

©

GOVERNMENT OF WEST BENGAL
LEGISLATIVE DEPARTMENT

West Bengal Act I of 1986

**THE WEST BENGAL TAXATION LAWS
(AMENDMENT) ACT, 1986.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 29th March, 1986.]

[29th March, 1986.]

An Act to amend the Bengal Amusements Tax Act, 1922, 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 Motor Spirit Sales Tax Act, 1974, the West Bengal Rural Employment and Production Act, 1976 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982.

WHEREAS it is expedient to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Raw Jute Taxation Act, 1941, the West Bengal Sales Tax Act, 1954, the West Bengal Primary Education Act, 1973, the West Bengal Motor Spirit Sales Tax Act, 1974, 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-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Ben. Act V
of 1922.
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 XI of
1974.
West Ben.
Act XIV of
1976.
West Ben.
Act VI of
1982.

1. (1) This Act may be called the West Bengal Taxation Laws (Amendment) Act, 1986.

Short title
and commen-
cement.

(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.

(Sections 2, 3.)

Amendment
of Ben. Act
V of 1922.

2. In the Bengal Amusements Tax Act, 1922,—
 - (1) in sub-section (3) of section 3, in column 2 of the Table, for the figures “10”, wherever they occur, the figures “15” shall be substituted;
 - (2) after section 8A, the following section shall be inserted:—

“Special provision for new cinema hall. 8B. Notwithstanding anything contained elsewhere in this Act but subject to the rules made thereunder, where a proprietor of a new and permanent cinema hall establishes to the satisfaction of the State Government or any other officer authorised by the State Government in this behalf that the said hall has been commissioned on or after the 1st day of April, 1986, the State Government or such other officer may be an order in writing exempt, wholly or partly, such proprietor from payment of show tax or permit him to collect the entertainments tax, leviable and payable under this Act, wholly or partly in cash and to retain by way of subsidy the amount of entertainments tax so collected in cash or grant such exemption and permission for such period, not exceeding three years, as may be prescribed, commencing from the first day of cinematographic exhibition in such hall.”.
3. In the Bengal Finance (Sales Tax) Act, 1941,—
 - (1) in section 5,—
 - (i) in sub-section (1),—
 - (a) in clause (a),—
 - (A) for the words “and wheat”, the word “, wheat” shall be substituted, and
 - (B) after the letter, word and bracket “*T. dicoccum*”, the words and figures “and hosiery goods, other than those specified in column 1 relating to item 49 of Schedule I and other than woollen hosiery goods irrespective of proportion of woollen content” shall be inserted;
 - (b) in clause (bb), in sub-clause (iii), the words “in West Bengal” shall be omitted;
 - (c) in clause (bbb), after sub-clause (iv), the following sub-clause shall be added:—

(Section 3.)

“(v) ready-made garments, other than hosiery goods and garments made of *khaddar* or *khadi*;”;

(d) in clause (c), the words “, other than rice and wheat,” shall be omitted and shall be deemed to have been so omitted with effect from the 1st day of April, 1985;

(ii) in sub-section (2), in clause (b), in sub-clauses (ii), (iia), (iii), (iiia), (iv), (iva), (ivb) and (v), after the figure, letter and brackets “(vc)”, wherever they occur, the figure, letter and brackets “,(vd)” shall be inserted and shall be deemed to have been so inserted with effect from the 1st day of April, 1985;.

(2) in section 7, in sub-section (4), for the words “otherwise received.”, the words “otherwise received, and such amendment may be made with retrospective effect in such circumstances and subject to such restrictions and conditions as may be prescribed.” shall be substituted;

(3) after section 10C, the following section shall be inserted:—

“Rounding off 10D. The amount of tax or penalty payable of the amount of tax or or refundable for any period under the penalty. 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, then, 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.”;

(4) in Schedule II,—

(a) in the entry relating to serial No. 1, for the words “, motor tyres and tubes and spare parts, accessories and component parts of motor vehicles.”, the words “and motor tyres and tubes.” shall be substituted;

(b) in the entry relating to serial No. 2, for the words “tyres, tubes and spare parts, accessories and component parts”, the words “tyres and tubes” shall be substituted;

(5) in Schedule III,—

(a) item 3 and the entries relating thereto in column 1 and column 2 shall be omitted;

(b) item 4 and the entries relating thereto in column 1 shall be omitted.

(Sections 4-6.)

Amendment
of Ben. Act
XI of 1941.

4. In the Bengal Raw Jute Taxation Act, 1941, after section 8, the following section shall be inserted:—

“Rounding off of tax or penalty. 8A. 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, then, 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.”.

Amendment
of West Ben.
Act IV of
1954.

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

(1) in section 4AA, after the words “no tax shall be payable”, the words “or tax shall be payable at such rate, lower than that fixed under the aforesaid sections” shall be inserted;

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

“Rounding off of tax or penalty. 8F. 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, then, 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.”.

(3) in section 23A, in sub-clause (iii) of clause (2), the words “in West Bengal” shall be omitted.

Amendment
of West Ben.
Act XLIII of
1973.

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

(1) in Part IV, in Chapter X,—

(a) in section 78, in sub-section (2), in clause (b), for the words “three *per centum*”, the words “five *per centum*” shall be substituted;

(b) in section 78A,—

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

“Provided that the amount of education cess payable under clause (a) by the owner of a coal mine for any period shall be paid by him before he files a return in respect of such period under this clause;”;

(Section 6.)

(ii) after the proviso to clause (c), the following proviso shall be added:—

“Provided further that if interest is payable by the owner of a coal mine under clause (ga) or clause (gb) 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 (b) 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 (d) by the notified authority for such period, whichever is less;”;

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

“Provided that the notified 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;”;

(iv) after the proviso to clause (g), 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 (gc) and clause (gf);”;

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

“(ga) where an owner of a coal mine files a return referred to in clause (b) 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

(Section 6.)

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 education cess payable by him according to such return as remains unpaid at the commencement of each such month:

Provided that where, after an assessment is made under clause (d) 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 coal mine shall pay a simple interest at the rate of two *per centum* for each English calendar month from the first day of such month next following the date prescribed for filing of the last return for such period up to the month prior to the month of such assessment, upon the amount of education cess assessed as due;

(gb) where an owner of a coal mine fails to furnish a return referred to in clause (b) 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 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 the month next following the prescribed date up to the month preceding the month of full payment of education

(Section 6.)

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 education cess payable by him according to such assessment as remains unpaid at the commencement of each such month:

Provided that where an assessment under clause (d) is made for more than one return period and such assessment does not show separately the education cess payable for the period in respect of which interest is payable under this clause, the notified authority shall estimate the education cess payable for such period on the basis of such assessment after giving the owner an opportunity of being heard;

- (gc) where an owner of a coal mine fails to make payment of any education 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 the 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 (f), whichever is earlier, upon so much of the amount of education cess payable by him according to such notice as remains unpaid at the commencement of each such month;
- (gd) where as a result of an order passed on an appeal, revision or review under clause (e), the amount of education cess payable is reduced, the interest payable under clause (gc) shall be determined or redetermined on the basis of such reduced amount and the excess interest paid, if any, shall be refunded;

(Section 6.)

- (ge) the notified 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 coal mine the amount of education cess paid in excess which arises out of an order passed, on an appeal, revision or review under clause (e), after the date of coming into force of section 6 of the West Bengal Taxation Laws (Amendment) Act, 1986, 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 education cess refundable to him according to such order;
- (gf) interest under clause (ga) or clause (gb) shall be payable in respect of returns, the prescribed dates for furnishing of which under clause (b) are the dates subsequent to, and interest under clause (gc) shall be payable in respect of assessment for which the notices of demand of education cess assessed under clause (d) are issued after, the date of coming into force of section 6 of the West Bengal Taxation Laws (Amendment) Act, 1986;
- (gg) in calculating the interest payable under clause (ga), clause (gb) or clause (gc), 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, then, 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;
- (gh) where an owner of a coal mine is liable to pay interest under clause (ga), clause (gb)

(Section 6.)

or clause (gc), he shall pay such interest in such manner and by such date or dates as may be prescribed;

- (gi) where the notified authority is satisfied that an owner of a coal mine is liable to pay interest under clause (ga), clause (gb) or clause (gc), he shall, in such manner as may be prescribed, determine the amount of interest payable by such owner; and if, on such determination, any additional amount becomes payable by such owner or any excess amount becomes refundable to such owner, the notified authority shall issue a notice, in the prescribed manner, to such owner directing him to pay such additional amount or informing him of the amount of excess payment, as the case may be;
- (gj) where there is an apparent mistake in the determination of interest under clause (gi), the notified authority may, on his own motion within four years, or upon application made by an owner of a coal mine 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;
- (gk) recovery of any amount of interest determined or redetermined under clause (gd), clause (gi) or clause (gj) 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 notified 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;

(Sections 7, 8.)

(gl) 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 (ga), clause (gb) or clause (gc), 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 (q), the following clause shall be inserted:—

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

Amendment
of West Ben.
Act XI of
1974.

7. In the West Bengal Motor Spirit Sales Tax Act, 1974, after section 8, the following section shall be inserted:—

“Rounding off of tax 8A. The amount of tax or penalty payable or or penalty. 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, then, 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.”.

Amendment
of West Ben.
Act XIV of
1976.

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

(1) in section 4, in sub-section (2), in clause (b), for the words “at the rate of seventeen *per centum* of the value of coal”, the words “at such rate, not exceeding twenty-five *per centum* of the value of coal, as the State Government may, by notification in the *Official Gazette*, determine in this behalf,” shall be substituted;

(2) in section 4A,—

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

“Provided that the amount of rural employment cess payable by the owner of a coal mine for any period under clause (a) shall be paid by him before he files a return in respect of such period under this clause;”;

(ii) after the proviso to clause (c), the following proviso shall be added:—

(Section 8.)

“Provided further that if interest is payable by the owner of a coal mine under clause (ga) or clause (gb) 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 (b) 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 notified authority for such period, whichever is less;”;

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

“Provided that the notified 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;”;

(iv) after the proviso to clause (g), the following proviso shall be added:—

“Provided further 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 (gc) and clause (gf);”;

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

“(ga) where an owner of a coal mine files a return referred to in clause (b) 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

(Section 8.)

cess payable by him according to such return as remains unpaid at the commencement of each such month:

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 coal mine shall pay a simple interest at the rate of two *per centum* for each English calendar month from the first day of such month next following the date prescribed for filing of the last 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;

(g) where an owner of a coal mine fails to furnish a return referred to in clause (b) 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 the 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 commencement of such month:

Provided that where an assessment under clause (d) is made for more than one return period and such assessment does not show separately the rural employment cess payable

I of 1986.]

(Section 8.)

for the period in respect of which interest is payable under this clause, the notified authority shall estimate the rural employment cess payable for such period on the basis of such assessment after giving the owner an opportunity of being heard;

- (gc) where an owner of a coal mine 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 the 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 the proviso to 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 commencement of each such month;
- (gd) 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 reduced, the interest payable under clause (gc) shall be determined or redetermined on the basis of such reduced amount and the excess interest paid, if any, shall be refunded;
- (ge) the notified 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 coal mine 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 8 of the West Bengal Taxation Laws (Amendment) Act, 1986, from the first day of the month next following the

(Section 8.)

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;

- (gf) interest under clause (ga) or clause (gb) shall be payable in respect of returns, the prescribed dates for furnishing of which under clause (b) are the dates subsequent to, and interest under clause (gc) 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 8 of the West Bengal Taxation Laws (Amendment) Act, 1986;
- (gg) in calculating the interest payable under clause (ga), clause (gb) or clause (gc), 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, then, 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;
- (gh) where an owner of a coal mine is liable to pay interest under clause (ga), clause (gb) or clause (gc), he shall pay such interest in such manner and by such date or dates as may be prescribed;
- (gi) where the notified authority is satisfied that an owner of a coal mine is liable to pay interest under clause (ga), clause (gb) or clause (gc), he shall, in such manner as may be prescribed, determine the amount of interest payable by such owner; and if, on such determination, any additional amount becomes payable by such owner or any excess amount becomes refundable to such owner, the notified authority shall issue a notice, in the prescribed manner, to such owner directing him to pay such additional amount or informing him of the amount of excess payment, as the case may be;

I of 1986.]

(Section 9.)

- (gj) where there is an apparent mistake in the determination of interest under clause (gi), the notified authority may, on his own motion within four years, or upon application made by an owner of a coal mine 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;
- (gk) recovery of any amount of interest determined or redetermined under clause (gd), clause (gi) or clause (gj) 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 notified 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;

- (gl) 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 (ga), clause (gb) or clause (gc), 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;";

(3) in section 7, after sub-section (2), the following sub-section shall be added:—

“(3) Notwithstanding the provisions contained in sub-section (2), in particular, and without prejudice to the generality of the foregoing power, such rules may also provide for the manner of payment, determination and recovery of interest under section 4A and all other matters which may be or are required to be prescribed under that section.”.

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

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

Amendment
of West Ben.
Act VI of
1982.

(*Section 9.*)

“(2) No tax shall be levied and collected on and from a holder of a television set or sets under clause (a) or clause (b) of sub-section (1) for any year or part thereof subsequent to the year 1985.”;

(2) in section 4A,—

- (a) in sub-section (1), for the words “one hundred”, the words “five hundred” shall be substituted;
- (b) after sub-section (2), the following sub-section shall be inserted:—

“(3) Subject to the provisions 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 such holder makes any performance or exhibition of films through such set in a shop, hotel, restaurant or business place and is not liable to pay tax under sub-section (1), at such rate, not exceeding rupees five thousand per year per set, used for such performance or exhibition and such tax shall be payable by such holder within such time, as may be specified in a notification issued by the State Government in this behalf.”;

(3) in clause (b) of sub-section (3) of section 5, after the word, figure and brackets “sub-section (2)”, the words, figure and brackets “or sub-section (3)” shall be inserted.
