

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XLIII of 1994

THE WEST BENGAL ADDITIONAL TAX AND
ONE-TIME TAX ON MOTOR VEHICLES
(AMENDMENT) ACT, 1994.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 5th October, 1994.]

[5th October, 1994.]

An Act to amend the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989.

West Ben.
Act XIX of
1989.

WHEREAS it is expedient to amend the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, for the purposes and in the manner hereinafter appearing;

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

1. (1) This Act may be called the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1994.

(2) This section, clause (a) of section 8 and section 9 shall be deemed to have come into force on the 17th day of August, 1994; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.Short title
and
commenc-
ment.

2. For sub-section (2) of section 3 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 (hereinafter referred to as the principal Act), the following sub-section shall be substituted:—

(2) (a) A motor car or omnibus registered as a non-transport vehicle in any State, other than West Bengal, and plying in West Bengal on any special occasion, seasonal business or particular temporary need, shall be liable to pay additional tax at the rate specified under the heading "A Motor vehicles for carrying passengers not plying for hire:" in Schedule I.

Amendment
of section 3
of West Ben.
Act XIX of
1989.

(b) An omnibus registered as a private service vehicle in any State, other than West Bengal, and plying in West Bengal under a temporary permit on any special occasion, seasonal business or particular temporary need, shall be liable to pay, additional tax at the rate specified under the heading "A. Motor vehicles for carrying passengers not plying for hire:" in Schedule I.'

*The West Bengal Additional Tax and One-time Tax on
Motor Vehicles (Amendment) Act, 1994.*

[West Ben. Act

(Sections 3-5.)

Amendment
of
section 10.

3. For clause (b) of sub-section (2) of section 10 of the principal Act, the following clause shall be substituted:—

“(b) after the period as aforesaid is over, the registered owner of the motor vehicle or the person legally in possession of the motor vehicle, as the case may be, shall, for the delay for payment of additional tax or one-time tax, be liable to pay penalty at the following rate:—

(i) for the delay up to fifteen days after the expiry of the day on which the additional tax or one-time tax becomes payable;	nil
(ii) for the delay from sixteenth day to forty-sixth day after the expiry of the day on which the additional tax or one-time tax becomes payable	25% of the tax payable
(iii) for the delay from forty-sixth day to seventy-fifth day after the expiry of the day on which the additional tax or one-time tax becomes payable	50% of the tax payable
(iv) for the delay for more than seventy-five days after the expiry of the day on which the additional tax or one-time tax becomes payable	the amount equal to the amount of the tax payable.”.

Amendment
of section
11.

4. In section 11 of the principal Act, after sub-section (2), the following sub-section shall be inserted:—

“(3) If a motor vehicle is seized under sub-section (1), the officer seizing the motor vehicle may detain the motor vehicle in respect of which additional tax is due until the person liable to pay the additional tax—

(a) has satisfied the Taxing Officer having jurisdiction within thirty days of detention of the motor vehicle that the additional tax has actually been paid, or
(b) has within thirty days of detention of the motor vehicle paid to the Taxing Officer having jurisdiction the additional tax together with the penalty under section 10 within the prescribed time.”.

Amendment
of section
12.

5. In section 12 of the principal Act,—

(a) in sub-section (1), for the words “within fifteen days from the date of issue of the notice.”, the words, figures and

*The West Bengal Additional Tax and One-time Tax on
Motor Vehicles (Amendment) Act, 1994.*

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(Section 5.)

brackets “within thirty days from the date of detention of the motor vehicle under sub-section (3) of section 11 or of double the amount of the total additional tax due together with the penalty under section 10 (hereinafter referred to as the aggregate amount) within a further period of fifteen days, as the case may be,” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted:—

“(2) Where the driver leaves the motor vehicle, the officer who seizes the motor vehicle shall issue a notice to the owner of the motor vehicle by registered post with acknowledgement due, calling upon him to make payment of the due additional tax or the aggregate amount, as the case may be, to the Taxing Officer of the area in which the motor vehicle has been seized.”;

(c) for sub-section (6), the following sub-section shall be substituted:—

“(6) If the owner fails to make payment of the aggregate amount under sub-section (1), the motor vehicle shall be sold in auction by the concerned Taxing Officer, and a notice specifying the date on which the motor vehicle shall be sold in auction, unless the owner of the motor vehicle makes payment of the aggregate amount together with 20 per cent. thereof as administrative cost on or before the date of auction, together with the particulars of the motor vehicle, shall be published in at least two newspapers of the same date, of which one shall be in Bengali. In such case, the date of auction shall not be earlier than one month from the date of publication of the notice in the newspapers.”;

(d) for sub-section (7), the following sub-section shall be substituted:—

“(7) If the driver leaves the motor vehicle as soon as it is seized and the owner is not immediately available and his address cannot be ascertained despite enquiry from the registering authority, or if no person turns up claiming the ownership of the motor vehicle within forty-five days from the date of seizure of the motor vehicle, the motor vehicle shall be sold in auction by the concerned Taxing Officer in accordance with the provisions of sub-section (6).”;

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Motor Vehicles (Amendment) Act, 1994.*

[West Ben. Act

(Section 6.)

(e) for sub-section (8), the following sub-section shall be substituted:—

“(8) If in any auction under sub-section (6) or sub-section (7), the price realised falls short of the dues, the balance shall be recoverable from the owner of the motor vehicle as if it were a public demand under the Bengal Public Demands Recovery Act, 1913. If the price obtained at the auction is higher than the dues together with the incidental costs as may be assessed by the officer conducting the auction, any other claim on the same motor vehicle by the State Government shall be recovered first from the excess amount, and if there is still any excess amount, any claim on the same motor vehicle by any bank or other financier shall be recovered from such excess amount. If there is any amount left after the recovery of the claims as aforesaid, the same shall be payable to the registered owner of the motor vehicle. If the owner is not available on notice, the amount shall remain in deposit for three years from the date on which it is refundable and shall thereafter be forfeited to the State.”;

Ben. Act III
of 1913.

(f) after sub-section (8), the following sub-section shall be inserted:—

“(9) If a motor vehicle is seized for default in payment of tax under the West Bengal Motor Vehicles Tax Act, 1979 and additional tax under this Act, the officer who seizes the motor vehicle shall issue a single seizure list and a single notice of demand. In the case of sale of the same motor vehicle in auction, the Taxing Officer shall cause publication of a single notice in newspapers in the manner prescribed.”.

West Ben.
Act IX of
1979.

6. After sub-section (2) of section 16 of the principal Act, the following section shall be inserted:—

“(3) Where a person is liable to pay the additional tax or one-time tax under this Act as well as the tax under the West Bengal Motor Vehicles Tax Act, 1979, in respect of any motor vehicle, he may, notwithstanding anything contained in this Act or the West Bengal Motor Vehicles Tax Act, 1979, sign a single declaration in the form prescribed under sub-section (1).”.

Amendment
of section
16.

*The West Bengal Additional Tax and One-time Tax on
Motor Vehicles (Amendment) Act, 1994.*

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(Section 7.)

7. For section 21 of the principal Act, the following section shall be substituted:—

“Refund or remit of tax. 21. (1) (a) Every person, who is entitled to claim refund or remit of tax, under sub-section (2) of section 8 or sub-section (6) of section 9, shall make such claim in such form and manner and before such authority as may be prescribed.

(b) Where a Taxing Officer is satisfied that the certificate of registration and the tax token issued under section 14 in respect of a motor vehicle have been surrendered or that a motor vehicle has not been used or kept for use for a complete calendar month, he shall, on claim under sub-section (2) of section 8 or sub-section (6) of section 9, refund or remit for each such calendar month in respect of such motor vehicle one-twelfth of additional tax or one-time tax, as the case may be, payable for the year:

Provided that where a motor vehicle, other than a motor vehicle for the transport of goods or a motor vehicle plying for hire for the carriage of passengers, has not been used for any period in West Bengal by reason of its being removed and kept outside West Bengal during such period, the Taxing Officer shall not refund or remit in respect of such motor vehicle any portion of additional tax or one-time tax, as the case may be, for the quarterly period during which the motor vehicle is removed and kept outside West Bengal.

(c) Where an excess additional tax or one-time tax has been paid for any period on account of over assessment by the Taxing Officer or otherwise, the amount paid in excess of the amount payable under this Act shall be refunded.

(d) Where after the payment of additional tax or one-time tax in respect of a motor vehicle, it is found that the motor vehicle is not subject to any additional tax or one-time tax under this Act, the additional tax or one-time tax, as the case may be, so paid shall be refunded:

Provided that no additional tax or one-time tax shall be refunded unless the person claiming refund has made an application in that behalf to the concerned Taxing Officer within one year from the date on which the additional tax or one-time tax, as the case may be, was paid, and every such refund shall be subject to such conditions as may be prescribed:

Provided further that the Taxing Officer shall be competent to sanction refund up to such limit as may be prescribed. In the case of any amount which exceeds the prescribed limit, the Taxing Officer shall refer the matter to the Transport Department of the Government of West Bengal.

Substitution
of new
section for
section 21.

The West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 1994.

[West Ben. Act

(Section 8.)

(2) Any amount to be refunded or remitted under sub-section (1) may, at the option of the person entitled to the refund or remit of such amount, be adjusted towards the additional tax or one-time tax, as the case may be, for any subsequent period:

Provided that if any amount being the penalty due from the person entitled to the refund or remit as aforesaid remains outstanding, the amount to be refunded or remitted shall first be adjusted towards the outstanding, and the balance, if any, shall be refunded.”.

**Amend-
ment of
Schedule I.**

8. In Schedule I of the principal Act,—

(a) under the heading "B. Motor vehicles (for carrying passengers) plying for hire:", in serial 1 and the entries relating thereto, for item (f), the following item shall be substituted:—

(f) Public service vehicle including contract carriage but excluding stage carriage—

(i) motorcab or luxury taxi, up to seating capacity of 6 driver including

(ii) seating capacity above 6 including driver

Provided that the additional tax shall not be imposed on the following categories of public service vehicles:—

(i) Autorickshaws

(ii) Metered taxis

(iii) Mini buses holding contract carriage permits and plying as ordinary mini buses as stage carriages but not plying as express buses or de luxe buses and also registered in West Bengal.”;

(b) under the heading "C. Motor vehicles for transport of goods:", in item (1),—

(i) in the provis
be omitted;

(ii) after sub-item (b) and the entries relating thereto in the column under the heading "Description of motor vehicles" and the corresponding entries in the column under the heading "Annual rate of tax", the following sub-item and entries shall be inserted:—

“(c) Tractors, breakdown vans used for towing vehicles, trailers and articulated vehicles	50 per cent. of the tax payable under the West Bengal Motor Vehicles Tax
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West Ben.
Act IX of
1979.

*The West Bengal Additional Tax and One-time Tax on
Motor Vehicles (Amendment) Act, 1994.*

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(Section 9.)

Provided that the tractors or trailers which are solely used for agricultural purposes or are exclusively used within tea gardens, and are in no circumstances used on public roads, may be exempted from payment of additional tax, provided the owner of such tractor or trailer, as the case may be, complies with the provisions of sub-section (3) of section 4 and section 13 of the West Bengal Motor Vehicles Tax Act, 1979.”.

West Ben.
Ord. V of
1994.

Repeal and
saving.

9. (1) The West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Ordinance, 1994, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been validly done or taken under the principal Act as amended by this Act:
