

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act VIII of 1990

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

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*,
Extraordinary, of the 25th May, 1990.]

[25th May, 1990.]

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 Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Multi-storeyed Building Tax Act, 1979 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 Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Multi-storeyed Building Tax Act, 1979 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982, for the purposes and in the manner hereinafter appearing;

Ben. Act V
of 1922.
Ben. Act VI
of 1941.
Ben. Act IV
of 1944.
West Ben.
Act IV of
1954.
West Ben.
Act V of
1972.
West Ben.
Act XXI of
1972.
West Ben.
Act XLIII of
1973.
West Ben.
Act XIV of
1976.
West Ben.
Act VI of
1979.
West Ben.
Act XVII of
1979.
West Ben.
Act VI of
1982.

(Sections 1, 2.)

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

Short title
and
commence-
ment.

1. (1) This Act may be called the West Bengal Taxation Laws (Second Amendment) Act, 1990.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different provisions of this Act.

Amendment
of Ben. Act
V of 1922.

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

(1) in CHAPTER I,—

(a) in section 2,—

(i) after clause (7), the following clause shall be inserted:—

‘(7a) “prescribed” means prescribed by rules made under this chapter;’;

(ii) for clause (8), the following clause shall be substituted:—

‘(8) “proprietor” in relation to any entertainment includes,—

(a) any person,

(b) a licensee of cinematograph exhibition under the West Bengal Cinemas (Regulation) Act, 1954,

(c) a licensee under the West Bengal Gambling and Prize Competitions Act, 1957, and

(d) a society,

who is responsible for, or who is for the time being in charge of, the management thereof;’;

(b) after section 11E, the following section shall be inserted:—

“Bar of suits
in civil
courts.

11F. Except as otherwise provided in this Act, the decision of the prescribed authority shall be final and no civil court shall have jurisdiction to decide or deal with any question which by or under this Act or the rules made thereunder is required to be dealt with by the prescribed authority or to set aside or modify any order made under this Act or the rules made thereunder.”;

West Ben.
Act XXXIX
of 1954.
West Ben.
Act XXXII
of 1957.

(Section 2.)

(2) in CHAPTER II,—

(a) after section 20, the following sections shall be inserted:—

“Interest
payable by a
steward.

20A. (1) Where the steward of a race-meeting furnishes a return referred to in section 16 in respect of the race-meeting by the prescribed date but fails to make full payment of the amount of the totalisator tax payable under this chapter in respect of such race-meeting 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 prescribed date 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 (1) of section 21, whichever is earlier, upon so much of the amount of tax payable by him according to such return as remains unpaid at the end of each such month.

(2) The amount of interest payable under this section shall be paid by such steward into a Government Treasury or the Reserve Bank of India in such manner and by such date as may be prescribed.

(3) Interest under this section shall be payable in respect of the returns, the prescribed dates for furnishing of which under section 16 are the dates subsequent to the date of coming into force of section 2 of the West Bengal Taxation Laws (Second Amendment) Act, 1990.

(4) Where the prescribed officer is satisfied that the steward of a race-meeting is liable to pay interest under this section, he shall determine the amount of interest payable by such steward. If on such determination, any amount or additional amount is found to be payable by, or any excess amount is found to be refundable to, the steward, the prescribed officer shall issue a notice to such steward directing him to pay such amount or additional amount, as the case may be, into a Government Treasury or the Reserve Bank of India within the date specified in such notice, or informing him of the amount of excess payment, as the case may be.

Interest
payable by a
licensed
bookmaker.

20B. (1) Where a licensed bookmaker fails to make full payment of the betting tax collected by him as referred to in sub-section (2) of section 18 in respect of any period by the prescribed date, he shall pay a simple interest at the rate of two *per centum*

(Section 2.)

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 preceding the month of commencement of proceedings under sub-section (2) of section 21, whichever is earlier, upon so much of the amount of such tax collected and payable by him as remains unpaid at the end of each such month.

(2) The amount of interest payable under this section shall be paid by such licensed bookmaker into a Government Treasury or the Reserve Bank of India.

(3) Interest under this section shall be payable in respect of payments, the prescribed dates of which under section 18 are the dates subsequent to the date of coming into force of section 2 of the West Bengal Taxation Laws (Second Amendment) Act, 1990.

(4) Where the prescribed officer is satisfied that a licensed bookmaker is liable to pay interest under this section, he shall determine the amount of interest payable by such licensed bookmaker. If on such determination, any amount or additional amount is found to be payable by, or any excess amount is found to be refundable to, the licensed bookmaker, the prescribed officer shall issue a notice to such licensed bookmaker directing him to pay such amount or additional amount, as the case may be, into a Government Treasury or the Reserve Bank of India within the date specified in such notice, or informing him of the amount of excess payment, as the case may be.

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

20C. In calculating the interest payable under section 20A or section 20B, 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.”;

(b) in section 21,—

(a) in sub-section, (1), for the words and figures “under section 15”, the words, figures and letter “under section 15 and section 18A” shall be substituted and shall be deemed always to have been substituted;

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- (b) in sub-section (2), for the words and figures “under section 18”, the words, figures and letter “under section 18 and section 18A” shall be substituted and shall be deemed always to have been substituted.

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

Amendment
of Ben. Act
VI of 1941.

- (1) in section 4B, after sub-section (2), the following sub-sections shall be inserted:—

- “(3) In prescribing the conditions under sub-section (1) or sub-section (2), the State Government may direct that transport of notified goods referred to in the said sub-section shall be made after furnishing in the prescribed manner such particulars in such form obtainable from such authority, or in such form in own stationery, as may be prescribed.

- (4) Every dealer who transports notified goods from places referred to in sub-section (1) or sub-section (2) shall maintain up to date and true accounts in respect of receipt and disposal of such goods in such form and manner as may be prescribed.”;

- (2) in section 5, in sub-section (2), in clause (a), for sub-clause (vi), the following sub-clause shall be substituted:—

- “(vi) such other sales on such conditions and restrictions as may be prescribed.”;

- (3) in section 7, in sub-section (4a), after clause (iii), the following clause shall be added:—

- “(iv) demand from a dealer a reasonable security for the proper use and safe custody of the form referred to in sub-section (3) of section 4B and obtained from the prescribed authority, whether such forms are blank or duly filled up and signed by such dealer, after giving him a reasonable opportunity of being heard.”;

- (4) in section 10,—

- (a) in sub-section (2), after the words “furnish such returns”, the words “for a year or part thereof” shall be inserted;

- (b) for sub-section (3), the following sub-sections shall be substituted:—

- “(3) Any registered or certified dealer shall, notwithstanding that he is required to furnish returns annually or otherwise, prepare a statement in the prescribed form showing the amount of tax payable for a month or, if so required, for part of

(Section 3.)

a month, under sections 5, 6B and 6D, and pay, in the prescribed manner, into a Government Treasury or the Reserve Bank of India the amount of tax payable according to such statement, and shall, by such date, in such manner and to such authority, as may be prescribed, furnish the statement together with a receipt from such Treasury or Bank showing payment of such tax:

Provided that where a dealer is required to furnish return monthly or quarterly in accordance with the provisions contained in this section and the rules made thereunder as they stood before the coming into force of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, he shall, in respect of the month or the quarter as prescribed under the said provisions, which commences before the coming into force of section 3 of that Act, deposit the tax payable according to such return and furnish such return in accordance with the said provisions:

Provided further that where a dealer is required to furnish return half-yearly or annually in accordance with the provisions contained in this section and the rules made thereunder as they stood before the coming into force of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, he shall,—

- (a) in respect of the half-year or year ending on any day before the expiry of one month from the date of coming into force of the said section 3, furnish return for such half-year or year in accordance with the provisions as they stood before the said date;
- (b) in respect of the half-year or year which ends on any day after the expiry of one month from the date of coming into force of the said section 3, furnish statements for all the full months beginning on any day after the said date, and pay tax according to such statements in accordance with the provisions of this sub-section.

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- (3a) Before any registered or certified dealer furnishes his return for any year or part of a year, he shall calculate the total amount of tax payable by him according to such return and pay into a Government Treasury or the Reserve Bank of India so much of the amount of tax, together with interest, if any, that may become due from the dealer after deducting from the total amount of tax payable for such year or part of a year the aggregate of the amounts of tax paid for each month of such year or part of a year and furnish such return together with a receipt from such Treasury or Bank showing payment of the balance amount of tax, if any, according to return.”;
- (c) in sub-section (4),—
- (i) for the word “return”, wherever it occurs, the words “statement or return” shall be substituted;
 - (ii) after the words, figure and brackets “in sub-section (3)”, the words, figure, letter and brackets “or sub-section (3a), as the case may be,” shall be inserted;
- (d) in sub-section (5), for the words “return”, wherever it occurs, the words “statement or return” shall be substituted;
- (5) in section 10A,—
- (a) in sub-section (1),—
- (i) for the word “return”, wherever it occurs, the word “statement” shall be substituted;
 - (ii) for the words “commencement of each such month:”, the words “end of each such month of default:” shall be substituted;
 - (iii) in the proviso, for the words “commencement of each such month:”, the words “end of each such month of default:” shall be substituted;
- (b) in sub-section (2),—
- (i) for the words “a return”, the words “a statement” shall be substituted;
 - (ii) for the words “commencement of each such month:”, the words “end of each such month of default:” shall be substituted;
 - (iii) in the proviso, for the words “one return period”, the words “one period” shall be substituted;

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- (c) in sub-section (3), for the words “commencement of each such month.”, the words “end of each such month of default.” shall be substituted;
- (d) after sub-section (3), the following *Explanation* shall be inserted:—

‘Explanation.—For the purposes of sub-section (1), sub-section (2) and sub-section (3), the word “period”, wherever it occurs in the said sub-sections, shall mean the period of a month or part thereof for which a statement is required to be furnished under sub-section (3) of section 10.’;

- (e) in sub-section (4),—
 - (i) for the word “reduced” in the two places where it occurs, the word “modified” shall be substituted;
 - (ii) after the words, figure and brackets “under sub-section (3)”, the words, figures, letter and brackets “of this section or sub-section (6) of section 10F, as the case may be,” shall be inserted;
- (f) in sub-section (5),—
 - (i) the words “registered or certified” shall be omitted,
 - (ii) after the words, figure and brackets “or sub-section (3)”, the words, figures, letter and brackets “of this section or sub-section (6) of section 10F, as the case may be,” shall be inserted;
- (g) in sub-section (6),—
 - (i) the words “registered or certified” shall be omitted;
 - (ii) after the words, figure and brackets “or sub-section (3)”, the words, figures, letter and brackets “of this section or sub-section (6) of section 10F, as the case may be,” shall be inserted;
- (h) for sub-section (7), the following sub-section shall be substituted:—

“(7) Interest under sub-section (1) or sub-section (2) shall be payable in respect of the statements the prescribed dates for furnishing of which under sub-section (3) 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, 1990.”;

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- (6) in section 10C, after the word, figures and letter “section 10B”, the words, figures, letter and brackets “or sub-section (6) of section 10F” shall be inserted;
- (7) for section 10F, the following section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989:—

“Deferment
of payment of
tax.

10F. (1) Notwithstanding anything contained in sub-section (3) or sub-section (3a) of section 10 or sub-section (3) of section 11, the tax payable by a registered dealer under this Act according to his statements referred to in sub-section (3) or return referred to in sub-section (3a) of section 10 or the tax due from him according to a notice issued under sub-section (3) of section 11 shall, subject to the other provisions of this section or the rules made thereunder, be deferred,—

- (a) in the case of a newly set up industrial unit in such area in West Bengal as may be prescribed, from the prescribed date on which such tax becomes payable according to such statement or return in a year during the period referred to in sub-section (2) in respect of goods manufactured in such unit or goods purchased for use directly in the manufacture of such goods, or
- (b) in the case of an existing industrial unit in such area in West Bengal as may be prescribed, which has been expanded on approval of the State Government, from the prescribed date on which such tax becomes payable according to such statement or return in a year during the period referred to in sub-section (2) in respect of goods manufactured in the expanded portion of such unit on utilisation of the added capacity of the plant and machinery installed therein or goods purchased for use directly in the manufacture of such goods,

for such period, not exceeding seven years, as may be prescribed, and different periods may be prescribed for different such newly set up or existing industrial units having regard to the location of such units in different areas.

(2) The period in respect of which the dealer is eligible for deferment of tax under sub-section (1) (hereinafter referred to as the eligible period) shall commence,—

- (a) in respect of a newly set up industrial unit in West Bengal, from the prescribed date on which such tax

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becomes first payable according to such statement or return in respect of goods manufactured in such unit or goods purchased for use directly in the manufacture of such goods, or

- (b) in respect of an existing industrial unit in West Bengal from the prescribed date on which such tax becomes first payable according to such statement or return in respect of goods manufactured in such unit on utilisation of the added capacity of new plant and machinery installed therein by way of expansion on approval by the State Government or goods purchased for use directly in the manufacture of such goods,

and shall expire on the completion of such period, not exceeding seven years from such commencement, as may be prescribed, and different periods may be prescribed in respect of different such newly set up or existing industrial units having regard to the location of such units in different areas:

Provided that payment of tax shall not be deferred after the amount of tax or the aggregate of the amounts of tax payable from the date referred to in sub-section (2) exceeds any of the limits prescribed under sub-section (3) at any time before the expiry of the eligible period.

(3) The amount of tax or the aggregate of the amounts of tax payable that the dealer is eligible for deferment under sub-section (1) for the whole of the eligible period shall be,—

- (a) in the case of a newly set up industrial unit in West Bengal, such percentage of the gross value of fixed capital assets as stand on the date of first commercial production in such unit, or
- (b) in the case of an existing industrial unit in West Bengal which has been expanded on approval of the State Government, such percentage of the gross value of the fixed capital assets as stand on the date of first commercial production in the expanded portion of such unit,

not exceeding ninety *per centum* of such gross value as may be prescribed or thirty-five crore rupees, whichever is less, and different percentages of such gross value may be prescribed for such newly set up or existing industrial units having regard to the location of such units in different areas.

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(4) A registered dealer shall not be eligible for deferment of tax under this section, if he once opts for remission of tax under section 10G in respect of his newly set up or existing industrial unit.

(5) The tax deferred under sub-section (1) shall be paid in such manner as may be prescribed by a registered dealer into a Government Treasury or the Reserve Bank of India after such period, at such intervals, in such instalments, and by such date, as may be prescribed.

(6) Notwithstanding anything contained in section 10A, no interest shall be payable by a registered dealer on the tax deferred under sub-section (1) until the amount of tax so deferred becomes payable in the prescribed manner referred to in sub-section (5), and where such registered dealer fails to make payment of tax under sub-section (5) in the prescribed manner and 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 such prescribed date up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceeding under sub-section (4) of section 11, whichever is earlier, upon so much of the amount of such tax payable by him in accordance with the provisions contained in sub-section (5) as remains unpaid at the end of each such month and all other provisions of section 10A and those of sub-sections (2h), (2i) and (2j) of section 11 shall apply accordingly.

(7) A registered dealer availing the benefit of deferment of payment of tax under this section shall, notwithstanding such deferment, furnish statements and return as required by section 10 and the rules made thereunder.

(8) For the contravention of any provisions of this Act or the rules made thereunder, the benefit of deferment of tax under sub-section (1) shall, subject to such conditions and restrictions as may be prescribed, be discontinued even before the expiry of the eligible period referred to in sub-section (2).

Explanation.—For the purposes of this section,—

- (i) the expression “newly set up industrial unit” shall mean an industrial unit having investment in fixed capital assets exceeding ten lakh rupees which is established and commissioned by the dealer for the manufacture of

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goods in West Bengal for the first time on or after the 1st day of April, 1989, under any scheme approved by the State Government and which is registered with such authority as may be prescribed;

- (ii) the expression “existing industrial unit” shall mean an industrial unit having investment in fixed capital assets exceeding ten lakh rupees which is established and commissioned by the dealer for the manufacture of goods in West Bengal before the 1st day of April, 1989, and which is registered with such authority as may be prescribed;
- (iii) the expression “expansion” in relation to an existing industrial unit shall mean the creation of additional capacity with the approval of the State Government in such unit for the manufacture of goods in West Bengal either in its existing location or in a different area;
- (iv) the expression “gross value of fixed assets” shall mean,—
 - (a) in relation to a newly set up industrial unit, the actual price or premium paid by the dealer for the land, freehold or leasehold, expenditure incurred for construction of office building excluding residential portion thereof and factory shed erected by him and cost of new plant and machinery including the productive equipments, installed or acquired by him on or before the date of first commercial production in such unit, and
 - (b) in relation to an existing industrial unit, the expenditure incurred by the dealer for construction of factory shed including the price or premium paid for land used for erection of such factory shed and cost of new plant and machinery including the productive equipments, installed or purchased by such dealer on or before the date of first commercial production in the expanded portion of such unit on the basis of any scheme approved by the State Government.”;

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- (8) after section 10F, the following section shall be inserted:—

*Remission of
tax for
specified period. 10G. (1) Where a registered dealer manufactures any goods, other than such goods as may be prescribed, in a new industrial unit established by him, or in an existing industrial unit expanded by him, in such area in West Bengal as may be prescribed, the tax payable under this Act by such dealer according to his return referred to in sub-section (2), or statement referred to in sub-section (3), of section 10 in respect of such goods in such unit shall, subject to such conditions and restrictions as may be prescribed, be remitted or continue to be remitted until the amount or the aggregate of amounts of such tax exceeds the limit of such percentage of the gross value of fixed capital assets as on the date of first commercial production in such new unit or expanded portion of such existing unit not exceeding ninety *per centum* of such gross value as may be prescribed or thirtyfive crore rupees, whichever is less, and different percentages of such gross value may be prescribed for new industrial units or expansion of existing industrial units having regard to the location of such units in different areas:

Provided that remission of such tax to the extent of the prescribed limit shall in no case continue, in the case of a new unit, beyond such period exceeding five years and, in the case of an expanded unit, beyond such period exceeding four years as may be prescribed, and different periods may be prescribed for new industrial units or expansion of existing industrial units having regard to the location of such units in different areas.

(2) A registered dealer availing the benefit of remission of tax under this section shall, notwithstanding such remission, furnish statements and returns as required by section 10 and the rules made thereunder.

(3) A registered dealer shall not be eligible for remission of tax under this section if he once opts for deferment of payment of tax under section 10F in respect of goods manufactured in such industrial unit.

(4) Notwithstanding anything contained in sub-section (1),

- (i) a dealer who has been, subject to fulfilment of prescribed restrictions and conditions, eligible for a prescribed period for deduction under sub-clause (vi) of clause (a) of sub-section (2) of section 5 of his sales of goods

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manufactured in his newly set up small scale industry, shall continue to be so eligible on fulfilment of the same restrictions and conditions for the unexpired portion of the prescribed period, and

- (ii) every dealer other than that referred to in clause (i) shall, subject to the same restrictions and conditions referred to in that clause, be also eligible for deduction under sub-clause (vi) of clause (a) of sub-section (2) of section 5 of sales of goods manufactured by him in the newly set up small scale industry registered with the Cottage and Small Scale Industries Department of the State Government, if the first sale of the goods manufactured in such unit is made within thirty days from the commencement of section 3 of the West Bengal Taxation Laws (Second Amendment) Act, 1990,

and a dealer who once enjoys the benefit of deduction of his sales referred to hereinbefore for the prescribed period or part thereof, shall not be eligible for remission of tax provided for under sub-section (1).”;

(9) in section 11,—

(a) in sub-section (1),—

- (i) for the word “returns” in the two places where it occurs, the words “statements or returns” shall be substituted;
- (ii) for the words “any period a return” the words “any period a statement or return” shall be substituted;
- (iii) for the words, figures and brackets “sub-section (3) of section 10”, the word and figures “section 10” shall be substituted;

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

“Provided also that—

- (a) any assessment under sub-section (1) in respect of any year or part of a year where such year ends on any date between the 1st day of January, 1986 and the 30th day of June, 1986 (both days inclusive), or
- (b) any assessment under sub-section (2) in respect of any year or part of a year where such year ends on any date between the 1st day of January, 1984 and the 30th day of June, 1984 (both days inclusive),

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may, notwithstanding the foregoing provisions of this sub-section, be made after the 30th day of June, 1990 but on or before the 31st day of December, 1990.”;

- (c) in sub-section (3), in clause (a), after the word “returns”, the words “or statements” shall be inserted;

(10) in section 11E,—

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

“(2) The assessment in respect of a registered dealer whose assessed gross turnover under this Act or when he is registered under the other Act, the aggregate of the assessed gross turnover under this Act and the assessed gross turnover under the other Act, as the case may be, in respect of the latest period of one full year which ended on or before the 30th day of June, 1986, has not exceeded ten lakh rupees, shall be eligible for deemed assessment under sub-section (1), subject to the fulfilment of the following conditions:—

- (a) that he has furnished all returns under this Act or the other Act or the Central Sales Tax Act, 1956 under which he is registered, in respect of period or periods together with receipted challans showing full payment of tax due according to such returns and interest, if any, before the appointed date:

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Provided that where the returns for the aforesaid period or periods have been furnished by a registered dealer but the total amount of tax paid before the appointed date in respect of such period or periods falls short of the total amount of tax payable according to such returns by less than one hundred rupees or the total amount of interest payable for such periods under sub-section (1) of section 10A falls short of the interest paid before the appointed date by less than one hundred rupees, the Commissioner may, by special or general order, treat that the condition under this clause in respect of such period or periods too have been fulfilled;

- (b) that any books of account, registers or documents of the dealer were not seized under this Act or the other Act during a period of three years immediately preceding the appointed date;

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- (c) that no action for prosecution was taken against the dealer in respect of any offence alleged to have been committed by him under this Act or the other Act or the Central Sales Tax Act, 1956;
 - (d) that the dealer has not imported any notified goods or any goods notified under section 25 of the West Bengal Sales Tax Act, 1954, for sale in regular course of business during the period of eligibility;
 - (e) that the dealer has complied with the requirements, if any, made of him under the proviso to sub-section (1);
 - (f) that the dealer has complied with such requirements as the Commissioner may, by special or general order, make for the purpose of removing any difficulty to give effect to the provisions of this section.”;
 - (ii) in sub-section (3), for the words “within one and a half years from the date on which the assessment is deemed to be made as specified in the order referred to in that sub-section”, the words, figures and letters “by the 31st day of March, 1991, or such other later date as the State Government may, by notification published in the *Official Gazette*, specify” shall be substituted;
- (11) in section 13,—
- (a) for sub-section (1), the following sub-section shall be substituted:—

“(1) Every registered or certified dealer or other dealer on whom a notice has been served to furnish return under sub-section (2) of section 10 shall maintain and keep true and up to date account of the value and quantity of goods purchased, manufactured and sold by him or goods held in stock by him and, in addition to the books of account that a dealer maintains and keeps for the purposes referred to in this sub-section, shall maintain and keep such registers or accounts in such form as may be prescribed.”;

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

“(1a) Every dealer referred to in sub-section (1) shall keep all accounts, registers and documents required by the Commissioner for the purpose of inspection under sub-section (2) of section 14 at his place of business, and shall not keep or remove those elsewhere except in accordance with the requirement under the law or for any purpose for which cause is shown to the satisfaction of the Commissioner.”;

- (12) in section 20A, in sub-section (1), in clause (b),—

- (a) for the words “in the return”, the words “in the statement or return” shall be substituted;
- (b) for the words, figure and brackets “under sub-section (2)”, the words, figures and brackets “under sub-section (2) or sub-section (3)” shall be substituted;

- (13) in section 22,—

- (a) in sub-section (1),—
- (i) in clause (e), for the words “false return;”, the words and figures “false statement or return referred to in section 10;” shall be substituted;
- (ii) in clause (ee), for the words “furnish a return”, the words “furnish a statement or return” shall be substituted;
- (iii) in clause (f), for the words, figures and brackets “under sub-section (1) of section 13;”, the words, figures, letter and brackets “under sub-section (1) or sub-section (1a) of section 13;” shall be substituted;

- (14) in section 26, in sub-section (2),—

- (a) after clause (b1), the following clauses shall be inserted:—

“(b2) manner and forms in which particulars which are to be furnished, and authority from which such forms are to be obtained, under sub-section (3) of section 4B;

- (b3) the manner and the form in which accounts for receipt and disposal of notified goods referred to in sub-section (4) of section 4B;”;

(Section 3.)

- (b) after clause (f), the following clauses shall be inserted:—
- “(f1) class or classes or area or areas of industrial units of which, limit or limits of amount up to which, period or periods for which and in respect of which, and conditions and restrictions subject to which, tax may be deferred under section 10F;
 - (f2) manner and instalments in which, intervals at which and dates by which, deferred tax shall be paid under section 10F;
 - (f3) conditions and restrictions subject to which deferment of tax may be discontinued under section 10F;
 - (f4) the authority with which the industrial unit referred to in section 10F is to be registered;
 - (f5) goods to which remission of tax shall not apply, and conditions and restrictions subject to which, percentage of the gross value not exceeding which, and periods for which, tax may be remitted under section 10G;”;
- (15) in Schedule I, after item 105 and the entry relating thereto in column 1, the following items and entries in column 1 shall be added—
- “106. Sabai grass and all articles made thereof.
 - 107. Handicrafts, other than those included in any other item of this Schedule, made of clay, whether burnt or unburnt.
 - 108. Sponge-wood, commonly known as sola or sola-*pith*, and all handicrafts made of them.
 - 109. Handicrafts made of mats.
 - 110. Fishing boats, fishing hooks and fishing nets.
 - 111. Hurricane lanterns and kerosene lamps.
 - 112. Glass chimneys, other than chimneys for use in gas lights and petromax lights.”;
- (16) in Schedule II, under the heading “Description of Goods”, Serial numbers 8, 16 and 17 and the entries relating thereto shall be omitted;

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(Section 4.)

- (17) in Schedule IV, under the heading "Description of goods", after serial No. 4 and the entry relating thereto, the following serial numbers and entries shall be added:—

- "5. Washing machines.
6. Vacuum cleaners.
7. Iron and steel safes and almirahs.
8. Cushions, mattresses, pillows and other articles made wholly or partly of rubber foams.
9. Cushions, mattresses, pillows and other articles made wholly or partly of artificial or synthetic resin and plastic foam.
10. Apparatuses for making coffee under pressure, commonly known as espresso.
11. Electronic toys including video games, electronic games and electronic game kits.
12. Fancy leather goods, that is to say, brief cases, attache cases, ornamented vanity bags and hand bags made of leather."

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

- (1) in section 2, after clause (2), the following clause shall be inserted:—

“(2a) “Appellate Tribunal” means the West Bengal Commercial Taxes Tribunal constituted under section 3B of the Bengal Finance (Sales Tax) Act, 1941;”

Amend-
ment of
Ben. Act IV
of 1944.

- (2) for section 22, the following section shall be substituted:—

‘Appellate Tribunal. 22. (1) All appeals under section 36 and all applications for reference under section 63 shall be heard and disposed of by the Appellate Tribunal referred to in clause (2a) of section 2 in accordance with the provisions of this Act and the rules made thereunder.

(2) All appeals under section 36 and all applications for reference under section 63, including part heard ones, pending before the Appellate Tribunal appointed by the State Government under this Act prior to the coming into force of section 4 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, shall, on the commencement of section 4 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, stand transferred to the Appellate Tribunal referred to in clause (2a) of section 2 for hearing and disposal in accordance with the provisions of this Act and the rules made thereunder.

Ben. Act VI
of 1941.

(Section 4.)

(3) Subject to the previous sanction of the State Government the Appellate Tribunal referred to in clause (2a) of section 2 shall, in so far as it is consistent with the provisions of this Act and the rules made thereunder, amend its regulations made under sub-section (9) of section 3B of the Bengal Finance (Sales Tax) Act, 1941, for regulating its business and providing the rules of business in connection with hearing and disposal of appeals referred to in section 36 and applications for reference referred to in section 63:

Ben. Act VI
of 1941.

Provided that the regulations so amended shall be published in the *Official Gazette*.

(4) The Appellate Tribunal appointed by the State Government before the commencement of section 4 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, shall, on the commencement of the said section, cease to function as such.”;

(3) in section 36, after sub-section (4), the following sub-sections shall be inserted:—

“(4a) The functions of the Appellate Tribunal may be discharged by any of the members, sitting either singly or in Benches of two or more members, as may be determined by the President.

(4b) If the members of a Bench are divided, the decision shall be the decision of the majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points to one or more of the members of the Appellate Tribunal; and such point or points shall be decided according to the majority of the members of the Appellate Tribunal who heard the case including those who first heard it:

Provided that if at any time, the Appellate Tribunal consists of only two members, the decision of the Appellate Tribunal shall be that of the President in such case.”.

(Section 5.)

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

Amend-
ment of
West Ben.
Act IV of
1954.

- (1) in section 6, after sub-section (2), the following sub-sections shall be inserted:—

“(3) In prescribing the conditions under sub-section (1) or sub-section (2), the State Government may direct that transport of notified commodity referred to in the said sub-sections shall be made after furnishing in the prescribed manner such particulars in such form obtainable from such authority, or in such form in own stationery, as may be prescribed.

(4) Every dealer who transports notified commodity from places referred to in sub-section (1) or sub-section (2) shall maintain up to date and true accounts in respect of receipt and disposal of such notified commodity in such form and manner as may be prescribed.”;

- (2) after section 6A, the following section shall be inserted:—

“Security for
proper use and
safe custody
of forms.

6B. The prescribed authority may, for good and sufficient reasons to be recorded in writing, demand from any person a reasonable security for the proper use and safe custody of the forms referred to in sub-section (3) of section 6 and obtained from the prescribed authority, whether such forms are blank or duly filled up and signed by such person, after giving him a reasonable opportunity of being heard.”

- (3) in section 8,—

- (a) in sub-section (1), for the words “in such manner, for such periods”, the words “for a year or part thereof in such manner” shall be substituted;
- (b) for sub-section (2), the following sub-sections shall be substituted:—

“(2) Any registered dealer shall, notwithstanding that he is required to furnish returns annually or otherwise, prepare a statement in the prescribed form showing the amount of tax payable for a month or, if so required, for part of a month, under sections 4 and 4AAA, and in the prescribed manner pay into a Government Treasury or the Reserve Bank of India the amount of tax due under this

(Section 5.)

Act according to such statement, and shall, by such date, in such manner and to such authority, as may be prescribed furnish the statement together with a receipt from such Treasury or Bank showing payment of such amount of tax:

Provided that a dealer who is required to furnish return monthly or quarterly in accordance with the provisions contained in this section and the rules made thereunder, as they stood before the coming into force of section 5 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, shall, in respect of the month or the quarter as prescribed under the said provisions, which commences before the coming into force of section 5 of that Act, deposit the tax payable according to such return and furnish such return in accordance with the said provisions.

(2a) Before any dealer furnishes his return for any year, he shall calculate the total amount of tax payable by him according to such return and pay into a Government Treasury or the Reserve Bank of India so much of the amount of tax together with interest, if any, that may become due from the dealer after deducting from the total amount of tax payable for such year the aggregate of the amounts of tax paid for each month of such year and furnish such return together with a receipt from such Treasury or Bank showing payment of the balance amount of tax, if any, according to return.”;

- (c) in sub-section (3), for the word “return”, wherever it occurs, the words, brackets and figure “the statement referred to in sub-section (2) or return” shall be substituted;
- (4) in section 8A,—
 - (a) in sub-section (1),—
 - (i) for the word “return”, wherever it occurs, the word “statement” shall be substituted;
 - (ii) for the words “commencement of each such month:”, the words “end of each such month of default:” shall be substituted;

(Section 5.)

- (iii) in the proviso, for the words “commencement of each such month”, the words “end of each such month of default” shall be substituted;
- (b) in sub-section (2),—
 - (i) for the word “return”, the word “statement” shall be substituted;
 - (ii) for the words “commencement of each such month:”, the words “end of each such month of default:” shall be substituted;
 - (iii) in the proviso, for the words “one return period”, the words “one period” shall be substituted;
- (c) in sub-section (3), for the words “commencement of each such month.”, the words “end of each such month of default.” shall be substituted;
- (d) after sub-section (3), the following *Explanation* shall be inserted:—

‘*Explanation.*—For the purposes of sub-section (1), sub-section (2) and sub-section (3), the word “period”, wherever it occurs in the said sub-sections, shall mean the period of a month or part thereof for which a statement is required to be furnished under sub-section (2) of section 8.’;
- (e) in sub-section (4),—
 - (i) for the word “reduced” in the two places where it occurs, the word “modified” shall be substituted;
 - (ii) after the words, figure and brackets “under sub-section (3)”, the words, figures, letter and brackets “of this section or sub-section (6) of section 8H, as the case may be,” shall be inserted;
- (f) in sub-section (5), after the words, figure and brackets “or sub-section (3)”, the words, figures, letter and brackets “of this section or sub-section (6) of section 8H, as the case may be,” shall be inserted;
- (g) in sub-section (6), after the words, figure and brackets “or sub-section (3)”, the words, figures, letter and brackets “of this section or sub-section (6) of section 8H, as the case may be,” shall be inserted;

(Section 5.)

- (h) in sub-section (7), the following sub-section shall be substituted:—

“(7) Interest under sub-section (1), or sub-section (2) shall be payable in respect of the statements the prescribed dates for furnishing of which under sub-section (2) of section 8 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 (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, 1990.”;

- (5) in section 8C, after the word, figure and letter “section 8B,”, the words, figures, letter and brackets “or sub-section (6) of section 8H” shall be inserted;
- (6) for section 8H, the following section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989:—

“Deferment of
payment of tax.

8H. (1) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (2a) of section 8 or sub-section (1) of section 10, the tax payable by a registered dealer under this Act according to his statements or returns referred to in section 8 or the tax due from him according to a notice issued under sub-section (1) of section 10 shall, subject to the other provisions of this section or the rules made thereunder, be deferred,

- (a) in the case of a newly set up industrial unit in such area in West Bengal as may be prescribed, from the prescribed date on which such tax becomes payable in a year during the period referred to in sub-section (2) under this Act in respect of notified commodity manufactured in such unit or goods purchased for use directly in the manufacture of such notified commodity, or
- (b) in case of an existing industrial unit in such area in West Bengal as may be prescribed, which has been expanded on approval of the State Government, from the prescribed date on which such tax becomes payable in a year during the period referred to in sub-section (2) under this Act in respect of notified commodity manufactured in the expanded portion of such unit on utilisation of the added capacity of the plant and machinery installed therein or goods purchased for use directly in the manufacture of such notified commodity,

(Section 5.)

for such period, not exceeding seven years, as may be prescribed, and different periods may be prescribed for different such newly set up or existing industrial units having regard to the location of such units in different areas.

(2) The period in respect of which the dealer is eligible for deferment of tax under sub-section (1) (hereinafter referred to as the eligible period) shall commence,—

- (a) in respect of a newly set up industrial unit in West Bengal, from the prescribed date on which such tax becomes first payable according to the statement or return referred to in section 8 in respect of notified commodity manufactured in such unit or goods purchased for use directly in the manufacture of such notified commodity, or
- (b) in respect of an existing industrial unit in West Bengal, from the prescribed date on which such tax becomes first payable according to the statement or return in section 8 in respect of notified commodity manufactured in such unit on utilisation of the added capacity of new plant and machinery installed therein by way of expansion on approval by the State Government or goods purchased for use directly in the manufacture of such notified commodity,

and shall expire on the completion of such period not exceeding seven years from such commencement as may be prescribed, and different periods may be prescribed in respect of different such newly set up or existing industrial units having regard to the location of such units in different areas:

Provided that payment of tax shall not be deferred after the amount of tax or the aggregate of the amounts of tax payable from the date referred to in sub-section (2) exceeds any of the limits prescribed under sub-section (3) at any time before the expiry of the eligible period.

(3) The amount of tax or the aggregate of the amounts of tax payable that the dealer is eligible for deferment under sub-section (1) for the whole of the eligible period shall be,—

- (a) in the case of a newly set up industrial unit in West Bengal, such percentage of the gross value of the fixed capital assets as stand on the date of first commercial production in such unit, or

(Section 5.)

- (b) in the case of an existing industrial unit in West Bengal which has been expanded on approval of the State Government, such percentage of the gross value of the additional fixed capital assets as stand on the date of first commercial production in the expanded portion of such unit,

not exceeding ninety *per centum* of such gross value as may be prescribed or thirty-five crore rupees, whichever is less, and different percentages of such gross value may be prescribed for such newly set up or existing industrial units having regard to the location of such units in different areas.

(4) A registered dealer shall not be eligible for deferment of tax under this section, if he once opts for remission of tax under section 8 I in respect of his newly set up or existing industrial unit.

(5) The tax deferred under sub-section (1) shall be paid in such manner as may be prescribed by a registered dealer into a Government Treasury or the Reserve Bank of India after such period, at such intervals, in such instalments, and by such date, as may be prescribed.

(6) Notwithstanding anything contained in section 8A, no interest shall be payable by a registered dealer on the tax deferred under sub-section (1) until the tax so deferred becomes payable in the prescribed manner referred to in sub-section (5) and where such registered dealer fails to make payment of tax under sub-section (5) in the prescribed manner and 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 prescribed date up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceeding under sub-section (2) of section 10, whichever is earlier, upon so much of the amount of such tax payable by him in accordance with the provisions contained in sub-section (5) as remains unpaid at the end of each such month and all other provisions of section 8A and those of sub-sections (5), (6) and (7) of section 9 shall apply accordingly.

(Section 5.)

(7) A registered dealer availing of the benefit of deferment of payment of tax under this section shall, notwithstanding such deferment, furnish statements and return as required by section 8 and the rules made thereunder.

(8) For the contravention of any provisions of the Act or the rules made thereunder, the benefit of deferment of tax under sub-section (1) shall, subject to such conditions and restrictions as may be prescribed, be discontinued even before the expiry of the eligible period referred to in sub-section (2).

Explanation.—For the purposes of this section,—

- (i) the expression “newly set up industrial unit” shall mean an industrial unit having investment in fixed capital assets exceeding ten lakh rupees which is established and commissioned by the dealer for manufacture of notified commodities in West Bengal for the first time on or after the 1st day of April, 1989, under any scheme approved by the State Government and which is registered with such authority as may be prescribed;
- (ii) the expression “existing industrial unit” shall mean an industrial unit having investment in fixed capital assets exceeding ten lakh rupees which is established and commissioned by the dealer for the manufacture of notified commodities in West Bengal before the 1st day of April, 1989, and which is registered with such authority as may be prescribed;
- (iii) the expression “expansion” in relation to an existing industrial unit shall mean the creation of additional capacity with the prior approval of the State Government in such unit for the manufacture of notified commodities in West Bengal either in its existing location or in a different area;
- (iv) the expression “gross value of fixed assets” shall mean,—
 - (a) in relation to a newly set up industrial unit, the actual price or premium paid by the dealer for the land, freehold or leasehold, expenditure incurred for construction of office building excluding residential portion thereof and factory shed erected by him and cost of new plant and machinery including the productive equipments installed or acquired by him on or before the date of first commercial production in such unit, and

(Section 5.)

- (b) in relation to an existing industrial unit, the expenditure incurred by the dealer for construction of factory shed including the price or premium paid for land used for such factory shed erected by him and cost of new plant and machinery including the productive equipment installed or purchased by such dealer on or before the date of first commercial production in the expanded portion of such unit on the basis of any scheme approved by the State Government.”;
- (7) after section 8H, the following section shall be added:—

“Remission of
tax for specified
period.

8 I. (1) Where a registered dealer manufactures any notified commodity, other than such notified commodity as may be prescribed, in a new industrial unit established by him, or in an existing industrial unit expanded by him, in such area in West Bengal as may be prescribed, the tax payable under this Act by a registered dealer according to his return referred to in sub-section (1), or statement referred to in sub-section (2), of section 8 in respect of such notified commodity in such unit shall, subject to such conditions and restrictions as the State Government may, by notification published in the *Official Gazette*, specify, be remitted or continue to be remitted until the amount or the aggregate of amounts of such tax exceeds the limit of such percentage of the gross value of the fixed capital assets as on the date of first commercial production in such new unit or expanded portion of such existing unit not exceeding ninety *per centum* of such gross value as may be specified in such notification or thirty-five crore rupees, whichever is less, and different percentages of such gross value may be specified for new industrial units or expansion by existing industrial units having regard to the location of such units in different areas:

Provided that remission of such tax to the extent of the specified limit shall in no case continue, in the case of a new unit, beyond such period exceeding five years and, in the case of an expanded unit, beyond such period exceeding four years as may be specified in such notification, and different periods for new industrial units or expanded industrial units may be specified having regard to the location of such units in different areas.

(Section 5.)

(2) A registered dealer availing himself of the benefit of remission of tax under this section shall, notwithstanding such remission, furnish statements and return as required by section 8 and the rules made thereunder.

(3) A registered dealer shall not be eligible for remission of tax under this section if he once opts for deferment of payment of tax under section 8H in respect of notified commodity manufactured in such industrial unit.

(4) Notwithstanding anything contained in sub-section (1)—

- (a) a dealer who has been, subject to fulfilment of specified conditions, eligible for a specified period for exemption from payment of tax by a notification issued under section 4AA on his sales of notified commodity manufactured in his newly set up small scale industry, shall continue to be so eligible on fulfilment of the same restrictions and conditions for the unexpired portion of the prescribed period, and
- (b) every dealer other than that referred to in clause (a) shall, subject to the same conditions referred to in that clause, be also eligible for exemption from payment of tax by a notification issued under section 4AA on his sales of notified commodity manufactured by him in the newly set up small scale industry registered with the Cottage and Small Scale Industries Department of the State Government, if the first sale of the notified commodity manufactured in such unit is made within thirty days from the commencement of section 5 of the West Bengal Taxation Laws (Second Amendment) Act, 1990,

and a dealer who once enjoys the benefit of exemption of his sales referred to hereinbefore for the specified period or part thereof, shall not be eligible for remission of tax provided for under sub-section (1).”;

(8) in section 9,—

- (a) in sub-section (2), in clause (a), after the word “return” in the two places where it occurs, the words “or statement” shall be inserted;
- (b) in sub-section (3), in clause (i), after the word “return”, the words “or statement” shall be inserted;

(Section 5.)

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

“Provided also that any assessment or determination of tax under this section in respect of any year or part of a year where such year ends on any date between the 1st day of January, 1986 and the 30th day of June, 1986 (both days inclusive) may, notwithstanding the foregoing provisions of this sub-section, be made after the 30th day of June, 1990, but on or before the 31st day of December, 1990.”;

- (9) in section 9A,—

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

“(2) The assessment in respect of a registered dealer whose assessed gross turnover under this Act or when he is registered under the other Act, the aggregate of the assessed gross turnover under this Act and the assessed gross turnover under the other Act, as the case may be, in respect of the latest period of one full year which ended on or before the 30th day of June, 1986, has not exceeded ten lakh rupees, shall be eligible for deemed assessment under sub-section (1), subject to the fulfilment of the following conditions:—

- (a) that he has furnished all returns under this Act or the other Act or the Central Sales Tax Act, 1956, under which he is registered, in respect of period or periods together with receipted challans showing full payment of tax due according to such returns and interest, if any, before the appointed date:

74 of 1956.

Provided that where the returns for the aforesaid period or periods have been furnished by a registered dealer but the total amount of tax paid before the appointed date in respect of such period or periods falls short of the total amount of tax payable according to such returns by less than one hundred rupees or the total amount of interest payable for such periods under sub-section (1) of section 8A falls short of the interest paid before the appointed date by less than one hundred rupees, the prescribed authority may, by special or general order, treat that the condition under this clause in respect of such period or periods too have been fulfilled;

VIII of 1990.]

(Section 5.)

74 of 1956.

Ben. Act VI
of 1941.

- (b) that any books of accounts, registers or documents of the dealer were not seized under this Act or the other Act during a period of three years immediately preceding the appointed date;
- (c) that no action for prosecution was taken against the dealer in respect of any offence alleged to have been committed by him under this Act or the other Act or the Central Sales Tax Act, 1956;
- (d) that the dealer has not imported any notified commodity or any goods notified under the Bengal Finance (Sales Tax) Act, 1941, for sale in regular course of business during the period of eligibility;
- (e) that the dealer has complied with the requirements, if any, made of him under the proviso to sub-section (1);
- (f) that the dealer has complied with such requirements as the prescribed authority may, by special or general order, make for the purpose of removing any difficulty to give effect to the provisions of this section.”;
- (ii) in sub-section (3), for the words “within one and a half years from the date on which the assessment is deemed to be made as specified in the order referred to in that sub-section”, the words, figures and letters “by the 31st day of March, 1991, or such other later date as the State Government may, by notification published in the *Official Gazette*, specify,” shall be substituted.
- (10) in section 10, in sub-section (1), for clause (a), the following clause shall be substituted:—
 - “(a) payable, where the returns under sub-section (1) or statements under sub-section (2), of section 8 are furnished without receipts showing full payment thereof, or”;
- (11) in section 12B, in sub-section (1), in clause (b), after the words, figure and brackets “under sub-section (1)”, the words, figure and brackets “, or statement furnished under sub-section (2),” shall be substituted;

(Section 5.)

(12) in section 13,—

(a) in sub-section (1), in clause (a),—

- (i) for the word “true”, the words “true and up to date” shall be substituted;
- (ii) for the words beginning with “and if the prescribed authority” and ending with “as may be prescribed;”, the words “or of notified commodities held in stock by him and, in addition to the books of accounts that a dealer maintains and keeps for the purposes referred to in this sub-section, shall maintain and keep such registers or books as may be prescribed;” shall be substituted;

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

“(1B) Every dealer referred to in sub-section (1) shall keep all accounts, registers and documents required by the prescribed authority for the purpose of inspection under sub-section (2) at his place of business, and shall not keep or remove those elsewhere except in accordance with the requirement under the law or for any purpose for which cause is shown to the satisfaction of the prescribed authority.”;

(13) in section 16, in sub-section (1),—

- (a) in clause (aa), after the word and figure “section 5”, the words, figure and letter “or under section 6B” shall be inserted;
- (b) in clause (d), for the words, figures and brackets “sub-section (1) of section 8,”, the words, figures and brackets “sub-section (1), or sub-section (2), or sub-section (2a), of section 8,” shall be substituted;
- (c) after clause (e), the following clause shall be inserted:—

“(f) submits a false return or statement.”;

(14) in section 21, in sub-section (2),—

(a) after clause (b2), the following clauses shall be inserted:—

“(b3) manner and forms in which particulars which are to be furnished, and authority from which such forms are to be obtained, under sub-section (3) of section 6;

(Section 6.)

- (b4) the manner and the form in which accounts for receipt and disposal of notified commodities referred to in sub-section (4) of section 6;”;
- (b) after clause (bbbb1), the following clauses shall be inserted:—
 - “(bbbb2) class or classes or area or areas of industrial units of which, limit or limits of amount up to which, period or periods for which and in respect of which, and conditions and restrictions subject to which, tax may be deferred under section 8H;
 - (bbbb3) manner and instalments in which, intervals at which, and dates by which, deferred tax shall be paid under section 8H;
 - (bbbb4) conditions and restrictions subject to which deferment of tax may be discontinued under section 8H;
 - (bbbb5) the authority with which the industrial unit referred to in section 8H is to be registered;
 - (bbbb6) notified commodities to which remission of tax shall not apply, and conditions and restrictions subject to which, percentage of the gross value not exceeding which, and periods for which, tax may be remitted under section 8 I;”.

6. In the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, in section 29, for the proviso, the following proviso shall be substituted:—

Amendment
of West Ben.
Act V of
1972.

“Provided that—

- (a) no assessment of tax or imposition of penalty shall be varied under this section so as to prejudicially affect any person without giving such person an opportunity of being heard;
- (b) no order shall be passed on revision after the expiry of a period of three years from the date of assessment of tax or imposition of penalty, as the case may be, which is proposed to be revised.”.

(Section 7.)

Amendment
of West Ben.
Act XXI of
1972.

7. In the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972,—

- (1) in section 2, for clause (a), the following clause shall be substituted:—

‘(a) “Calcutta” means the area described in Schedule I to the Calcutta Municipal Corporation Act, 1980;’;

West Ben.
Act LIX of
1980.

- (2) section 3 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted:—

“(2) the entertainment tax shall be recoverable from the proprietor.”;

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

“Payment of
entertainment
tax, luxury tax
and returns.

4A. The entertainment tax under section 3 recoverable from, and the luxury tax under section 4 payable by, a proprietor, shall be deposited into a Government Treasury or the Reserve Bank of India, and returns shall be furnished by him to such authority, in such form, in such manner, and within such time, as may be prescribed.

Interest
payable by the
proprietor.

4B. (1) If the amount of entertainment tax payable under section 3 or the luxury tax under section 4 is not paid within the time as prescribed under section 4A, the proprietor 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 prior to the month in which such tax is fully paid or up to the month prior to the month of assessment under section 5 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to returns where returns are furnished, or according to such assessment where returns are not furnished, as remains unpaid at the end of each such month of default.

(2) Where a proprietor fails to make a payment of any tax payable after assessment by the date specified in the notice issued under sub-section (6) of section 5 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 such month next following the date specified in

(Section 7.)

the demand 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 proceeding under section 7, whichever is earlier, upon so much of the amount of tax payable by him according to such notice as remains unpaid at the end of each such month of default.

(3) Where as a result of an order under section 5A, the amount on which interest was payable under this section has been modified, the interest shall be payable on the modified amount.

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

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2), 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
State
Government.

4C. The State Government 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 of tax paid in excess which arises out of an order passed under section 5A, from the first day of such month next following the expiry of three months from the date of passing of such order up to the month preceding the month in which the refund is made upon the amount of tax refundable to him according to such order.

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

4D. In calculating the interest payable under section 4B or section 4C, 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.”;

(4) for section 5, the following section shall be substituted:—

“Assessment
of tax and
determination
of interest.

5. (1) If any proprietor, who is liable to pay tax under section 3, fails to furnish return in respect of any period or if the prescribed authority is not satisfied that the return furnished for any

(Section 7.)

period is correct or complete, he shall assess to the best of his judgement the amount of entertainment tax due from such proprietor and, in making such assessment, shall give such proprietor a reasonable opportunity of being heard.

(2) If any proprietor, who is liable to pay tax under section 4, fails to furnish return in respect of any period or if the prescribed authority is not satisfied that the return furnished for any period is correct or complete, he shall proceed to assess to the best of his judgement the amount of luxury tax due from such proprietor and, in making such assessment, shall give such proprietor a reasonable opportunity of being heard.

(3) Where the prescribed authority is satisfied that any proprietor is liable to pay interest under section 4B, he shall, in such manner as may be prescribed, determine the amount of interest payable by such proprietor.

(4) No assessment under sub-section (1) or sub-section (2) shall be made after the expiry of two years from the end of the period in respect of which the assessment is made or from the commencement of section 7 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, whichever is later.

(5) In computing the time limited by sub-section (4) for making any assessment under sub-section (1) or sub-section (2), the period during which the prescribed authority is restrained from commencing or continuing any proceeding for such assessment by an order of any Court shall be excluded

(6) Where any tax is due in consequence of any assessment made under sub-section (1) or sub-section (2) or interest is due in consequence of any determination under sub-section (3), the prescribed authority shall serve upon the proprietor such notice as may be prescribed.

(7) The amount of tax assessed under sub-section (1) or sub-section (2), less the sum, if any, already paid by the proprietor in respect of the said period, shall, together with any interest determined under sub-section (3) that may be directed to be paid under the provisions of sub-section (6),

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(Section 7.)

be paid in the manner and within the date as may be specified in a notice by the prescribed authority for this purpose, and the date to be so specified shall not be less than thirty days from the date of service of such notice.”;

- (5) for section 5A, the following section shall be substituted:—

“Appeal and
review.

5A. (1) A proprietor aggrieved by an order made under this Act or the rules made thereunder may appeal to such authority and in such manner as may be prescribed within sixty days from the date on which he receives an intimation of such order or within such further period as may be allowed by such authority for cause shown to his satisfaction.

(2) The appellate authority shall dispose of the appeal in the manner prescribed.

(3) Subject to such rules as may be prescribed, the prescribed authority may, of its own motion or upon application, review an assessment made or order passed under this Act or the rules made thereunder within two years from the date of making such assessment or passing such order:

Provided that no assessment shall be revised or reviewed without giving the proprietor a reasonable opportunity of being heard.”;

- (6) in section 7, after the words “or luxury tax”, the words “or interest” shall be inserted.
- (7) after section 8, the following section shall be inserted:—

“Indemnity.

8A. No suit, prosecution or other legal proceeding shall lie against any officer of the State Government for anything which is in good faith done or intended to be done in the discharge of his duties under this Act or the rules made thereunder.”.

(Section 8.)

Amendment
of West Ben.
Act XLIII of
1973.

8. In the West Bengal Primary Education Act, 1973,—

(1) in Part IV, in Chapter X, in section 78B,—

- (i) after the proviso to clause (d), the following proviso shall be added:—

“Provided further that if interest is payable by the owner of a tea estate under clause (ha) or clause (hb) for failure to make full payment of education cess in respect of any period,—

- (i) no penalty under this clause for default of payment of the education cess under clause (a) shall be imposed upon him, and

- (ii) the penalty under this clause for default in filing without reasonable cause the return under clause (c) for such period by the prescribed date shall not exceed one lakh rupees for each of such return or ten *per centum* of the amount of education cess assessed (not excluding any amount paid) under clause (c) by the prescribed authority for such period, whichever is less;”;

- (ii) to clause (g), the following proviso shall be added:—

“Provided that the prescribed authority may proceed to recover any unpaid amount of education cess assessed as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;”;

- (iii) to clause (h), the following proviso shall be added:—

“Provided further that no penalty under this clause shall be imposed in respect of an assessment of education cess for which interest is payable under clause (hc) and clause (hf);”;

- (iv) after clause (h), the following clauses shall be inserted:—

“(ha) where an owner of a tea estate files a return referred to in clause (c) in respect of any period by the prescribed date or thereafter, but fails to make full payment of education cess 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

(Section 8.)

first day of such month next following the prescribed date up to the month preceding the month of full payment of such cess or up to the month prior to the month of assessment under clause (e) in respect of such period, whichever is earlier, upon so much of the amount of education cess payable by him according to such return as remains unpaid at the end of each such month of default:

Provided that where after an assessment is made under clause (e) in respect of any period, it is found that the amount of education cess assessed (not excluding any amount paid) for such period exceeds the amount paid by such owner under clause (a) for such period by more than ten *per centum* of such amount of education cess paid, the owner of the tea estate 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 date prescribed for filing of the return for such period up to the month prior to the month of such assessment, upon the amount of education cess assessed as due;

- (hb) where an owner of a tea estate fails to furnish a return referred to in clause (c) in respect of any period by the prescribed date or thereafter before the assessment under clause (e) in respect of such period, and on such assessment full amount of education cess 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 education cess for such period or up to the month prior to the month of assessment under clause (e) in respect of such period whichever is earlier, upon so much of the education cess payable by him according to such assessment as remains unpaid at the end of each such month of default;

(Section 8.)

- (hc) where an owner of a tea estate fails to make payment of any education cess payable after assessment under clause (e) by the date specified in the notice of demand issued in this behalf, 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 last date for payment specified in such notice up to the month preceding the month of full payment of such cess or of forwarding of the certificate to the prescribed authority for recovery of the education cess under the proviso to clause (g), whichever is earlier, upon so much of the amount of education cess payable by him according to such notice as remains unpaid at the end of each such month of default;
- (hd) where as a result of an order passed on an appeal, revision or review under clause (f), the amount of education cess payable is modified, the interest payable under clause (hc) shall be determined or redetermined on the basis of such modified amount and the excess interest paid, if any, shall be refunded;
- (he) 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 an owner of a tea estate the amount of education cess paid in excess which arises out of an order passed on an appeal, revision or review under clause (f) after the date of coming into force of section 8 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, from the first day of such 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 under clause (g), upon the amount of education cess refundable to him according to such order;
- (hf) interest under clause (ha) or clause (hb) shall be payable in respect of returns, the prescribed dates for furnishing of which under clause (c) are the

(Section 8.)

dates subsequent to, and interest under clause (hc) shall be payable in respect of assessments for which the notices of demand of education cess assessed under clause (e) are issued after, the date of coming into force of section 8 of the West Bengal Taxation Laws (Second Amendment) Act, 1990;

- (hg) in calculating the interest payable under clause (ha), clause (hb), clause (hc) or clause (he), the amount of education cess 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;
- (hh) where an owner of a tea estate is liable to pay interest under clause (ha), clause (hb) or clause (hc), he shall pay such interest in such manner and by such date or dates as may be prescribed;
- (hi) where the prescribed authority is satisfied that an owner of a tea estate is liable to pay interest under clause (ha), clause (hb) or clause (hc), he shall, in such manner as may be prescribed, determine the amount of interest payable by such owner; and if, on such determination, any amount or additional amount becomes payable by such owner or any excess amount becomes refundable to such owner, the prescribed authority, shall issue a notice, in the prescribed manner, to such owner directing him to pay such amount or additional amount or informing him of the amount of excess payment, as the case may be;
- (hj) where there is an apparent mistake in the determination of interest under clause (hi), the prescribed authority may, on his own motion within four years, or upon application made by an owner of a tea estate within six months, from the date of such determination, rectify the amount of interest payable by such owner and issue a fresh notice in the prescribed manner;

(Section 9.)

- (hk) recovery of any amount of interest determined or redetermined under clause (hd), clause (hi) or clause (hj) or refund of any amount of interest found to have been paid in excess under any such clause shall be made in the manner prescribed:

Provided that the prescribed authority may proceed to recover any unpaid amount of interest determined or redetermined as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

- (hl) the State Government may by rules prescribe that no interest shall be payable, or interest shall be payable at such rate, lower than that specified under clause (ha), clause (hb) or clause (hc), in respect of such period or in such cases or under such circumstances and subject to such conditions, if any, as may be provided therein;”;

(2) in Part VI, in Chapter XIV, in section 106, in sub-section (2), after clause (qa), the following clause shall be inserted:—

“(qb) the manner of payment, determination and recovery of interest under section 78B and all other matters which may be or are required to be prescribed under that section;”.

Amendment
of West Ben.
Act XIV of
1976.

9. In the West Bengal Rural Employment and Production Act, 1976,—

- (1) in section 4, in sub-section (3),—

- (a) after the proviso to clause (cc), the following proviso shall be added:—

“Provided further that if interest is payable by the owner of a tea estate under clause (g1) or clause (g2) for failure to make full payment of rural employment cess in respect of any period,—

- (i) no penalty under this clause for default of payment of the rural employment cess under clause (a) shall be imposed upon him, and
(ii) the penalty under this clause for default in filing without reasonable cause the return under clause (c) for such period by the prescribed date shall not exceed five lakh rupees for each such return or ten *per centum* of the amount of rural employment cess assessed (not excluding any amount paid) under clause (d) by the prescribed authority for such period, whichever is less;”;

(Section 9.)

- (b) to clause (f), the following proviso shall be added:—

“Provided that the prescribed authority may proceed to recover any unpaid amount of rural employment cess assessed as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;”;

- (c) to clause (g), the following proviso shall be added:—

“Provided that no penalty under this clause shall be imposed in respect of an assessment of rural employment cess for which interest is payable under clause (g3) and clause (g6);”;

- (d) after clause (g), the following clauses shall be inserted:—

“(g1) where an owner of a tea estate files a return referred to in clause (c) in respect of any period by the prescribed date or thereafter, but fails to make full payment of rural employment cess 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 cess or up to the month prior to the month of assessment under clause (d) in respect of such period, whichever is earlier, upon so much of the amount of rural employment cess payable by him according to such return as remains unpaid at the end of each such month of default:

Provided that where after an assessment is made under clause (d) in respect of any period, it is found that the amount of rural employment cess assessed (not excluding any amount paid) for such period exceeds the amount paid by such owner under clause (a) for such period by more than ten *per centum* of such amount of rural employment cess paid, the owner of the tea estate 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 date prescribed for filing of the return for such period up to the month prior to the month of such assessment, upon the amount of rural employment cess assessed as due;

(Section 9.)

- (g2) where an owner of a tea estate fails to furnish a return referred to in clause (c) in respect of any period by the prescribed date or thereafter before the assessment under clause (d) in respect of such period and, on such assessment, full amount of rural employment cess 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 rural employment cess for such period or up to the month prior to the month of assessment under clause (d) in respect of such period, whichever is earlier, upon so much of the rural employment cess payable by him according to such assessment as remains unpaid at the end of each such month of default;
- (g3) where an owner of a tea estate fails to make payment of any rural employment cess payable after assessment under clause (d) by the date specified in the notice of demand issued in this behalf, 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 last date for payment specified in such notice up to the month preceding the month of full payment of such cess or of forwarding of the certificate to the prescribed authority for recovery of the rural employment cess under clause (f), whichever is earlier, upon so much of the amount of rural employment cess payable by him according to such notice as remains unpaid at the end of each such month of default;
- (g4) where as a result of an order passed on an appeal, revision or review under clause (e), the amount of rural employment cess payable is modified, the interest payable under clause (g3) shall be determined or redetermined on the basis of such modified amount and the excess interest paid, if any, shall be refunded;

VIII of 1990.]

(Section 9.)

- (g5) 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 an owner of tea estate of the amount of rural employment cess paid in excess, when such excess payment arises out of an order passed on an appeal, revision or review under clause (e) after the date of coming into force of section 9 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, 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 under clause (f), upon the amount of rural employment cess refundable to him according to such order;
- (g6) interest under clause (g1) or clause (g2) shall be payable in respect of returns, the prescribed dates for furnishing of which under clause (c) are the dates subsequent to, and interest under clause (g3) shall be payable in respect of assessments for which the notices of demand of rural employment cess assessed under clause (d) are issued after, the date of coming into force of section 9 of the West Bengal Taxation Laws (Second Amendment) Act, 1990;
- (g7) in calculating the interest payable under clause (g1), clause (g2), clause (g3) or clause (g5), the amount of rural employment cess 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;
- (g8) where an owner of a tea estate is liable to pay interest under clause (g1), clause (g2) or clause (g3), he shall pay such interest in such manner and by such date or dates as may be prescribed;
- (g9) where the prescribed authority is satisfied that an owner of a tea estate is liable to pay interest under clause (g1), clause (g2) or clause (g3), he shall, in

(Section 9.)

such manner as may be prescribed, determine the amount of interest payable by such owner; and if, on such determination, any amount or additional amount becomes payable by such owner or any excess amount becomes refundable to such owner, the prescribed authority shall issue a notice, in the prescribed manner, to such owner directing him to pay such amount or additional amount or informing him of the amount of excess payment, as the case may be;

(g10) where there is an apparent mistake in the determination of interest under clause (g9), the prescribed authority may, on his own motion within four years, or upon application made by an owner of a tea estate within six months, from the date of such determination, rectify the amount of interest payable by such owner and issue a fresh notice in the prescribed manner;

(g11) recovery of any amount of interest determined or redetermined under clause (g4), clause (g9) or clause (g10), or refund of any amount of interest found to have been paid in excess under any such clause shall be made in the manner prescribed:

Provided that the prescribed authority may proceed to recover any unpaid amount of interest determined or redetermined as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

(g12) the State Government may by rules prescribe that no interest shall be payable or interest shall be payable at such rate, lower than that specified under clause (g1), clause (g2) or clause (g3), in respect of such period or in such cases or under such circumstances and subject to such conditions, if any, as may be provided therein;”;

(2) in section 7, in sub-section (3),—

(a) for the words, figure and letter “under section 4A”, the words, figures, letter and brackets “under sub-section (3) of section 4 or under section 4A, as the case may be,” shall be substituted;

(Sections 10, 11.)

- (b) for the words “under that section”, the words “under those sections” shall be substituted.

10. In the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, in section 7, after sub-section (5), the following sub-sections shall be added:—

Amendment
of West Ben.
Act VI of
1979.

- “(6) Notwithstanding anything contained in sub-section (2) of this section or sub-section (3) of section 6, where an employer has furnished all the returns for all the periods together with the challans showing full payment of tax due from him according to such returns under section 6 and interest, if any, before the date that the State Government may, by notification published in the *Official Gazette*, specify and where the total amount of such tax in respect of the year comprising such periods which ended on the 31st day of March, 1990, does not exceed two thousand and five hundred rupees, assessment of such tax in respect of such employer for any year or years ending on or before the 31st day of March, 1990, shall be deemed to have been made on the date so specified in such notification by the prescribed authority as per the returns furnished:

Provided that the State Government may, if it considers necessary so to do, prescribe conditions, restrictions or manner for the purpose of assessment under this sub-section.

- (7) The provisions of appeal and revision under section 14 shall apply to an assessment deemed to have been made under sub-section (6), as if such assessment has been made on the date on which such assessment is deemed to have been made by the prescribed authority.”.

11. In the West Bengal Multi-storeyed Building Tax Act, 1979,—

Amendment
of West Ben.
Act XVII of
1979.

(1) in section 2,—

- (a) in clause (a), for the words and figure “as determined under section 6;”, the words and figure “as referred to in section 5;” shall be substituted and shall be deemed always to have been substituted;
- (b) for clause (d), the following clause shall be substituted and shall be deemed always to have been substituted:—
- ‘(d) “multi-storeyed building” means a building on any land in an urban area consisting of five storeys and above and shall include any part thereof;’

(Section 11.)

- (c) for the *Explanation II* to clause (f), the following *Explanation* shall be substituted:—

“*Explanation II*.—If any person holds any multi-storeyed building or part thereof under a lease for a period of ten years or more or an agreement for sale or any other document, not being a document creating monthly tenancy, pursuant to which possession has been obtained, such person shall be deemed to be the owner of that building or part thereof;”;

- (2) in section 3,—

- (a) in sub-section (1), after the words “on every multi-storeyed building”, the words “or part thereof” shall be added and shall be deemed always to have been added;
 (b) in sub-section (2), after the words “of a multi-storeyed building”, the words “or part thereof” shall be inserted and shall be deemed always to have been inserted;
 (c) in sub-section (3), in item I, for sub-item (v), the following sub-items shall be substituted:—

“(v) where the annual value exceeds Rs. 150 but does not exceed Rs. 250 per square metre. Rupees four per square metre.

(vi) where the annual value exceeds Rs. 250 but does not exceed Rs. 400 per square metre. Rupees six per square metre.

(vii) where the annual value exceeds Rs. 400 but does not exceed Rs. 600 per square metre. Rupees eight per square metre.

(viii) where the annual value exceeds Rs. 600 per square metre. Rupees ten per square metre.”;

- (3) section 6 shall be omitted and shall be deemed always to have been omitted;

- (4) for section 7, the following section shall be substituted and shall be deemed always to have been substituted:—

“Assessment of tax. 7. (1) Every owner of a multi-storeyed building or part thereof shall, in the prescribed manner, furnish each year a declaration of the covered space in respect of such multi-storeyed building or part thereof in the prescribed form specifying therein the annual value thereof and verified in the manner indicated therein to such authority and within such date as may be prescribed, and before furnishing

(Section 11.)

such declaration, such owner shall pay the tax referred to in section 8 and shall furnish along with such declaration a receipt showing payment of such tax:

Provided that the prescribed authority may, on an application being made by an owner, extend the date for payment of such tax and furnishing of such declaration.

(2) On receipt of the declaration as referred to in sub-section (1), the Commissioner or any person appointed under sub-section (2) of section 4 shall, after determining the annual value of such multi-storeyed building or part thereof in the manner referred to in section 5, make assessment of the tax payable by the owner under this Act in such manner as may be prescribed:

Provided that if the Commissioner or any person appointed under sub-section (2) of section 4 is satisfied that the declaration furnished by such owner is correct and complete, he shall, without requiring the presence of such owner or the production by him of any evidence, complete the assessment and determine the amount of tax payable by such owner on the basis of such declaration:

Provided further that if the Commissioner or any person appointed under sub-section (2) of section 4 is in possession of information that such owner has concealed any material particulars in such declaration, he shall re-open such assessment and make a fresh assessment on the basis of such information after giving such owner a reasonable opportunity of being heard:

Provided also that no assessment shall be re-opened under this section after the expiry of six years from the end of the year in which the tax payable under this Act was first assessed.

(3) Where an assessment of tax under sub-section (2) is made by the Commissioner or any person appointed under sub-section (2) of section 4 on the basis of annual value in respect of a multi-storeyed building or part thereof computed by a municipal corporation or a municipality or any other authority under the provisions of any law for the time being in force, as referred to in section 5, and if such annual value is revised, altered or amended by any authority under the said law or by or under the order of any civil court, the Commissioner or any person appointed under sub-section (2) of section 4 may, at any

(Section 11.)

time, of his own motion or on application by such owner made within one year from the date when such annual value was so revised, altered or amended, modify such assessment made by him:

Provided that the Commissioner or any person appointed under sub-section (2) of section 4 shall not, of his own motion, modify an assessment unless such owner has been given a reasonable opportunity of being heard.”;

(5) in section 8,—

- (a) in the marginal note, for the words “Manner of payment”, the words “Manner of computation and payment of advance tax” shall be substituted and shall be deemed always to have been substituted;
- (b) in sub-section (1), after the words “any multi-storeyed building”, the words “or part thereof” shall be inserted and shall be deemed always to have been inserted;
- (c) after sub-section (1), the following sub-section shall be inserted and shall be deemed always to have been inserted:—

“(1a) The amount of tax in respect of any multi-storeyed building or part thereof payable in advance under sub-section (1) shall be computed by the owner thereof,—

- (i) where the annual value of a building or part thereof has been computed by a municipal corporation or a municipality or any other local authority under the provisions of any law for the time being in force for the purposes of levying municipal or local tax, on the basis of annual value per square metre arrived at after dividing that computation by the covered space of the multi-storeyed building or part thereof and at the rates specified in sub-section (3) of section 3, or
- (ii) where the computation referred to in clause (i) has not been made by such municipal corporation or municipality or other local authority, on the basis of annual value arrived at in the manner indicated in section 5 and at the rates of tax specified in sub-section (3) of section 3.”;

(Section 11.)

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

“Penalty for non-furnishing of declaration or for concealment of particulars in the declaration.

8A. (1) If the Commissioner or any person appointed under sub-section (2) of section 4 is satisfied that any owner—

- (a) has without reasonable cause failed to furnish the declaration which he is required to furnish under section 7 or has without reasonable cause failed to furnish it within the time allowed, or
- (b) has concealed the particulars of the covered space in any multi-storeyed building or part thereof owned by him or deliberately furnished inaccurate particulars of such covered space, he may by an order in writing direct that such owner shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of the tax payable by him, a sum not exceeding twice the amount of tax payable and in the case referred to in clause (b), in addition to any tax levied on him, a sum not exceeding the amount of the tax which would have been avoided had the particulars of covered space declared by such owner had been accepted as the correct one in assessing the tax payable by him under this Act.

(2) No order shall be made against an owner under sub-section (1) unless such owner has been heard or has been given a reasonable opportunity of being heard.

(3) The penalty, if any, referred to in sub-section (1) shall be paid within such date as may be specified by the Commissioner or any person appointed under sub-section (2) of section 4.

(4) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.”;

- (7) for section 9, the following section shall be substituted and shall be deemed always to have been substituted:—

“Penalty for default.

9. (1) When the owner of any multi-storeyed building or part thereof is in default in making payment of any amount of tax payable in advance or any amount due on account of the tax, the Commissioner or any person appointed under sub-section (2) of section 4 may,

(Section 11.)

if he is satisfied that the default has been made without reasonable cause, after giving such owner a reasonable opportunity of being heard, by an order in writing direct that such owner shall pay by way of penalty, in addition to the amount due, a sum not exceeding double the amount of the tax.

(2) The penalty, if any, shall be paid within such date as may be specified by the Commissioner or any person appointed under sub-section (2) of section 4.”;

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

“Rounding off of tax or penalty. 9A. The amount of tax or penalty payable or refundable for any period under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, if such part is fifty paise or more, it shall be increased to one rupee and, if such part is less than fifty paise, it shall be ignored.”;

- (9) in section 11, after the words “the multi-storeyed building”, the words “or part thereof” shall be inserted and shall be deemed always to have been inserted;
- (10) in section 12, after the words “any multi-storeyed building”, the words “or part thereof” shall be inserted and shall be deemed always to have been inserted;
- (11) in section 25,—
- (i) in the marginal note, for the words “and validation.”, the words “, validation and exemption.” shall be substituted;
- (ii) for sub-section (2), the following sub-section shall be substituted and shall be deemed always to have been substituted:—

“(2) Notwithstanding such repeal,—

- (a) any amount (hereinafter referred to as the said amount) paid, collected or recovered or purported to have been paid, collected or recovered as tax or penalty from any owner of a multi-storeyed building or part thereof under the provisions of the West Bengal Multi-storeyed Building Tax Act, 1975 or the rules made thereunder shall be adjusted against the amount as may become payable as tax or penalty under the provisions of this Act and where, after assessment under this Act, any portion of the said amount is found to have been paid, collected or recovered in excess

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of the amount of tax or penalty payable under the provisions of this Act, such excess amount shall be refunded to such owner in accordance with the provisions of this Act or the rules made thereunder,

- (b) any amount levied, paid, collected or recovered as tax or penalty under the provisions of the West Bengal Multi-storeyed Building Tax Ordinance, 1979 (hereinafter referred to as the said Ordinance) or the rules made thereunder shall be deemed to have been validly levied, paid, collected or recovered under the provisions of this Act, and
- (c) any proceeding commenced for the assessment, collection or recovery of any amount as tax or penalty under the provisions of the said ordinance or the rules made thereunder shall be deemed to have been commenced and conducted in accordance with the provisions of this Act and, if not already completed, shall be continued and completed in accordance with the provisions of this Act.”;

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

“(2A) Notwithstanding anything contained in this Act, any default by an owner of a multi-storeyed building or part thereof in making payment of any tax in advance in accordance with the provisions of this Act after the coming into force of section 11 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, in respect of any period prior to the coming into force of the said Act shall not be deemed to be a contravention of such provisions if such owner makes payment of such tax in advance within three months from the date of coming into force of section 11 of the said Act.”;

- (iv) after sub-section (3), the following sub-section shall be inserted:—

“(4) Notwithstanding any judgement, decree or order of any court, tribunal or other authority to the contrary, any annual value determined or any assessment made

(Section 12.)

under this Act on the basis of the annual value so determined or any tax levied, collected, paid or recovered under the provisions of this Act and the rules made thereunder prior to the coming into force of section 11 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, shall be deemed to have been validly determined, made, levied, collected or recovered, as the case may be, under the provisions of this Act as amended by the West Bengal Taxation Laws (Second Amendment) Act, 1990.”.

Amend-
ment of
West Ben.
Act VI of
1982.

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

(1) in section 4A,—

(a) in sub-section (1), for the words beginning with “at the rate of rupees seven hundred and fifty” and ending with the words “used for such performance or exhibition.”, the following words, letters, figures and brackets shall be substituted:—

“at the rate of,—

(a) one thousand rupees 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 Calcutta as described in Schedule I to the Calcutta Municipal Corporation Act, 1980, or in the area of Howrah as described in Schedule I to the Howrah Municipal Corporation Act, 1980;

(b) seven hundred and fifty rupees 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 a municipal corporation or a municipality or a notified area where clause (a) does not apply;

(c) five hundred rupees 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, where clause (a) or clause (b) does not apply.”;

West Ben.
Act LIX of
1980.
West Ben.
Act LVIII
of 1980.

VIII of 1990.]

(Section 12.)

- (b) in sub-section (3),—
 - (a) in clause (b), for the words “seven hundred and fifty”, the words “one thousand” shall be substituted;
 - (b) for the words “in such notification.”, the words “in such notification and different rates may be specified for such performance or exhibition in a hotel, shop, restaurant or business place according to its location in different areas.” shall be substituted;
- (2) after section 6A, the following section shall be inserted:—

“Statement
to be
furnished
by holders. 6B. Such holder of a video cassette recorder set
or a video cassette player set as may be prescribed
shall furnish a statement in such form containing such
particulars, by such date, in such manner, and to such authority,
as may be prescribed.”.