

GOVERNMENT OF WEST BENGAL
LEGISLATIVE DEPARTMENT
West Bengal Act XVII of 1979
THE WEST BENGAL MULTI-STOREYED
BUILDING TAX ACT, 1979.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 24th September, 1979.]

[24th September, 1979.]

An Act to provide for the imposition of tax on multi-storeyed buildings in West Bengal.

WHEREAS it is necessary to impose a tax on multi-storeyed buildings in West Bengal;

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

1. This Act may be called the West Bengal Multi-storeyed Building Tax Act, 1979.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of West Bengal.

(3) It shall be deemed to have come into force on the 1st day of July, 1975.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (a) “annual value” means annual value per square metre of the covered space of any multi-storeyed building or part thereof as determined under section 6;
- (b) “Commissioner” means the Commissioner of Multi-storeyed Building Tax appointed under sub-section (1) of section 4;
- (c) “covered space” means the total floor area excluding the thickness of walls and includes the space of covered courtyard, gangway, garage, verandah, common service area and such other space as may be prescribed;
- (d) “multi-storeyed building” means a building on any land in an urban area consisting of five storeys and above;
- (e) “notification” means a notification published in the *Official Gazette*;

(Section 3.)

- (f) "owner" includes the person for the time being receiving the rent of any multi-storeyed building or any part thereof whether on his own account or as agent or trustee or guardian for any person or society or for any religious or charitable purpose, or as a receiver or administrator appointed by or under the order of any Court in respect of such building, or who would so receive such rent if the multi-storeyed building or part thereof were let to a tenant;

Explanation I.—A member of a co-operative society to whom a multi-storeyed building or part thereof is allotted or leased under a house building scheme of the society shall be deemed to be the owner of that building or part thereof.

Explanation II.—If any person holds any multi-storeyed building or part thereof under a lease or an agreement for sale or any other document pursuant to which possession has been obtained, such person shall be deemed to be the owner of that building or part thereof.

- (g) "person" includes an individual, a family, a firm, a company, or an association or body of individuals, whether incorporated or not;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "State Government" means the Government of the State of West Bengal;
- (j) "urban area" means such area as the State Government may, having regard to its location, population and such other relevant factors as the circumstances of the case may require, by notification, declare to be an urban area for the purposes of this Act;
- (k) "year" means a year beginning on the 1st day of April.

Lavy of tax.

3. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force but subject to other provisions of this Act, there shall be charged and levied for every year a tax (hereinafter referred to as "the tax") on every multi-storeyed building.

(2) The tax in respect of a multi-storeyed building shall be payable by the owner thereof to the State Government.

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(Section 3.)

(3) The tax shall be levied per year or part thereof on the covered space of any multi-storeyed building or part thereof at the rates specified below:—

- | | |
|---|-----------------------------------|
| I. (i) where the annual value does not exceed Rs. 30 per square metre. | .. Fifty paise per square metre. |
| (ii) where the annual value exceeds Rs. 30 but does not exceed Rs. 60 per square metre. | .. Rupees one per square metre. |
| (iii) where the annual value exceeds Rs. 60 but does not exceed Rs. 100 per square metre. | .. Rupees two per square metre. |
| (iv) where the annual value exceeds Rs. 100 but does not exceed Rs. 150 per square metre. | .. Rupees three per square metre. |
| (v) where the annual value exceeds Rs. 150 per square metre. | .. Rupees four per square metre. |

II. In the case of a multi-storeyed building or part thereof used for commercial or industrial purposes, the amount of tax computed in accordance with the preceding provisions of this sub-section shall be increased by fifty *per cent*.

Explanation.—For the purpose of this Act—

- (a) “commercial purpose” means the use of any multi-storeyed building or part thereof for the purpose of carrying on any trade or business or for running an office in relation thereto;
- (b) “industrial purpose” means the use of any multi-storeyed building or part thereof for carrying on any manufacturing process as defined in the Factories Act, 1948 or for running an office in relation thereto.

(4) The tax shall not be levied on the following multi-storeyed buildings, namely:—

- (a) multi-storeyed buildings owned by the Central Government, the State Government, Government of any other State or any local authority;
- (b) multi-storeyed buildings situated within the area to which the provisions of the Cantonments Act, 1924, apply; and

(Sections 4-6.)

(c) any multi-storeyed building or part thereof owned by any diplomatic or consular mission of a foreign State.

(5) The State Government, if it considers expedient so to do, may, by notification, exempt any multi-storeyed building or part thereof from the liability to pay the tax under this Act if it is satisfied that such multi-storeyed building or part thereof is being used for the purpose of any school, college, hospital or other educational or charitable institution or for the benefit of any philanthropic institution:

Provided that the State Government may, at any time, rescind or modify any such notification.

Taxing
authorities.

4. (1) For carrying out the purposes of this Act, the State Government shall appoint a person to be the Commissioner of Multi-storeyed Building Tax.

(2) The State Government may appoint or may empower the Commissioner to appoint such other persons (with such designations) to assist the Commissioner and specify the urban area or areas over which such persons shall exercise jurisdiction under this Act.

(3) The Commissioner and the persons appointed under sub-section (2) shall exercise such powers and perform such duties as may be required by or under this Act or the rules made thereunder.

(4) All persons appointed under sub-sections (1) and (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Annual
value.

5. Where the annual value of any multi-storeyed building or part thereof has been computed by a municipal corporation or a municipality or any other local authority under the provisions of any law for the time being in force for the purposes of levying municipal or local tax, that computation divided by the covered space of such multi-storeyed building or part thereof, as the case may be, shall be the annual value for the purposes of this Act and if such computation has not been made, the annual value shall be deemed to be the gross annual rent at which the multi-storeyed building or part thereof might be reasonably expected to let from year to year less an allowance of ten *per cent.* for the cost of repairs and for all other expenses necessary to maintain the building or part thereof in a state to command such gross rent divided by the covered space of such multi-storeyed building or part thereof, as the case may be.

Determina-
tion of
annual value
of multi-
storeyed
building.

6. For the purpose of this Act, the annual value under section 5 shall be determined in the manner prescribed by the Commissioner or by any person appointed under sub-section (2) of section 4.

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(Sections 7-11.)

7. The assessment of the tax payable under this Act shall be made by the Commissioner or by any person appointed under sub-section (2) of section 4 in such manner as may be prescribed:

Assessment of the tax.

Provided that no assessment shall be made without giving the owner an opportunity of being heard.

8. (1) The tax in respect of any multi-storeyed building shall be payable for the year in advance by the owner thereof in one instalment within such time and in such manner as may be prescribed.

Manner of payment.

(2) In the case of death of an owner, his legal representative shall be liable to pay out of the estate of the deceased to the extent to which the estate is capable of meeting the charge the tax assessed as payable by such deceased, or any tax which would have been payable by him under this Act if he had not died.

Explanation.—The legal representative of the deceased shall, for the purposes of this Act, be deemed to be an owner.

(3) A receipt shall be given in the prescribed form for any money paid or recovered under this Act.

9. (1) When the owner of any multi-storeyed building is in default in making payment of any amount due on account of the tax, the Commissioner may, if he is satisfied that the default has been made without reasonable cause, by order direct that, in addition to the amount due, a sum not exceeding double the amount of the tax assessed shall be recovered from the owner by way of penalty.

Penalty for default.

(2) The penalty shall be paid within such date as may be specified by the Commissioner.

10. Any amount of the tax or penalty which has not been paid within the date by which it was to be paid, shall be recoverable as an arrear of land revenue.

Recovery of tax and penalty.

11. The Commissioner or any person appointed under sub-section (2) of section 4 may, subject to such conditions as may be prescribed, require the owner to produce before him any accounts, registers or documents or to furnish any information relating to the multi-storeyed building as may be deemed necessary for the purposes of this Act, and the owner shall, when so required, produce such accounts, registers or documents before the Commissioner or any person appointed under sub-section (2) of section 4 or furnish such information to him.

Production and inspection of accounts and documents.

(Sections 12-14.)

Power to
enter and
inspect.

12. The Commissioner or any person appointed under sub-section (2) of section 4 may, after giving notice in the prescribed manner of his intention so to do, enter into any multi-storeyed building for conducting survey and taking measurement for the purpose of assessment of the tax.

Appeal.

13. (1) Any person being aggrieved by any assessment of tax made under this Act or by an order passed under section 9 may appeal to such authority, within such time and on payment of such fees as may be prescribed:

Provided that the fees shall, in no case, exceed rupees one hundred.

(2) No appeal shall lie unless half the amount of the tax assessed or the penalty imposed or such part thereof as is admitted, whichever is higher, has been paid before the appeal is filed.

(3) The appeal shall be filed in such manner and shall be heard according to such procedure as may be prescribed.

(4) In disposing of an appeal the authority referred to in sub-section (1) may—

- (a) confirm, modify or set aside the tax assessed or the penalty imposed, or
- (b) set aside the assessment of tax and direct the Commissioner or any person appointed under sub-section (2) of section 4, as the case may be, against whose decision the appeal has been preferred, to make a fresh assessment of tax after such further enquiry as may be directed.

Offences
and
penalties.

14. (1) Any person who—

- (a) obstructs or tries to prevent, the Commissioner or any person appointed under sub-section (2) of section 4, from entering into any multi-storeyed building or from conducting survey or taking measurement therein, or
- (b) fails to produce accounts, registers or documents when so required by the Commissioner or any person appointed under sub-section (2) of section 4, or
- (c) wilfully furnishes incorrect information,

shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both and when the offence is a continuing one with a daily fine not exceeding fifty rupees per day during the period of continuance of the offence.

(2) No court shall take cognizance of any offence under this Act or any rule made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any such offence.

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(Sections 15-19.)

(3) All offences under this Act shall be cognizable and bailable.

15. Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers under this Act to any person appointed under sub-section (2) of section 4. Delegation.

16. No suit, prosecution or other legal proceedings shall lie against the Commissioner or the persons appointed under sub-section (2) of section 4 for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder. Indemnity.

17. Subject to such rules as may be made by the State Government in this behalf, the Commissioner or any authority prescribed in this behalf may, upon application, revise any assessment made or order passed by the Commissioner or by a person appointed under sub-section (2) of section 4: Revision.

Provided that an application for revision shall be accompanied by such fees (not exceeding rupees one hundred) as may be prescribed:

Provided further that no revision shall lie if the applicant has filed an appeal in the first instance under section 13 and such appeal has been disposed of by the prescribed authority.

18. The Commissioner or any person appointed under sub-section (2) of section 4 may on application made by the owner within one year, or of his own motion within four years from the date of the order, rectify any arithmetical or clerical error in any order passed by him: Rectification of mistake.

Provided that no such rectification having the effect of enhancing an assessment or reducing a refund, as the case may be, shall be made unless the owner has been heard or has been given a reasonable opportunity of being heard.

19. (1) Where as a result of any order passed in appeal or other proceedings under this Act refund of any amount becomes due to the owner, such amount shall be refunded to him in such manner as may be prescribed. Refunds.

(2) Where any refund is due under this Act the Commissioner may in lieu of payment of the refund set off the amount to be refunded or any part of that amount against the sum, if any, remaining payable under this Act by the person to whom refund is due after giving an intimation in writing to such person of the action proposed to be taken under this section.

(Sections 20-24.)

Bar of suits
in civil
courts.

20. Except as otherwise provided in this Act, the decision of the Commissioner or any person appointed under sub-section (2) of section 4 shall be final and no civil court shall have jurisdiction to decide or deal with any question which by or under this Act is required to be decided or dealt with by the Commissioner or any person appointed under sub-section (2) of section 4.

Power to
take
evidence.

21. The Commissioner and the persons appointed under sub-section (2) of section 4 shall, for the purposes of this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

5 of 1908.

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witness.

Manner of
assessment
in case of
short levy.

22. (1) where it appears to the Commissioner that the tax under this Act has been short-levied through inadvertance, error or misconstruction on the part of the Commissioner or through any mis-statement of the owner or for any other reason, the Commissioner shall issue a notice directing the owner to produce or cause to be produced the books of account and other documents relevant for the purpose of examination for determining the amount of short levy and fixing a date not less than ten days from the date of notice for preferring objections and adducing evidence in support thereof.

(2) On the day specified in the notice issued under sub-section (1), or as soon thereafter as may be, after hearing such evidence as the owner may produce and such other evidence as the Commissioner may require on specified points and after taking into account all relevant materials, the Commissioner shall complete the assessment and determine the amount of tax short-levied under section 7.

Computation
of period of
limitation.

23. In computing the period of limitation prescribed for an appeal or revision under this Act, the time required for obtaining the certified copy of the order against which the relief is sought for, shall be excluded.

Power to
make rules.

24. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be or is required to be prescribed or made by rules.

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(Section 25.)

West Ben.
Act XIX of
1975.
West Ben.
Ord. VIII of
1979.

25. (1) The West Bengal Multi-storeyed Building Tax Act, 1975 and the West Bengal Multi-storeyed Building Tax Ordinance, 1979 are hereby repealed.

Repeal,
savings and
validation.

(2) Notwithstanding such repeal—

- (a) any amount levied, paid, collected or recovered or purported to have been levied, paid, collected or recovered as tax or penalty under the provisions of the West Bengal Multi-storeyed Building Tax Act, 1975 (hereinafter referred to as the said Act) or the rules made thereunder or under the provisions of the West Bengal Multi-storeyed Building Tax Ordinance, 1979, or the rules made thereunder shall be deemed to have been validly levied, paid, collected or recovered under the provisions of this Act, and
- (b) any proceeding commenced or purported to have been commenced for the assessment, collection or recovery of any amount as tax or penalty under the provisions of the said Act or the rules made thereunder or under the provisions of the West Bengal Multi-storeyed Building Tax Ordinance, 1979 or the rules made thereunder shall be deemed to have been commenced and conducted in accordance with the provisions of this Act and if not already completed shall be continued and completed in accordance with the provisions of this Act.

(3) The provisions of sub-section (2) shall have effect notwithstanding any judgment, decree or order of any court, tribunal or authority to the contrary.
