

GOVERNMENT OF WEST BENGAL
LEGISLATIVE DEPARTMENT

West Bengal Act XV of 1983

THE WEST BENGAL TAXATION LAWS (SECOND AMENDMENT) ACT, 1983.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 23rd September, 1983.]

[23rd September, 1983.]

An Act to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982.

WHEREAS it is expedient to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Agricultural Income Tax Act, 1944, the West Bengal Sales Tax Act, 1954, the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982, for the purposes and in the manner hereinafter appearing;

West Ben.
 Act V of
 1922.
 Ben. Act VI
 of 1941.
 Ben. Act IV
 of 1944.
 West Ben.
 Act IV of
 1954.
 West Ben.
 act XLIII of
 1973.
 West Ben.
 Act XIV of
 1976.
 West Ben.
 Act VI of
 1982.

It is hereby enacted in the Thirty-fourth 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) Act, 1983.
- (2) This section shall come into force at once; clause (1) and clause (10) of section 4 of this Act shall be deemed to have come into force on the 1st day of April, 1983; and the remaining provisions of this Act shall come into force on such date or dates as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of this Act.

Short title
 and
 commence-
 ment.

(Section 2.)

Amendment
of Ben. Act
of 1922.

2. In the Bengal Amusements Tax Act, 1922,—

- (1) in section 4, in clause (a), for the words “has been paid,”, the words “has been paid, in which case the proprietor in relation to any cinematograph exhibition shall furnish a return for such period, in such manner and by such date as may be prescribed by rules made under this Act,” shall be substituted;
- (2) in section 7,—
 - (a) in sub-section (2), for the words “entertainments tax,”, the words “entertainments tax, surcharge or additional surcharge,” shall be substituted;
 - (b) after sub-section (2), the following sub-section shall be inserted;—

“(2a) Where a proprietor in relation to a cinematograph exhibition allows admission to any person with a ticket referred to in clause (a) of section 4, which is not duly stamped in accordance with the provisions of this Act, the proprietor shall be liable for payment to the extent of the amount of entertainments tax, surcharge or additional surcharge understamped in such ticket.”;
- (3) after section 8, the following section shall be inserted:—

“Assessment. 8A. (1) If the authority prescribed by rules made under this Act (hereinafter referred to as the prescribed authority) is satisfied that any return submitted under section 4 by a proprietor in relation to a cinematograph exhibition is correct and complete, he shall assess the amount of tax payable, if any, by the proprietor on the basis thereof.

(2) If no return is submitted under section 4 by a proprietor in relation to a cinematograph exhibition or if the return submitted by such proprietor appears to the prescribed authority to be incorrect or incomplete, he shall, after giving such proprietor a reasonable opportunity of being heard and after making such enquiry as he considers necessary, assess to the best of his judgement the amount of entertainment tax, surcharge or additional surcharge payable under this Act by such proprietor. Where such proprietor fails to submit the return within such date as may be prescribed by rules made under this Act or the date specified in the arrangements approved by the State Government, as the case may be, the prescribed authority may, if he is satisfied that there is no

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reasonable cause for the default, direct such proprietor to pay by way of penalty in addition to the amount of entertainments tax, surcharge or additional surcharge so assessed a sum not exceeding double that amount. The amount of entertainments tax, surcharge or additional surcharge so assessed and the penalty so imposed shall be paid by such proprietor within the date specified in a notice issued in this behalf by the prescribed authority.”;

(4) section 9 shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-section shall be added:—

“(2) The prescribed authority shall in the manner prescribed by rules made under this Act refund to a proprietor in relation to a cinematograph exhibition any amount of entertainments tax, surcharge or additional surcharge paid by such proprietor in excess of the amount due from him under this Act by cash payment or by deduction or adjustment of such excess from the amount of entertainments tax, surcharge or additional surcharge due in respect of other period.”;

(5) in section 10, in sub-section (1), for the words “entertainments tax”, the words “entertainments tax, surcharge, additional surcharge, penalty” shall be substituted;

(6) after section 11D, the following section shall be inserted:—

“Appeal and 11E. (1) Any proprietor in relation to a review. cinematograph exhibition may in the manner prescribed by rules made under this Act appeal to such authority as may be prescribed by rules made under this Act against any assessment under section 8A within thirty days from the receipt of a notice of demand issued in this respect:

Provided that no appeal shall be entertained by the said authority unless it is satisfied that such amount of entertainments tax, surcharge or additional surcharge as the appellant may admit to be due from him has been paid.

(2) Subject to such procedures as may be prescribed by rules made under this Act, the appellate authority in disposing of any appeal 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 enquiry as may be directed.

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(3) Subject to the rules as may be made under this Act, any assessment made under this Act by the prescribed authority may be reviewed by it, upon application made within thirty days from the date of such assessment, or of its own motion, within four years from the date of such assessment, after giving the proprietor concerned an opportunity of being heard.”;

(7) in section 12, in sub-section (1),—

(a) after clause (d), the following clause shall be inserted:—

“(dd) for providing the period for which, the manner in which and the date by which, a return under clause (a) of section 4 shall be furnished;”;

(b) after clause (g), the following clause shall be added:—

“(h) for specifying the procedure and other incidental matters relating to assessment, appeal and review.”.

3. In the Bengal Finance (Sales Tax) Act, 1941,—

(1) in section 2,—

(a) in clause (g), for the words “, including a transfer of property in goods involved in the execution of a contract, but does not”, the following words shall be substituted and shall be deemed always to have been substituted:—

“and includes—

(i) any transfer of property in goods involved in the execution of a contract, and

(ii) any supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration, and such supply of any goods shall be deemed to be a sale of those goods by the person making the supply and a purchase of those goods by the person to whom such supply is made,

but does not”;

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(2) in section 4,—

- (a) in sub-section (2), for the words “on the expiry of two months from the date on which such gross turnover first exceeds the taxable quantum, on all sales effected after such expiry.”, the words “with effect from the date immediately following the day on which such gross turnover first exceeds the taxable quantum, on all sales effected after that day.” shall be substituted;
- (b) in sub-section (4), for the words “on the expiry of two months from the date on which such gross turnover again first exceeds the taxable quantum on all sales effected after such expiry.”, the words “, with effect from the date immediately following the day on which such gross turnover again first exceeds the taxable quantum, on all sales effected after that day.” shall be substituted;

(3) in section 7,—

- (a) in the proviso to sub-section (1), for the word, figure and letter “section 6C”, the words, figures and letter “section 4 or section 6C” shall be substituted;
- (b) in sub-section (3a), for the words “from the date of commencement of such liability or the date of filing of such application, whichever is later.”, the following words shall be substituted:—

“from the date of commencement of such liability if the application for registration is made within thirty days from such date, or from the date of filing of such application in any other case.”;

(4) after section 10, the following sections shall be inserted:—

“Interest
payable by
dealer.”

10A. (1) Where a registered or certified dealer furnishes a return referred to in section 10 in respect of any period by the prescribed date or thereafter, but fails to make full payment of tax payable in respect of such period by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such tax or up to the month prior to the month of assessment under section 11 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such return as remains unpaid at the commencement of each such month:

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Provided that where such dealer admits in writing that the amount of tax payable in respect of such period is an amount which is either more or less than what has been originally shown as payable in the return and where the Commissioner is satisfied on the point of such admission, the interest shall be payable upon so much of the amount of tax payable according to such admission as remains unpaid at the commencement of each such month:

(2) Where a registered or certified dealer fails to furnish a return referred to in section 10 in respect of any period by the prescribed date or thereafter before the assessment under section 11 in respect of such period, and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of the month next following the prescribed date up to the month preceding the month of full payment of tax for such period or up to the month prior to the month of assessment under section 11 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such assessment as remains unpaid at the commencement of each such month:

Provided that where an assessment under section 11 is made for more than one return period and such assessment does not show separately the tax payable for the period in respect of which interest is payable under this sub-section, the Commissioner shall estimate the tax payable for such period on the basis of such assessment after giving the dealer an opportunity of being heard.

(3) Where a dealer fails to make payment of any tax payable after assessment by the date specified in the notice issued under sub-section (3) of section 11 for payment thereof, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of the month next following the date specified in such notice up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceedings under sub-section (4) of section 11, whichever is earlier, upon so much of the amount of tax payable by him according to such notice as remains unpaid at the commencement of each such month.

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(4) Where as a result of an order under section 20 or section 21 the amount of tax payable is reduced, the interest payable under sub-section (3) shall be determined or redetermined on the basis of such reduced amount and the excess interest paid, if any, shall be refunded.

(5) Where a registered or certified dealer is liable to pay interest under sub-section (1) or sub-section (2) or sub-section (3), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the amount of interest payable by, or due from, him.

(6) A registered or certified dealer liable to pay interest under sub-section (1), sub-section (2) or sub-section (3) shall pay such interest in such manner and by such date or dates as may be prescribed.

(7) Interest under sub-section (1) or sub-section (2) shall be payable in respect of returns the prescribed dates for furnishing of which under sub-section (2) of section 10 are the dates subsequent to, and interest under sub-section (3) shall be payable in respect of assessments for which the notices under sub-section (3) of section 11 are issued after, the date of coming into force of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1983.

(8) Notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), no interest shall be payable in such cases or under such circumstances and subject to such conditions, if any, as may be prescribed.

Interest payable
by the Commis-
sioner.

10B. The Commissioner shall, in the prescribed manner pay a simple interest at the rate of two *per centum* for each English calendar month of delay in making refund to a dealer the amount of tax paid in excess which arises out of an order under section 20 or section 21, passed after the date of coming into force of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1983, from the first day of the month next following the expiry of three months from the date of such order up to the month preceding the month in which the refund is made in the manner referred to in section 12, upon the amount of tax refundable to him according to such order.

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Rounding off of the amount of tax payable for calculating interest. 10C. In calculating the interest payable under section 10A or section 10B, the amount of tax in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose, where such amount contains a part of one hundred rupees, if such part is fifty rupees or more, it shall be increased to one hundred rupees and if such part is less than fifty rupees, it shall be ignored.”;

(5) in section 11,—
(a) in sub-section (1), after the second proviso, the following proviso shall be added:—

“Provided also that if interest is payable in terms of sub-section (1) or sub-section (2) and sub-section (7) of section 10A in respect of any period, penalty under this sub-section for failure to furnish a return by the prescribed date for such period shall not exceed fifty *per centum* of the amount of tax so assessed.”;

(b) in sub-section (2d), after the proviso, the following proviso shall be added:—

“Provided further that if interest is payable in terms of sub-section (1) or sub-section (2) and sub-section (7) of section 10A in respect of any period, penalty under this sub-section for failure to furnish a return by the prescribed date for such period shall not exceed fifty *per centum* of the amount of tax so assessed.”;

(c) after sub-section (2g), the following sub-sections shall be inserted:—

“(2h) Where the Comissioner is satisfied that a dealer is liable to pay interest under section 10A, he shall, in such manner as may be prescribed, determine the amount of interest payable by such dealer. If on such determination any additional amount is found to be payable by the dealer or any excess amount is found to be refundable to the dealer, the Comissioner shall issue a notice, in the prescribed manner, to such dealer directing him to pay such additional amount or informing him of the amount of excess payment, as the case may be.

(2i) No determination under sub-section (2h) in respect of interest payable under sub-section (1) or sub-section (2) of section 10A shall be made after the expiry of one year from the date of assessment under section 11 in respect of the period for which such determination is made.

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(2j) Where there is an apparent mistake in the determination of interest under sub-section (2h), the Commissioner may, on his own motion or upon application made by a dealer within six months from the date of determination, rectify the amount of interest payable by such dealer and issue a fresh notice in the prescribed manner.”;

(d) in sub-section (4),—

- (i) for the words “said notice” the words “said notice or any amount of interest which remains unpaid after the date specified in the notice under sub-section (2h) or sub-section (2j)” shall be substituted;
- (ii) in clause (i) of the second proviso, for the words “tax or penalty”, the words “tax, penalty or interest” shall be substituted;

(e) in sub-section (4A), for the words “tax or penalty”, wherever they occur, the words “tax, penalty or interest” shall be substituted;

(f) in sub-section (4B), after the proviso, the following proviso shall be added:—

“Provided further that no penalty under this sub-section shall be imposed in respect of assessment for which interest is payable under sub-section (3) and sub-section (7) of section 10A.”;

(6) in section 11B, in sub-section (1), for the words “tax or penalty”, the words “tax, penalty or interest” shall be substituted;

(7) in section 11C, for the words “tax or penalty”, the words “tax, penalty or interest” shall be substituted;

(8) in section 11D,—

- (a) in clause (a), for the words “additional surcharge or penalty”, the words “additional surcharge, penalty or interest” shall be substituted;
- (b) in clause (b),—
 - (i) for the words “additional surcharge or penalty”, the words “additional surcharge, penalty or interest” shall be substituted;
 - (ii) for the words “or imposition of such penalty”, the words “, imposition of such penalty or determination of such interest” shall be substituted.

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- (9) in section 12, in sub-section (1), for the words “tax or penalty” in the two places where they occur, the words “tax, penalty or interest” shall be substituted;
- (10) in section 20,—
 - (a) in the proviso to sub-section (1), for the word “tax”, the words “tax or interest, as the case may be,” shall be substituted;
 - (b) in the *Explanation* to sub-section (1), for the words “penalty or tax”, the words “interest, penalty or tax” shall be substituted;
 - (c) in the *Explanation* to sub-section (6), for the words “and imposition of penalty,” the words “, imposition of penalty or determination of interest,” shall be substituted.
- (11) in section 22, in sub-section (1),—
 - (a) in clause (ee), the words “or to pay the full amount of tax due from him according to such return” shall be omitted;
 - (b) after clause (ee), the following clause shall be inserted:—
 - “(eee) fails to make payment of interest payable under section 10A; or”;
- (12) in section 26, in sub-section (2),—
 - (a) after clause (h), the following clauses shall be inserted:—
 - “(hh) the manner in which and the date by which interest shall be paid by a dealer under section 10A;
 - “(hhh) cases in which, circumstances under which and conditions subject to which no interest is payable under section 10A;
 - “(hhhh) the manner in which interest shall be paid by the Commissioner under section 10B;”;
 - (b) after clause (i), the following clause shall be inserted:—
 - “(ii) the manner of determination and demanding of interest under section 11;”;
- (13) after section 26, the following section shall be inserted:—

“Validation 26A. (1) For the purposes of this Act, every and exemption, transaction by way of supply of the nature referred to in sub-clause (ii) of clause (g) of section 2 shall be deemed to be, and shall be deemed always to have been, a transaction by way of sale, with respect to which the person making

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such supply is the seller and the person to whom such supply is made, is the purchaser; and notwithstanding any judgment, decree or order of any court, tribunal or authority, no imposition of tax on any such transaction before the coming into force of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1983, shall be deemed to be invalid or ever to have been invalid, and accordingly—

- (i) all the aforesaid taxes levied or collected or purporting to have been levied or collected under this Act shall be deemed always to have been validly levied or collected in accordance with this Act;
- (ii) no suit or other proceeding shall be maintained or continued in any court or before any tribunal or authority for the refund of, and no enforcement shall be made by any court, tribunal or authority of any decree or order directing the refund of, any such tax which has been collected;
- (iii) recoveries shall be made in accordance with the provisions of this Act of all amounts which would have been collected thereunder as tax as aforesaid if this section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (1), any supply of the nature referred to therein shall be exempt from the aforesaid tax—

- (a) where such supply has been made, by any restaurant or eating house (by whatever name called), at any time on or after the 7th day of September, 1978, and before the commencement of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1983 and the aforesaid tax has not been collected on such supply on the ground that no such tax could have been levied or collected at that time; or
- (b) where such supply, not being any such supply by any restaurant or eating house (by whatever name called), has been made at any time on or after the 4th day of January, 1972 and before the commencement of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1983 and the aforesaid tax has not been collected on such supply on the ground that no such tax could have been levied or collected at that time:

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Provided that the burden of proving that the aforesaid tax was not collected on any supply of the nature referred to in clause (a) or, as the case may be, clause (b) shall lie on the person claiming the exemption under this sub-section.

- (3) For the removal of doubts, it is hereby declared that—
 - (a) nothing in sub-section (1) shall be construed as preventing any person—
 - (i) from questioning in accordance with the provisions of this Act the assessment, re-assessment, levy or collection of the aforesaid tax, or
 - (ii) from claiming refund of the aforesaid tax paid by him in excess of the amount due from him under this Act; and
 - (b) no act or omission on the part of any person, before the commencement of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1983, shall be punishable as an offence which would not have been so punishable if that section had not come into force.”;
- (14) in Schedule I, in the first column, in item 7, for the words “two rupees and fifty paise.”, the words “fifteen rupees.” shall be substituted.

4. In the Bengal Agricultural Income-tax Act, 1944,—

- (1) in section 3,—
 - (a) for the proviso to sub-section (1), the following provisos shall be substituted:—

“Provided that if the total world income of the previous year of any individual or Hindu undivided family consists of agricultural income as well as other income, agricultural income tax shall be chargeable under sub-section (1) on such part of the agricultural income as exceeds ten thousand rupees at the highest rate which would have been chargeable if the total world income were the agricultural income:

Provided further that in such cases increase in the quantum of tax in view of the application of the highest rate shall not exceed fifty *per centum* of the amount by which the total world income exceeds the agricultural income.”;

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- (b) in sub-section (2), in clause (a), for the words "three thousand rupees", the words "ten thousand rupees" shall be substituted;
- (2) in section 21,—
 - (a) in sub-section (1),—
 - (i) for clause (aa), the following clauses shall be substituted:—
 - "(aa) the Additional Commissioner of Agricultural Income-tax, West Bengal;
 - (aaa) the Deputy Commissioner of Agricultural Income-tax, West Bengal;";
 - (ii) in clause (b), for the words "the Assistant Commissioner of Agricultural Income-tax, West Bengal", the words "Assistant Commissioners of Agricultural Income-tax" shall be substituted;
 - (b) in sub-section (3A), after the word "The", the following words shall be inserted:—

"Additional Commissioner of Agricultural Income-Tax, West Bengal and the";
 - (c) in sub-section (4),—
 - (i) for the words "the Assistant Commissioner of Agricultural Income-tax, West Bengal", the words "Assistant Commissioners of Agricultural Income-tax" shall be substituted;
 - (ii) for the words "the whole of West Bengal", the words "such areas as the State Government may, by notification in the *Official Gazette*, determine" shall be substituted;
 - (3) in section 26A, sub-section (2), sub-section (3) and the *Explanation* thereunder shall be omitted;
 - (4) in section 26B, after sub-section (3), the following sub-section and *Explanation* shall be inserted:—

“(4) After a regular assessment has been made under section 25, any amount paid as advance tax in pursuance of section 26A or of this section shall be deemed to have been paid towards the regular assessment, and where the amount of advance tax paid as aforesaid exceeds the amount payable under the regular assessment the excess shall be refunded to the assessee.

Explanation.—In this section, the expression "advance tax" means the agricultural income-tax payable in advance in accordance with the provisions of section 26A or of this section,'; and

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(5) after section 26B, the following sections shall be inserted:—

“Payment of 26C. The State Government shall pay a interest. simple interest at the rate of two *per centum* for each English calendar month on the amount by which the aggregate sum of instalments of advance tax paid during any financial year in which they are payable under section 26A or section 26B exceeds the amount of the tax determined on regular assessment under section 25 from the first day of the month next after the expiry of three months from the date of such regular assessment up to the month preceding the month in which the refund of the excess amount is made.

Short payment of 26D. (1) Where in any financial year, advance tax. an assessee has paid advance tax under section 26A or section 26B and the advance tax so paid is less than eighty *per centum* of the tax determined on regular assessment under section 25, simple interest at the rate of two *per centum* for each English calendar month from the first day of January in the financial year in which the advance tax was payable up to the month prior to the month of such regular assessment shall be payable by the assessee upon the amount by which the advance tax paid falls short of the tax determined on regular assessment.

(2) Where before the date of completion of a regular assessment, tax is paid by the assessee under section 24A or otherwise,—

- (i) interest shall be calculated in accordance with the foregoing provision up to the month prior to the month in which tax is so paid; and
- (ii) thereafter interest shall be calculated under sub-section (1) on the amount by which the tax so paid falls short of the tax determined on regular assessment.

Interest for non- 26E. (1) Where, on making the regular payment of assessment under section 25 the Agricultural advance tax. Income Tax Officer finds that no payment of advance tax has been made in accordance with the provisions of section 26A or section 26B, interest at the rate of two *per centum* for each English calendar month from the first day of January in the financial year in which the advance tax was payable up to the month prior to the month of such regular assessment shall be payable by the assessee.

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(2) Where as a result of an order under section 31, section 35, section 36, section 37, section 39, section 63 or section 64, the amount on which interest was payable under this section or under section 26D has been reduced, the interest shall be reduced proportionately and the excess interest paid, if any, shall be refunded.

(3) In such cases and under such circumstances as may be prescribed, the Agricultural Income-tax Officer may reduce or waive the interest payable by the assessee under this section or under section 26D.

(4) In calculating the interest payable under this Act, the amount of advance tax or tax determined on regular assessment under section 25 in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees, where such amount contains a part of one hundred rupees, if such part is fifty rupees or more, it shall be increased to hundred rupees and if such part is less than fifty rupees, it shall be ignored.

Section 26C, 26D and 26E not to apply in certain cases. 26F. The provisions for interest as made in section 26C, section 26D and section 26E shall not be applicable in case of an assessee whose agricultural income-tax does not exceed two thousand rupees.

Assessee to be deemed to be in default in case of non-payment of advance tax. 26G. If any assessee—

- (a) does not pay any instalment or instalments of advance tax payable by him under section 26A on the date or dates prescribed, or
- (b) after filing an estimate or a revised estimate of the advance tax payable by him under section 26B, does not pay any instalment in accordance therewith on the date or dates prescribed, or
- (c) fails without reasonable cause to file an estimate or a revised estimate as required under section 26B,

he shall be deemed to be in default, in the cases referred to in clauses (a) and (b), in respect of such instalment or instalments and in the case referred to in clause (c), in respect of the amount that falls short of the last instalment of advance tax that would have been payable by him had he submitted an

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estimate or a revised estimate as required under section 26B and all the provisions of section 44 and section 45 shall apply in relation to any advance tax payable in pursuance of section 26A and section 26B as if it were an order for payment of tax on regular assessment under section 25:

Provided that if any interest is payable by an assessee under section 26D or section 26E in respect of any period and penalty is imposed under section 45 read with this section, the aggregate of such interest and penalty shall not exceed the amount for which such assessee is deemed to be in default.”;

(6) in section 33, after the word “penalty”, wherever it occurs, the words “or interest” shall be inserted;

(7) after section 39, the following section shall be inserted:—

“Mistake in the 39A. Where there is an apparent mistake determination of in the determination of interest under this interest.

Act, the Agricultural Income-tax Officer may, on his own motion or upon application made by the assessee within six months from the date of such determination, rectify such mistake and issue a fresh notice of demand.”;

(8) in section 44,—

(a) after sub-section (1), the following sub-section shall be inserted:—

“(1a) If the amount specified in any notice of demand issued under section 33 is not paid within the time mentioned therein, the assessee shall be liable to pay simple interest at the rate of two *per centum* for each English calendar month following the month in which the demand is payable up to the month prior to the month in which such demand is paid:

Provided that, where as a result of an order under section 31, section 35, section 36, section 37, section 39, section 63 or section 64, the amount on which interest was payable under this section has been reduced, the interest shall be reduced proportionately and the excess interest paid, if any, shall be refunded.”;

(b) in sub-section (2),—

(i) for the words “If an assessee”, the words “Without prejudice to the provisions of sub-section (1a) if an assessee” shall be substituted;

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(ii) after sub-section (2), the following sub-section shall be inserted:—

“(3) Where an assessee has presented an appeal under section 34 after depositing the amount required under the first proviso to sub-section (1) of that section, the Agricultural Income-tax Officer may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the remaining unpaid tax, even though the time for making the deposit has expired, as long as such appeal remains undisposed of.”;

(9) in section 45, in sub-section (3), after the words “amount of arrears”, the words “including interest” shall be inserted;

(10) in the Schedule, for paragraph A, the following paragraph shall be substituted:—

‘A. (1) In the case of every individual or Hindu undivided family (other than a Hindu undivided family consisting of brothers only),—

	Rate.
(a) On the first ten thousand rupees of the total agricultural income	Nil.
(b) On the next five thousand rupees of the total agricultural income	Seventeen paise in the rupee.
(c) On the next five thousand rupees of the total agricultural income	Twenty-three paise in the rupee.
(d) On the next five thousand rupees of the total agricultural income	Thirty paise in the rupee.
(e) On the next five thousand rupees of the total agricultural income	Forty paise in the rupee.
(f) On the next ten thousand rupees of the total agricultural income	Fifty paise in the rupee.
(g) On the balance of the total agricultural income	Sixty paise in the rupee.

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(2) In the case of every Hindu undivided family which consists of brothers only:—

(a) If the share of a brother is ten thousand rupees or less	Six paise in the rupee.
(b) If the share of a brother exceeds ten thousand rupees	The average rate applicable to the share of such brother if he were assessed as an individual.

Explanation.—For the purposes of this Schedule—

- (i) “brother” includes the son and the son of a son of a brother and the widow of a brother;
- (ii) “share of a brother” means the portion of the total agricultural income of a Hindu undivided family which would have been allotted to a brother if a partition of the property of such family had been made on the last day of the previous year;
- (iii) “average rate” means the amount of agricultural income-tax payable by a individual on his total agricultural income divided by the amount of such total agricultural income.’.

Amendment
of West Ben,
Act IV of
1954.

5. In the West Bengal Sales Tax Act, 1954,—

(1) after section 6, the following section shall be inserted:—

“Security from a person not being a registered dealer. 6A. Where a person who is not a dealer registered under this Act imports into West Bengal any notified commodity, the prescribed authority may, for good or sufficient reasons, demand from him a reasonable security in such form and subject to such conditions as may be prescribed.”;

(2) after section 8, the following sections shall be inserted:—

“Interest payable by a dealer. 8A. (1) Where a registered dealer submits a return referred to in section 8 in respect of any period by the prescribed date or thereafter, but fails to make full payment of tax payable in respect of such period by the prescribed date, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of such month next following the

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prescribed date up to the month preceding the month of full payment of such tax or up to the month prior to the month of assessment under section 9 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such return as remains unpaid at the commencement of each such month:

Provided that where such dealer admits in writing that the amount of tax payable in respect of such period is an amount which is either more or less than what has been originally shown as payable in the return and where the prescribed authority is satisfied on the point of such admission, the interest shall be payable upon so much of the amount of tax payable according to such admission as remains unpaid at the commencement of each such month.

(2) Where a registered dealer fails to submit a return referred to in section 8 in respect of any period by the prescribed date or thereafter before the assessment under section 9 in respect of such period, and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of tax for such period or up to the month prior to the month of assessment under section 9 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such assessment as remains unpaid at the commencement of each such month:

Provided that where an assessment under section 9 is made for more than one return period and such assessment does not show separately the tax payable for the period in respect of which interest is payable under this sub-section, the prescribed authority shall estimate the tax payable for such period on the basis of such assessment after giving the dealer an opportunity of being heard.

(3) Where a dealer fails to make payment of any tax payable after assessment by the date specified in the notice issued under sub-section (1) of section 10 for payment thereof, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the

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first day of the month next following the date specified in such notice up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceedings under sub-section (2) of section 10, whichever is earlier, upon so much of the amount of tax payable by him according to such notice as remains unpaid at the commencement of each such month.

(4) Whereas as a result of an order under section 12 or section 12A the amount of tax payable is reduced, the interest payable under sub-section (3) shall be determined or redetermined on the basis of such reduced amount and the excess interest paid, if any, shall be refunded.

(5) Where a dealer is liable to pay interest under sub-section (1) or sub-section (2) or sub-section (3), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the amount of interest payable by, or due from, him.

(6) A dealer liable to pay interest under sub-section (1), sub-section (2) or sub-section (3) shall pay such interest in such manner and by such date or dates as may be prescribed.

(7) Interest under sub-section (1) or sub-section (2) shall be payable in respect of returns the prescribed dates for submission of which under sub-section (1) of section 8 are the dates subsequent to, and interest under sub-section (3) shall be payable in respect of assessment for which the notices under sub-section (1) of section 10 are issued after, the date of coming into force of section 5 of the West Bengal Taxation Laws (Second Amendment) Act, 1983.

(8) Notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), no interest shall be payable in such cases or under such circumstances and subject to such conditions, if any, as may be prescribed.

Interest payable by the prescribed authority.

8B. The prescribed authority shall, in the prescribed manner, pay a simple interest at the rate of two *per centum* for each English calendar month of delay in making refund to a dealer the amount of tax paid in excess which arises out of an order under section 12 or section 12A passed after the date of coming into force of section 5 of the West Bengal (Taxation Laws (Second Amendment) Act, 1983, from the first day of

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the month next following the expiry of three months from the date of such order up to the month preceding the month in which the refund is made in the manner referred to in section 11, upon the amount of tax refundable to him according to such order.

Rounding off of
the amount of
tax payable for
calculating
interest.

8C. In calculating the interest payable under section 8A or section 8B, the amount of tax in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose, where such amount contains a part of one hundred rupees, if such part is fifty rupees or more, it shall be increased to one hundred rupees and if such part is less than fifty rupees, it shall be ignored.”;

(3) in section 9,—

(a) in sub-section (1A), after the proviso, the following proviso shall be added:—

“Provided further that if interest is payable under sub-section (1) or sub-section (2) and sub-section (7) of section 8A in respect of any period, penalty under this sub-section for failure to submit a return by the prescribed date for such period shall not exceed fifty *per centum* of the amount of tax so assessed.”;

(b) in sub-section (3), after the second proviso, the following proviso shall be added:—

“Provided also that if interest is payable under sub-section (1) or sub-section (2) and sub-section (7) of section 8A in respect of any period, penalty under clause (i) of this sub-section for such period shall not exceed fifty *per centum* of the amount of tax so assessed and no penalty for such period shall be imposed for failure to comply with the provisions of sub-section (2) of section 8.”;

(c) after sub-section (4), the following sub-sections shall be inserted:—

“(5) Where the prescribed authority is satisfied that a dealer is liable to pay interest under section 8A, he shall, in such manner as may be prescribed, determine the amount of interest payable by such dealer. If on such determination any additional amount

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is found to be payable by the dealer or any excess amount is found to be refundable to the dealer, the prescribed authority shall issue a notice, in the prescribed manner, to such dealer directing him to pay such additional amount or informing him of the amount of excess payment, as the case may be.

(6) No determination under sub-section (5) in respect of interest payable under sub-section (1) or sub-section (2) of section 8A shall be made after the expiry of one year from the date of assessment under section 9 in respect of the period for which such determination is made.

(7) Where there is an apparent mistake in the determination of interest under sub-section (5), the prescribed authority may, on his own motion or upon application made by a dealer within six months from the date of such determination, rectify the amount of interest payable by such dealer and issue a fresh notice in the prescribed manner.”;

- (4) in section 10, in sub-section (2),—
 - (a) for the words “said notice”, the words “said notice or any amount of interest which remains unpaid after the date specified in the notice under sub-section (5) or sub-section (7) of section 9” shall be substituted;
 - (b) in the first proviso, for the words “tax or penalty” the words “tax, penalty or interest” shall be substituted;
 - (c) in the second proviso, for the words “tax or penalty”, the words “tax, penalty or interest” shall be substituted;
- (5) in section 10B, in sub-section (1), for the words “tax or penalty”, the words “tax, penalty or interest” shall be substituted;
- (6) in section 11, in sub-section (1), for the words “tax or penalty”, wherever they occur, the words “tax, penalty or interest” shall be substituted;
- (7) in section 12,—
 - (a) in sub-section (1), in the proviso,—
 - (i) for the words “or penalty, if any,”, the words “or penalty, if any, or determination of interest” shall be substituted;

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- (ii) for the word "tax", the words "tax or interest" shall be inserted;
- (b) in sub-section (1A), in clause (a), for the words "tax determined", the words "tax or interest determined," shall be substituted.
- (c) after sub-section (5), the following *Explanation* shall be inserted:—

*Explanation.—*In this section the expression "assessment and determination of tax" shall include determination of interest under section 9.';

- (8) in section 16, in sub-section (1),—
 - (a) in clause (d), for the word and figure "section 8," the words, brackets and figures "sub-section (1) of section 8," shall be substituted;
 - (b) after clause (dd), the following clause shall be inserted:—
 - "(ddd) fails to make payment of interest payable under section 8A;"
- (9) in section 21, in sub-section (2), after clause (b), the following clauses shall be inserted:—
 - "(bb) the manner and the form in which security under section 6A shall be furnished;
 - (bbb) the manner in which and the date by which interest shall be paid by a dealer and cases in which, circumstances under which and conditions subject to which, no interest is payable under section 8A;
 - (bbbb) the manner in which interest shall be paid by the prescribed authority under section 8B;
 - (bbbbbb) the manner of determination and demanding of interest under section 9;"

6. In the West Bengal Primary Education Act, 1973, in section 78, in sub-section (2),—

- (i) in clause (b), for the words "rupees two on each tonne of coal", the words "two per centum of the value of coal" shall be substituted;
- (ii) after clause (c), the following *Explanation* shall be added:—

*Explanation.—*For the purpose of clause (b) the expression "value of coal" shall mean,—

- (i) in the case of despatches of coal as a result of sale thereof, the prices charged by the owner of a coal mine

Amendment
of West Ben.
Act XLIII of
1973.

(Section 7.)

for such coal, but excluding any sum separately charged as tax, cess, duty, fee or royalty for payment of such sum to Government or a local body, or any other sum as may be prescribed, or

(ii) in the case of despatches, other than those referred to in item (i), the prices chargeable by the owner of a coal mine for such coal if they were despatched as a result of sale thereof, but excluding any sum separately chargeable as tax, cess, duty, fee or royalty for payment of such sum to Government or a local body or any other sum as may be prescribed:

Provided that if more than one price is chargeable for the same variety of coal, the maximum price chargeable for that variety of coal shall be taken as the basis of valuation for the purpose of this item.'

Amendment
of West Ben.
Act XIV of
1976.

7. In the West Bengal Rural Employment and Production Act, 1976, in section 4, in sub-section (2),—

(i) in clause (b), for the words "rupees fifteen on such tonne of coal", the words "fifteen *per centum* of the value of coal" shall be substituted;

(ii) after clause (c), the following *Explanation* shall be added:—

Explanation.—For the purpose of clause (b), the expression "value of coal" shall mean—

(i) in the case of despatches of coal as a result of sale thereof, the prices charged by the owner of a coal mine for such coal, but excluding any sum separately charged as tax, cess, duty, fee or royalty for payment of such sum to Government or a local body, or any other sum as may be prescribed, or

(ii) in the case of despatches, other than those referred to in item (i), the prices chargeable by the owner of a coal mine for such coal if they were despatched as a result of sale thereof, but excluding any sum separately chargeable as tax, cess, duty, fee or royalty for payment of such sum to Government or a local body, or any other sum as may be prescribed:

Provided that if more than one price is chargeable for the same variety of coal, the maximum price chargeable for that variety of coal shall be taken as the basis of valuation for the purpose of this item.'

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(Section 8.)

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

Amendment
of West Ben.
Act VI of
1982.

- (1) in the long title, for the words “*entertainment-cum-amusement tax on and from the holders of television sets*”, the words “*luxury-cum-entertainment and amusement tax on and from the holders of television sets, video cassette recorder sets and video cassette player sets*” shall be substituted;
- (2) in the preamble, for the words “*entertainment-cum-amusement tax on and from the holders of television sets*”, the words “*luxury-cum-entertainment and amusement tax on and from the holders of television sets, video cassette recorder sets and video cassette player sets*” shall be substituted;
- (3) in section 2,—
 - (a) after clause (a), the following clauses shall be inserted:—
 - (aa) “*holder of a video cassette player set*” means a person who owns a video cassette player set and includes a person, who is, for the time being, found in possession of such set, but does not include a person who owns or possesses such set as a part of video cassette recorder set owned or possessed by him;
 - (aaa) “*holder of a video cassette recorder set*” means a person who owns a video cassette recorder set and includes a person, who is, for the time being, found in possession of such set;”;
 - (b) in clause (d), for the words “*entertainment-cum-amusement tax*”, the words “*luxury-cum-entertainment and amusement tax*” shall be substituted;
 - (c) after clause (d), the following clause shall be inserted:—
 - (dd) “*week*” means a week commencing on Friday and ending of Thursday;”;
- (4) in section 4,—
 - (a) for the words “*television set or sets an entertainment-cum-amusement tax at the rate of rupees fifty for each year per television set, held or possessed by him:*”, the following words, brackets and letters shall be substituted:—
“*television set or sets or every holder of a video cassette recorder set or sets or every holder of a video*

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cassette player set or sets, as the case may be, a luxury-cum-entertainment and amusement tax at the rate of,—

- (a) rupees fifty for each year for every black and white television set,
- (b) rupees one hundred for each year for every colour television set, and
- (c) rupees one thousand for each year for every video cassette recorder set or for every video cassette player set,

held or possessed by him:";

- (b) in the proviso, for the words "television set or sets", the words "television set or sets or a video cassette recorder set or sets or a video cassette player set or sets, as the case may be," shall be substituted;
- (c) after the proviso, the following provisos shall be added:—

"Provided further that the rate of tax for the year 1983 for every colour television set shall, subject to the first proviso, be rupees fifty and for the said year for every video cassette recorder set or every video cassette player set shall be rupees five hundred:

Provided also that where a holder of a video cassette recorder set or a video cassette player set, as the case may be, proves to the satisfaction of the prescribed authority that tax under this section has been levied and collected for a video cassette recorder set or a video cassette player set, as the case may be, for a years, no tax under this section shall be levied upon such holder for that set for that year:

Provided also that where a holder of a video cassette recorder set proves to the satisfaction of the prescribed authority that he owns or possesses a video cassette player set as a part of such recorder set, no tax for such player set shall be payable by him.";

- (5) after section 4, the following sections shall be inserted:—

"Levy and collection of tax for exhibition. 4A. Subject to the other provisions elsewhere contained in this Act, there shall be levied and collected on and from a holder of a video cassette recorder set or sets or a holder of a video cassette player set or sets a luxury-cum-entertainment and

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amusement tax, in addition to such tax referred to in section 4, where such holder makes any public performance or exhibition of films through a video cassette recorder set or a video cassette player set against payments made or to be made by persons admitted to witness such performance or exhibition, at the rate of,—

- (i) rupees five hundred per week, during which any such performance or exhibition is made, for each video cassette recorder set or video cassette player set used for such performance or exhibition, if the place of any performance or exhibition during such week is situated within the area of the Calcutta Metropolitan District as described in the Schedule to the Calcutta Metropolitan Planning Area (Use and Development of Land) Control Act, 1965, or
- (ii) rupees two hundred and fifty per week, during which any such performance or exhibition is made, for each video cassette recorder set or video cassette player set used for such performance or exhibition, if clause (i) does not apply.

Exemption
from payment
of tax under
Ben. Act V of
1922.

4B. Where tax is payable under section 4A by a holder of a video cassette recorder set or a video cassette player set for public performance or exhibition referred to in that section, no entertainment tax, surcharge or additional surcharge shall be leviable or payable under the Bengal Amusements Tax Act, 1922 in respect of such performance or exhibition.”;

- (6) in section 5,—
 - (a) in sub-section (1),—
 - (i) for the words “holder of a television set” wherever they occur, the words “holder of a television set or a video cassette recorder set or a video cassette player set” shall be substituted;
 - (ii) for the words “tax due”, wherever they occur, the words “tax under section 4 due” shall be substituted;
 - (iii) for the words “at the rate of rupees five per month or a part thereof per television set, till the tax and the penalty are fully paid by him.”, the following words, brackets and letters shall be substituted:—

West Ben.
Act XIV of
1965.

Ben. Act V
of 1922.

(Section 8.)

“at the rate of,—

- (a) rupees five per month or a part thereof for every black and white television set,
- (b) rupees ten per month or a part thereof for every colour television set, and
- (c) rupees one hundred per month or a part thereof for every video cassette recorder set or every video cassette player set,

till the tax under section 4 and penalty are fully paid by him.”;

(b) in sub-section (2),—

- (i) for the words “tax during”, the words “tax under section 4 during” shall be substituted;
- (ii) for the words “tax due” wherever they occur, the words “tax under section 4 due” shall be substituted;
- (iii) for the words “at the rate of rupees five per month or a part thereof per television set, till the tax and the penalty are fully paid by him:”, the following words, brackets and letters shall be substituted:—

“at the rate of,—

- (a) rupees five per month or a part thereof for every black and white television set,
- (b) rupees ten per month or a part thereof for every colour television set, and
- (c) rupees one hundred per month or a part thereof for every video cassette recorder set or every video cassette player set,

till the tax under section 4 and penalty are fully paid by him.”;

(iv) in the proviso,—

- (A) for the words “holder of a television set”, the words “holder of a television set or a video cassette recorder set or a video cassette player set” shall be substituted;
- (B) for the word “proviso”, the words “first proviso” shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted:—

“(3) A holder of a video cassette recorder set or a video cassette player set shall pay the amount of tax under 4A due from him for any week to the prescribed authority in the prescribed manner within seven days

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from the end of such week. If such holder fails to pay the amount of tax under section 4A within the aforesaid period, he shall be liable to pay a penalty at the rate of,—

- (i) rupees fifty per week or part thereof per video cassette recorder set or video cassette player set, where the rate of tax specified under clause (i) of section 4A is applicable, or
- (ii) rupees twenty-five per week or part thereof per video cassette recorder set or video cassette player set, where the rate of tax specified under clause (ii) of section 4A is applicable, till the tax under section 4A and the penalty are fully paid by him.”;

(7) in section 6,—

- (a) in sub-sections (1), (2), (5) and (6), for the words “television set”, wherever they occur, the words “television set, video cassette recorder set or video cassette player set” shall be substituted;
- (b) in sub-sections (3) and (7), for the words “television sets”, wherever they occur, the words “television sets, video cassette recorder sets or video cassette player sets” shall be substituted;
- (8) in section 7, for the words “television set,”, the words “television set, a video cassette recorder set or a video cassette player set,” shall be substituted;
- (9) in section 8, for the words “television set”, wherever they occur, the words “television set, a video cassette recorder set or a video cassette player set” shall be substituted;
- (10) in section 9, for the words “television set,”, the words “television set, a video cassette recorder set or a video cassette player set,” shall be substituted;
- (11) in section 10, for the words “television set”, the words “television set, a video cassette recorder set or a video cassette player set” shall be substituted.