

©

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act VI of 1990

**THE WEST BENGAL TAXATION LAWS
(AMENDMENT) ACT, 1990.**

[Passed by the West Bengal Legislature.]

*[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 21st April, 1990.]

[21st April, 1990.]

An Act to amend the Bengal Electricity Duty Act, 1935, the Bengal Finance (Sales Tax) Act, 1941, the West Bengal Sales Tax Act, 1954, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982.

Ben. Act X
of 1935.
Ben. Act VI
of 1941.
West Ben.
Act IV of
1954.
West Ben.
Act VI of
1979.
West Ben.
Act VI of
1982.

WHEREAS it is expedient to amend the Bengal Electricity Duty Act, 1935, the Bengal Finance (Sales Tax) Act, 1941, the West Bengal Sales Tax Act, 1954, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Forty-first 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 (Amendment) Act, 1990.

(2) It shall be deemed to have come into force on the 26th day of February, 1990.

Short title
and
commencement.

2. In the Bengal Electricity Duty Act, 1935, in section 3, in sub-section (1), in the first proviso,—

(1) in clause (b), for the words “coal-based generating plant,”, the words “coal-based generating plant; or” shall be substituted;

(2) after clause (b), as so amended, the following clause shall be inserted:—

“(c) the 1st day of February, 1990, no electricity duty on the units of energy consumed shall be payable by a person (other than a licensee) who generates energy from a waste-gas-based generating plant.”

Amendment
of Ben. Act
X of 1935.

(Section 3.)

Amendment
of Ben. Act
VI of 1941.

3. In the Bengal Finance (Sales Tax) Act, 1941,—
 - (1) in section 4, in sub-section (6), in clause (ii), the words beginning with “, and used by him directly in the manufacture” and ending with “by way of sale in West Bengal” shall be omitted and shall be deemed to have been omitted with effect from the 10th day of October, 1977;
 - (2) in section 5,—
 - (a) in sub-section (7), after clause (iii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 10th day of October, 1977:—

“(iiia) purchases, other than those referred to in clause (iii) or clause (v), of goods liable to tax under clause (ii) of sub-section (6) of section 4 for use directly in the manufacture of goods in West Bengal or in the packing in West Bengal of goods so manufactured for sale in West Bengal:

Provided that where specified purchase price of goods, other than that in respect of purchases referred to in clause (iii) or clause (v), cannot be fully identified by a dealer, the specified purchase price in respect of purchases referred to in this clause shall be determined in such manner as may be prescribed;”;
 - (b) sub-section (8) shall be omitted and shall be deemed to have been omitted with effect from the 10th day of October, 1977;
 - (c) sub-section (9) shall be omitted and shall be deemed to have been omitted with effect from the 10th day of October, 1977;
 - (3) in section 26, in sub-section (2),—
 - (a) after clause (d), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 10th day of October, 1977:—

“(d1) the manner of determination of specified purchase price under the proviso to clause (iiia) of sub-section (7) of section 5;”;
 - (b) clause (ddd) shall be omitted and shall be deemed to have been omitted with effect from the 10th day of October, 1977;

(Section 3.)

(4) in section 26A,—

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

“(2A) Notwithstanding any judgement, decree or order of any Court, Tribunal or authority, all taxes on purchases liable to tax under clause (ii) of sub-section (6) of section 4 levied or collected or purported to have been levied or collected before the commencement of the West Bengal Taxation Laws (Amendment) Act, 1990, shall be deemed always to have been validly levied or collected in accordance with the provisions of this Act as amended by the said Act; and accordingly, no suit or other proceeding shall be maintained or continued in any Court or before any Tribunal or authority for, 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.

(2B) Notwithstanding any judgement, decree or order of any Court, Tribunal or authority, 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 as if sub-section (2A) had been in force at all material times.”;

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

“(c) nothing in sub-section (2A) 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 tax referred to in clause (ii) of sub-section (6) of section 4, or

(ii) from claiming refund of the aforesaid tax paid by him in excess of the amount due from him under this Act; and

(d) no act or omission on the part of any person before the commencement of section 3 of the West Bengal Taxation Laws (Amendment) Act, 1990, shall be punishable as an offence which would not have been so punishable if that section had not come into force.”.

(Section 4.)

Amendment
of West Ben.
Act IV of
1954.

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

(1) in section 4,—

(a) in sub-section (2), for clause (i), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 10th day of October, 1977:—

“(i) on all such purchases of goods against the declaration issued or to be issued by him;”;

(b) in sub-section (4), after clause (ii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 10th day of October, 1977:—

“(iia) purchases, other than those referred to in clause (ii) or clause (iii), of goods liable to tax under clause (i) of sub-section (2) for use directly in the manufacture of notified commodity in West Bengal or packing in West Bengal of such notified commodity for sale in West Bengal:

Provided that where the specified purchase price of goods, other than that in respect of purchases referred to in clause (ii) or clause (iii), cannot be fully identified by a dealer, the specified purchase price in respect of purchases referred to in this clause, shall be determined in such manner as may be prescribed;”;

(c) sub-section (6) shall be omitted and shall be deemed to have been omitted with effect from the 10th day of October, 1977;

(d) sub-section (7) shall be omitted and shall be deemed to have been omitted with effect from the 10th day of October, 1977;

(2) in section 21, in sub-section (2), for clause (f), the following clauses shall be substituted and shall be deemed to have been substituted with effect from the 10th day of October, 1977:—

“(f) the manner of determination of purchase price under the proviso to clause (iia) of sub-section (4) of section 4;

(g) such other purchases as are referred to in clause (iii) of sub-section (4) of section 4.”;

(Section 4.)

(3) after section 27, the following section shall be added:—

“Validation and exemption. 28. (1) Notwithstanding any judgement, decree or order of any Court, Tribunal or

authority, all taxes on purchases liable to tax under clause (i) of sub-section (2) of section 4 levied or collected or purported to have been levied or collected before the commencement of the West Bengal Taxation Laws (Amendment) Act, 1990, shall be deemed always to have been validly levied or collected in accordance with the provisions of this Act as amended by the said Act; and accordingly, no suit or other proceeding shall be maintained or continued in any Court or before any Tribunal or authority for, 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.

(2) Notwithstanding any judgement, decree or order of any Court, Tribunal or authority, 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 as if this section had been in force at all material times.

(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 4 of the West Bengal Taxation Laws (Amendment) Act, 1990, shall be punishable as an offence which would not have been so punishable if that section had not come into force.”.

(Section 5.)

Amendment
of West Ben.
Act VI of
1979.

5. In the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979,—

(1) after section 9, the following section shall be inserted:—

“Exemption from
interest and
penalty.

9A. (1) If an employer or person, who has
not applied for or obtained a certificate of
registration referred to in sub-section (1) of
section 5 or a certificate of enrolment referred to in sub-
section (2) of that section, as the case may be, before the
commencement of the West Bengal Taxation Laws
(Amendment) Act, 1990, applies for such certificate of
registration or enrolment, as the case may be, on or before the
31st day of May, 1990, and pays on or before the 30th
day of June, 1990, in the prescribed manner, the entire
amount of tax due from him under this Act in respect of
the period commencing on the date of his liability to pay
the tax and ending on the date immediately preceding the
date of commencement of the West Bengal Taxation Laws
(Amendment) Act, 1990, he shall, notwithstanding anything
contained in section 8 or sub-section (2) or sub-section (3)
of section 9, not be liable to pay interest in accordance with
the provisions of sub-section (2) or sub-section (3), as the
case may be, of section 9.

(2) Notwithstanding anything contained in sub-section (6) of
section 5 or sub-section (3) of section 6, no penalty shall
be imposed under any of those sub-sections upon an employer
or a person referred to in sub-section (1) of this section, as
the case may be, who applies for certificate of registration
or enrolment on or before the 31st day of May, 1990, and
pays the tax due from him under this Act in accordance with
the provisions of sub-section (1) of this section.”;

(2) to section 10, the following proviso shall be added:—

“Provided that no penalty shall be imposed under this section
upon a person who has paid the tax due from him under this Act
in accordance with the provisions of section 9A.”;

(3) to section 19, the following proviso shall be added:—

“Provided that the provisions of this section shall not apply
to a person or an employer referred to in sub-section (1) of
section 9A where he complies with the provisions contained in
that sub-section in relation to the period commencing on the date
immediately preceding the date of commencement of the West
Bengal Taxation Laws (Amendment) Act, 1990.

VI of 1990.]

(Sections 6, 7.)

6. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982, after section 6, the following section shall be inserted:—

Amendment
of West Ben.
Act VI of
1982.

“Exemption from penalty.

6A. Where any tax payable under section 4 by any holder of video cassette recorder set or video cassette player set in respect of any year or years or part of any year falling during the period commencing on the first date of his liability to pay such tax and ending on the 31st day of December, 1990, has not been or is not paid by the time specified in sub-section (1) or sub-section (2) of section 5, no penalty shall, notwithstanding anything contained in sub-section (1) or sub-section (2) of section 5, be payable by such holder, provided that he pays, in the prescribed manner, the entire amount of such tax in respect of such year or years or part of any year, as the case may be, at a time to the prescribed authority on or before the 30th day of June, 1990.”.

West Ben.
Ord. II of
1990.

Repeal and
saving.

7. (1) The West Bengal Taxation Laws (Amendment) Ordinance, 1990, is hereby repealed.

Ben. Act X
of 1935.
Ben. Act VI
of 1941.
West Ben.
Act IV of
1954.
West Ben.
Act VI of
1979.
West Ben.
Act VI of
1982.

(2) Notwithstanding such repeal, anything done or any action taken under the Bengal Electricity Duty Act, 1935, or the Bengal Finance (Sales Tax) Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, or the West Bengal Entertainment-cum-Amusement Tax Act, 1982, as amended by the said Ordinance, shall be deemed to have been validly done or taken under the Bengal Electricity Duty Act, 1935, or the Bengal Finance (Sales Tax) Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 or the West Bengal Entertainment-cum-Amusement Tax Act, 1982, as amended by this Act, as the case may be.