

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act VII of 1991

THE WEST BENGAL FINANCE (NO. 2) ACT, 1991.

*[Passed by the West Bengal Legislature.]**[Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, of the 27th August, 1991.]**[27th August, 1991.]*

An Act to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) Act, 1941, the West Bengal Sales Tax Act, 1954, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and the West Bengal Multi-storeyed Building Tax Act, 1979.

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

WHEREAS it is expedient to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) Act, 1941, the West Bengal Sales Tax Act, 1954, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and the West Bengal Multi-storeyed Building Tax Act, 1979, for the purposes and in the manner hereinafter appearing;

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

1. (1) This Act may be called the West Bengal Finance (No. 2) Act, 1991.

Short title
and commen-
cement.

(2) This section shall be deemed to have come into force on the 12th day of July, 1991; section 2 shall be deemed to have come into force on the 10th day of February, 1991; clause (2) of section 3 shall be deemed to have come into force on the 12th day of February, 1991; sub-clause (d) of clause (5) of section 3 and sub-clause (d) of clause (4) of section 4 shall be deemed to have come into force on the 1st day of April, 1989; section 5 shall be deemed to have come into force on the 16th day of August, 1991; section 6 shall be deemed to have come into force on the 20th day of December, 1990; and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of June, 1990.

2. In the Bengal Amusements Tax Act, 1922, in section 3, in sub-section (3a), for the words “equal to such value:”, the words “eighty per centum of such value:” shall be substituted.

Amendment
of Ben. Act
V of 1922.

(Section 3.)

Amendment
of Ben. Act
VI of 1941.

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

- (1) in section 4B, sub-section (4) shall be omitted;
- (2) in section 5, in sub-section (1), in clause (cccc), after the second proviso, the following proviso shall be added:—

"Provided also that notwithstanding the requirement of furnishing declaration under the first proviso, no tax shall be payable by a dealer under the second proviso on the sales of goods specified thereunder during the period commencing on the 1st day of June, 1987 and ending on the 31st day of March, 1989 or resales of such goods held in stock on the 31st day of March, 1989, where such dealer proves to the satisfaction of the Commissioner that such goods were purchased by him in West Bengal during the aforesaid period.";

- (3) in section 10,—
 - (a) in sub-section (2), the words "for a year or part thereof" shall be omitted;
 - (b) for sub-section (3), the following sub-section shall be substituted:—

"(3) Before any registered or certified dealer furnishes the returns required by sub-section (2), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the full amount of tax due from him under this Act according to such returns, and shall furnish along with each such return a receipt from such Treasury or Bank showing the payment of such amount:

Provided that a registered dealer shall, subject to such conditions as may be prescribed, pay in the prescribed manner the tax payable under this Act for any prescribed part of the period for which a return is required to be furnished under this sub-section by such date as may be prescribed after the expiry of the prescribed part of the period as aforesaid.";

- (c) sub-section (3a) shall be omitted;
- (d) in sub-section (4),—
 - (i) the words "statement or", wherever they occur, shall be omitted;
 - (ii) the words, figure, letter and brackets "or sub-section (3a), as the case may be," shall be omitted;
- (e) in sub-section (5), the words "statement or", wherever they occur, shall be omitted;
- (f) sub-section (6) shall be omitted;

(Section 3.)

(4) in section 10A,—

- (a) in sub-section (1), for the word "statement", wherever it occurs, the word "return" shall be substituted;
- (b) in sub-section (2), for the word "statement", the word "return" shall be substituted;
- (c) in sub-section (3), the *Explanation* shall be omitted;
- (d) for sub-section (7), the following sub-section shall be substituted:—

"(7) Interest under sub-section (1) or sub-section (2) shall be payable in respect of the returns the prescribed dates for furnishing of which under sub-section (2) of section 10 are the dates subsequent to, and interest under sub-section (3) shall be payable in respect of assessment for which the notices under sub-section (3) of section 11 are issued after, the 1st day of October, 1983.";

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

"(7a) Notwithstanding anything contained in sub-section (1) or sub-section (2), no interest shall be payable by any dealer where he fails to make payment of any amount of tax payable in respect of any period for which the prescribed date falls on any date between the 1st day of June, 1990 and the 20th day of December, 1990, if such dealer makes full payment of such tax within forty-five days from the 20th day of December, 1990.";

(5) in section 10F,—

(a) in sub-section (1),—

- (i) the words, figure, letter and brackets "or sub-section (3a)" shall be omitted;
- (ii) for the words, figures, letter and brackets "statements referred to in sub-section (3) or return referred to in sub-section (3a)", the words, figure and brackets "return referred to in sub-section (2)" shall be substituted;
- (iii) the words "statement or" in the two places where they occur shall be omitted;

(b) in sub-section (2), the words "statement or" in the two places where they occur shall be omitted;

(Section 3.)

- (c) in sub-section (7), the words "statements and" shall be omitted;
- (d) after sub-section (7), the following sub-section shall be inserted:—

"(7a) Where the tax payable by a dealer in respect of a year or part of a year is deferred under sub-section (1) and where a loan liability equal to the amount of tax so deferred is created by such authority as the State Government may, by special or general order, specify, and such loan liability is admitted by such dealer in the prescribed manner for the prescribed eligible period, such tax shall be deemed to have been paid in accordance with the provisions of sub-section (3) of section 10 and sub-section (3) of section 11, as the case may be, in respect of the year or part of a year for which such tax is payable by, or due from, such dealer, and such deferred tax shall become due for payment under sub-section (5), at the expiration of the said eligible period.";

- (6) in section 10G,—

- (a) in sub-section (1), the words, figure and brackets "or statement referred to in sub-section (3)," shall be omitted;
- (b) in sub-section (2), the words "statements and" shall be omitted;

- (7) in section 11,—

- (a) in sub-section (1),—

- (i) for the words "statement or returns" in the two places where they occur, the word "returns" shall be substituted;
- (ii) for the words "any period a statement or return", the words "any period a return" shall be substituted;
- (iii) after the second proviso, the following proviso shall be added:—

"Provided also that no penalty under this sub-section shall be imposed for default in furnishing return in respect of any period for which the prescribed date falls between the 1st day of June, 1990 and the 20th day of December, 1990.";

VII of 1991.]

(Section 4.)

- (b) in sub-section (3), in clause (a), the words "or statements" shall be omitted;
- (8) in section 20A, in sub-section (1), in clause (b),—
 - (a) the words "statement or" shall be omitted;
 - (b) the words, figure and brackets "or sub-section (3)" shall be omitted;
- (9) in section 22, in sub-section (1),—
 - (a) after clause (d), the following clause shall be inserted:—
 - “(dd) fails to pay the full amount of tax payable for any period in accordance with the proviso to sub-section (3) of section 10; or”;
 - (b) in clause (e), the words “statement or” shall be omitted;
 - (c) in clause (ee), the words “statement or” shall be omitted;
- (10) in section 26, in sub-section (2),—
 - (a) clause (b3) shall be omitted;
 - (b) in clause (h1), for the words “the class or classes of registered dealers, the manner and the part of the period”, the words “the conditions, the manner, the part of the period and the date” shall be substituted.

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

- (1) in section 6, sub-section (4) shall be omitted;
- (2) in section 8,—
 - (a) in sub-section (1), for the words “for a year or part thereof in such manner”, the words “in such manner, for such periods” shall be substituted;
 - (b) for sub-section (2), the following sub-section shall be substituted:—

“(2) The dealer shall, before submitting any return of turnover and specified purchase price referred to in sub-section (1), pay into a Government Treasury or the Reserve Bank of India the amount of tax due under this Act according to such return and furnish along with the return a receipt from such Treasury or Bank showing payment of such amount:

Provided that such class of registered dealers as may be prescribed shall pay in the prescribed manner the tax payable under this Act for any prescribed part of the period for which return is required to be furnished by such prescribed dealers under this sub-section by such date as may be prescribed after the expiry of such prescribed part of the period.”;

Amendment
of West Ben.
Act IV of
1954.

(Section 4.)

- (c) sub-section (2a) shall be omitted;
- (d) in sub-section (3), for the words, figure and brackets "the statement referred to in sub-section (2) or return", wherever they occur, the word "return" shall be substituted;
- (3) in section 8A,—
 - (a) in sub-section (1), for the word "statement", wherever it occurs, the word "return" shall be substituted;
 - (b) in sub-section (2), for the word "statement", the word "return" shall be substituted;
 - (c) the *Explanation* to sub-section (3) shall be omitted;
 - (d) in sub-section (7),—
 - (i) for the word "statements", the word "returns" shall be substituted;
 - (ii) for the words, figures and brackets ", the date of coming into force of section 5 of the West Bengal Taxation Laws (Second Amendment) Act, 1990.", the words and figures "; the 1st day of October, 1983." shall be substituted;
- (4) in section 8H,—
 - (a) in sub-section (1),—
 - (i) the words, figure, letter and brackets "or sub-section (2a)" shall be omitted;
 - (ii) the words "statements or" shall be omitted;
 - (b) in sub-section (2), the words "statement or" in the two places where they occur shall be omitted;
 - (c) in sub-section (7), the words "statements and" shall be omitted;
 - (d) after sub-section (7), the following sub-section shall be inserted:—

"(7a) Where the tax payable by, or due from, a dealer in respect of a year or part of a year is deferred under sub-section (1) and where a loan liability equal to the amount of tax so deferred is created by such authority as the State Government may, by special or general order, specify, and such loan liability is admitted by such dealer in the prescribed manner for the prescribed eligible period, such tax shall be deemed to have been paid in accordance with the provisions of sub-section (2) of section 8 and sub-section (1) of section 10, as the case may be, in respect of the year or part of a year for which such tax is payable by, or due from, such dealer, and such deferred tax shall become due for payment under sub-section (5), at the expiration of the said eligible period.";

VII of 1991.]

(Section 5.)

- (5) in section 8I,—
 - (a) in sub-section (1), the words, figure and brackets “, or statement referred to in sub-section (2),” shall be omitted;
 - (b) in sub-section (2), the words “statements and” shall be omitted;
- (6) in section 9,—
 - (a) in sub-section (2), in clause (a), the words “or statement” in the two places where they occur shall be omitted;
 - (b) in sub-section (3), in clause (i), the words “or statement” shall be omitted;
- (7) in section 10, in sub-section (1), in clause (a), the words, figure and brackets “or statements under sub-section (2),” shall be omitted;
- (8) in section 12B, in sub-section (1), in clause (b), the words, figure and brackets “, or statement furnished under sub-section (2),” shall be omitted;
- (9) in section 16, in sub-section (1),—
 - (a) in clause (d), the words, figure, letter and brackets “or sub-section (2a),” shall be omitted;
 - (b) in clause (f), the words “or statement” shall be omitted;
- (10) in section 21, in sub-section (2),—
 - (a) clause (b4) shall be omitted;
 - (b) after clause (bb3), the following clause shall be inserted:—
 “(bb4) the class of registered dealers, the manner, the part of the period and the date referred to in the proviso to sub-section (2) of section 8;”.

5. In the West Bengal Motor Spirit Sales Tax Act, 1974,—

- (1) in section 2, in clause (dd), after the word, figure and letter “section 4A”, the words, figure and letter “or section 4B” shall be inserted;
- (2) in section 4, to sub-section (2), the following provisos shall be added:—

“Provided that for the purpose of calculating tax under this sub-section, a deduction of the amount arrived at by applying the following formula shall be made from the turnover of sales:—

$$\frac{\text{rate of tax} \times \text{turnover of sales}}{100 \text{ plus rate of tax}} :$$

Amendment
of West. Ben.
Act XI 1974.

(Section 6.)

Provided further that while making deduction on the basis of the formula referred to in the first proviso, the amount charged and collected separately by way of tax payable by a dealer under sub-section (1), if not already included in the turnover of sales, shall be added to it.

Explanation.—Where the turnover of sales of a dealer is taxable at different rates, the formula shall be applied separately in respect of each part of the turnover of sales to be taxed at different rates.”.

Amendment
of West Ben.
Act VI of
1979.

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

(1) in section 9A, after sub-section (2), the following sub-sections shall be inserted:—

“(3) Any person liable to pay tax under this Act, who has been enrolled on or before the 31st day of October, 1990 and has not paid the tax due from him in respect of the year ending on the 31st day of March, 1990 or the year ending on the 31st day of March, 1991 by the date specified under sub-section (2) of section 8 or the 31st day of October, 1990, as the case may be, shall, notwithstanding anything contained in sub-section (3) of section 9, not be liable to pay interest referred to in sub-section (3) of section 9, if such person pays the entire amount of the tax in respect of such year or years on or before the 28th day of February, 1991.

(4) Any employer liable to pay tax under section 4, who has not paid such tax in respect of any month or months during the period commencing from the 1st day of April, 1989 and ending on or before the 31st day of October, 1990 and has not furnished return or returns referred to in section 6 for such month or months by the prescribed date, shall, notwithstanding anything contained in sub-section (2) of section 9, not be liable to pay interest referred to in sub-section (2) of section 9, if such employer pays such tax due from him in respect of such month or months on or before the 28th day of February, 1991.

(5) Notwithstanding anything contained in sub-section (6) of section 5 or sub-section (3) of section 6, no penalty shall be imposed upon any employer or person who has become liable to get himself registered or enrolled under that section any time after the 31st day of March, 1989, and not later than the 31st day of October, 1990, or any employer who has not

(Section 7.)

furnished returns by the prescribed date under sub-section (1) of section 6 in respect of the aforesaid period, if such employer or person obtains certificate of registration or certificate of enrolment or furnishes returns, as the case may be, on or before the 28th day of February, 1991:

Provided that the provisions of sub-section (4) and sub-section (5) shall not apply to any person or employer unless he has been liable to pay or deduct from the salary or wage of his employees, any profession tax or employment tax and deposit such tax to any municipal corporation or municipality or local authority in accordance with the provisions of any law for the time being in force under which such municipal corporation, municipality or local authority levies or collects such tax.":

- (2) in section 19, after the proviso, the following proviso shall be added:—

"Provided further that the provisions of this section shall not apply to a person or employer where he complies with the provisions contained in sub-section (3), sub-section (4) or sub-section (5) of section 9A in relation to the period commencing from the date of liability to make payment of tax or to obtain certificate of enrolment or certificate of registration, as the case may be, and ending on the 31st day of October, 1990."

7. In the West Bengal Multi-storeyed Building Tax Act, 1979, in section 7, in sub-section (2), for the words and figures beginning with "On receipt of the declaration" and ending with "section 5", the following words, figures and brackets shall be substituted:—

Amendment
of West Ben.
Act XVII of
1979.

"If no declaration is furnished by any owner under sub-section (1), or if the Commissioner or any person appointed under sub-section (2) of section 4 is not satisfied that the declaration furnished is correct and complete, the Commissioner or such person shall, after giving such owner a reasonable opportunity of being heard, determine the annual value of such multi-storeyed building or part thereof in the manner referred to in section 5 and".

(Section 8.)

Repeal and
saving.

8. (1) The West Bengal Taxation Laws (Amendment) Ordinance, 1991, is hereby repealed.

West Ben.
Ord. III of
1991.

(2) Notwithstanding such repeal, anything done or any action taken under the Bengal Amusements Tax Act, 1922, or the Bengal Finance (Sales Tax) Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, as amended by the said Ordinance, shall be deemed to have been validly done or taken under the Bengal Amusements Tax Act, 1922, or the Bengal Finance (Sales Tax) Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, as amended by this Act, as the case may be.

Ben. Act V
of 1922.

Ben. Act VI
of 1941.

West Ben.
Act IV of
1954.

West Ben.
Act VI of
1979.