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**Government of West Bengal**  
**Legislative Department**

**West Bengal Act IV of 1954**

**The West Bengal Sales  
Tax Act, 1954**

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# West Bengal Act IV of 1954

## THE WEST BENGAL SALES TAX ACT, 1954.

*[Passed by the West Bengal Legislature.]*

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 28th March, 1954.]

*An Act to impose a tax on the sale of cigarettes and other commodities in West Bengal.*

WHEREAS it is expedient to impose a tax on the sale of cigarettes and other commodities in West Bengal;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Bengal Sales Tax Act, 1954.

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

(3) It shall come into force immediately on the West Bengal Cigarettes Taxation Ordinance, 1954, ceasing to operate.

Short  
title,  
extent  
and  
com-  
mence-  
ment.

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

Definitions.

(a) “cigarettes” include smoking mixtures ready for use in rolling cigarettes or for use in tobacco pipes, but do not include *bidis*;

(b) “dealer” means any person who sells cigarettes manufactured, made or processed by him in West Bengal, or brought by him into West Bengal from any place outside West Bengal for the purpose of sale in West Bengal;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “sale-price” used in relation to a dealer means the amount of the money consideration for the sale of cigarettes manufactured, made or processed by him in West Bengal, or brought by him into West Bengal from any place outside West Bengal for the purpose of sale in West Bengal, less any sum allowed as cash discount according to trade practice, but includes any sum charged for containers or other materials for the packing of cigarettes;

(e) “turnover” used in relation to any period means the aggregate of the sale-prices or parts of sale-prices receivable by a dealer or, if a dealer so elects, actually received by him, during such period after deducting—

(i) the amount, if any, refunded by him in respect of any cigarettes returned by purchasers within such period, and

(Sections 3—5.)

- (ii) two and three quarter *per centum* of the aggregate hereinbefore referred to, after deduction therefrom of the amount, if any, under sub-clause (i):

Provided that an election as aforesaid once made shall not be altered except with the permission of the prescribed authority and on such terms and conditions as he may think fit to impose.

Taxing  
authori-  
ties.

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.

Liability  
to pay-  
ment of  
tax.

4. Every dealer shall pay a tax at the rate of three *per centum* of his turnover.

Registra-  
tion of  
dealers.

5. (1) Every dealer shall get himself registered with the prescribed authority and shall possess a registration certificate.

(2) An application by a dealer for getting himself registered and for a registration certificate shall be made to the prescribed authority in such manner and within such time and shall be accompanied by such fee as may be prescribed.

(3) The prescribed authority shall register the applicant and issue to him a registration certificate in the prescribed form, if the prescribed authority is satisfied that the application is *bona fide* and is in order.

(4) The prescribed authority shall have power—

- (a) to require any person who he has reason to believe is a dealer, to get himself registered;
- (b) for good or sufficient reasons, to cancel, modify or amend any registration made and any registration certificate issued by him;
- (c) for good or sufficient reasons, to demand from a dealer who has been registered or a person who has applied for registration under this section or a person who has been required to get himself registered under clause (a), reasonable security for proper payment of tax.



IV of 1954.]

(Sections 6—9.)

(5) No application for registration made under sub-section (2) shall be refused and no order under any of the clauses of sub-section (4) shall be made, unless the applicant, the person concerned, or the dealer has been given an opportunity of being heard.

6. No person shall transport from any railway station, steamer station, air-port, post office, or any other place whether of similar nature or otherwise, notified in this behalf by the State Government, any consignment of cigarettes exceeding such quantities and except in accordance with such conditions as may be prescribed. Such conditions shall be made with a view to ensure that there is no evasion of the tax imposed by this Act.

Restriction on movement.

7. The prescribed authority or any other officer who may be authorised by the State Government in this behalf may, for the purpose of verifying whether cigarettes are being transported in contravention of the provisions of section 6, and subject to such restrictions as may be prescribed,—

Power to search and seize.

(i) intercept and search any road vehicle, or rivercraft or any load carried by a person; and

(ii) seize any cigarettes which he has reason to believe are being transported in contravention of the provisions of section 6, together with any container or other materials for the packing of cigarettes.

8. (1) Every dealer registered under this Act shall submit to the prescribed authority returns of turnover in such manner, for such periods and by such dates as may be prescribed.

Returns and payment of tax.

(2) The dealer shall, before submitting any return of turnover 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.

9. (1) If the prescribed authority is satisfied that the return of turnover submitted by a dealer is correct and complete, he may, without requiring the presence of the dealer or the production of evidence by him, determine the amount of tax due from the dealer.

Assessment of tax.

(2) (a) If the prescribed authority is not satisfied with the return of turnover submitted by a dealer and requires the presence of the dealer or the production of evidence by him, he may serve on such a dealer a notice requiring him, on a date to be therein specified, to attend before him or to produce or to cause to be produced before him, any evidence in support of the return.

## (Section 10.)

(b) On the day specified in the notice issued under clause (a) or as soon afterwards as may be, the prescribed authority, after hearing or examining such evidence as the dealer may produce and such other evidence as the prescribed authority may require on specified points, shall, by an order in writing, assess and determine the tax payable by him.

(3) If,—

- (i) a dealer fails to submit any return of turnover as required under sub-section (1) of section 8, or
- (ii) a dealer fails to comply with all the terms of a notice issued under sub-section (2) of this section, or
- (iii) upon information received, the prescribed authority is satisfied that a dealer who is liable to pay tax under this Act, has failed to get himself registered,

the prescribed authority shall, after giving the dealer an opportunity of being heard, make the assessment of the tax payable under this Act, in the prescribed manner to the best of his judgment and determine the sum payable by the dealer on the basis of such assessment. The said authority may in such cases and in cases where a dealer has failed to comply with the provisions of sub-section (2) of section 8, direct that the dealer shall in addition pay by way of penalty a sum not exceeding the amount of the tax assessed, if he is satisfied that the failure was unjustified or wilful.

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

Payment  
of tax.

**10. (1) The amount of tax—**

- (a) payable, where the returns are furnished under sub-section (1) of section 8 without receipt showing full payment thereof, or
- (b) assessed under section 9, less the sum, if any, already paid by the dealer,

shall, together with any penalty to be paid under sub-section (3) of section 9, be paid by the dealer into a Government treasury or the Reserve Bank of India by such date as may be specified in a notice issued by the prescribed authority for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice:

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



(Sections 11—13.)

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

**11.** (1) The prescribed authority shall, in the prescribed manner, refund to a dealer applying in this behalf any amount of tax or penalty 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 the amount of tax due in respect of other period: Refunds

Provided that no refund shall be made unless the claim for refund is made within twelve months from the date of the assessment of tax or the date of the imposition of penalty or within six months from the date of any order passed on appeal or review under section 12.

(2) Nothing in sub-section (1) shall be deemed to empower the prescribed authority to amend, vary or rescind any order passed on appeal or review under section 12 or to confer on a dealer any relief in addition to what he is entitled under the provisions of this Act.

**12.** (1) Any person aggrieved by an order made under this Act or an order made under any rule made thereunder, including an order passed on review under sub-section (2), may appeal to such officer of Government as may be prescribed within thirty days from the date of such order: Appeal and review.

Provided that no appeal against an order of assessment or penalty, if any, shall be entertained by the said authority unless he is satisfied that such amount of the tax as the appellant may admit to be due from him has been paid.

(2) Subject to such rules as may be prescribed, any assessment made, tax determined, or order passed under this Act or the rules made thereunder may be reviewed within three months by the person passing it upon application or of his own motion:

Provided that—

- (i) no review shall lie from an appeal under sub-section (1);
- (ii) no review shall lie where an appeal has already been preferred under sub-section (1);
- (iii) no order shall be passed on review, without giving any person who may be adversely affected, an opportunity of being heard.

**13.** (1) Every dealer shall—

- (a) keep true accounts of cigarettes manufactured, made or processed by him, or brought by him into West Bengal from any place outside West Bengal for the purpose of sale in West Bengal, and of turnovers, and if the prescribed authority is satisfied that such accounts are not sufficiently clear and intelligible, he may require the dealer to keep accounts in such form as may be prescribed;

Maintenance of accounts, furnishing of information, inspection, search and seizure.

(Sections 14—16.)

- (b) furnish any information that may be required by the prescribed authority in order to enable him to carry out the purposes of this Act;
- (c) make available for inspection by the prescribed authority any accounts, registers, vouchers or other documents relating to the manufacture, making, processing, import, sale, or purchase of cigarettes or matters connected therewith, as may be required by the prescribed authority.

(2) The prescribed authority may, in accordance with such rules as may be prescribed, enter and search any place where he has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, vouchers or other documents referred to in clause (c) of sub-section (1) and, if necessary, inspect, seize or retain them for so long as may be necessary for examination or for the purpose of any prosecution.

Information to be furnished regarding change of business.

#### 14. If any dealer—

- (a) sells or otherwise disposes of his business or any part of his business or any place of business or effects or comes to know of any other change in the ownership of the business, or
- (b) discontinues his business or changes his place of business or opens a new place of business, or
- (c) changes the name or nature of his business,

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

Transfer of business.

15. Where the ownership of the business of a dealer registered under this Act is transferred absolutely or transferred by way of lease and the transferee or the lessee carries on such business 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 dealer) be deemed to be and to have always been registered (in the case of a lease only for so long as the lease subsists) as if the registration certificate of such dealer had initially been granted to the transferee or the lessee.

Penalties.

#### 16. (1) Any person who,—

- (a) carries on business as a dealer, after the expiry of one month from the commencement of this Act without getting himself registered or without possessing a registration certificate,
- (b) contravenes the provisions of section 6,
- (c) obstructs any person in the exercise of his powers under section 7 or sub-section (2) of section 13,



(Sections 17—19.)

(d) fails to comply with the provisions of section 8, any of the clauses of sub-section (1) of section 13 or section 14,

(e) knowingly produces incorrect accounts, registers, vouchers or other documents or knowingly furnishes incorrect information,

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 during the period of the continuance of the offence:

Provided that no prosecution for an 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 sub-section (3) of section 9:

Provided further that for offences of contravention of section 6 the Court may, in addition to any fine imposed, order confiscation of anything seized under section 7.

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

(3) 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.

17. (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 double the amount of tax payable or a sum of rupees two thousand, whichever is greater.

Compounding of offences.

(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.

18. No suit, prosecution or other legal proceedings, shall lie against any public servant for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Indemnity.

19. (1) All particulars contained in any return furnished, accounts, registers, vouchers or documents inspected or produced or information supplied, in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such return, accounts, registers, vouchers, documents or information or record or any part thereof, or to give evidence before it in respect thereof.

Returns, etc., to be confidential.



(Sections 20, 21.)

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to a fine.

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

(a) of any of the particulars referred to in sub-section (1) for the purpose of a prosecution under the Indian Penal Code in respect of any such return, accounts, registers, vouchers, documents, information or evidence, or for the purposes of a prosecution under this Act; or

Act XLV of 1860.

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

Power to take evidence on oath, etc.

**20.** The prescribed authority or such persons appointed to assist such authority under sub-section (2) of section 3 as may be prescribed under this section, 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;

and any proceeding under this Act before the prescribed authority or any person appointed to assist such authority under sub-section (2) of section 3 shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

Power to make rules.

**21.** (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) anything required to be prescribed under this Act;

(b) delegation of any powers and duties of the prescribed authority to any person appointed under sub-section (2) of section 3;

(c) the procedure to be followed in appeals or reviews under section 12;

(d) payment of fees for appeals or reviews under section 12 or for any other matter connected with the carrying out of the purposes of this Act.

(Sections 22—25.)

(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.

**22.** Notwithstanding anything contained in this Act no tax shall be imposed on the sale or purchase of cigarettes—

Act not to apply to certain sales and purchases.

(i) where such sale or purchase takes place in the course of inter-State trade or commerce;

(ii) where such sale or purchase takes place in the course of import of cigarettes into, or export of cigarettes out of, the territory of India.

**23.** Nothing in the Bengal Finance (Sales Tax) Act, 1941, shall apply to cigarettes:

Bengal Act VI of 1941 not to apply to cigarettes.

Provided that—

(i) the said Act shall continue to apply in respect of cigarettes sold before the commencement of this Act and in respect of sales of such cigarettes subsequent to the commencement of this Act;

(ii) the price of goods sold to a dealer as defined in this Act for use by such dealer in manufacturing, making or processing cigarettes shall be deducted in calculating the taxable turnover under section 5 of the said Act.

**24.** Any rules, appointment or registration made, any liability incurred, any tax assessed, determined or paid, any fee paid, any returns furnished, any proceedings commenced, any notification published, any action taken or anything whatsoever done under any provision of the West Bengal Cigarettes Taxation Ordinance, 1954, shall, on the said Ordinance, ceasing to operate, be deemed to have been made, incurred, assessed, determined, paid, furnished, commenced, published, taken or done under the corresponding provision of this Act as if this Act had commenced on the 28th day of January, 1954.

Savings.

**25.** If the State Government is at any time of opinion that it would be in the public interest that any commodity (other than cigarettes) which is liable to taxation under the Bengal Finance (Sales Tax) Act, 1941, should be taxed under this Act, it may, by notification in the *Official Gazette*, specify such commodity; and on and from the date of such notification the Bengal Finance (Sales Tax) Act, 1941, shall cease to apply to such commodity and this Act shall apply to such commodity as if references to cigarettes in this Act were references to such commodity and as if this Act in its application to such commodity had come into force on such date.

Power of State Government to specify commodities taxable under Bengal Act VI of 1941 to which this Act shall apply instead.