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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 533-L.—26th March, 2002.—The following Act of the West Bengal legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act I of 2002

THE WEST BENGAL FINANCE
ACT, 2002.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette*,
Extraordinary, of the 26th March, 2002.]

An Act to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Entertainment-cum-Amusement Tax Act, 1982, the West Bengal Luxury Tax Act, 1994, the West Bengal Sales Tax Act, 1994, the West Bengal Building Tax Act, 1996, the West Bengal State Tax on Consumption or Use of Goods Act, 2001, and the West Bengal Ceiling on Government Guarantees Act, 2001.

WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the West Bengal State Tax

2 of 1899.
Ben. Act V of
1922.
West Ben. Act
VI of 1979.

The West Bengal Finance Act, 2002.

(Sections 1-3.)

on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Entertainment-cum-Amusement Tax Act, 1982, the West Bengal Luxury Tax Act, 1994, the West Bengal Sales Tax Act, 1994, the West Bengal Building Tax Act, 1996, the West Bengal State Tax on Consumption or Use of Goods Act, 2001, and the West Bengal Ceiling on Government Guarantees Act, 2001, for the purposes and in the manner hereinafter appearing;

West Ben. Act VI of 1982.
West Ben. Act XV of 1994.
West Ben. Act XLIX of 1994.
West Ben. Act XIX of 1996.
West Ben. Act XV of 2001.
West Ben. Act XVII of 2001.

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

Short title and commencement.

1. (1) This Act may be called the West Bengal Finance Act, 2002.

(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 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 23, in the column under the heading "Proper stamp-duty", for the words "Five *per centum* of the market values.", the following letters, words and brackets shall be substituted:—

- “(a) six *per centum* of the market value when the property is situated in the areas within the jurisdiction of any Municipal Corporation or Municipality or a notified area;
- (b) five *per centum* of the market value when the property is situated in the areas other than those included in clause (a).”

Amendment of Ben. Act V of 1922.

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

(1) in section 2, in clause (7), for the words “seats or other accommodation in a place of entertainment;”, the words “accommodation or participation in any entertaining event in such place of entertainment;” shall be substituted;

(2) in section 3,—

(a) in sub-section (3), in the Table,—

(i) in column (2), for the figures “25”, wherever they occur, the figures “40” shall be substituted;

(ii) after item (b) and the entries relating thereto in column (1), in column (2) and in column (3), the following items and entries relating thereto in column (1), in column (2) and in column (3) shall be inserted:—

“(bb) Pool game or bowling game	Any value	20 <i>per centum</i> of such value.
(bbb) Sports and games held in an amusement park, theme park or water games park	Any value	20 <i>per centum</i> of such value.”;

*The West Bengal Finance Act, 2002.**(Section 4.)*

(iii) in item (c),—

(A) for sub-item (ii) and the entry relating thereto in column (1), the following sub-items and entries relating thereto in column (1) shall be substituted:—

“(ii) circus;

(iiA) sports and games including those referred to in item (bb) or item (bbb);”;

(B) in sub-item (iv), for the words, letter and brackets “or item (b):”, the words, letters and brackets “, item (b), item (bb) or item (bbb):” shall be substituted;

(b) in sub-section (3a), for the words “sixty-five *per centum* of such value:”, the words “thirty *per centum* of such value:” shall be substituted;

(3) in section 8B,—

(a) for the existing marginal note, the following marginal note shall be substituted:—

“Special provision for new and existing cinema hall.”;

(b) section 8B shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added:—

“(2) Where the proprietor of an existing cinema hall makes any expansion or modernization of its features or the facilities provided in such hall, such proprietor shall be entitled to retain, by way of subsidy, such amount of the entertainment tax as collected against the value of ticket for admission to such hall, up to a period not exceeding three years from such date and subject to such conditions and restrictions, as may be prescribed.”.

Amendment of
West Ben. Act
VI of 1979.

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

(1) in section 5,—

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

“(d) The prescribed authority may, from time to time, amend any certificate of registration or certificate of enrolment in accordance with the information furnished under section 5A or section 5B, or information received otherwise, and such amendment may be made by the prescribed authority in such manner, as may be prescribed.”;

(b) after sub-section (7), the following sub-section shall be inserted:—

“(8) The prescribed authority shall, after making such enquiry as it may deem necessary and after giving the employer or the person, as the case may be, an opportunity of being heard, fix the date on and from which such employer or person shall become liable to pay tax under this Act.”;

The West Bengal Finance Act, 2002.

(Sections 5, 6.)

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

“(3) The provisions of sub-section (1) and sub-section (2) shall also apply *mutatis mutandis* in case of an enrolled person holding certificate of enrolment.”;

- (3) section 5B shall be renumbered as sub-section (1) of that section and—

(a) in sub-section (1) as so renumbered, after the words “shall make an application to the prescribed authority,”, the words “within thirty days from the date of transfer” shall be inserted; and

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

“(2) The provisions of sub-section (1) shall also apply *mutatis mutandis* in case of an enrolled person holding certificate of enrolment.”;

- (4) in section 9, in sub-section (2), for the words “two *per centum*”, the words “one *per centum*” shall be substituted;

- (5) in section 17A, for sub-section (1), the following sub-section shall be substituted:—

“(1) Where the prescribed authority upon information received has reasons to believe that any enrolled person falling under any of the entries from serial Nos. 2 to 22 of the Schedule has paid tax for any year at a rate lower than what is payable by such person, or such person has not paid any tax for any year, under this Act, or such authority has received application from any person for refund of any amount under section 18, it may, after giving such person a reasonable opportunity of being heard, determine, in the prescribed manner, the amount of tax, penalty or interest payable by him.”.

Amendment of
West Ben. Act VI
of 1982.

5. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982, after section 4A, the following section shall be inserted:—

‘Meaning of
video cassette
recorder set or
video cassette
player set for the
purposes of the
Act.

4AA. (1) Notwithstanding anything contained elsewhere in this Act, the expression “video cassette recorder set” or “video cassette player set”, wherever it occurs in this Act, or in the rules or notifications made thereunder, shall include video compact disc player set or digital versatile disc player set or any

other similar electrical, electronic or mechanical device set.

- (2) Nothing contained in sub-section (1) shall apply in respect of any cinematograph exhibition where entertainments tax is leviable under section 3 of the Bengal Amusements Tax Act, 1922.’.

Ben. Act V of
1922.

Amendment of
West Ben. Act
XV of 1994.

6. In the West Bengal Luxury Tax Act, 1994,—

- (1) in section 5, for clause (b), the following clauses shall be substituted:—

“(b) the value of stock of luxuries of such class or classes or description as may be prescribed;

(c) the value of stock of luxuries as shown to the satisfaction of the prescribed authority to have been supplied to such diplomatic mission or to the office of such diplomatic mission, subject to such conditions, as may be prescribed.”;

*The West Bengal Finance Act, 2002.**(Section 7.)*

- (2) in section 8,—
- (a) in sub-section (1), for the words “three *per centum*”, the words “one *per centum*” shall be substituted;
 - (b) in sub-section (2), for the words “three *per centum*”, the words “one *per centum*” shall be substituted;
 - (c) in sub-section (6), for the words “three *per centum*”, the words “one *per centum*” shall be substituted;
- (3) in the Schedule,—
- (a) serial No. 22 and the entry relating thereto shall be omitted;
 - (b) in the entry relating to serial No. 35, for the word “*Vanaspati*”, the words “*Vanaspati*, including bakery shortening, by whatever name called,” shall be substituted;
 - (c) after serial No. 35 and the entry relating thereto, the following serial No. and entry relating thereto shall be added:—
 “36. Paper of all varieties and descriptions, and converted paper products like exercise book, not manufactured or made in India.”.

Amendment of
West Ben. Act
XLIX of 1994.

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

- (1) in section 2, for clause (35), the following clause shall be substituted:—
 ‘(35) “tax” means the tax payable under this Act, and includes surcharge payable under section 16, additional sales tax payable under section 18A and turnover tax payable under section 18B;’;

- (2) after section 15, the following section shall be inserted:—

“Incidence of
surcharge on tax.

16. Every dealer liable to pay tax under section 9, section 10, section 15, or sub-section (3) of section 27, shall pay a surcharge at the rate of ten *per centum* of the total amount of tax payable by him under section 17 and section 21:

Provided that the aggregate of the amount of tax and surcharge payable by any dealer on the sale of goods referred to in section 14 of the Central Sales Tax Act, 1956, shall not exceed the rate of tax specified in section 15 of that Act:

Provided further that there shall not be any levy of surcharge on the tax payable by a dealer on that part of his taxable turnover of sales as represents sales referred to in sub-section (2) of section 17:

Provided also that there shall not be any levy of surcharge on the tax payable by the dealer on that part of his taxable turnover of sales as represents sales of such goods or such class of goods as the State Government may, by notification, specify.”;

74 of 1956.

- (3) in section 17, in sub-section (2),—

- (a) in clause (a), after sub-clause (iii), the following sub-clause shall be inserted:—

“(iiia) four *per centum* of his taxable turnover of sales as represents sales to a registered dealer of machinery, equipments, instruments or tools as being intended for use by such dealer in connection with the execution of works contract of the class or classes specified in his certificate of registration;”;

- (b) in the first proviso, after the word, figures and brackets “sub-clause (ii)”, the words, figures, letter and brackets “, or sub-clause (iiia)” shall be inserted;

- (4) after section 18A, the following section shall be inserted:—

“Liability to pay
turnover tax on
turnover of resales
of certain goods.

18B. (1) Notwithstanding anything contained elsewhere in this Act,—

- (a) every dealer whose aggregate of turnover of sales and turnover of resales of certain goods during the previous year ended on

*The West Bengal Finance Act, 2002.**(Section 7.)*

or before the 31st day of March, 2002, exceeds twenty lakh rupees shall, in addition to tax payable under any other provision of this Act, be liable to pay from the 1st day of April, 2002, turnover tax on such part of his turnover of resales as specified in sub-section (4);

- (b) every dealer other than those referred to in clause (a) whose aggregate of turnover of sales and turnover of resales calculated from the commencement of any year ending on or after the 1st day of April, 2002, exceeds twenty lakh rupees at any time within such year shall, in addition to tax payable under any other provision of this Act, be liable to pay, with effect from the day immediately following the day on which such aggregate exceeds twenty lakh rupees, a turnover tax on such part of his turnover of resales as specified in sub-section (4).

(2) Every dealer who has become liable to pay turnover tax under sub-section (1) shall continue to be so liable until expiry of three consecutive years during each of which his aggregate of turnover of sales and turnover of resales does not exceed twenty lakh rupees.

(3) Every dealer whose liability to pay turnover tax under sub-section (1) has ceased under the circumstances stated in sub-section (2) shall, if the aggregate of his turnover of sales and turnover of resales calculated from the commencement of any year again exceeds twenty lakh rupees at any time within such year, be liable to pay such tax with effect from the day immediately following the day on which such aggregate of turnovers again first exceeds twenty lakh rupees.

(4) The tax referred to in sub-section (1) shall be levied on that part of the turnover of resales of a dealer during any period which remains after deducting therefrom his turnover of resales as represents—

- (a) resales of goods which are shown to the satisfaction of the Commissioner not to have taken place in West Bengal, or to have taken place in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, or in the course of import into, or export of the goods out of, the territory of India within the meaning of section 5 of that Act;
- (b) resales of goods referred to in section 14 of the Central Sales Tax Act, 1956;
- (c) resales of foreign liquor by such dealer—
- (i) who has liability to make payment of excise duty as required by the Bengal Excise Act, 1909 but who has not made payment of such excise duty payable by him, or
 - (ii) who has made payment of excise duty payable by him under the Act referred to in sub-clause (i) and who has also made payment of tax under this Act;
- (d) resales of such goods as the State Government may, by notification, specify.

74 of 1956.

Ben. Act V of 1909.

(5) The turnover tax referred to in sub-section (1) shall be levied at the rate of one-half of one *per centum* on the turnover of resales.

*The West Bengal Finance Act, 2002.**(Section 7.)*

(6) No dealer shall realise from his purchaser any amount of turnover tax payable by him under this section.

Explanation.—For the purposes of this section, the expression “turnover of resales”, in relation to any period, means the aggregate of sale price or sale prices, if any, of a dealer in respect of sale during such period of goods specified in Part A of Schedule IV, other than Liquefied Petroleum Gas, which are purchased by him in West Bengal and sold by him without doing anything to the goods which may amount to, or result in, a manufacture.’;

- (5) in section 20, in sub-section (1), in clause (a), for the words “four per centum”, the words “two per centum” shall be substituted;
- (6) in section 21, in the proviso to sub-section (1), for sub-clause (i), the following sub-clause shall be substituted:—
 - “(i) five per centum of the contractual transfer price, wholly or partly, of printing materials involved in execution of such contract,”;
- (7) section 22C shall be omitted;
- (8) in section 26,—
 - (a) in sub-section (1), for the words and figures “or section 15,”, the words, figures and letter “, section 15 or section 18B,” shall be substituted;
 - (b) in the proviso to sub-section (1), for the words and figures “or section 15”, the words, figures and letter “, section 15 or section 18B” shall be substituted;
 - (c) in sub-section (10), in clause (b), for the words and figures “and section 15,”, the words, figures and letter “, section 15 and section 18B,” shall be substituted;
- (9) in section 29, in sub-section (1), for the words and figures “or section 15,”, the words, figures and letter “, section 15 or section 18B,” shall be substituted;
- (10) in section 31,—
 - (a) in sub-section (1), for the words “two per centum”, the words “one per centum” shall be substituted;
 - (b) in sub-section (2), for the words “two per centum”, the words “one per centum” shall be substituted;
- (11) in section 32, in sub-section (1), for the words “two per centum”, the words “one per centum” shall be substituted;
- (12) in section 32A, for the words “two per centum”, the words “one per centum” shall be substituted;
- (13) in section 34, for the words “two per centum”, the words “one per centum” shall be substituted;
- (14) in section 52, in sub-section (10), for the words “two per centum”, the words “one per centum” shall be substituted;
- (15) in section 64, in sub-section (1), for the words “double the amount of tax”, the words “thrice the amount of tax” shall be substituted;
- (16) in section 79,—
 - (a) for the provisos to sub-section (1), the following provisos shall be substituted:—

“Provided that no appeal shall be entertained unless the said authority is satisfied that the amount of tax, penalty or interest, as the appellant may admit to be due from him and an amount equal to twenty per centum of the tax, penalty or interest in dispute has been paid:

*The West Bengal Finance Act, 2002.**(Section 7.)*

Provided further that the said authority may, if it thinks fit, for reasons to be recorded in writing, entertain the appeal without prior payment of the amount equal to twenty *per centum* of the tax, penalty or interest in dispute, or on payment of such smaller amount of the tax, penalty or interest in dispute as it may direct:

Provided also that where the payment of tax due from a registered dealer under section 47 stands deferred under section 40, section 42 or section 43, an appeal shall, notwithstanding that the tax admitted to be due from him has not been paid, be entertained.”;

(b) for sub-section (4), the following sub-section shall be substituted:—

“(4) Where—

(a) the appellant makes payment of the amount equal to twenty *per centum* of the tax, penalty or interest in dispute in accordance with the first proviso to sub-section (1); or

(b) the authority as referred to in the second proviso to sub-section (1), entertains any appeal without payment of the amount equal to twenty *per centum* of the tax, penalty or interest in dispute, or on payment of such smaller amount of tax, penalty or interest in dispute as required under the said proviso,

as the case may be, the realisation of the amount of tax, penalty or interest in dispute in excess of the amount referred to in clause (a), or clause (b), as the case may be, shall remain stayed till the disposal of an appeal referred to in sub-section (2).”;

(17) after section 102, the following section shall be inserted:—

“Determination of
certain disputed
questions.

102A. (1) If any question arises, otherwise than in a proceeding before a court or Tribunal, or before a notice initiating assessment proceeding under section 45 or section 46, as the case may be, is served upon the dealer, whether—

(a) any particular thing has been done to any goods amounting to, or resulting in, the manufacture of such goods within the meaning of that term as defined under this Act; or

(b) any goods, used by any dealer in manufacturing any other goods, is to be treated as required directly for such manufacturing activity of the dealer; or

(c) any tax is payable in respect of any particular sale or purchase of goods, or if tax is payable, the rate thereof,

the Commissioner may, upon application of any person or dealer or otherwise, determine such question by an order passed in writing.

(2) If any question, referred to in sub-section (1), arises from any order passed under any other provision of this Act, such question shall not be determined under this section.”;

(18) in Schedule I,—

(a) serial No. 57 in column (1) and the entry relating thereto in column (2) shall be omitted;

(b) against serial No. 95 in column (1), in item (v) in column (2), for the word “Anti-Nitroglycerine;”, the word “Nitroglycerine;” shall be substituted, and shall be deemed to have been substituted, on the 1st day of February, 2000;

*The West Bengal Finance Act, 2002.**(Section 7.)*

- (c) after serial No. 96 in column (1) and the entry relating thereto in column (2), the following serial Nos. and entries relating thereto in column (1) and in column (2) shall be inserted:—

“97. *Alta*.

98. *Sindur*.”;

- (19) in Schedule IV, in Part A,—

- (a) in the entry in column (2) against serial No. 100 in column (1), for the words “Industrial Transformer”, the word “Transformer” shall be substituted;
- (b) in the entry in column (2) against serial No. 135 in column (1), for the word “Telephone,”, the words “Telephone including handsets,” shall be substituted;
- (c) after serial No. 232 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:—
“232A. Optical fibre cable.”;
- (d) serial No. 251 in column (1) and the entry relating thereto in column (2) shall be omitted;
- (e) serial No. 252 in column (1) and the entry relating thereto in column (2) shall be omitted;

- (20) in Schedule VIIIA,—

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

“Eight Four”;

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

“Eight Four”;

- (c) for the entries in sub-column (a) of column (3), and column (4), against serial No. 6 in column (1), the following entries shall be substituted in sub-column (a) of column (3), and column (4) respectively:—

“Eight Four”;

- (d) for the entries in sub-column (a) of column (3), and column (4), against serial No. 8 in column (1), the following entries shall be substituted in sub-column (a) of column (3), and column (4) respectively:—

“Five Three”;

- (e) for the entries in sub-column (a) of column (3), and column (4), against serial No. 10 in column (1), the following entries shall be substituted in sub-column (a) of column (3), and column (4) respectively:—

“Eight Four”;

*The West Bengal Finance Act, 2002.**(Sections 8-10.)*

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

“Eight Four”;

- (g) for the entries in sub-column (a) of column (3), and column (4), against serial No. 18 in column (1), the following entries shall be substituted in sub-column (a) of column (3), and column (4) respectively:—

“Eight Two”;

- (h) for the entries in sub-column (a) of column (3), and column (4), against serial No. 19 in column (1), the following entries shall be substituted in sub-column (a) of column (3), and column (4) respectively:—

“Eight Two”;

- (i) for the entries in sub-column (a) of column (3), and column (4), against serial No. 20 in column (1), the following entries shall be substituted in sub-column (a) of column (3), and column (4) respectively:—

“Eight Two”.

Amendment of
West Ben. Act
XIX of 1996.

8. In the West Bengal Building Tax Act, 1996, in section 17, for the words “or within five years from the date of commencement of this Act,” the words, figures and letters “or within the 31st day of March, 2003,” shall be substituted, and shall be deemed to have been substituted, with effect from the 21st day of January, 2002.

Amendment of
West Ben. Act
XV of 2001.

9. In the West Bengal State Tax on Consumption or Use of Goods Act, 2001,—

- (1) in section 2, in sub-section (1), in clause (a), for the words “manufacture of goods”, the words “manufacture of goods, whether specified in the Schedule or not,” shall be substituted and shall be deemed to have been substituted, on the 1st day of August, 2001;
- (2) in the Schedule, for the entries against item No. 11, the following entries shall be substituted and shall be deemed to have been substituted, on the 1st day of March, 2002:—

“Medical instruments including diagnostic instruments such as X-ray machine and ultrasonography machine.”.

Amendment of
West Ben. Act
XVII of 2001.

10. In the West Bengal Ceiling on Government Guarantees Act, 2001, in section 5, for sub-section (1), the following sub-section shall be substituted:—

“(1) The Government shall charge a minimum of one *per centum* as guarantee commission:

Provided that no guarantee commission shall be charged by the Government, where loan is raised—

- (a) by any organization under the administrative control of that Government,
or

*The West Bengal Finance Act, 2002.**(Section 10.)*

- (b) by the West Bengal Infrastructure Development Finance Corporation Limited,

and such loan amount is fully availed of by the Government itself for funding different infrastructure projects:

Provided further that the Government may, by general or special order, exempt from the payment of guarantee commission by a borrower on whose behalf the Government guarantee is given, where such borrower is—

- (a) a local authority, or
- (b) a statutory body, or
- (c) a co-operative institution.”.

By order of the Governor,

A. K. BHATTACHARYA,

Secy. to the Govt. of West Bengal.