

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT

Legislative
West Bengal Act VIII of 1998

THE WEST BENGAL TAXATION LAWS (SECOND AMENDMENT) AND REPEALING ACT, 1998.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 31st December, 1998.]

[31st December, 1998.]

An Act to amend the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976, the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the West Bengal Sales Tax Act, 1994, and to repeal the West Bengal Urban Land Taxation Act, 1976 and the West Bengal Multi-storeyed Building Tax Act, 1979.

WHEREAS it is expedient to amend the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976, the West Bengal Entertainment-cum- Amusement Tax Act, 1982 and the West Bengal Sales Tax Act, 1994, for the purposes and in the manner hereinafter appearing, and to repeal the West Bengal Urban Land Taxation Act, 1976 and the West Bengal Multi-storeyed Building Tax Act, 1979;

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

1. (1) This Act may be called the West Bengal Taxation Laws (Second Amendment) and Repealing Act, 1998.

Short title
and
commencement.

(2) Except as otherwise provided, it shall come into force on such date, or shall be deemed to have come into force on such date not earlier than the first day of May, 1995, as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different provisions of this Act.

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Repealing Act, 1998.*

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(Sections 2-4.)

Amendment
of West Ben.
Act XLIII of
1973.

2. In the West Bengal Primary Education Act, 1973, in section 78, in sub-section (2), in clause (b), for the words “seven *per centum*”, the words “five *per centum*” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of December, 1998.

Amendment
of West Ben.
Act XIV of
1976.

3. In the West Bengal Rural Employment and Production Act, 1976, in section 4, in sub-section (2), in clause (b), for the words “thirty-eight *per centum*”, the words “twenty *per centum*” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of December, 1998.

Amendment
of West Ben.
Act VI of
1982.

4. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982,—

(1) in section 2,—

(a) in clause (e), for the word “December.”, the word “December;” shall be substituted;

(b) after clause (e), the following clause shall be inserted:—

‘(f) “enrolled” means enrolled under clause (d) of sub-section (4c) of section 4A.’;

(2) in section 4A, after sub-section (4b), the following sub-section shall be inserted:—

“(4c) Notwithstanding anything contained elsewhere in this Act,—

(a) where a sub-cable operator referred to in clause (b) of the *Explanation* to sub-section (4a) is a holder of a video cassette recorder set or video cassette player set and transmits from such set for exhibition of any performance, film or programme

through the same cable television network by which he provides cable service to customers as referred to in clause (ii) of sub-section (4a), such sub-cable operator, irrespective of whether or not such sub-cable operator charges or collects any amount separately from persons witnessing such performance, film or programme, shall be liable to pay a tax at such rate, not exceeding ten thousand rupees per year in respect of exhibition of such performance, film or programme through his video cassette recorder set or video cassette player set, within such time as may be specified in

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a notification issued by the State Government in this behalf, and different rates may be specified for such exhibition in different areas;

- (b) the prescribed authority shall, after making such enquiry as he may think necessary and after giving the sub-cable operator a reasonable opportunity of being heard, fix the date on and from which such sub-cable operator shall be liable to pay tax under clause (a);
- (c) every sub-cable operator referred to in clause (a) shall make an application for a certificate of enrolment in the prescribed manner to the prescribed authority within six months from the date of coming into force of section 4 of the West Bengal Taxation Laws (Second Amendment) and Repealing Act, 1998, or ordinarily within ninety days from the date of transmitting any performance, film or programme for exhibition as referred to in that clause, whichever is later;
- (d) the prescribed authority shall, subject to such conditions and restrictions as may be prescribed, issue a certificate of enrolment to the applicant in the prescribed form, if the prescribed authority is satisfied that the application for certificate of enrolment is in order;
- (e) where a sub-cable operator, who is required to apply for a certificate of enrolment under clause (c), fails to make such application to the prescribed authority within the time specified under that clause and if such authority, after giving the sub-cable operator a reasonable opportunity of being heard, is satisfied that the delay in making application for such certificate of enrolment was without any reasonable cause, it may impose by way of penalty a sum not exceeding twenty rupees for each month of delay;
- (f) a sub-cable operator liable to pay tax under clause (a) shall pay the amount of tax payable by him under that clause for any year to the prescribed authority in the prescribed manner, failing which

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he shall be liable to pay a penalty of a sum not exceeding fifty rupees for each month of default if the prescribed authority is satisfied that such default was without any reasonable cause:

Provided that the penalty under this clause shall not be imposed without giving the sub-cable operator a reasonable opportunity of being heard;

(g) the provisions of section 9 and section 9A shall apply *mutatis mutandis* in respect of a sub-cable operator who is in default in making payment of tax or penalty under this sub-section.”.

Amendment
of West Ben.
Act XLIX of
1994.

5. In the West Bengal Sales Tax Act, 1994,—

(1) in section 40, in sub-section (8), for the words “three *per centum*”, the words “two *per centum*” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(2) in section 52, in sub-section (10), for the words “three *per centum*”, the words “two *per centum*” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(3) in section 72,—

(a) for sub-section (1), sub-section (2), sub-section (3), and sub-section (4), the following sub-sections shall be substituted:—

“(1) When a goods vehicle, transporting any goods (other than goods sales of which are tax-free under section 24), enters into West Bengal, and such vehicle transporting such goods is bound for any place outside West Bengal, the transporter of such goods shall have to make, in the prescribed manner, a declaration on the body of the consignment note or on a document of like nature that the goods being so transported in his vehicle shall not be unloaded, delivered or sold in West Bengal and he shall also specify in such declaration the name of the last checkpost through which the vehicle transporting such goods shall move outside West Bengal:

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Provided that if there is any possibility of transhipment in West Bengal of the goods so carried by the transporter, he shall also declare the same on the body of the consignment note or on the document of like nature while making the declaration and shall, thereafter, note therein the particulars of the new vehicle when such transhipment is actually made even when, after leaving the first checkpost, any transhipment of such goods is made by such transporter under any compelling circumstances:

Provided further that the provisions of this sub-section shall not apply where the transporter of such goods proves to the satisfaction of the Commissioner, or the other authority referred to in sub-section (2), that the transport of such goods in such vehicle is in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, to such country as the State Government may by notification specify.

74 of 1956.

- (2) For the purpose of sub-section (1), the consignment note or the document of like nature containing the declaration together with such other documents as may be prescribed, shall be produced before the Commissioner at the first checkpost that the transporter reaches after entry of the vehicle into West Bengal or, where such vehicle is intercepted before it reaches the first checkpost, before such other authority as may be prescribed, at the place where the vehicle is intercepted.
- (3) A consignment note or a document of like nature containing the declaration produced in accordance with the provisions of sub-section (2) shall, in the manner prescribed, be countersigned by the Commissioner or the other authority referred to in sub-section (2), as the case may be, and such consignment note and other documents, duly countersigned, shall be returned to the transporter.
- (4) The transporter shall carry with him the consignment note or the document of like nature containing the declaration duly countersigned under sub-section (3) while transporting the goods through

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West Bengal and produce such consignment note or document of like nature before the Commissioner at the last checkpost that he reaches before the exit of the vehicle with such goods from West Bengal, and the Commissioner shall, in the prescribed manner, endorse such consignment note or document of like nature evidencing exit from West Bengal of the vehicle transporting the same goods as are specified in such consignment note and return the same to the transporter:

Provided that after leaving the first checkpost where any transhipment of goods is made by the transporter under any compelling circumstances and if the fact of such transhipment was not declared by him at the first checkpost as required under the first proviso to sub-section (1), he shall adduce reasons for doing so before the Commissioner at the last checkpost along with supporting evidence wherever necessary, and if the Commissioner is satisfied with the reasons adduced or evidence produced by such transporter, he shall endorse the countersigned consignment note or document of like nature containing the declaration as required under that sub-section and return the same to the transporter allowing movement of the vehicle carrying such goods outside West Bengal.”;

- (b) in sub-section (9), for the word “declaration”, in the two places where it occurs, the words “consignment note or the document of like nature containing the declaration” shall be substituted;
- (c) in sub-section (14), for the word “declaration”, in the two places where it occurs, the words “consignment note or the document of like nature containing the declaration” shall be substituted.

Repeal of
West Ben.
Act VIII of
1976.

6. (1) The West Bengal Urban Land Taxation Act, 1976, shall stand repealed with effect from the first day of April, 1999.

(2) Notwithstanding such repeal, anything done or any action taken (including any order made or proceeding commenced), or any obligation or liability incurred, under the said Act prior to the commencement of this section shall be valid and effective, and any proceeding for the levy,

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collection, assessment or reassessment of tax or charge or imposition of penalty that may have become payable, or any refund that may have arisen therefrom, before the commencement of this section shall be commenced or continued or enforced by the authorities prescribed by or under the said Act so to do, as if the provisions of this section have not come into force.

7. (1) The West Bengal Multi-storeyed Building Tax Act, 1979, shall stand repealed with effect from the first day of April, 1999.

Repeal of
West Ben.
Act XVII of
1979.

(2) Notwithstanding such repeal, anything done or any action taken (including any order made or proceeding commenced), or any obligation or liability incurred, under the said Act prior to the commencement of this section shall be valid and effective, and any proceeding for the levy, collection, assessment or reassessment of tax or imposition of penalty that may have become payable, or any refund that may have arisen therefrom, before the commencement of this section shall be commenced or continued or enforced by the authorities prescribed by or under the said Act so to do, as if the provisions of this section have not come into force.
