

**GOVERNMENT OF WEST BENGAL
LEGISLATIVE DEPARTMENT**

West Bengal Act V of 1987

**THE WEST BENGAL TAXATION LAWS
(AMENDMENT) ACT, 1987.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 30th May, 1987.]

[30th May, 1987.]

An Act to amend the Bengal Finance (Sales Tax) Act, 1941, the Bengal Raw Jute Taxation Act, 1941, the West Bengal Sales Tax Act, 1954, the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976 and the West Bengal Entertainment-cum- Amusement Tax Act, 1982.

Ben. Act VI
of 1941.
Ben. Act XI
of 1941.
West Ben.
Act IV of
1954.
West Ben.
Act XLIII
of 1973.
West Ben.
Act XIV
of 1976.
West Ben.
Act VI
of 1982.

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

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

1. (1) This Act may be called the West Bengal Taxation Laws (Amendment) Act, 1987.

Short title
and
commence-
ment.

(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.

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

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of Ben. Act
VI of 1941.

(1) in section 2, for clause (c), the following clause shall be substituted and shall be deemed always to have been substituted:—

‘(c) “dealer” means any person who carries on the business of selling goods in West Bengal or of purchasing goods

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in West Bengal in specified circumstances or any person making a sale under section 6D and includes—

the Central or a State Government, a local authority, a statutory body, a trust or other body corporate which, or a liquidator or receiver appointed by a Court in respect of a person defined as a dealer under this clause who, whether or not in the course of business sells, supplies or distributes directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration.

Explanation 1.—A co-operative society or a club or any association which sells goods to its members is a dealer.

Explanation 2.—A factor, a broker, a commission agent, a *delcredere* agent, an auctioneer, an agent for handling or transporting of goods or handling of document of title to goods or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of selling goods and who has, in the customary course of business, authority to sell goods belonging to principals is a dealer.’;

(2) in section 4,—

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

“(c) in relation to any dealer who manufactures or produces cooked foods for sale, 1,00,000 rupees; or

(cc) in relation to any other dealer, 2,00,000 rupees.”;

(b) in sub-section (6), after clause (ii), the following clause shall be inserted:—

“(iii) any person, whether a dealer or not, who is not registered under this Act, of goods other than gold, rice and wheat intended for a purpose, other than those specified in clause (i).”;

(3) in section 5,—

(a) in sub-section (1),—

(i) in clause (bb), in clause (a) of the *Explanation* after sub-clause (ii), the words, figures, letter and brackets “or which are generally exempt from tax under sub-clause (vi) of clause (a) of sub-section (2)” shall be omitted;

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

“(cccc) (i) eight *per centum* of such part of his taxable turnover as represents sales of such goods as the State Government may, by notification in the *Official Gazette*, specify;

(ii) eleven *per centum* of such part of his taxable turnover as represents sales of such goods as the State Government may, by notification in the *Official Gazette*, specify:

Provided that the tax payable by a dealer shall be levied at the rate of one *per centum* of such part of his taxable turnover as represents sales of goods referred to in sub-clause (i) or sub-clause (ii), where he proves to the satisfaction of the Commissioner that such goods are purchased by him in West Bengal, on or after the date with effect from which such goods are specified for the purposes of sub-clause (i) or sub-clause (ii), as the case may be, from a registered dealer and furnishes in the prescribed manner a declaration containing prescribed particulars in the prescribed form duly signed by the registered dealer from whom such goods are purchased:

Provided further that the State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification in the *Official Gazette* and subject to conditions as specified in the preceding proviso, direct that no tax shall be payable under the said proviso on sales of such goods as may be specified in the said notification issued in this behalf.”;

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

“(d1) fifteen *per centum* of such part of his taxable turnover as represents sales of goods included in Schedule IV”;

(iv) in clause (e), after the letter and brackets “(d)”, the figure, letter and brackets “, (d1)” shall be inserted;

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

“(b) the amount arrived at by applying the following formula—

rate of tax x the balance of his gross turnover
after making deductions under clause (a)

100 plus rate of tax:

Provided that while making deduction on the basis of the above formula, the amount charged and collected by way of tax separately, if not already included in the gross turnover, shall be added to it.

Explanation.—Where the turnover of a dealer is Taxable at different rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to be taxed at different rates.”;

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

“(3) In this Act, the expression “taxable turnover”, in the case of a dealer who is liable to pay tax under section 4A, means that part of his gross turnover in respect of the notified goods during any period which remains after deducting therefrom—

(a) his turnover during the period on sales of such notified goods as are proved to the satisfaction of the Commissioner to have been purchased by him from registered or certified dealers; and

(b) the amount arrived at by applying the following formula—

rate of tax x the balance of his gross turnover
after making deduction under clause (a)

100 plus rate of tax:

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Provided that while making deduction on the basis of the above formula, the amount charged and collected by way of tax separately, if not already included in the gross turnover, shall be added to it.

Explanation.—Where the turnover of a dealer is taxable at different rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to be taxed at different rates.;

- (d) in sub-section (6), in clause (a), for the words, figure and brackets “in clause (i)”, the words, figures and brackets “in clause (i) and clause (iii)” shall be substituted;
- (e) in sub-section (7), clause (iv) shall be omitted;
- (4) in section 6B,—
 - (a) in sub-section (1),—
 - (i) for clause (a), the following clause shall be substituted:—

“(a) every dealer, whose aggregate of the gross turnover under this Act and the gross turnover under the West Bengal Sales Tax Act, 1954 during the last year ending on or before the 31st day of May, 1987, exceeds rupees twenty-five lakhs, shall, in addition to the tax payable by him under section 5 and section 6D, if any, be liable to pay from the 1st day of June, 1987, a turnover tax at the rate specified in sub-section (3) of such part of his turnover as specified in sub-section (2);”;
 - (ii) for clause (b), the following clause shall be substituted:—

“(b) every dealer, other than those referred to in clause (a), whose aggregate of the gross turnover under this Act and the gross turnover under the West Bengal Sales Tax Act, 1954, during any year ending on or after the 1st day of June, 1987, exceeds rupees twenty-five lakhs shall, in addition to the tax payable by him under section 5 and section 6D, if any, be liable to pay from the first day of the year immediately following such year a turnover tax at the rate specified in sub-section (3) of such part of his turnover as specified in sub-section (2);”;

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- (iii) in clause (c), for the words “rupees fifty lakhs”, the words “rupees twenty-five lakhs” shall be substituted;
- (iv) after clause (c), the following clause shall be inserted:—
 - “(cc) every dealer who has become liable to pay the turnover tax before the commencement of clause (a) of sub-section (4) of section 2 of the West Bengal Taxation Laws (Amendment) Act, 1987 shall, notwithstanding anything contained in clause (a) or clause (b), continue to be so liable until the expiry of three consecutive years commencing from any year before the commencement of clause (a) of sub-section (4) of section 2 of the West Bengal Taxation Laws (Amendment) Act, 1987 during each of which his aggregate of the gross turnover under this Act and the gross turnover under the West Bengal Sales Tax Act, 1954 does not exceed rupees fifty lakhs, and on expiry of such three years after the commencement of clause (a) of sub-section (4) of section 2 of the West Bengal Taxation Laws (Amendment) Act, 1987, his liability to pay the turnover tax shall cease unless he becomes liable again to pay the turnover tax under clause (a) or clause (b);”;
- (v) in clause (d).—
 - (A) for the word, letter and brackets “clause (c).”, the words, letters and brackets “clause (c) or clause (cc).” shall be substituted;
 - (B) for the words “rupees fifty lakhs”, the words “rupees twenty-five lakhs” shall be substituted;
- (b) in sub-section (2).—
 - (i) in clause (a), for the word “sales”, the words “sales, other than those on which tax is levied at a rate of two *per centum* or less” shall be substituted;
 - (ii) clause (e) shall be omitted and shall be deemed always to have been omitted;

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

“(3) The turnover tax shall be levied at the rate of—

- (a) one and a half *per centum* of such part of the turnover as specified in sub-section (2), if the aggregate of the gross turnover under this Act and the gross turnover under the West Bengal Sales Tax Act, 1954, of the dealer liable to pay such tax exceeds rupees one crore during the year in respect of which or part of which the turnover tax is levied;
- (b) one *per centum* of such part of the turnover as specified in sub-section (2), if the aggregate of the gross turnover under this Act and the gross turnover under the West Bengal Sales Tax Act, 1954, of the dealer liable to pay such tax exceeds rupees fifty lakhs but does not exceed rupees one crore during the year in respect of which or part of which the turnover tax is levied; and
- (c) one half of one *per centum* of such part of the turnover as specified in sub-section (2), if the provisions of clause (a) or clause (b) do not apply:

Provided that the turnover tax payable by a dealer—

- (i) under clause (a) shall not exceed a sum equivalent to the aggregate of two-thirds of the turnover tax payable by him in accordance with the said clause and fifteen *per centum* of the amount by which his aforesaid gross turnover exceeds rupees one crore; and
- (ii) under clause (b) shall not exceed a sum equivalent to the aggregate of one-half of the turnover tax payable by him in accordance with the said clause and ten *per centum* of the amount by which his aforesaid gross turnover exceeds rupees fifty lakhs.”;

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(5) in section 7,—

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

“(1a) If a dealer who is required by sub-section (1) to be registered fails to get himself so registered within two months from the date from which he is first liable to pay tax under section 4 or section 6D, the Commissioner may, after giving the dealer an opportunity of being heard, impose by way of penalty a sum not less than rupees five hundred but not exceeding rupees one thousand for each month of default:

Provided that no penalty under the sub-section shall be imposed in respect of the same fact for which a prosecution under sub-section (2) of section 22 has been instituted and no such prosecution shall lie in respect of a fact for which a penalty has been imposed under this sub-section.”;

(b) in sub-section (4a), after clause (ii), the following clause shall be inserted:—

“(iii) demand from any person who imports into West Bengal any notified goods, after giving such person an opportunity of being heard, a reasonable security.”;

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

“(5a) When any dealer to whom a certificate of registration is granted under this section or section 8 has failed to pay any tax, penalty or interest payable under this Act, the Commissioner may, after giving the dealer an opportunity of being heard, cancel the registration.

(5b) A dealer whose certificate of registration is cancelled under sub-section (5a), notwithstanding the provisions of this section or section 8, shall not be granted another certificate of registration under this Act until he pays the tax, penalty or interest referred to in the said sub-section.”;

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- (6) in section 7A, after sub-section (1), the following sub-section shall be inserted:—

“(1a) If a dealer, while being liable to pay tax under section 4A, sells any notified goods but fails to obtain a special certificate under sub-section (1), the Commissioner may, after giving the dealer an opportunity of being heard, impose by way of penalty a sum not less than rupees five hundred but not exceeding rupees one thousand for each month of default calculated from the date with effect from which he becomes so liable to pay tax:

Provided that no penalty under this sub-section shall be imposed in respect of the same fact for which a prosecution under clause (c) of sub-section (1) of section 22 has been instituted and no such prosecution shall lie in respect of a fact for which a penalty has been imposed under this sub-section.”;

- (7) in section 10, to sub-section (3), the following proviso shall be added:—

“Provided that prescribed class or classes of registered dealers may, in the prescribed manner, be required to pay the tax payable under this Act for any prescribed part of the period for which return is furnished under this sub-section, at any time after the expiry of such part of the period.”;

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

“Collection of tax to be only by dealers liable to pay tax. 10E. (1) No dealer who is not liable to pay tax under this Act shall collect in respect of any sale by him of goods any amount of tax under this Act, and no dealer, who is liable to pay tax under this Act, shall, subject to the provisions of sub-section (4) of section 6B, make any such collection except in accordance with the provisions of this Act or in excess of the amount of tax payable by him under this Act.

(2) If any dealer who is not liable to pay tax collects any amount by way of tax or a dealer who is liable to pay tax collects any amount by way of tax in excess of the amount

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payable under this Act in contravention of the provision of sub-section (1), he shall, notwithstanding anything contained in any other provisions of this Act, deposit such amount collected by way of tax or the amount collected by way of tax in excess of the amount payable under this Act, as the case may be, into a Government Treasury or the Reserve Bank of India within thirty days from the date of such collection and intimate the Commissioner of such deposit along with a receipt from such Treasury or Bank showing payment of such amount. The Commissioner shall, on application made by the buyer of goods referred to in sub-section (1) and on such terms and conditions as he may deem fit and proper, refund the tax or the excess tax, as the case may be, collected from such buyer and deposited by the dealer in the manner as aforesaid:

Provided that no application from any buyer shall be entertained unless the same is made within three months from the date on which the tax or excess tax, as the case may be, is paid and supported by relevant cash memo or bill issued by the dealer.

(3) If a dealer is in default to deposit in accordance with the provision of sub-section (2) the amount collected in contravention of the provision of sub-section (1), the Commissioner may, after giving such dealer a reasonable opportunity of being heard, by an order in writing direct that he shall pay by way of penalty a sum not less than the amount of tax so collected but not exceeding double the amount of tax so collected by him in contravention of the provision of sub-section (1).

(4) The penalty imposed under sub-section (3) shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified by the Commissioner in a notice issued for the purpose and the date to be so specified shall not be less than fifteen days from the date of service of such notice.

(5) Any penalty that remains unpaid after the date specified in the notice referred to in sub-section (4) shall be recoverable as an arrear of land-revenue payable to the Collector.”;

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(9) in section 11,—

(a) in sub-section (2a),—

(A) for the words, figures and brackets beginning with “No assessment under sub-section (1)” and ending with “is made:”, the following words, letters, figures and brackets shall be substituted:—

“(a) No assessment under sub-section (1) shall be made after the expiry of four years, and no assessment under sub-section (2) shall be made after the expiry of six years from the end of the year in respect of which or part of which the assessment is made, where such four years or six years end on the 30th day of June or the 31st day of December.

(b) No assessment under sub-section (1) shall be made—

(i) after the 30th day of June next following the expiry of four years from the end of the year in respect of which or part of which the assessment is made, where such four years end on any date from the 1st day of January to the 29th day of June; and

(ii) after the 31st day of December next following the expiry of four years from the end of the year in respect of which or part of which the assessment is made, where such four years end on any date from the 1st day of July to the 30th day of December.

(c) No assessment under sub-section (2) shall be made—

(i) after the 30th day of June next following the expiry of six years from the end of the year in respect of which or part of which the assessment is made, where such six years end on any date from the 1st day of January to the 29th day of June; and

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- (ii) after 31st day of December next following the expiry of six years from the end of the year in respect of which or part of which the assessment is made, where such six years end on any date from the 1st day of July to the 30th day of December.”;

(B) after the second proviso, the following *Explanation* shall be added:—

“*Explanation.*—In this sub-section, the months of January, June, July and December shall be reckoned according to the English Calendar.”;

- (b) the proviso to sub-section (3) shall be omitted;

(10) in section 11E,—

- (a) for sub-section (1), the following sub-section shall be substituted:—

“(1) Notwithstanding anything contained in or provided under this Act, assessment in respect of every registered dealer fulfilling the conditions of eligibility as laid down in sub-section (2), hereinafter referred to as an eligible dealer, for all period or periods for which he is required to submit return, commencing from the day immediately following the latest period or aggregate of periods for which an assessment under this Act or the West Bengal Sales Tax Act, 1954 (hereinafter referred to as the other Act) has been made in respect of him on or before such date as may be specified by the State Government by a notification published in the *Official Gazette*, hereinafter referred to as the appointed date, and ending with the last day of the year ending before the appointed date, referred to hereinafter as the period of eligibility, shall be deemed to have been made by the person to whom the power of making such assessment has been delegated by the Commissioner on the appointed date as per returns furnished; and such person shall intimate to the eligible dealer particulars of assessments so deemed to have been made in the manner as may be prescribed:

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Provided that the person by whom an assessment is deemed to have been made may, if necessary, make an enquiry for the purpose of determining if the conditions given under sub-section (2) have been fulfilled.

Explanation I.—For the purpose of this sub-section, the expression “an assessment has been made” includes an assessment which has been set aside or annulled or otherwise rendered infructuous after having been made.

Explanation II.—The State Government may, from time to time, specify appointed dates and assessments in respect of eligible dealers in respect of periods of eligibility shall be deemed to have been made in accordance with every such specification as and when made.”;

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

“(2) A registered dealer whose gross turnover under this Act, or when he is registered also under the other Act, the aggregate of gross turnover under this Act and the gross turnover under the other Act, as the case may be, in respect of the period or periods comprising the latest year ending before the appointed date has not exceeded seven lakhs and fifty thousand rupees shall be eligible for deemed assessment under sub-section (1) provided he fulfils the following conditions, namely:—

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

(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 before the appointed date;

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- (c) that no prosecution was initiated 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. 74 of 1956.
- (d) that no penalty was imposed on him under sub-section (4) in respect of any assessment deemed to have been made under sub-section (1) or the corresponding provision of the other Act for any previous period or periods;
- (e) that he has complied with the requirements, if any, made of him under the proviso to sub-section (1) for the purpose of determination of the question if these conditions have been fulfilled; and
- (f) that he has fulfilled such other condition or conditions as may be prescribed by the State Government for the purpose of removing any difficulty to give effect to the provisions of this section.”;
- (c) in sub-section (4), for the words “not exceeding twice the amount”, the words “not less than twice and not exceeding thrice the amount”, shall be substituted;
- (d) after sub-section (6), the following sub-section shall be inserted:—

“(7) The Commissioner shall take steps to select at random such proportion of deemed assessment as he may consider necessary to be scrutinised by him or such persons as he deems fit to determine if there has been breach of the provisions of sub-section (3) and he or any other person having authority under the Act may, for this purpose, exercise the powers conferred under section 14 of this Act or any similar power conferred under the other Act.”;

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- (11) section 13 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) If,—

(a) a registered or certified dealer,—

or

(b) a dealer, other than those included in clause (a), whose turnover has exceeded in any year fifty *per cent.* of the taxable quantum referred to in sub-section (2) of section 4,

sells any goods exceeding rupees twenty in value in any one transaction to any person, he shall issue to the purchaser a bill or cash memorandum serially numbered, signed and dated by him or his regular employee, showing particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated:

Provided that, if the State Government is of the opinion that the requirement under this sub-section shall cause hardship to a certain class or classes of dealers included in clause (b), and the requirement may be dispensed with subject to fulfilment by the dealers certain conditions and restrictions to be imposed to ensure that there is no evasion of tax, it may prescribe such class or classes of dealers, and also prescribe such conditions and restrictions subject to which the requirement under this sub-section in respect of such dealers shall be dispensed with.

(3) For contravention of the provisions under sub-section (2) by any dealer, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, by an order in writing, direct that he shall pay in the manner prescribed by way of penalty either a sum equal to double the amount of tax which could have been levied under this Act in respect of sales where no cash memorandum or bill were issued, or rupees five hundred, whichever is greater:

Provided that, if a dealer can satisfy the Commissioner that he deals exclusively in tax-free goods specified in Schedule I, or if a dealer, referred to in clause (b), can satisfy the Commissioner that it is not practicable to issue

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cash memorandum or bill against each transaction in the circumstances and nature of his business, the Commissioner may exempt such dealer from payment of penalty or impose such lesser amount of penalty as he deems fit and proper.

(4) Any penalty imposed under sub-section (1) shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified in the notice issued for this purpose and the date to be so specified shall not be less than fifteen days from the date of service of such notice.

(5) Any amount of penalty that remains unpaid after the date specified in the notice referred to in sub-section (4) shall be recoverable as an arrear of land-revenue.”;

(12) in section 14A,—

(a) for sub-section (1), the following sub-section shall be substituted:—

“(1) The Commissioner may, for the purpose of verifying whether notified goods referred to in section 4A are being or have been transported in contravention of the provisions of section 4B and subject to such restrictions as may be prescribed—

(i) (a) intercept, detain and search at any place notified under section 4B or any other place any road vehicle, or river craft or any load carried by a person, or

(b) search at any godown, warehouse or any other place in which according to his information such notified goods transported in contravention of the provisions of section 4B have been stored; and

(ii) seize any notified goods referred to in section 4A—

(a) which, in the case referred to in sub-clause (a) of clause (i), he has reasons to believe are being transported in contravention of the provisions of section 4B together with any container or other materials for the packing of such notified goods, or

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- (b) together with any container or other materials for the packing of such notified goods in the case referred to in sub-clause (b) of clause (i), where the Commissioner or the prescribed authority has reasons to believe that such notified goods stored in such godown, warehouse or place have been transported there in contravention of section 4B, or that there is no claimant for ownership or possession of such notified goods stored in such godown, warehouse or place and that such notified goods have been transported there in contravention of the provisions of section 4B.”;
- (b) in sub-section (2), after the words and brackets “(when particulars of the owner are available)” the following words shall be inserted:—

“or, in the case of notified goods for which there is no claimant, upon any person who subsequently claims the ownership or possession of such notified goods;”;
- (13) in section 20,—
 - (a) in sub-section (2), in clause (b), for the words “set aside”, the following words, letter and brackets shall be substituted:—

“when such authority is satisfied, for reasons to be recorded in writing, that it is not practicable or desirable to act in accordance with clause (a), set aside”;
 - (b) after sub-section (2), the following sub-section shall be inserted:—

“(2a) While acting in accordance with clause (b) of sub-section (2), the appellate authority may set aside any part or parts of an assessment and if he does so, the assessing authority will make fresh assessment in respect of such part or parts only, the remaining part or parts of the previous assessment remaining valid.”;
- (14) in section 20A, in sub-section (1) for the words “a sum not exceeding one and a half times the amount of the tax,” the words “a sum not less than one and a half times but not exceeding thrice the amount of the tax,” shall be substituted;

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(15) after section 21A, the following section shall be inserted:—

“Certificate of clearance. 21B. (1) Notwithstanding anything contained in any other law for the time being in force, where Government or any local authority or any educational institution or any Corporation or body established by or under a Central or State Act enters into an agreement with a contractor for execution by the latter of a works contract involving transfer of property on goods (whether as goods or in some other form) or with a dealer for purchase of any goods from the latter, such Government, authority, institution, corporation or body shall not finalise such works contract or purchase and make payment for execution of works contract or purchase of goods, as the case may be, unless the Commissioner certifies in the prescribed manner that such contractor or dealer has either paid or made satisfactory provision for payment of all existing liability or has no liability to pay tax under this Act, the West Bengal Sales Tax Act, 1954 or the Central Sales Tax Act, 1956.

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(2) The application for the certificate required under sub-section (1) shall be made by the contractor or dealer referred to in that sub-section to the Commissioner and shall be in such form and shall contain such particulars as may be prescribed.”;

(16) in section 22,—

(a) in sub-section (1),—

(i) in clause (f), for the words and figures “under section 13”, the words, figures and brackets “under sub-section (1) of section 13” shall be substituted;

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

“Provided that no prosecution for offence under this sub-section shall lie against the Central or a State Government, a local authority, a statutory body, a trust or other body corporate, a liquidator or receiver, an agent for handling or transporting goods or an agent handling document of title to goods who is held as a dealer with retrospective effect after commencement of clause (b) of sub-section (16) of section 2 of the West Bengal Taxation Laws (Amendment) Act, 1987.”;

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- (c) in sub-section (8a), for the word, figures and letter "section 11E", the words, figures, letter and brackets "sub-section (3) of section 11E" shall be substituted;
- (17) in section 26, in sub-section (2),—
 - (a) after clause (h), the following clause shall be inserted:—

"(h1) the class or classes of registered dealers, the manner and the part of the period referred to in the proviso to sub-section (3) of section 10;"
 - (b) for clause (iil), the following clause shall be substituted:—

"(iil) the manner of intimation referred to in sub-section (1), the condition or conditions referred to in sub-section (2) and the manner of payment of penalty referred to in sub-section (4), of section 11E;"
 - (c) for clause (k), the following clause shall be substituted:—

"(k) the accounts or forms thereof, the particulars, the conditions and restrictions referred to in section 13;"
 - (d) in clause (11), for the words "the determination", the words "the restrictions subject to which interception, detention, search and seizure may be made, the determination" shall be substituted;
 - (e) after clause (p), the following clause shall be inserted:—

"(pp) the forms and particulars of certificate as referred to in section 21B;"
- (18) in Schedule I,—
 - (a) in item 21, in column 1, for the words, figures and brackets "Text books approved for primary classes (I-IV) and such sacred books as may be prescribed.", the words "Text books, sacred books, all types of printed periodicals and books but not including account books or diaries." shall be substituted;
 - (b) after item 54 and the entry relating thereto in column 1, the following items and entries in column 1 and corresponding entries in column 2 shall be added:—

"55. Fresh fruits.

(Section 2.)

56. All varieties of textile fabrics (other than sataranchi, carpets and druggets) made wholly or partly of cotton, staple fibre, rayon, artificial silk or wool including handkerchiefs, towels, bed-sheets, bed spreads, table cloths, napkins, dusters, cotton velvets, and velveteen, tapes, niwars and laces, whether embroidered or not, but excluding pure silk cloth, rubberised cloth, belting and pipes including hosepipes.
57. Tobacco as referred to in the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944), other than cigarettes.
58. Flower seeds, that is to say, seeds for growing flower plants.
59. Exercise books, laboratory note books, drawing books, graph books, ruled paper and graph paper.
60. Fodder seeds, green manure seeds, and grass seeds.
61. Betel leaves including packing materials.
62. Soap.
63. Oil cakes, that is to say, the cake or mass of oilseeds which is left after the oil has been extracted.
64. Straw, hay and grass for use as fodder for cattle.
65. Charcoal, that is to say, charred wood used for fuel.
66. Hand-made paper, that is to say, paper made by hand and not made or processed in any machine.
67. Balanced poultry feed, commonly known as "Mash".
68. Condoms (a contraceptive device).
69. Balanced feed for cattle and pig.
70. Writing slates and slate pencils.
71. Household articles made of brass and bell metal.
72. Flour, *suji*, *dalia* and *atta* made from maize.

Except when manufactured, made or processed in a factory as defined in the Factories Act, 1948 (63 of 1948).

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V of 1987.]

(Section 2.)

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|---|---|
| 73. Barley products, namely, flour, <i>suji</i> , <i>atta</i> and <i>dalia</i> made from barely. | Except when sold in sealed containers. |
| 74. Biscuits. | Except when manufactured, or processed in a factory as defined in the Factories Act, 1948 (63 of 1948). |
| 75. Toys and dolls made wholly or principally of clay. | |
| 76. Candles. | |
| 77. Bedding stuffed with cotton. | |
| 78. Methylated spirit and rectified spirit. | |
| 79. Lead pencils, mathematical instrument boxes and maps. | |
| 80. Silkworm eggs and silkworm cocoons. | |
| 81. Articles made of bamboo and cane. | |
| 82. Glass bangles. | |
| 83. Organic manure. | |
| 84. Bio-gas plants. | |
| 85. Orthopaedic footwear, crutches and artificial limbs. | |
| 86. Hearing aids. | |
| 87. Bee-keeping apparatus. | |
| 88. Honey. | |
| 89. Utensils made wholly or principally of clay. | Except when manufactured in a factory as defined in the Factories, Act, 1948 (63 of 1948). |
| 90. Papad, commonly known as papar. | |
| 91. All varieties of combs made of rubber or plastics or celluloid. | |
| 92. Bangles made of rubber, plastics or celluloid. | |
| 93. Chloroquine Phosphate tablets. | |
| 94. Aluminium bangles, whether coloured or not, but without stones thereon or similar decoration. | |

*The West Bengal Taxation Laws (Amendment)
Act, 1987.*

[West Ben. Act

(Section 2.)

95. Jute seeds, mesta seeds and sunhemp seeds.
 96. Mat locally known as Madur made wholly or principally of *Cyperus Corymbosus* (*C. tegetiformis*, *C. tegetum*) known locally as Gola Methi, Madur Kati, Mutha or *Cyperus malaccensis* known locally as Chimati Pati.
 97. Matsticks and reeds obtainable from *Cyperus Corymbus* (*C. tegetiformis*, *C. tegetum*) known locally as Gola Methi, Madur Kati, Mutha or *Cyperus malaccensis* known locally as Chimati Pati.
 98. Saplings.
 99. Paddy seeds and wheat seeds.
 100. Hand operated tri-wheeler cycles for the use of disabled persons.
 101. Sweetmeats, other than cakes, pastries and biscuits, hut including curds. Except when sold in sealed containers.
 102. Chanachur, dalmut, fried potato chips and salted peanuts. Except when sold in sealed containers.
 103. Salted cooked food made wholly or principally of flour, *atta*, *suji* or *bason* locally known as *nonta khabar* that is to say—*Singara*, *Nimki*, *Kachuri*, *Khasta-Kachuri*, *Luchi* and *Radhaballavi*.
 104. Conch shell products.”;
- (19) in Schedule III, in column 1, after item 2, the following item and entry shall be added:—
- “3. Bicycles and spare parts, accessories and component parts thereof.”;
- (20) after Schedule III, the following Schedule shall be added:—

“SCHEDULE IV

[See section 5(1)(d1).]

Serial No.	Description of goods.
1.	Moulded furniture, briefcases, suitcases and other cases and boxes excluding school boxes made of fibre glass, p.v.c., plastic or other synthetic substances.”.

*The West Bengal Taxation Laws (Amendment)
Act, 1987.*

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(Section 3.)

3. In the Bengal Raw Jute Taxation Act, 1941,—

Amendment
of Ben. Act
XI of 1941.

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

“Interest payable by
occupier of a jute-
mill and shipper of
jute.

8B. (1) When an occupier of a jute-mill or a shipper of jute furnishes a return referred to in section 6 or section 7, as the case may be, in respect of any period by the prescribed date or thereafter, but fails to make full payment of tax payable in respect of such period by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each month of default from the first day of such month next following the prescribed date upto the month preceding the month of full payment of such tax or upto the month prior to the month of determination of tax under sub-section (1) of section 9 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such return as remains unpaid at the commencement of each such month:

Provided that where such occupier of a jute-mill or a shipper of jute admits in writing that the amount of tax payable in respect of such period is an amount which is either more or less than what has been originally shown as payable in the return and where the authority referred to in clause (b) of section 6 or section 7, as the case may be, is satisfied on the point of such admission, the interest shall be payable upon so much of the amount of tax payable according to such admission as remains unpaid at the commencement of each such month.

(2) Where an occupier of a jute-mill or a shipper of jute fails to furnish a return referred to in section 6 or section 7, as the case may be, in respect of any period by the prescribed date or thereafter before the determination of tax under sub-section (1) of section 9 in respect of such period, and on such determination full amount of tax payable for such period is found not to have been paid by him by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each month of default from the first day of the month next following the prescribed date up to the month preceding the month of full payment of tax for such period or up to the month prior to the month of determination of tax under sub-section (1) of section 9 in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such determination as remains unpaid at the commencement of each such month:

(Section 3.)

Provided that where a determination of tax under sub-section (1) of section 9 is made for more than one return period and such determination does not show separately the tax payable for the period in respect of which interest is payable under this sub-section, the authority referred to in clause (b) of section 6 or section 7, as the case may be, shall estimate the tax payable for such period on the basis of such determination after giving the occupier of a jute-mill or the shipper of jute an opportunity of being heard.

(3) Where an occupier of a jute-mill or a shipper of jute fails to make payment of any tax payable after determination of tax by the date specified in the notice of demand of tax and penalty, if any, determined under sub-section (1) of section 9 for payment thereof, he shall pay a simple interest at the rate of two *per centum* for each month of default from the first day of the month next following the date specified in such notice up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceedings under sub-section (3) of section 9, whichever is earlier, upon so much of the amount of tax payable by him according to such notice as remains unpaid at the commencement of each such month.

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

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

(6) An occupier of a jute-mill or a shipper of jute liable to pay interest under sub-section (1), sub-section (2) or sub-section (3) shall pay such interest in such manner and by such date or dates as may be prescribed.

(7) Interest under sub-section (1) or sub-section (2) shall be payable in respect of returns the prescribed dates of furnishing of which under clause (b) of section 6 or section 7 are the dates subsequent to, and interest under sub-section (3) shall be payable in respect of determinations for which the notices of demand of tax and penalty, if any,

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(Section 3.)

determined under sub-section (1) of section 9 are issued after the date of coming into force of section 3 of the West Bengal Taxation Laws (Amendment) Act, 1987.

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

Interest payable on delayed refunds. 8C. The authority referred to in clause (b) of section 6 or section 7 shall, in the prescribed manner, pay a simple interest at the rate of two *per centum* for each month of delay in making refund to an occupier of a jute-mill or a shipper of jute, as the case may be, the amount of tax paid in excess which arises out of an order under section 21 passed after coming into force of section 4 of the West Bengal Taxation Laws (Amendment) Act, 1987, from the first day of the month next following the expiry of three months from the date of such order up to the month preceding the month in which the refund is made in the manner referred to in section 10, upon the amount of tax refundable to him according to such order.

Rounding off of the amount of tax payable for calculating interest. 8D. In calculating the interest payable under section 8B or section 8C, 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. ”;

(2) in section 9,—

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

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

(Section 3.)

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

“(1a) Where the authority referred to in clause (b) of section 6 or section 7 is satisfied that an occupier of a jute-mill or a shipper of jute, as the case may be, is liable to pay interest under section 8B, he shall, in such manner as may be prescribed, determine the amount of interest payable by such occupier of a jute-mill or a shipper of jute. If on such determination any additional amount is found to be payable by the occupier of a jute-mill or shipper of jute, or any excess amount is found to be refundable to an occupier of a jute-mill or a shipper of jute, the authority referred to in clause (b) of section 6 or section 7, as the case may be, shall issue a notice, in the prescribed manner, to such occupier of a jute-mill or a shipper of jute directing him to pay such additional amount or informing him of the amount of excess payment, as the case may be.

(1b) No determination under sub-section (1a) in respect of interest payable under sub-section (1) or sub-section (2) of section 8B shall be made after the expiry of one year from the date of determination of tax and penalty (if any) under sub-section (1) in respect of the period for which such determination of interest is made.

(1c) Where there is an apparent mistake in the determination of interest under sub-section (1a), the authority referred to in clause (b) of section 6 or section 7 may, on his own motion or upon application made by an occupier of a jute-mill or a shipper of jute, as the case may be, within six months from the date of such determination, rectify the amount of interest payable by such occupier of a jute-mill or a shipper of jute and issue a fresh notice in the prescribed manner.”;

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- (c) in sub-section (2),—
 - (i) the words “ or within the period of any extension of time allowed under the second proviso to the said sub-section” shall be omitted, and
 - (ii) the following proviso shall be added:—

“Provided that no penalty or further penalty under this sub-section shall be imposed in respect of determination of tax for which interest is payable under sub-section (3) and sub-section (7) of section 8B.”;
- (d) in sub-section (3), for the words, figures and brackets beginning with “or within the period” and ending with “sub-section (2).”, the following words, figures and brackets shall be substituted:—

“or in making the payment of any penalty directed to be paid under sub-section (2) or in making the payment of any interest directed to be paid in the notice under sub-section (1a) or sub-section (1c)”;
- (e) in the proviso to sub-section (3), after the words “any tax or penalty”, the words “or interest” shall be inserted;
- (3) in section 9A, in clause (1), after the words “taxes or penalty” wherever they occur, the words “or interest” shall be inserted;
- (4) in section 9B, in sub-section (1), after the words “tax or penalty”, the words “or interest” shall be inserted;
- (5) in section 10, for the word “tax” wherever it occurs, the words “tax, penalty or interest” shall be substituted;
- (6) in section 22, in sub-section (2), after clause (c), the following clauses shall be inserted:—
 - “(c1) the manner in which and the date by which interest shall be paid by an occupier of a jute-mill or a shipper of jute under section 8B;
 - (c2) cases in which, circumstances under which and conditions subject to which no interest is payable under section 8B;
 - (c3) the manner in which interest shall be paid on delayed refunds under section 8C;
 - (c4) the manner of determination and demanding of interest under section 9;”.

*The West Bengal Taxation Laws (Amendment)
Act, 1987.*

[West Ben. Act

(Section 4.)

Amendment
of West Ben.
Act IV of
1954.

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

(1) in section 2,—

(a) in clause (b), for the words “, and includes Government;”, the following words shall be substituted:—

“, and includes the Central or a State Government, a local authority, a statutory body, a trust or other body corporate, a liquidator or a receiver appointed by a Court in respect of a person defined under this clause as a dealer;”;

(b) for clause (e), the following clause shall be substituted:—

‘(e) “turnover” used in relation to any period means the aggregate of the sale prices or parts of sale prices receivable by a dealer or, if a dealer so elects, actually received by the dealer during such period after deducting—

(i) the amount, if any, refunded by the dealer in respect of any notified commodities returned by the purchaser within such period, and

(ii) the amount arrived at by applying the formula referred to in sub-section (1a) of section 4:

Provided that an election as aforesaid once made shall not be altered except with the permission of the prescribed authority and on such terms and conditions as he may think fit to impose.’;

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

“(1a) in determining the turnover on which tax is payable by a dealer under sub-section (1), the amount arrived at by applying the following formula shall be deducted:—

rate of tax X that part of the turnover which remains after making deductions under sub-clause (i) of clause (e) of section 2

100 plus rate of tax:

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V of 1987.]

(Section 4.)

Provided that while making deduction on the basis of the above formula, the amount charged and collected by way of tax separately, if not already included in the turnover, shall be added to it.

Explanation.—Where the turnover of a dealer is taxable at different rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to be taxed at different rates.”;

(3) in sub-section 4AAA,—

(a) in sub-section (1),—

(i) for clause (a), the following clause shall be substituted:—

“(a) every dealer, whose aggregate of the gross turnover under this Act and the gross turnover under the Bengal Finance (Sales Tax) Act, 1941, during the last year ending on or before the 31st day of May, 1987, exceeds rupees twenty-five lakhs, shall, in addition to the tax payable by him under section 4, be liable to pay from the 1st day of June, 1987, a turnover tax at the rate specified in sub-section (3) of such part of his turnover as specified in sub-section (2);”;

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

“(b) every dealer, other than those referred to in clause (a), whose aggregate of the gross turnover under this Act and the gross turnover under the Bengal Finance (Sales Tax) Act, 1941, during any year ending on or after the 1st day of June, 1987, exceeds rupees twenty-five lakhs shall, in addition to the tax payable by him under section 4, be liable to pay from the first day of the year immediately following such year a turnover tax at the rate specified in sub-section (3) of such part of his turnover as specified in sub-section (2);”;

Ben. Act VI
of 1941.

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(Section 4.)

(iii) in clause (c), for the words “rupees fifty lakhs”, the words “rupees twenty-five lakhs” shall be substituted;

(iv) after clause (c), the following clause shall be inserted:—

“(cc) every dealer who has become liable to pay the turnover tax before the commencement of clause (a) of sub-section (3) of section 4 of the West Bengal Taxation Laws (Amendment) Act, 1987 shall, notwithstanding anything contained in clause (a) or clause (b), continue to be so liable until the expiry of three consecutive years commencing from any year before the commencement of clause (a) of sub-section (3) of section 4 of the West Bengal Taxation Laws (Amendment) Act, 1987 during each of which his aggregate of the gross turnover under this Act the gross turnover under the Bengal Finance (Sales Tax) Act, 1941 does not exceed rupees fifty lakhs and on the expiry of such three years after the commencement of clause (a) of sub-section (3) of section 4 of the West Bengal Taxation Laws (Amendment) Act, 1987, his liability to pay the turnover tax shall cease unless he becomes again liable to pay the turnover tax under clause (a) or clause (b);”;

Ben. Act VI
of 1941.

(v) in clause (d),—

(A) for the word, letter and brackets “clause (c),”, the words, letters and brackets “clause (c) or clause (cc),” shall be substituted;

(B) for the words “rupees fifty lakhs”, the words “rupees twenty-five lakhs” shall be substituted;

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

“(3) The turnover tax shall be levied at the rate of—

- (a) one and a half *per centum* of such port of the turnover as specified in sub-section (2), if the aggregate of the gross turnover under this Act and the gross turnover under the Bengal Finance (Sales Tax) Act, 1941 of the dealer liable to pay such tax exceeds rupees one crore during the year in respect of which or part of which the turnover tax is levied;
- (b) one *per centum* of such part of the turnover as specified in sub-section (2), if the aggregate of the gross turnover under this Act and the gross turnover under the Bengal Finance (Sales Tax) Act, 1941 of the dealer liable to pay such tax exceeds rupees fifty lakhs but does not exceed rupees one crore during the year in respect of which or part of which the turnover tax is levied; and
- (c) one-half of one *per centum* of such part of the turnover as specified in sub-section (2) if the provision of clause (a) or clause (b) does not apply:

Provided that the turnover tax payable by a dealer—

- (i) under clause (a) shall not exceed a sum equivalent to the aggregate of two-thirds of the turnover tax payable by him in accordance with the said clause and fifteen *per centum* of the amount by which his aforesaid gross turnover exceeds rupees one crore; and
- (ii) under clause (b) shall not exceed a sum equivalent to the aggregate of one-half of the turnover tax payable by him in accordance with the said clause and ten *per centum* of the amount by which his aforesaid gross turnover exceeds rupees fifty lakhs.”.

Ben. Act VI
of 1941.

(Section 4.)

(4) in section 5,—

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

“(1a) If a dealer, while being liable to pay tax under section 4, sells any notified commodity but fails to get himself registered under sub-section (1), the prescribed authority may, after giving the dealer an opportunity of being heard, impose by way of penalty a sum not exceeding rupees one thousand for each month of default calculated from the date with effect from which he becomes so liable to pay tax:

Provided that no penalty under this sub-section shall be imposed in respect of the same fact for which a prosecution under clause (a) of sub-section (1) of section 16 has been instituted and no such prosecution shall lie in respect of a fact for which a penalty has been imposed under this sub-section.”;

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

“(6) When any dealer to whom a certificate of registration is granted under this section has failed to pay any tax, penalty or interest payable under this Act, the prescribed authority may, after giving the dealer an opportunity of being heard, cancel the registration.

(7) A dealer whose certificate of registration is cancelled under sub-section (6), notwithstanding the provisions of this section, shall not be granted another certificate of registration under this Act until he pays the tax, penalty or interest referred to in the said sub-section.”;

(5) in section 7,—

(a) for sub-section (1), the following sub-section shall be substituted:—

“(1) The prescribed authority or any other officer who may be authorised by the State Government in this behalf may, for the purpose of verifying whether notified

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(Section 4.)

commodities are being or have been transported in contravention of the provisions of section 6 and subject to such restrictions as may be prescribed,—

- (i) (a) intercept, detain and search at any place notified under section 6 or at any other place any road vehicle, or river craft or any load carried by a person, or
- (b) search at any godown, warehouse or any other place in which according to his information such notified commodities transported in contravention of the provisions of section 6 have been stored; and

(ii) seize any notified commodities referred to in section 6—

- (a) which, in the case referred to in sub-clause (a) of clause (i), he has reasons to believe are being transported in contravention of the provisions of section 6, together with any container, or other materials for the packing of such notified commodities, or
- (b) together with any container or other materials for the packing of such notified commodities in the case referred to in sub-clause (b) of clause (1), where the prescribed authority or any other officer who may be authorised by the State Government in this behalf has reasons to believe that such notified commodities stored in such godown, warehouse or place have been transported there in contravention of section 6 or that there is no claimant for ownership or possession of such notified commodities stored in such godown, warehouse or place,

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and that such notified commodities have been transported there in contravention of the provisions of section 6.”;

- (b) in sub-section (2), after the words and brackets “(when particulars of the owner are available)”, the following words shall be inserted:—

“or in the case of notified commodities for which there is no claimant, upon any person who subsequently claims the ownership or possession of such notified commodities;”;

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

“Collection of tax to be only by dealers liable to pay tax.	8G. (1) No dealer who is not liable to pay tax under this Act shall collect in respect of any sale by him of notified commodities any amount of tax under this Act, and no dealer, who is liable to pay tax under this Act, shall, subject to provision of sub-section (4) of section 4AAA, make any such collection except in accordance with the provisions of this Act or in excess of the amount of tax payable by him under this Act.
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(2) If any dealer who is not liable to pay tax collects any amount by way of tax or a dealer who is liable to pay tax collects any amount by way of tax in excess of the amount payable under this Act in contravention of the provisions of sub-section (1), he shall notwithstanding anything contained in any other provisions of this Act, deposit such amount collected by way of tax or the amount collected by way of tax in excess of the amount payable under this Act, as the case may be, into a Government Treasury or the Reserve Bank of India within thirty days from the date of such collection and intimate the prescribed authority of such deposit along with a receipt from such Treasury or Bank showing payment of such amount. The prescribed authority shall, on application made by the buyer of goods referred to in sub-section (1) and on such terms and conditions as he may deem fit and proper, refund the tax or the excess tax, as the case may be, collected from such buyer and deposited by the dealer in the manner as aforesaid:

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Provided that no application from any buyer shall be entertained unless the same is made within three months from the date on which the tax or excess tax, as the case may be, is paid and supported by relevant cash memo issued by the dealer.

(3) If a dealer is in default to deposit in accordance with the provision of sub-section (2) the amount collected in contravention of the provision of sub-section (1), the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, by an order in writing direct that he shall pay by way of penalty a sum not less than the amount of tax so collected but not exceeding double the amount of tax so collected in contravention of the provision of sub-section (1).

(4) The penalty imposed under sub-section (3) shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified by the prescribed authority in a notice issued for the purpose and the date to be so specified shall not be less than fifteen days from the date of service of such notice.

(5) Any penalty that remains unpaid after the date specified in the notice referred to in sub-section (4) shall be recoverable as an arrear of land-revenue payable to the Collector.”;

(7) in section 9, in sub-section (3A),—

(a) for the words beginning with “No assessment” and ending with “is due to be made:”, the following words, figures, letters and brackets shall be substituted:—

“(a) No assessment and determination of tax under this section shall be made after the expiry of forty-eight months from the end of the year in respect of which or part of which the assessment and determination of tax is made, where such forty-eight months end on the 30th day of June or the 31st day of December; and

(b) no assessment and determination of tax under this section shall be made—

(i) after the 30th day of June next following the expiry of forty-eight months from the end of the

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year in respect of which or part of which the assessment and determination of tax is made, where such forty-eight months end on any date from the 1st day of January to the 29th day of June; and

- (ii) after the 31st day of December next following the expiry of forty-eight months from the end of the year in respect of which the assessment and determination of tax is made, where such forty-eight months end on any date from the 1st day of July to the 30th day of December;”;
- (b) in *Explanation I*, the words “of forty-eight months” shall be omitted;
- (c) after *Explanation II*, the following *Explanation* shall be added:—

“*Explanation III*.—In this sub-section, the months of January, June, July and December shall be reckoned according to the English Calendar.”;

- (8) in section 9A,—

- (a) for sub-section (1), the following sub-section shall be substituted:—

“(1) Notwithstanding anything contained in or provided under this Act, assessment in respect of every registered dealer fulfilling the conditions of eligibility as laid down in sub-section (2) (hereinafter referred to as an eligible dealer) for all period or periods for which he is required to submit return, commencing from the day immediately following the latest period or aggregate of periods for which an assessment under this Act or the Bengal Finance (Sales Tax) Act, 1941 (hereinafter referred to as the other Act) has been made in respect of him on or before such date as may be specified by the State Government by a notification published in the *Official Gazette* (hereinafter referred to as the appointed date) and ending with the last day of the year ending before the appointed date (hereinafter referred to as the period of eligibility) shall be deemed to have been made

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by the person to whom the power of making such assessment has been delegated by the prescribed authority on the appointed date as per returns furnished; and such person shall intimate to the eligible dealer particulars of assessments so deemed to have been made in the manner as may be prescribed:

Provided that the person by whom an assessment is deemed to have been made may, if necessary, make an enquiry for the purpose of determining if the conditions given under sub-section (2) have been fulfilled.

Explanation I.—For the purpose of this sub-section, the expression “an assessment has been made” includes an assessment which has been set aside or annulled or otherwise rendered infructuous after having been made.

Explanation II.—The State Government may, from time to time, specify appointed dates and assessments in respect of eligible dealers in respect of periods of eligibility shall be deemed to have been made in accordance with every such specification as and when made.’;

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

“(2) A registered dealer whose gross turnover under this Act, or when he is registered also under the other Act, the aggregate of gross turnover under this Act and the gross turnover under the other Act, as the case may be, in respect of the period or periods comprising the latest year ending before the appointed date has not exceeded seven lakhs and fifty thousand rupees shall be eligible for deemed assessment under sub-section (1) provided he fulfils the following conditions, namely:—

- (a) that he has furnished all returns, under this Act, the other Act or the Central Sales Tax Act, 1956, as the case may be, under which he is registered, in respect of the period of eligibility together

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with receipted challans showing full payment of tax due according to such returns, and interest, if any, on or before the appointed date;

- (b) that any books of accounts, register or documents of the dealer were not seized under this Act or the other Act during a period of three years before the appointed date;
- (c) that no prosecution was initiated 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, 74 of 1956, 1956;
- (d) that no penalty was imposed on him under sub-section (4) in respect of any assessment deemed to have been made under sub-section (1) or the corresponding provision of the other Act for any previous period or periods;
- (e) that he has complied with the requirements, if any, made of him under the proviso to sub-section (1) for the purpose of determination of the question if these conditions have been fulfilled; and
- (f) that he has fulfilled such other condition or conditions as may be prescribed for the purpose of removing any difficulty to give effect to the provisions of this section.”;
- (c) in sub-section (4), for the words “not exceeding twice the amount”, the words “not less than twice and not exceeding thrice the amount” shall be substituted;
- (d) after sub-section (6), the following sub-section shall be inserted:—

“(7) The prescribed authority shall take steps to select at random such proportion of deemed assessment as he may consider necessary to be scrutinised by him or such persons as he deems fit to determine if there has been breach of the provisions of sub-section (3) and he or any other person having authority under the Act may, for this purpose, exercise the powers

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conferred under section 13 of this Act or any similar power conferred under the other Act.”;

- (9) in section 10, the proviso to sub-section (1) shall be omitted;
(10) in section 12,—

- (a) in sub-section (1A), in clause (b), for the words “set aside”, the following words, letter and brackets shall be substituted:—

“when such authority is satisfied, for reasons to be recorded in writing, that it is not practicable or desirable to act in accordance with clause (a), set aside”;

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

“(1B) While acting in accordance with clause (b) of sub-section (1A), the appellate authority may set aside any part or parts of an assessment and if he does so, the assessing authority will make fresh assessment in respect of such part or parts only, the remaining part or parts of the previous assessment remaining valid.”;

- (11) after section 12A, the following section shall be inserted:—

“Penalty for concealment of sales, furnishing of incorrect particulars, etc.

12B. (1) If the prescribed authority in the course of any proceedings under this Act, is satisfied that any dealer—

- (a) has concealed any sales or any particulars thereof, or
(b) has furnished incorrect statement of his turnover or incorrect particulars of his sales in the return submitted under sub-section (1) of section 8 or otherwise,

with intent to reduce the amount of tax payable by him under this Act, the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, by an order in writing direct that he shall, in addition to any tax or penalty already levied and payable by him under this Act, pay by way of penalty a sum not less than the amount of tax, if any, which would have been avoided by him if such concealed sales or particulars thereof were not taken into account, or such incorrect

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statement of turnover or particulars of sales were accepted as correct, and in determining and assessing the tax payable by him under this Act and not exceeding two times that amount.

(2) Any penalty imposed under sub-section (1) shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified by the prescribed authority in a notice issued for this purpose and the date to be so specified shall not be less than fifteen days from the date of service of such notice:

Provided that the prescribed authority may, for reason to be recorded in writing, extend the date of such payment or allow the dealer to pay the penalty imposed in such number of instalments as the prescribed authority may determine.

(3) Any amount of penalty that remains unpaid after the date specified in the notice referred to in sub-section (2) or, where such date has been extended under the proviso to that sub-section, after the expiry of extended time, shall be recoverable as an arrear of land-revenue payable to the Collector.”;

(12) in section 13, after sub-section (4), the following sub-section shall be inserted:—

“(5) Notwithstanding the foregoing provisions of this section,—

(a) if—

(A) a registered dealer, or

(B) a licenced reseller, or

(C) any other reseller, whose gross sale of notified commodities exceeds rupees twenty thousand in any year,

sells any notified commodities and the sale-price thereof in any one transaction exceeds rupees twenty, he shall issue to the purchaser a bill or cash memo serially numbered, signed and dated by him or his regular employee showing such particulars as may be prescribed of the notified commodities sold, and he shall also keep a counterfoil or duplicate of such bill or cash memo duly signed and dated:

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Provided that, if the State Government is of the opinion that the requirement under this clause shall cause hardship to a certain class or classes of dealers included in items (B) and (C) and the requirement may be dispensed with subject to fulfilment by the dealers of certain conditions and restrictions to be imposed to ensure that there is no evasion of tax, it may prescribe such class or classes of dealers, and also prescribe such conditions and restrictions subject to which the requirement under this clause in respect of such dealers shall be dispensed with;

- (b) for contravention of the provisions of clause (a) by any registered dealer or a licenced reseller or any other reseller the prescribed authority or, if the powers of the prescribed authority are delegated under sub-section (3) of section 3 to any officer, such officer may, after giving such registered dealer or licensed reseller or any other reseller a reasonable opportunity of being heard, by an order in writing, direct that he shall pay by way of penalty either a sum equal to double the amount of tax which could have been levied under this Act in respect of sales where no cash memo or bill were issued, or rupees five hundred, whichever is greater:

Provided that if a licensed reseller or any other reseller referred to in clause (a) can satisfy the prescribed authority or any officer as may be prescribed that it is not practicable to issue cash memorandum or bill against each transaction in the circumstances and nature of his business, the prescribed authority may exempt such licensed reseller or any other reseller from payment of penalty or impose such lesser amount of penalty as he deems fit and proper;

- (c) any penalty imposed under clause (b) shall be paid into a Government Treasury or the Reserve Bank of India by such date as may be specified in the notice issued for this purpose and the date to be so specified shall not be less than fifteen days from the date of service of such notice;

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- (d) any amount of penalty that remains unpaid after the date specified in the notice referred to in clause (c) shall be recoverable as an arrear of land revenue.”;

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

- (i) in clause (d), for the words, figures and brackets “sub-section (1) of section 13”, the words, figures and brackets “sub-section (1) or sub-section (5) of section 13” shall be substituted;
- (ii) in the first proviso, after the words, figures, letters and brackets “or clause (b) of section 8D”, the words, figures, letters and brackets “or clause (b) of sub-section (5) of section 13.” shall be inserted;

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

- (a) in clause (bb1), for the words “the determination”, the words “the restrictions subject to which interception, detention, search and seizure may be made, the determination” shall be substituted;
- (b) for clause (bbbbbb), the following clause shall be substituted:—

“(bbbbbb) the manner of intimation referred to in sub-section (1), the condition or conditions referred to in sub-section (2) and the manner of payment of penalty referred to in sub-section (4), of section 9A.”.

Amendment
of West Ben.
Act XLIII of
1973.

5. In the West Bengal Primary Education Act, 1973, in section 78, in clause (c) of sub-section (2), for the words “twelve paise on each rupee of the annual net profit thereof,”, the words “one rupee on each tonne of materials or minerals other than coal on the annual despatches therefrom.” shall be substituted.

Amendment
of West Ben.
Act XIV of
1976.

6. In the West Bengal Rural Employment and Production Act, 1976, in section 4, in clause (c) of sub-section (2), for the words “at the rate of six paise on each rupee of annual net profits thereof.”, the words “at the rate of fifty paise on each tonne of materials or minerals other than coal on the annual despatches therefrom.” shall be substituted.

*The West Bengal Taxation Laws (Amendment)
Act, 1987.*

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(Section 7.)

7. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982, in section 4A, for sub-section (3), the following sub-section shall be substituted:—

Amendment
of West Ben.
Act VI of
1982.

“(3) Subject to the provision contained elsewhere in this Act, there shall be levied and collected on and from a holder of a video cassette recorder set or sets or a holder of a video cassette player set or sets a luxury-cum-entertainment and amusement tax, in addition to such tax referred to in section 4, where—

- (a) the holder, who is not liable to pay tax under sub-section (1), makes any performance or exhibition of films through such set or sets in a hotel having lodging facilities at such rate not exceeding rupees ten thousand per year per set used for such performance or exhibition as may be specified in a notification issued by the State Government in this behalf;
- (b) the holder of such set or sets other than the holder mentioned in clause (a), who is not liable to pay tax under sub-section (1), makes performance or exhibition of films through such set or sets in a hotel, shop, restaurant or business place at such rate not exceeding rupees seven hundred and fifty per week per set used for such performance or exhibition as may be specified in a notification issued by the State Government in this behalf,

and such tax shall be payable by such holder within such time as may be specified in such notification.”.