

West Bengal Act XV of 1970

THE WEST BENGAL PADDY PURCHASE TAX ACT, 1970.

[Passed by the West Bengal Legislature]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 2nd March, 1970.]

[2nd March, 1970.]

An Act to provide for the levy of a tax on paddy purchased by the owners of rice mills for augmentation of revenue and for collecting information of, and exercising control over, the stocks of paddy in possession of rice mills in West Bengal.

WHEREAS it is expedient to provide for the levy of a tax on paddy purchased by the owners of rice mills for augmentation of revenue and for collecting information of, and exercising control over, the stocks of paddy in possession of rice mills in West Bengal;

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

1. (1) This Act may be called the West Bengal Paddy Purchase Tax Act, 1970.

Short title
and
extent.

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

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

Definitions.

(1) "owner", in relation to a rice mill, means the person who, or the authority which, has the ultimate control over the affairs of the rice mill and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the rice mill;

(2) "power" means electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

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

(4) "purchased" means purchased and delivered;

(5) "purchase price" means the amount payable by the owner of a rice mill as valuable consideration for the purchase of any paddy less any sum allowed by the seller as cash discount according to ordinary trade practice, but including anything charged for anything done by the seller in respect of the paddy at the time of, or before, delivery thereof;

(Sections 3, 4.)

(6) "rice mill" means the plant and machinery with which, and the premises including precincts thereof in which or any part of which, the operation of recovering rice or any product thereof from paddy with the aid of power is carried on in West Bengal;

(7). "turnover of purchases" used in relation to any period means the aggregate of the purchase prices payable by an owner of a rice mill for the quantity of paddy purchased by him during such period after deducting the amounts, if any, refunded to him by the seller during such period in respect of any quantity of paddy returned to the seller within ninety days from the date of its purchase and such other amounts as may be prescribed.

Levy of
tax.

3. (1) There shall be charged and levied a tax on the turnover of purchases of an owner of a rice mill in respect of all purchases of paddy made by such owner from the date of publication of the West Bengal (Tax on paddy purchased by rice mills) Ordinance, 1970 at the rate of two per centum of such turnover and such tax shall be payable to the State Government by the owner of every rice mill in the manner hereinafter provided.

(2) In calculating the tax payable under this Act by the owner of a rice mill on his turnover of purchases during any period, the purchase price in respect of any quantity of paddy sold and despatched by him during such period subsequently to his purchase thereof to any place inside West Bengal shall be deducted from such turnover.

(3) No tax shall be leviable under this Act in respect of the purchase prices of any quantity of paddy in respect of which such tax has already been paid:

Provided that the burden of proving that such tax has already been paid shall be upon the person who claims the benefit of this sub-section.

No
premises
to be used
as a rice
mill unless
registered.

4. (1) No premises shall, after the publication of the West Bengal (Tax on paddy purchased by rice mills) Ordinance, 1970, be used as a rice mill unless such premises have been registered by the owner of the rice mill:

Provided that, where any premises are, at the publication of the West Bengal (Tax on paddy purchased by rice mills) Ordinance, 1970, used as a rice mill, the owner of such rice mill shall be allowed two months from such publication to effect such registration.

(2) An application for registration under this section shall be made in such form and to such authority as may be prescribed and the prescribed authority shall, in the prescribed manner and form, maintain a record of every registration.

(3) The registration of any rice mill may be cancelled by the registering authority if the premises registered have ceased to be used as a rice mill.

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(Sections 5—7.)

5. Every owner of a rice mill shall in respect of such rice mill—
- (a) keep books of account relating to the purchases of paddy in the prescribed form; and
 - (b) submit to such authority as may be prescribed a return for the prescribed period in the prescribed form and before the prescribed date showing—
 - (i) the aggregate of the purchase prices of paddy purchased by him for the rice mill during the prescribed period,
 - (ii) the amount of refund of purchase price received by him from the seller within ninety days from the date of purchase,
 - (iii) the purchase price of paddy sold and despatched by him, subsequently to his purchase, to places, within West Bengal during the prescribed period, and
 - (iv) such other particulars necessary for the purposes of this Act as may be prescribed.

Owners of rice mills to keep books of account and submit returns.

6. Before submitting in each period the return referred to in clause (b) of section 5 the owner of a rice mill shall pay into a Government Treasury or the Reserve Bank of India the full amount of the tax due under this Act in respect of the paddy purchased by him according to such return, and shall furnish along with the return a receipt from such treasury or bank showing payment of such amount.

Payment of tax and receipt for such payment.

7. (1) If no returns are furnished by the owner of a rice mill under clause (b) of section 5 in respect of any period before the date prescribed in that behalf, or if the returns are furnished without a receipt showing full payment of the tax due as required by section 6, or if the authority referred to in clause (b) of section 5 is not satisfied that the returns furnished are correct and complete, such authority shall, after making such enquiry, if any, as it considers necessary, determine the amount of the tax due in respect of such period from such owner and such authority may in the case where no returns are furnished within the prescribed date or when the returns are furnished without any receipt showing full payment of the tax due as required by section 6 direct that such owner shall pay in addition to the amount of the tax so determined a sum not exceeding that amount by way of penalty and the amount of the tax so determined together with the penalty (if any) so directed to be paid, less the sum, if any, already paid by him, shall be paid by such owner into a Government Treasury or the Reserve Bank of India within fourteen days after demand is made therefor:

Determination of the amount of tax by the prescribed authority in certain cases.

Provided that, before action is taken under this sub-section, the owner of a rice mill shall be given a reasonable opportunity of proving the correctness and completeness of the returns, if any, furnished by him:

Provided further that the authority referred to in clause (b) of section 5 may, for reasons to be recorded in writing, extend the date of such payment.

(Sections 8—10.)

(2) If the amount of the tax due and the penalty (if any) directed to be paid under sub-section (1) are not paid within the period mentioned in that sub-section or within the period extended under the second proviso to the said sub-section, the authority referred to in clause (b) of section 5 may direct that the owner of the rice mill shall pay in addition to the amount of the tax and penalty (if any) so unpaid a sum not exceeding the amount of the tax by way of penalty or further penalty, as the case may be.

(3) If default is made in making the payment of the amount of tax due or any penalty directed to be paid under sub-section (1) within the period mentioned in that sub-section or within the period extended under the second proviso to the said sub-section or in making the payment of any penalty directed to be paid under sub-section (2), it shall be recoverable from the person from whom it is due as an arrear of land revenue.

Information to be furnished regarding changes of rice mill.

8. If any owner to whom the provisions of clause (b) of section 5 apply—

- (a) sells or otherwise disposes of his rice mill or any part thereof or comes to know of any other change in the ownership of the rice mill, or
- (b) closes his rice mill or changes his place of rice mill or opens a new place of rice mill, or
- (c) changes the name of the rice mill which is specified in his certificate of registration,

he shall within the prescribed time and in the prescribed manner inform the prescribed authority accordingly; and if any such owner dies, his legal representative shall, in like manner, inform the said authority.

Transfer of rice mill.

9. Where the ownership of a registered rice mill is transferred absolutely by sale, gift, bequest, inheritance or otherwise or transferred by way of lease and the transferee or the lessee runs such rice mill, either in its old name or in some other name, the transferee or the lessee shall for all the purposes of this Act (except for liabilities under this Act already discharged by such owner) be deemed to be and to have always been the owner of such registered rice mill (in the case of a lease for so long as the lease subsists) as if the registration certificate of such rice mill had initially been granted to the transferee or the lessee; and the transferee or the lessee shall, on application to the authority referred to in clause (b) of section 5, be entitled to have the registration certificate amended accordingly.

Action taken and proceedings commenced or continued in the trade name of a rice mill.

10. Notwithstanding anything contained in any law for the time being in force, in respect of any rice mill run under a trade name action may be taken under this Act in any matter connected with the purposes of this Act including the realisation of taxes or penalty, and proceedings for the recovery of any such taxes or penalty may be commenced or continued under any law against the person owning the rice mill:

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(Section-11.)

Provided that no action taken or proceedings commenced shall be called in question merely on the ground that such action was taken or such proceedings were commenced in the trade name of the rice mill.

11. (1) Notwithstanding anything contained in any law for the time being in force, where—

- (a) any rice mill run by any firm or association of persons or Hindu undivided family as an owner thereof is closed, or
- (b) such firm or association of persons is dissolved or such Hindu undivided family is partitioned, as the case may be,

Liability to tax of a firm, an association of persons, a Hindu undivided family when business is closed and of a dissolved firm and association of persons and partitioned Hindu family.

the authority referred to in clause (b) of section 5 shall determine the tax payable under this Act by such firm or association of persons or Hindu undivided family for the period up to the date of such closure, dissolution or partition, as if no such closure, dissolution or partition, as the case may be, has taken place and all the provisions of this Act relating to the assessment and recovery of such tax shall apply accordingly.

(2) If in the course of any proceeding under this Act in respect of any such firm or association of persons or Hindu undivided family the authority referred to in clause (b) of section 5 is satisfied that such firm or association of persons or Hindu undivided family was or is liable to pay any penalty under section 7 he may direct the imposition of such penalty in accordance with the provisions of section 7 as if no such closure or dissolution or partition, as the case may be, has taken place.

(3) Every person who at the time of such closure or dissolution or partition, as the case may be, was a partner of such firm or a member of such association of persons or a member of such Hindu undivided family and where any such person is dead the legal heir of such person shall, notwithstanding such closure or dissolution or partition, as the case may be, be jointly and severally liable for the amount of tax, penalty or other sum payable under this Act and shall be similarly liable to be proceeded against in any proceeding for the purpose of assessment and recovery of such tax, penalty or other sum and all the provisions of this Act shall apply accordingly.

(4) Where such closure or dissolution or partition takes place after any proceeding in respect of an assessment period or any penalty or other matter has commenced, the proceeding may be continued against every person referred to in sub-section (3) from the stage at which the proceedings stood at the time of such closure or dissolution or partition, as the case may be.

(Sections 12—15.)

Refunds.

12. The authority referred to in clause (b) of section 5 shall, in the prescribed manner, refund to the owner of the rice mill applying in this behalf any amount of the tax paid by such owner in excess of the amount due from him under this Act either by cash payment or, at the option of such owner, by deduction of such excess from the amount of the tax due in respect of any other period.

Powers of inspection, entry and search.

13. (1) Any person empowered by the State Government in this behalf may, for the purposes of this Act,—

(a) require any owner of a rice mill to produce before such person all accounts, vouchers and other documents relating to stocks, purchases, receipts and despatches of paddy, and to furnish any other information relating to such stocks, purchases, receipts and despatches and every such owner shall comply with such requisition; and

(b) inspect such accounts, vouchers and documents of, and the paddy held in stock by, such owner.

(2) Any such person empowered by the State Government in this behalf may enter and search, at any time, by day any building, vessel, vehicle or place in which he has reason to believe that any owner of a rice mill holds any stock of paddy.

(3) All searches made under sub-section (2) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

Returns, etc., to be confidential.

14. No person to whom any returns under this Act are furnished or who makes an inspection under section 13 shall, save with the previous sanction of the State Government, disclose any information obtained from any such return or inspection otherwise than departmentally or for the purposes of prosecution under the Indian Penal Code in respect of any such return, or of any account, voucher or other document inspected, or for the purposes of a prosecution under this Act.

Penalties.

15. Any person who—

- (a) being the owner of a rice mill fails to register such rice mill as required by section 4; or
- (b) fails to keep books of account as required by clause (a) of section 5; or
- (c) fails without sufficient cause to submit any return as required by clause (b) of section 5, or furnishes an incorrect or incomplete return, or fails to submit a receipt for the full amount of the tax due as required by section 6; or
- (d) fraudulently evades the payment of any tax due under this Act; or

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(Sections 16—21.)

- (e) neglects to furnish any information required by section 8; or
- (f) refuses to comply with a requisition under clause (a) of sub-section (1) of section 13 or obstructs any officer making an inspection or a search under section 13; or
- (g) discloses any information in contravention of the provisions of section 14; or
- (h) acts in contravention of any of the provisions of this Act,

shall, on conviction, be punishable with fine which may extend to one thousand rupees, and in the case where the failure, evasion or contravention is a continuing one, with a further fine which may extend to one hundred rupees for every day after the first during which such failure, evasion or contravention continues subsequent to such conviction.

16. No proceedings in respect of any offence under this Act shall be instituted except with the previous sanction of such authority as may be prescribed and upon complaint by a person empowered under section 13.

Institution of proceedings.

17. All offences punishable under this Act shall be bailable.

Offences to be bailable.

18. (1) The prescribed authority may accept from any person charged with any offence punishable under this Act or any rule made thereunder, by way of composition for such offence, payment of a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater.

Power to compound offence.

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

19. No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall try an offence punishable under this Act.

Jurisdiction to try offences.

20. All persons empowered to act under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers to be deemed public servants.

21. No suit, prosecution or other legal proceedings shall lie against any employee of the State Government for anything which is in good faith done or intended to be done under this Act.

Indemnity.

(Sections 22—25.)

22. No suit shall be instituted against the State Government and no suit, prosecution or other proceedings shall be instituted against an employee of the State Government in respect of anything done or intended to be done under this Act, unless the suit, prosecution or other proceeding has been instituted within six months from the date of the act complained of.

23. No assessment made and no order passed under this Act or the rules made thereunder by the authority referred to in clause (b) of section 5 shall be called in question in any civil court and save as is provided in section 24, no appeal or application for revision or review shall lie against any such assessment or order.

24. (1) Any person aggrieved by any order under this Act may appeal within sixty days from the date of such order, to such authority and in such manner as may be prescribed.

(2) Subject to such rules of procedure as may be prescribed, the prescribed authority in disposing of any appeal filed under sub-section (1), may—

- (a) confirm, reduce, enhance or annul the assessment; or
- (b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.

(3) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (4), be final.

(4) Subject to such rules as may be prescribed the prescribed authority may, either of its own motion or on application, call for and examine the record of any order passed or the proceedings recorded by any officer or person subordinate to such authority, for the purpose of satisfying itself as to the legality or propriety of such order, or as to the regularity of such proceedings, and may pass such order in reference thereto as it thinks fit.

(5) Nothing in this section shall apply to the orders or proceedings of any Court or Magistrate.

25. (1) The State Government may 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 following matters, namely:—

- (a) the form of application for registration under sub-section (2) of section 4, the authority to which such applications shall be made, the manner and form in which such authority shall maintain a record of registrations;
- (b) the forms in which books of account shall be kept under clause (a) of section 5;

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- (c) the authority to which and the period for which returns are to be furnished under clause (b) of section 5, the forms of such returns, the date before which they are to be furnished and the particulars which may be necessary for the purposes of this Act other than those specified in the said clause to be contained in those returns;
- (d) the time within which and the manner in which information shall be furnished under section 8;
- (e) the manner in which refunds under section 12 shall be made;
- (f) the authority which may, under section 16, accord previous sanction to the institution of proceedings;
- (g) the authority which may, under sub-section (1) of section 18, accept payment by way of composition for offences under this Act; and
- (h) the authority to which and the manner in which an appeal shall be filed under sub-section (1) of section 24 and the authority which may exercise powers under sub-section (4) of that section.

(3) In making any rule under sub-section (1) or sub-section (2), the State Government may provide that any person committing a breach thereof shall, on conviction, be punishable with fine which may extend to one hundred rupees.

26. Nothing in this Act shall apply to any sale or purchase of paddy which takes place outside the State of West Bengal or in course of inter-State trade or commerce or in course of import into, or export out of, the territory of India.

Act not to apply to certain sales and purchases.

West Ben. Ord II of 1970. 27. (1) The West Bengal (Tax on paddy purchased by rice mills) Ordinance, 1970, is hereby repealed.

Repeal and savings.

(2) Anything done or any action taken under the West Bengal (Tax on paddy purchased by rice mills) Ordinance, 1970, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 14th day of January, 1970.