a jute-mill, registered under this Act, on his turnover of purchase of raw jute used by him directly in the manufacture in West Bengal of goods as may be prescribed, against the amount of tax payable by him under this Act on sales in West Bengal of goods so manufactured.
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(2) A registered dealer who intends to claim a set-off of the amount of tax under sub-section (1) shall, for the purpose of determining the amount of tax to be set-off, maintain accounts, records or evidence in respect of the price and quantity of the raw jute purchased by him in West Bengal for use by him directly in the manufacture in West Bengal of goods referred to in sub-section (1).

(3) No registered dealer, who enjoys tax holiday under section 39, or enjoys deferment of payment of tax under section 40, section 42, or section 43, or enjoys remission of tax under section 41, or section 42, or section 43, shall be entitled to claim any set-off under sub-section (1).

(4) The claim for set-off of the amount of tax referred to in sub-section (1) shall not exceed the amount of tax payable by a registered dealer in respect of his sale in West Bengal of the goods referred to in that sub-section, manufactured by him in West Bengal.”;

(8) in section 25, in sub-section (1), after the words “by like notification,”, the words “with prospective or retrospective effect,” shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of May, 1995;

(9) in section 26, in sub-section (12),—

(a) for the words “in default of payment of which”, the words “, or furnishes the return referred to in that sub-section, for default of which,” shall be substituted;

(b) after the words “such tax, penalty and interest”, the words “, or together with a copy of the receipt evidencing furnishing of such return, as the case may be,” shall be inserted; and

(c) after the words “as may be allowed, the prescribed authority”, the words “, if necessary, upon verification, of the documents furnished with such application,” shall be inserted;

(10) in section 30, in sub-section (5),—

(a) for the words, figures and brackets “a certificate of deduction referred to in sub-section (3) of section 38”, the words, figures and brackets “a copy of the certificate of deduction referred to in sub-section (3) of section 38, duly certified by such dealer,” shall be substituted; and

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(b) in the proviso, for the words “such authority such certificate”, the words “such authority the copy of such certificate” shall be substituted;

(11) in section 39, after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of September, 1999:—

“(3) Notwithstanding the provisions contained in sub-section (1) or the rules made thereunder, a dealer who has been enjoying, or has been entitled to enjoy, the benefit of exemption from payment of tax under that sub-section in respect of sale of goods manufactured by him in his newly set up small-scale industrial unit shall cease to be eligible for the benefit of exemption under that sub-section in respect of all sales of goods so manufactured by him, on franchise or otherwise, using the trade mark or brand name or logo of any product of any other industrial unit, or commercial organisation, situated within or outside West Bengal.”;

(12) after section 39, the following section shall be inserted:—

“Validation. 39A. Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, all proceedings, acts or things taken or done on the basis of the provisions contained in clause (v) of the *Explanation I* to rule 98 of the rules made under sub-section (1) of section 39 in respect of dealers enjoying, or entitled to enjoy, the benefit of exemption from payment of tax under that sub-section shall, for all purposes, be deemed to be and to have always been taken or done validly and effectively as if the provisions of sub-section (3) of that section had been in force at the material time when such proceedings, acts or things were taken or done.”;

(13) in the first proviso to section 43A,—

(a) in clause (i), the words and figures “and start production for the first time on or before the thirtieth day of June, 2000” shall be omitted, and shall be deemed to have been omitted, with effect from the 1st day of January, 2000;

(b) in clause (ii), after the words “the Directorate of Industries, Government of West Bengal”, the words “or with the Directorate of Cottage and Small Scale Industries, Government of West Bengal” shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of January, 2000;

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(14) in section 44, for the words and figures “in section 40, section 41, section 42 or section 43”, in the two places where they occur, the words and figures “in section 40, section 41, section 42, section 43 or section 43A” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of January, 2000;

(15) in section 45A,—

(a) in sub-section (1), for the words “seven lakh rupees”, the words “fifty lakh rupees” shall be substituted;

(b) in sub-section (2), for the words “seven lakh rupees”, the words “fifty lakh rupees” shall be substituted;

(16) in section 70, in sub-section (2), the following provisos shall be added at the end:—

“Provided that such authority may, at the option, in writing, of the person from whom the seizure of goods is made under this sub-section, give custody of such seized goods to such person on the express condition that he shall keep such seized goods in the warehouse, or at any other place, referred to in clause (b) of section 69, where the seizure has been made, and that he shall not dispose of such seized goods in any manner before the proceedings, if any, initiated in respect of such seized goods under section 71 is concluded:

Provided further that the authority referred to in this sub-section may take physical possession of such seized goods from the custody of such person even before the conclusion of the proceedings under section 71 where such person communicates, in writing, to such authority his difficulty in keeping such seized goods in his custody after the expiry of thirty days from the date of giving of custody of such goods to him.”;

(17) after section 71A, the following section shall be inserted:—

“Penalty for contravention of the provisions of section 68 when goods transported are not available. 71B. (1) Where the goods are, or have been, transported by a person, dealer or casual trader in contravention of restrictions or conditions prescribed under section 68 and such goods are not available for seizure under sub-section (1) of section 70, the Commissioner, or the Additional Commissioner, shall, after giving such person, dealer or casual trader a reasonable opportunity of being heard, impose a penalty of a sum not exceeding twenty-five *per centum* of the value of such goods.

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(2) The procedure for imposition of penalty as prescribed under section 71A shall apply *mutatis mutandis* in the matter of imposition of penalty under this section.”;

(18) in section 72,—

(a) in sub-section (6), the words, figure and brackets “after the search of the vehicle made under sub-section (5),” shall be omitted;

(b) in sub-section (8), the following proviso shall be added at the end:—

“Provided that where the goods are not available for detention and the penalty imposed under sub-section (6) is not paid, realisation of such penalty shall be made under section 52.”;

(19) in Schedule I,—

(a) in the entry in column (2) against serial No. 8 in column (1), after the word “plants”, the words “and spare parts thereof” shall be inserted;

(b) after serial No. 13 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“13A. Aquatic feed.”;

(c) against serial No. 14 in column (1) for the entries in column (2) and in column (3), the following entries in column (2) and in column (3) shall be substituted:—

“(a) (i) Cereals and pulses (a) Except when sold in including broken sealed containers particles thereof, including polythene but excluding rice packets. and wheat,

(ii) Husk and bran of all cereals and pulses,

when sold during the period from 1.5.1995 to 31.3.1999,

(b) (i) Cereals and pulses (b) Except when sold in including broken sealed containers particles thereof, including polythene but excluding rice, packets. wheat and broken particles of rice and wheat,

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- (ii) Husk and bran of all cereals and pulses, when sold during the period from 1.4.1999 to 31.3.2000,
- (c) (i) Cereals and pulses (c) Except when sold in including broken sealed containers particles thereof, including ploythene but excluding rice, packets.”; wheat and broken particles of rice and wheat,
- (ii) Husk and bran of all cereals and pulses except rice bran, when sold on or after 1.4.2000.
- (d) against serial No. 19 in column (1), for the entries in column (2), the following entries shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of January, 2000:—
“Tari, pachwai and bhang.”;
- (e) the entry in column (2) against serial No. 21 in column (1) shall be omitted;
- (f) in the entries in column (2) against serial No. 26 in column (1), for item (iv), the following items shall be substituted:—
“(iv) Angioplasty balloons including Cutting balloons, Atherectomy devices, Rotablaters;
(v) Intracoronary and vascular stents;
(vi) Percutaneous Transluminal Coronary Angioplasty (PTCA) accessories;
(vii) Pacemaker lead and introducer.”;
- (g) after serial No. 34 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and entry relating thereto in column (2) shall be inserted:—
“34A. Dried fish, commonly known as *shuntki maachh*.”;
- (h) against serial No. 41 in column (1), for the entry in column (2), the following entries shall be substituted:—
“Gur and jaggery, other than those specified elsewhere in this Schedule or in any other Schedule.”;

(Section 10.)

- (i) after serial No. 44 in column (1) and the entries relating thereto in column (2) and in column (3), the following serial No. in column (1) and entries relating thereto in column (2) and in column (3) shall be inserted:—

“44A. (i) Products like pit loom, frame loom, paddle driven semi-automatic loom, warping drum and bobbin, used in production of *Khaddar* or *Khadi* as defined in the West Bengal *Khadi* and Village Industries Board Act, 1959; 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.”;

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Act XIV of
1959.

- (ii) *Bindi*;
- (iii) Bullock cart;
- (iv) Brick frame;
- (v) Tile frame;
- (vi) *Chakla* and *belan*;
- (vii) *Dal* stirrer.

- (j) the entry in column (2) against serial No. 45 in column (1) shall be omitted;

- (k) in the entry in column (2) against serial No. 77 in column (1), after the words “and photovoltaic device”, the words “and spare parts of all such devices” shall be inserted;

- (20) in Schedule IV, in Part A,—

- (a) in the entry in column (2) against serial No. 20 in column (1), for the word “fish,” the words and brackets “fish (other than dried fish, commonly known as *shuntki maachh*),” shall be substituted;

- (b) in the entry in column (2) against serial No. 67 in column (1), for the words, figures and brackets “but shall not include—

- (i) jute batching emulsifier, and
- (ii) soap manufactured, made or processed otherwise than in a factory as defined in the Factories Act, 1948.”, the following words, figures and brackets shall be substituted:—

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“but shall not include—

- (i) jute batching emulsifier,
- (ii) soap manufactured, made or processed otherwise than in a factory as defined in the Factories Act, 1948, and

(iii) hand-made soap of all varieties and description.”;

- (c) after serial No. 67 in column (1) and the entry relating thereto in column (2), the following serial No. and the entry relating thereto in column (2) shall be inserted:—

“67A. Hand-made soap of all varieties and description, other than those specified in any other Schedule.”;

- (d) the serial No. 70A in column (1) and the entry relating thereto in column (2) shall be omitted, and shall be deemed to have been omitted, with effect from the 1st day of May, 1995;

- (e) after serial No. 153 in column (1) and the entries relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“153A. Camphor.”;

- (f) in the entry in column (2) against serial No. 170 in column (1), the words “except hosiery goods made exclusively of cotton” shall be omitted;

- (g) against serial No. 183 in column (1), for the entry in column (2), the following entries shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1999:—

(i) Belting of all varieties and description.

(ii) Hose of all varieties and descriptions including its end fittings.”;

- (h) in the entry in column (2) against serial No. 184 in column (1), after the word “wares”, the words “other than those specified in this Schedule” shall be inserted;

- (i) after serial No. 202 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“202A. Bone meal.”;

(j) after serial No. 210 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of January, 2000:—

(k) for serial No. 249 in column (1) and the entries relating thereto in column (2), the following serial Nos. in column (1) and the entries relating thereto in column (2) shall be substituted:—

250. Information technology products, other than those specified elsewhere in this Schedule or in any other Schedule.

252. *Sindur.*

253. Items of goods not specified by name or description, other than those specified in Schedule I or Schedule VIIIA.”;

(21) in Schedule VIIIA,—

(a) in the entry in column (2) against serial No. 12 in column (1), the words “made exclusively of cotton” shall be omitted:

(b) for the entries in sub-column (a) and in sub-column (b) of column (3), and column (4), against serial No. 14 in column (1), the following entries shall be substituted in sub-column (a) and in sub-column (b) of column (3), and in column (4):—

“Four Twelve Eight”;

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11. In the West Bengal Sales Tax (Settlement of Dispute) Act, 1999,—

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of West Ben.
Act IV of
1999.

- (1) in section 2, in sub-section (1), in clause (a), for the words, figures and letters “the 31st day of December, 1998,” the words, figures and letters “the 31st day of March, 2001,” shall be substituted;
- (2) in section 4, in sub-section (1), for the words, figures and letters “the 31st day of December, 1998,” the words, figures and letters “the 31st day of March, 2001,” shall be substituted;
- (3) in section 4A, in sub-section (1), for the words, figures and letters “the 31st day of December, 1998,” the words, figures and letters “the 31st day of March, 2001,” shall be substituted;
- (4) in section 5, in sub-section (1),—
 - (i) in clause (a), for the words, figures and letters “the 30th day of September, 1999,” the words, figures and letters “the 31st day of December, 2001,” shall be substituted;
 - (ii) in clause (b), for the words, figures and letters “the 30th day of November, 2000,” the words, figures and letters “the 31st day of December, 2001,” shall be substituted.

**Statement of Objects and Reasons on the West Bengal
Finance Bill, 2001 (Bill No. 22 of 2001).**

STATEMENT OF OBJECTS AND REASONS.

The Bill seeks to amend the following principal Acts:—

(i) The Indian Stamp Act, 1899, in its application to West Bengal. The provision seeks to fix a maximum limit on *ad valorem* stamp duty leviable in the matter of mortgage of property in West Bengal so that Industrial Units register their mortgages in West Bengal;

(ii) the Bengal Amusements Tax Act, 1922.

The provision seeks—

- (a) to insert a new clause (3b) of section 2 in order to define the expression “Commissioner of Entertainments Tax”;
- (b) to reduce the rate of entertainments tax upon the value of each ticket for admission to any cinematographic exhibition other than cinematographic exhibitions in Bangali or Nepali language from seventy *per centum* to sixty-five *per centum* of such value;
- (c) to provide for fixing a lower rate of entertainments tax in respect of cinematograph exhibition in Santhali language;
- (d) to enhance the amount of service charge which is not chargeable to entertainments tax;
- (e) to make consequential changes in section 11, section 11A and section 11B in relation to the amendment made in section 2 as stated in clause (a);
- (f) to amend sub-section (4) of section 11 in order to include the Bureau of Investigation under the Act as per observation made by the Hon’ble High Court at Calcutta in a recent judgement delivered by it;
- (g) to amend sub-section (3) of section 11A so that no prosecution will lie where any offence is compounded;
- (h) to amend section 11B so that no prosecution shall be instituted against any offender under the Act without the prior sanction of the Collector, or the Commissioner of Entertainments Tax, as the case may be;

(iii) the Bengal Electricity Duty Act, 1935.

The provision seeks—

- (a) to empower the authorities under the Act to review their own orders *suo motu* whenever found necessary or upon application made by a licensee;
- (b) to empower the Director of Electricity Duty to revise *suo motu* any order passed by any authority subordinate to him;

(iv) the Bengal Agricultural Income-tax Act, 1944.

The provision seeks to reduce the rate of agricultural income-tax payable in the case of the tea growing domestic company, firm or other association of persons;

(v) the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972.

The provision seeks to exempt hotels, situated outside the Calcutta Metropolitan Planning Area, from payment of luxury tax;

(vi) the West Bengal Duty on Inter-State River Valley Authority Electricity Act, 1973.

The provision seeks to augment the collection of electricity duty and to clarify the rate of electricity duty;

(vii) the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979.

The provision seeks—

- (a) to incorporate the definition of Bureau of Investigation in the Act in order to make it applicable for the purposes of the Act;
- (b) to enhance the existing period of limitation relating to assessment of tax of a registered employer;
- (c) to make provision for deemed assessment of tax in respect of registered employers up to a certain period by operation of law and to make consequential changes incidental thereto;
- (d) to waive the charge for payment of interest or penalty in case of persons and employers, provided they obtain certificate of enrolment or certificate of registration, as the case may be, within a specified period of time and pay their due tax within a specified date;

- (e) to insert a new section 12A for empowering the Bureau of Investigation for carrying out necessary investigation or for making enquiry into any case of alleged or suspected evasion of tax under the Act and malpractices connected therewith;
- (f) to substitute section 15 in order to compel every employer or person to maintain a true and up-to-date accounts relating to disbursement of salaries and wages to his employees and to keep them at his place of work for inspection by concerned authorities;
- (g) to make enabling provision for prescribing a form for initiating proceedings for special mode of recovery of tax;
- (h) to make necessary changes in section 17 so that every employer or person, who produces any accounts or documents before the prescribed authority, is required to explain the same to such authority for the purpose of the Act;
- (i) to make suitable changes in section 18 so that any excess payment of tax made by any employer or person is adjusted against any amount due from such employer or person and to refund any balance amount which remains after such adjustment;
- (j) to amend section 19 in order to treat default of any employer or person in the matter of payment of tax due under the Act as offence committed under the Act;
- (k) to insert a new section 24A in order to introduce the requirement of clearance certificate for the purposes of this Act in the matter of entering into any kind of business transaction by certain authorities;
- (l) to amend the Schedule in order to change the amount of tax payable by certain class or classes of persons;
- (viii) the West Bengal Luxury Tax Act, 1994.

The provision seeks to enlarge the ambit of luxuries under the Act;

- (ix) the West Bengal Sales Tax Act, 1994.

The provision seeks—

- (a) to amend the existing provisions to make a casual trader liable to pay tax on his purchases of goods specified in Schedule IV;
- (b) to exclude the process of blending of tea from the ambit of the definition of “manufacture” under the Act;

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- (c) to withdraw the existing purchase tax leviable in the event of inter-State stock transfer of goods manufactured by a registered dealer in West Bengal;
- (d) to allow registered dealers engaged in the manufacture of tax-free goods to purchase at a concessional rate of tax raw material, packing material and other goods required by them for use in such manufacturing;
- (e) to enable the West Bengal Rural Energy Development Corporation Limited to purchase goods, required for distribution of electrical energy, at a concessional rate of tax;
- (f) to enhance the rate of tax on sale of lottery tickets;
- (g) to make clarificatory amendments enabling the State Government to fix the rate of tax in respect of goods specified in Schedule IV from the date the goods are so specified in that Schedule;
- (h) to introduce a new scheme of set-off of tax for jute industry which will lessen the burden of tax payable on sale of jute goods manufactured in West Bengal;
- (i) to provide for restoration of the certificate of registration of dealers, when cancelled for their default in furnishing returns;
- (j) to ease the procedural difficulties faced by the contractor dealers from whom deduction of tax is made at source;
- (k) to make clarificatory amendments in order to restrict misuse of the benefit of exemption from payment of tax by small-scale industrial units on sale of goods actually manufactured by established firms by using the trade mark or brand name of such firms;
- (l) to extend the scope for enjoying the benefit of exemption from payment of tax to a newly set up small-scale industrial unit registered as such by the appropriate authority on or before the 1st day of January, 2000, which starts production for the first time after the 30th day of June, 2000;
- (m) to make necessary amendment consequential to bringing the provision for cessation of the exclusive benefits enjoyed by new industrial units under the Act on the basis of the decision taken by all States;
- (n) to enlarge the ambit of selective assessment in order to save a large number of registered dealers from the hassles of assessment proceedings;

- (o) to enable the owner of any warehouse or any other place to take, at his option, the custody of any goods seized at such warehouse or such other place;
- (p) to enable the authorities to impose penalty on such persons, dealers, or casual traders who dispose of goods brought into West Bengal in contravention of the conditions set out in the Act and the rules made thereunder;
- (q) to transfer certain items of goods from Schedule I (list of goods sales of which are exempt from levy of tax) to Schedule IV and from Schedule IV to Schedule I and to make some changes in Schedule IV to clarify the identity of goods covered by various entries as well as to mention certain items therein by specific name or description and also to change the existing rates of sales tax on certain items of goods;
- (x) the West Bengal Sales Tax (Settlement of Dispute) Act, 1999.

The provision seeks to extend the benefit of settlement of disputed arrear tax, penalty or interest which is pending in appeal or revision before any higher forum on the 31st day of March, 2001.

KOLKATA,
The 6th July, 2001.

ASIM KUMAR DASGUPTA,
Member-in-charge.