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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 725-L.—28th July, 2023.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XXIV of 2022

THE WEST BENGAL TAXATION LAWS (AMENDMENT) ACT, 2022.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the Kolkata Gazette, Extraordinary, of the 28th July, 2023.]

An Act to amend the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Transport Infrastructure Development Fund Act, 2002 and the West Bengal Goods and Services Tax Act, 2017.

Whereas it is expedient to amend the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Transport Infrastructure Development Fund Act, 2002 and the West Bengal Goods and Services Tax Act, 2017, for the purposes and in the manner hereinafter appearing;

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

Short title and commencement.

1. (1) This Act may be called the West Bengal Taxation Laws (Amendment) Act, 2022.

West Ben. Act VI of 1979. West Ben. Act XXI of 2002. West Ben. Act XXVIII of 2017.

(Section 2.)

(2) Save as otherwise provided, this section shall come into force with immediate effect, and the other provisions of this Act shall come into force on such date, with prospective or retrospective effect as required, as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of West Ben. Act VI of 1979.

- 2. In the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979,—
 - (1) after section 4, the following section shall be inserted:—

"Tax deduction at source.

4A. (1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

- (a) a department or establishment of the Central Government or any State Government; or
- (b) a local authority; or
- (c) such persons or category of persons as may be notified by the Government, (hereinafter in this section referred to as "the deductor"), to deduct towards tax leviable under section 3, such amount as may be prescribed, but not exceeding two thousand and five hundred rupees in a financial year, from a supplier of goods or services or both within the State of West Bengal,—
 - (i) who has failed to obtain a certificate of enrolment under subsection (2) of section 5, or
 - (ii) who, being a person enrolled under the Act, has failed to produce a valid profession tax payment certificate (PTPC),

(hereinafter in this section referred to as "the deductee"), in such manner as may be prescribed.

- (2) Where deduction of any amount is made under sub-section (1), the amount so deducted shall be paid to the Government along with a statement of such deductions by the deductor in such manner and within such time as may be prescribed.
- (3) On receipt of the statement of deduction and verification of the amount paid under sub-section (2), the prescribed authority shall issue—
 - (a) a Provisional Certificate of Enrolment along with a proof of deduction to the deductee on whose account a deduction has been made and who has failed to obtain a certificate of enrolment, or
 - (b) a proof of deduction to the deductee being an enrolled person on whose account a deduction has been made for failure to produce the valid profession tax payment certificate (PTPC), in such manner as may be prescribed.
- (4) The deductee specified in clause (a) of sub-section (3), shall, within thirty days of receipt of documents referred to in sub-section (3), make an application for enrolment through the website www.wbprofessiontax.gov.in, in such manner as may be prescribed.

(Sections 3, 4.)

- (5) The deductee specified in clause (b) of sub-section (3), shall make payment of tax after adjusting the amount(s) deducted under sub-section (1) in a financial year.
- (6) Where the total amount deducted in a financial year from a deductee, who has obtained enrolment either prior to such deduction or after, exceeds the amount payable as per the Act, such excess amount shall be refunded as per the provisions of section 18.

Explanation.— For the purpose of this section "supplier" means a taxable person as defined under the West Bengal Goods and Services Tax Act, 2017, or a dealer as defined under the West Bengal Sales Tax Act, 1994 or the West Bengal Value Added Tax Act, 2003 or the Central Sales Tax Act, 1956, whether or not liable to pay tax under the aforesaid Acts, and who is liable to pay tax under section 3 of the Act."

West Ben. Act XXVIII of 2017. West Ben. Act XLIX of 1994. West Ben. Act XXXVII of 2003. 74 of 1956.

- (2) in sub-section (3) of section 6, for the words "a penalty not exceeding rupees ten for each English calendar month of delay", the words, figure and brackets "a penalty not exceeding the amount of late fees payable under sub-section (2) that would have been payable had the return been filed on the date of imposition of penalty under this sub-section" shall be substituted.
- (3) in sub-section (2) of section 6C, for the words "before renewal of any license", the words "before renewal of any license or any certificate or any permit or any document of like nature" shall be substituted.
 - (4) in section 18, after the proviso, the following proviso shall be inserted:—

"Provided further that no refund shall be paid to a person, if such excess amount is up to five hundred rupees.".

Amendment of West Ben. Act XXI of 2002.

- 3. In clause (b) of sub-section (1) of section 4 of the West Bengal Transport Infrastructure Development Fund Act, 2002,—
 - (a) in sub-clause (x), for the words "Essar Oil Limited", the words "Nayara Energy Limited" shall be substituted;
 - (b) after the proviso, the following proviso shall be added:—

"Provided further that the State Government may, by notification in the *Official Gazette*, amend the list of persons specified in clause (b) of sub-section (1).".

Amendment of West Ben. Act XXVIII of 2017.

- 4. In the West Bengal Goods and Services Tax Act, 2017,—
- (l) in section 16,—
 - (a) in sub-section (2),—
 - (i) after clause (b), the following clause shall be inserted:—
 - "(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;";
 - (ii) in clause (c), the words, figures and letter "or section 43A" shall be omitted;
 - (b) in sub-section (4), for the words and figures "due date of furnishing of the return under section 39 for the month of September", the words "thirtieth day of November" shall be substituted;

(Section 4.)

- (2) in section 29, in sub-section (2),—
 - (a) in clause (b), for the words "returns for three consecutive tax periods", the words "the return for a financial year beyond three months from the due date of furnishing the said return" shall be substituted;
 - (b) in clause (c), for the words "a continuous period of six months", the words "such continuous tax period as may be prescribed" shall be substituted;
- (3) in section 34, in sub-section (2), for the word "September", the words "the thirtieth day of November" shall be substituted;
 - (4) in section 37,—
 - (a) in sub-section (1),—
 - (i) after the words "shall furnish, electronically,", the words "subject to such conditions and restrictions and" shall be inserted;
 - (ii) for the words "shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed", the words "shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies" shall be substituted;
 - (iii) the first proviso shall be omitted;
 - (iv) in the second proviso, for the words "Provided further that", the words "Provided that" shall be substituted;
 - (v) in the third proviso, for the words "Provided also that", the words "Provided further that" shall be substituted;
 - (b) sub-section (2) shall be omitted;
 - (c) in sub-section (3),—
 - (i) the words and figures "and which have remained unmatched under section 42 or section 43" shall be omitted;
 - (ii) in the first proviso, for the words and figures "furnishing of the return under section 39 for the month of September", the words "the thirtieth day of November" shall be substituted;
 - (d) after sub-section (3), the following sub-section shall be inserted:—
 - "(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods.";

(Section 4.)

(5) For section 38, the following section shall be substituted:—

"Communication of details of inward supplies and input tax credit. 38. (1) The details of outward supplies furnished by the registered persons under sub-section (1) of section 37 and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the

recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.

- (2) The auto-generated statement under sub-section (1) shall consist of—
 - (a) details of inward supplies in respect of which credit of input tax may be available to the recipient; and
 - (b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37,—
 - (i) by any registered person within such period of taking registration as may be prescribed; or
 - (ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or
 - (iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or
 - (iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or
 - (v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed; or
 - (vi) by such other class of persons as may be prescribed.";
 - (6) in section 39,—
 - (a) in sub-section (5), for the word "twenty", the word "thirteen" shall be substituted;
 - (b) in sub-section (7), for the first proviso, the following proviso shall be substituted:—

"Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,—

(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or

(Section 4.)

- (b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.";
- (c) in sub-section (9),—
 - (i) for the words and figures "Subject to the provisions of sections 37 and 38, if", the word "Where" shall be substituted;
 - (ii) in the proviso, for the words "the due date for furnishing of return for the month of September or second quarter", the words "the thirtieth day of November" shall be substituted;
- (d) in sub-section (10), for the words "has not been furnished by him", the following shall be substituted:—

"or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period.";

- (7) for section 41, the following section shall be substituted:—
- "Availment of input tax credit.

 41. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.
- (2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.";

- (8) section 42 shall be omitted:
- (9) section 43 shall be omitted:
- (10) section 43A shall be omitted;
- (11) in section 47, in sub-section (1),—
 - (a) the words "or inward" shall be omitted;
 - (b) the words and figures "or section 38" shall be omitted;
 - (c) after the words and figures "section 39 or section 45", the words and figures "or section 52" shall be inserted;

(Section 4.)

- (12) in section 48, in sub-section (2), the words and figures ", the details of inward supplies under section 38" shall be omitted;
 - (13) in section 49,—
 - (a) in sub-section (2), the words, figures and letter "or section 43A" shall be omitted;
 - (b) in sub-section (4), after the words "subject to such conditions", the words "and restrictions" shall be inserted;
 - (c) after sub-section (11), the following sub-section shall be inserted:—
 - "(12) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.";
- (14) in section 50, for sub-section (3), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017:—
- "(3) Where the input tax credit has been wrongly availed and utilized, the registered person shall pay interest on such input tax credit wrongly availed and utilized, at such rate not exceeding twenty-four *per cent*. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.";
- (15) in section 52, in sub-section (6), in the proviso, for the words "due date for furnishing of statement for the month of September", the words "thirtieth day of November" shall be substituted;
 - (16) in section 54,—
 - (a) in sub-section (1), in the proviso, for the words and figures "the return furnished under section 39 in such", the words "such form and" shall be substituted:
 - (b) in sub-section (2), for the words "six months", the words "two years" shall be substituted;
 - (c) in sub-section (10), the words, figure and brackets "under sub-section (3)" shall be omitted;
 - (d) in the Explanation, in clause (2), after sub-clause (b), the following sub-clause shall be inserted:—
 - "(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;".

(Sections 5 - 8.)

Amendment of Notification issued under section 146 of West Bengal Goods and Services Tax Act, 2017, retrospectively.

5. (1) The notification of the Finance Department, Government of West Bengal bearing number 122-F.T., dated the 24th January, 2018, issued by the Governor on the recommendations of the Council, under section 146 of the West Bengal Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the First Schedule, on and from the date specified in column (3) of that Schedule.

(2) For the purposes of sub-section (1), the State Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the State Government had the power to amend the said notification under section 146 of the West Bengal Goods and Services Tax Act, 2017,

West Ben. Act XXVIII of 2017.

Amendment of Notification issued under subsections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of West Bengal Goods and Services Tax Act, 2017.

retrospectively.

6. (1) The notification of the Finance Department, Government of West Bengal bearing number 1153-F.T., dated the 29th June, 2017, issued by the Governor on the recommendations of the Council, under sub-sections (1) and (3) of section 50, subsection (12) of section 54 and section 56 of the West Bengal Goods and Services Tax Act, 2017, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Second Schedule, on and from the date specified in column (3) of that Schedule.

retrospectively, at all material times.

(2) For the purposes of sub-section (1), the State Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the State Government had the power to amend the said notification under sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the West Bengal Goods and Services Tax Act, 2017, retrospectively, at all material times.

Retrospective exemption from, or levy or collection of, State tax in certain cases.

- 7. (1) Notwithstanding anything contained in the notification of the Finance Department, Government of West Bengal bearing number 1125-F.T., dated 28.06.2017 issued by the Governor, on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the West Bengal Goods and Services Tax Act, 2017, no State tax shall be levied or collected in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive).
- (2) No refund shall be made of all such tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.
- **8.** (1) Subject to the provisions of sub-section (2), the notification of the Finance Department, Government of West Bengal bearing number 1704-F.T., dated the 30th September, 2019 issued by the Governor, on the recommendations of the Council, in exercise of the powers under sub-section (2) of section 7 of the West Bengal Goods and Services Tax Act, 2017, shall be deemed to have, and always to have, for all purposes, come into force on and from the 1st day of July, 2017.
- (2) No refund shall be made of all such State tax which has been collected, but which would not have been so collected, had the notification referred to in sub-section (1) been in force at all material times.

Retrospective effect to notification issued under sub-section (2) of section 7 of West Bengal Goods and Services Tax Act, 2017.

	THE FIRST SCHEDULE	
Notification number and date	Amendment	Date of effect of amendment
(1)	(2)	(3)
122-F.T., dated the 24th January, 2018.	In the said notification, in paragraph 1, for the words "furnishing of returns and computation and settlement of Integrated tax", the following shall be substituted, namely:—	22nd June, 2017.
	"furnishing of returns and computation and settlement of integrated tax and save as otherwise provided in the notification number 2051-F.T., dated the 23rd December, 2019, all functions provided under the West Bengal Goods and Services Tax Rules, 2017.".	
	THE SECOND SCHEDULE	
Notification number and date	Amendment	Date of effect of amendment
(1)	(2)	(3)
1153-F.T., dated the 29th June, 2017.	In the said notification, in the Table, against serial number 2, in column (3), for the figures "24", the figures "18" shall be substituted.	1st July, 2017.

By order of the Governor,

PRADIP KUMAR PANJA, Pr. Secy. to the Govt. of West Bengal, Law Department.