

West Bengal Act XXVI of 1955

THE WEST BENGAL TAXES ON ENTRY OF GOODS IN LOCAL AREAS ACT, 1955.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 27th September, 1955.]

[27th September, 1955.]

An Act to provide for the levy of taxes on the entry of certain kinds of goods into certain local areas in West Bengal for consumption, sale or use in such local areas.

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

1. (1) This Act may be called the West Bengal Taxes on Entry of Goods in Local Areas Act, 1955.

Short
title,
extent
and
commence-
ment.

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

(3) This section shall come into force at once; the remaining sections shall come into force on such date or dates as the State Government may, by notification in the *Official Gazette*, appoint and for this purpose different dates may be appointed for different sections.

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

Interpre-
tation.

(a) “dealer” used in relation to any taxable goods entering a local area means a person,—

(i) who either on his own account or on account of a principal, causes such entry, or

(ii) who takes delivery or is entitled to take delivery of such goods on such entry;

Explanation I.—When the consignor or consignee of any taxable goods entering a local area nominates, according to such rules as may be prescribed, a person to be the dealer for the purposes of this Act, such person shall be deemed to be a dealer in relation to such taxable goods;

Explanation II.—When the consignee of any taxable goods entering a local area despatched to such local area by rail, water, air or post does not take delivery of such goods upon such entry and the goods are sold under the provisions of any law, the buyer who takes delivery of such goods upon the goods being so sold, shall be deemed to be the dealer thereof;

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(Sections 3, 4.)

(b) "local area" used in relation to any taxable goods means the local area specified in the entry under column 2 of the Schedule, corresponding to such taxable goods;

(c) "notified place" used in relation to any taxable goods means—

any railway station, steamer station, airport, Post Office or any other place whatsoever,

situate within the local area specified in the entry under column 2 of the Schedule, corresponding to such taxable goods and notified in this behalf by the State Government;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "the Schedule" means the Schedule to this Act;

(f) "taxable goods" means any goods specified under column 1 of the Schedule;

(g) "using" used with respect to tea, includes blending;

(h) "year" means the financial year commencing on the first day of April.

Autho-
rities.
*

3. (1) The State Government shall prescribe an authority (hereinafter referred to as the prescribed authority) for carrying out the purposes of this Act.

(2) The State Government or the prescribed authority may appoint persons to assist the prescribed authority.

(3) Any powers, duties or functions of the prescribed authority may be delegated to the persons appointed under sub-section (2) in accordance with such rules as may be prescribed.

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

Act XLV
of 1860.

Tax on
entry of
goods in
a local
area.

4. (1) Subject to the provisions of sub-section (3), there shall be levied on the entry of any goods specified under column 1 of the Schedule, in the local area specified in the corresponding entry under column 2 of the Schedule for consumption, use or sale in such local area, a tax at the rate specified in the corresponding entry in column 3 of the Schedule.

(2) All taxes under this Act, leviable on the entry of taxable goods in any local area, shall be payable by the dealer thereof to the State Government, in the prescribed manner.

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(Sections 5—7.)

(3) No tax shall be levied under this Act on the entry of any taxable goods entering a local area in consignments below the size or the quantity notified by the State Government in this behalf in respect of such taxable goods.

5. (1) The dealer of any taxable goods, other than those to which the provisions of sub-section (3) of section 4 apply, shall, on or before the entry thereof in a local area, deliver to the prescribed authority a bill of entry relating thereto in such form and containing such particulars as may be prescribed. Bill of entry.

(2) On the due delivery of such bill of entry the tax leviable on the entry of such goods shall be assessed by the prescribed authority and in the prescribed manner.

6. (1) No taxable goods, other than those to which the provisions of sub-section (3) of section 4 apply, entering a local area shall be transported or removed from a notified place except on production before such officer as may be authorized by the State Government in this behalf of a transport pass granted by the prescribed authority in the prescribed form and under prescribed conditions. Transport pass.

(2) Where it is found to the satisfaction of the prescribed authority that no tax is leviable under this Act on the entry of any taxable goods entering a local area on the ground that they are not for consumption, use or sale in such local area, and the assessment is nil under sub-section (2) of section 5, the prescribed authority shall grant a transport pass certifying that no tax is leviable under this Act.

(3) When the prescribed authority is satisfied that the tax assessable on such goods under section 5 is otherwise than nil and the tax assessed has been paid in full, the prescribed authority shall grant a transport pass certifying that the tax leviable on the entry of such goods has been duly paid.

7. (1) The prescribed authority may in respect of any kind of taxable goods accept from a dealer deposit of a sum which in the opinion of such authority is sufficient to cover the tax under this Act estimated to be payable during a prescribed period and issue, in the prescribed manner and in the prescribed form, a transport pass certifying the amount deposited. Deposit.

(2) Subject to prescribed conditions, such a pass shall be sufficient authority for transportation or removal during the prescribed period from any notified place of a series of consignments of such taxable goods so that the aggregate amount of tax leviable in respect of all such consignments does not exceed the amount of the deposit.

(3) Where any consignments are transported or removed under a transport pass referred to in sub-section (1), the

(Sections 8—10.)

prescribed authority shall adjust against the deposit, the taxes assessed in respect of the consignments in such manner as may be prescribed.

(4) Any amount of the deposit remaining at the credit of the dealer at the end of a prescribed period shall, on his application, be refunded to him, or may, at his option, be credited towards any deposit in respect of any future period for which he may want to take a fresh transport pass on making a deposit under sub-section (1).

Goods not originally meant for consumption, use or sale in a local area subsequently consumed, used or sold therein.

8. Where a transport pass has been granted under sub-section (2) of section 6, in respect of any taxable goods entering a local area, on the ground that such goods were not for consumption, use or sale in such local area and the assessment was nil, then, such goods or any part thereof shall not be subsequently consumed, used or sold in such local area unless a revised bill of entry in such form and containing such particulars as may be prescribed is delivered to the prescribed authority and the tax leviable under this Act is assessed and paid.

Explanation.—In cases as aforesaid, tax shall be levied as if the taxable goods or so much thereof as is intended to be consumed, used or sold in the local area has entered the local area for consumption, use or sale therein.

Short-levied taxes.

9. When any tax leviable under this Act in respect of the entry of any taxable goods has been short-levied through inadvertence, error or misconstruction on the part of the prescribed authority or any person appointed under sub-section (2) of section 3, or through mis-statement as to the quantity or description on the part of the dealer liable to pay tax in respect of such goods, or for any other reason, the dealer shall pay the deficiency, on demand being made within three months from the date of the assessment; and the prescribed authority may refuse the transportation or removal from a notified place of the taxable goods or any part thereof not yet transported or removed until the deficiency is paid in full.

Entry of goods in a local area without bill of entry or payment of tax.

10. (1) When it appears that any taxable goods, in respect of the entry of which tax is payable under this Act, have entered a local area and no bill of entry was delivered and no tax was paid in respect of the entry of such goods as required under the foregoing sections, the prescribed authority shall proceed, in such manner and within such time as may be prescribed, to assess the tax to the best of his judgment and direct the dealer by whom the tax is payable, to pay it on demand; and the prescribed authority may, in addition, direct such dealer to pay a penalty not exceeding one and a half times the tax assessed:

Provided that the prescribed authority may, in respect of any particular dealer, for reasons to be recorded in writing,

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(Sections 11, 12.)

extend the date of such payment or allow such dealer to pay the tax payable and the penalty, if any, directed to be paid, by instalments.

(2) Any amount of tax or penalty which remains unpaid after the date specified in the demand notice shall be recoverable as an arrear of land revenue.

(3) Any assessment made under this section shall be without prejudice to any prosecution instituted for an offence under this Act.

11. Every dealer to whom a transport pass is granted under sub-section (2) of section 6 in respect of any taxable goods entering a local area, shall—

Particulars, accounts, etc., to be maintained and made available in certain cases.

- (a) furnish to the prescribed authority within the prescribed time such particulars as to the storage and disposal of such goods as may be prescribed;
- (b) keep true accounts relating to the stock, purchases and disposal of such goods:

Provided that if the prescribed authority is satisfied that such accounts are not sufficiently clear and intelligible for carrying out the purposes of this Act he may require the dealer to keep accounts in such form as may be prescribed;

- (c) make available for inspection by the prescribed authority any stocks of, or accounts, registers, vouchers or other documents relating to, such goods as may be required by the prescribed authority.

12. Subject to such rules as may be prescribed, the prescribed authority may, for securing compliance with the provisions of this Act, or for carrying out the purposes of this Act,—

Power to do certain things for securing compliance with the provisions of the Act or for carrying out the purposes of the Act.

- (a) open any package and examine any goods entering a notified place;
- (b) on the entry in or at the time of the transportation or removal of such goods from, a notified place, take samples of such goods for ascertaining whether any tax under this Act is payable, or for any other necessary purpose, provided that such samples shall, if practicable, be restored to the owner thereof or compensation shall be paid therefor to the owner at the market value;
- (c) intercept and search any road vehicle or river-craft or any load carried by a person within a local area specified under column 2 of the Schedule;
- (d) seize any taxable goods which he has reason to believe are being or have been transported or removed in contravention of the provisions of section 6, together with any container or other materials for the packing of such goods;

(Section 13.)

- (e) detain at any notified place, any taxable goods together with the container and other materials for packing thereof;
- (f) enter and search any place where he has reason to believe that any stocks, accounts, registers, vouchers or other documents referred to in clause (c) of section 11 are kept or are being, for the time being kept; and, if he has reason to believe that tax is being evaded, seize and detain them for so long as may be necessary for examination or for the purposes of prosecution.

Storage
and sale.

13. (1) The prescribed authority may, in respect of any taxable goods lawfully detained or seized by him, incur such expenditure as may be necessary for the storage of such goods for so long as they remain detained or seized.

(2) The prescribed authority may, at any time after such seizure or detention, by notice issued in the prescribed manner, require the dealer whose goods have been so seized or detained to take delivery thereof before a date specified in the notice after payment of the tax due thereon, if any, together with the expenses incurred under sub-section (1).

(3)(a) If the dealer fails to take delivery of such goods before the date specified in the notice, the prescribed authority may, in the prescribed manner, cause such goods to be put up at public auction for sale for cash on delivery.

(b) If the prescribed authority deems the highest offer made at such a sale to be inadequate he may adjourn the sale to some other date in the prescribed manner.

(c) The proceeds arising from the sale shall be applied in payment, in order of priority, of—

firstly, the charges incurred by the prescribed authority under sub-section (2),

secondly, the tax payable, if any, on such goods,

thirdly, the balance, if any, to the dealer of such goods on application made within one year from the date of the sale.

(d) Notwithstanding any provisions to the contrary, if any goods lawfully detained or seized be of a perishable nature, the prescribed authority may, at any time, if he thinks fit, cause them to be sold in any manner he thinks appropriate in the circumstances, and shall apply the proceeds in the manner provided in clause (c).

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(Section 14.)

14. (1) Whoever—

Penalties.

- (a) contravenes the provisions of sub-section (1) of section 5, or
- (b) in any case in which a transport pass is required, transports or removes or attempts to transport or remove, or aids in transporting or removing or attempting to transport or remove any taxable goods from any notified place without such transport pass, or
- (c) in any case in which a revised bill of entry referred to in section 8 is required, consumes, uses or sells any taxable goods in a local area without delivering beforehand such revised bill to the prescribed authority, or
- (d) contravenes the provisions of section 11 or knowingly furnishes incorrect particulars as to the storage and disposal of taxable goods, when purporting to comply with the provisions of clause (a) of section 11, or
- (e) obstructs any person in the exercise of his powers under section 12,

shall be punishable with simple imprisonment which may extend to six months or with fine or both; and when the offence is a continuing one, with a daily fine not exceeding fifty rupees throughout the period of the continuance of the offence:

Provided that no prosecution for any offence enumerated hereinbefore in this section shall be instituted in respect of the same facts in respect of which a penalty has been imposed under section 10:

Provided further that for offences of contravention under clauses (b), (c) and (d) the Court may, in addition to any fine imposed, order confiscation of anything seized under section 12.

(2) If it be found, when any taxable goods are transported or removed from a notified place, that—

- (a) the packages in which they are contained differ widely from the description given in the bill of entry; or
- (b) the contents thereof have been wrongly described or have been mis-stated in the bill of entry in regard to any particulars required to be stated therein,

the dealer shall be punishable with a penalty not exceeding one thousand rupees.

(Sections 15—17.)

(3) All offences punishable under this Act or the rules made thereunder shall be cognizable and bailable.

(4) No Court shall take cognizance of any offence under this Act or the rules made thereunder except on complaint made with the previous sanction of the prescribed authority.

Composi-
tion.

15. (1) Subject to such conditions as may be prescribed, the prescribed authority may accept from any person accused of any offence punishable under this Act, by way of composition for such offence, payment of a sum not exceeding double the amount of tax payable, if any, or a sum of rupees five thousand, whichever is greater.

(2) If payment by way of composition is accepted under sub-section (1), no further proceedings shall be taken against the accused in respect of the offence compounded.

Appeal.

16. (1) Any dealer, deeming himself aggrieved by any order passed under this Act, may, in the prescribed manner and within one month from the date of such order, appeal therefrom to such officer of Government as may be prescribed :

Provided that no appeal shall be entertained by such officer unless he is satisfied that such amount of tax as the appellant may admit to be due by him has been paid.

(2) The officer of Government to whom the appeal is made may, after giving the parties an opportunity of being heard and after making such further enquiry, if any, as he deems fit, pass any order, confirming, altering or annulling the order appealed against and may also pass any *interim* order if he thinks such *interim* order to be necessary :

Provided that no such order in appeal shall have the effect of subjecting any person to any greater penalty than has been adjudged against him in the original order.

(3) An order passed in appeal under this section shall be final.

Power to
take
evidence
on oath,
etc.

17. The prescribed authority, a person appointed under sub-section (2) of section 3 or the officer of Government hearing an appeal under section 16, shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Act V 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 witnesses.

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(Sections 18—22.)

18. (1) The prescribed authority shall, in the prescribed manner, refund to a dealer applying in this behalf any amount of tax or penalty in respect of the entry of any taxable goods, paid by such dealer in excess of the amount due from him under this Act either by cash payment or, at the option of the dealer, by deduction of such excess from any tax under this Act payable by him in future: **Refund.**

Provided that no refund shall be made unless the claim for refund is made within six months from the date of the order declaring the amount to be in excess.

(2) Nothing in sub-section (1) shall be deemed to empower the prescribed authority to amend, vary or rescind any order passed on appeal under section 16, or to confer on a dealer any relief in addition to what he is entitled under the provisions of this Act.

19. (1) If, save as provided under sub-section (2), any servant of Government, except in the discharge in good faith of his duty as such authority, discloses any particulars learned by him in his official capacity in respect of any taxable goods, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine. **Duty of secrecy.**

(2) Nothing in this section shall apply to the disclosure—

(a) of any particulars referred to in sub-section (1) for the purpose of a prosecution under the Indian Penal Code in respect of such particulars or for the purpose of a prosecution under this Act; or

(b) of such particulars, to an officer of the Central Government, as may be necessary for the purpose of enabling that Government to levy or realize any tax imposed by it.

20. Save as otherwise provided in the Constitution of India, no order passed under this Act by the prescribed authority, or a person appointed under sub-section (2) of section 3 or the officer of Government hearing an appeal under section 16, shall be called in question in any Civil Court. **Orders under the Act not to be questioned by any Civil Court.**

21. No suit, or other legal proceedings shall lie against Government and no suit, prosecution or other legal proceedings shall lie against any officer or servant of Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder. **Indemnity.**

22. (1) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act. **Power to make rules.**

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(*The Schedule.*)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) anything which may be or is required to be prescribed under this Act;

(b) the procedure for, and other matters (including provisions for payment of fees) incidental to, the disposal of appeals under section 16.

(3) In making any rule the State Government may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of the offence.

The Schedule.

[See section 2.]

1	2	3
Taxable goods.	Local area.	Rate.
Tea, that is to say, the leaves, leaf-buds and stalks of <i>Camellia Thea</i> and also tea dust and tea waste.	Calcutta as described in Schedule I to the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), as deemed to have been amended by notification under section 594 of the said Act together with the districts of 24-Parganas and Howrah.	One anna per pound avoirdupois.
Mango ..	Ditto ..	Six annas per maund.
Orange ..	Ditto ..	Eight annas per maund.
Mossambie ..	Ditto ..	Eight annas per maund.
Grapes ..	Ditto ..	One rupee and eight annas per maund.

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1	2	3
Taxable goods.	Local area.	Rate.
Bedana ..	Calcutta as described in Schedule I to the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), as deemed to have been amended by notification under section 594 of the said Act together with the districts of 24-Parganas and Howrah.	One rupee per maund.
Anar ..	Ditto ..	Eight annas per maund.
Apples ..	Ditto ..	One rupee per maund.
Pears ..	Ditto ..	Eight annas per maund.
Guava ..	Ditto ..	Four annas per maund.
Custard Apple ..	Ditto ..	Four annas per maund.
Water-melon .. (Tarmuj).	Ditto ..	Two annas per maund.
Melons, i.e. Khar- muj Lablab.	Ditto ..	Eight annas per maund.
Plum ..	Ditto ..	Six annas per maund.
Lichi ..	Ditto ..	Eight annas per maund.
Lemon ..	Ditto ..	One rupee and eight annas per maund.
Cherry, Peach and Apricot.	Ditto ..	One rupee per maund.

Explanation.—In this Schedule, in calculating the weight, the weight of packing materials and containers shall be included.