

GOVERNMENT OF WEST BENGAL

LEGISLATIVE DEPARTMENT

West Bengal Act VIII of 1983

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

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*,
Extraordinary, of the 30th March, 1983.]

[30th March, 1983.]

An Act to amend the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Raw Jute Taxation Act, 1941, the West Bengal Sales Tax Act, 1954, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal Rural Employment and Production Act, 1976, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and the West Bengal Multi-storeyed Building Tax Act, 1979, and to repeal the West Bengal Paddy Purchase Tax Act, 1970.

Ben. Act V
of 1922.
Ben. Act X
of 1935.
Ben. Act VI
of 1941.
Ben. Act XI
of 1941.
West Ben.
Act IV of
1954.
West Ben.
Act XI of
1974.
West Ben.
Act XIV of
1976.
West Ben.
Act VI of
1979.
West Ben.
Act XVII of
1979.

WHEREAS it is expedient to amend the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Raw Jute Taxation Act, 1941, the West Bengal Sales Tax Act, 1954, the West Bengal Motor Spirit Sales Tax Act, 1974, the West Bengal Rural Employment and Production Act, 1976, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and the West Bengal Multi-storeyed Building Tax Act, 1979, for the purposes and in the manner hereinafter appearing;

AND WHEREAS it is expedient to repeal the West Bengal Paddy Purchase Tax Act, 1970;

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

*The West Bengal Taxation Laws (Amendment) and
Repealing Act, 1983.*

[West Ben. Act

(Sections 1-3.)

Short title
and
commence-
ment.

1. (1) This Act may be called the West Bengal Taxation Laws (Amendment) and Repealing Act, 1983.

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

Amendment
of Ben. Act
V of 1922.

2. In the Bengal Amusements Tax Act, 1922, in section 3,—

(1) in sub-section (3a), after the proviso to the Table, the following proviso shall be added:—

“Provided further that in the case of cinematograph exhibitions in Bengali or Nepali language, the rate of entertainments tax shall be three-fourths of the rates as shown above.”;

(2) to sub-section (3aa), the following proviso shall be added:—

“Provided that in the case of cinematograph exhibitions in Bengali or Nepali language, the rate of additional surcharge for coloured films shall be three-fourths of the rates as aforesaid.”.

Amendment
of Ben. Act
X of 1935.

3. In the Bengal Electricity Duty Act, 1935,—

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

“Assessing Authority. 3A. The State Government may prescribe an authority or authorities to assess in the manner prescribed the electricity duty payable under this Act and the rules made thereunder.”;

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

“Appeal. 7C. (1) Any person may in the prescribed manner appeal to the prescribed authority against any order of assessment of electricity duty or any other order passed under this Act or the rules made thereunder within sixty days or such further period as may be allowed by the prescribed authority for reasons shown to his satisfaction from the date of receipt of a notice of demand issued after such order of assessment or the date of communication of such other order, as the case may be:

Provided that no appeal against an assessment of electricity duty shall be entertained by the prescribed authority unless he is satisfied that such amount of the electricity duty as the appellant may admit to be due from him has been paid.

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(Section 4.)

(2) Subject to such rules of procedure as may be prescribed, the prescribed authority, in disposing of any appeal under sub-section (1), may—

- (a) confirm, modify or annul the assessment of electricity duty or any other order, as the case may be; or
- (b) set aside the assessment of electricity duty or any other order, as the case may be, and direct the authority concerned to make a fresh assessment or pass a fresh order after such further inquiry as may be directed.”.

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

Amendment
of Ben. Act
VI of 1941.

- (1) in section 4, in sub-section (6), in clause (i), for the words “gold and fertilisers,” the words, letters and brackets “gold, rice (*Oryza sativa* L.) and wheat (*Triticum vulgare*, *T. compactum*, *T. sphaerococcum*, *T. durum*, *T. aestivum* L., *T. dicoccum*),” shall be substituted;

(2) in section 5,—

(a) in sub-section (1),—

- (i) in clause (a), for the words “sales of gold;”, the words “sales of gold, rice (*Oryza sativa* L.) and wheat (*Triticum vulgare*, *T. compactum*, *T. sphaerococcum*, *T. durum*, *T. aestivum* L., *T. dicoccum*),” shall be substituted;
- (ii) in clause (bbb), after sub-clause (iii), the following sub-clause shall be added:—
“(iv) mustard oil, rape oil and mixtures of mustard and rape oil;”;
- (iii) in clause (c), for the words “sales of goods”, the words “sales of goods, other than rice and wheat,” shall be substituted;

(b) in sub-section (2),—

(i) in clause (a),—

- (A) in sub-clause (ii), for the words “of goods referred to”, the words “of goods, other than rice and wheat, referred to” shall be substituted;

(Section 4.)

- (B) after sub-clause (va), the following sub-clauses shall be inserted:—

“(vb) sales of rice (*Oryza sativa* L.) and wheat (*Triticum vulgare*, *T. compactum*, *T. sphaerococcum*, *T. durum*, *T. aestivum* L., *T. dicoccum*) purchases whereof are shown to the satisfaction of the Commissioner to have been made from a registered dealer;

(vc) sales of rice (*Oryza sativa* L.) procured out of paddy on which tax has been levied under the West Bengal Paddy Purchase Tax Act, 1970;”;

West Ben.
Act XV of
1970.

- (ii) in clause (b), in sub-clauses (ii) to (v), for the figure, letter and brackets “(va)”, wherever they occur, the figure, letter and brackets “(va), (vb), (vc)” shall be substituted;

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

“(b) the aggregate of the following amounts, if any,—

- (i) one *per centum* of the balance remaining after making the deduction allowed by clause (a) from that part of the turnover of the dealer which is taxable at the rate of one *per centum* of the turnover;
- (ii) two *per centum* of the balance remaining after making the deduction allowed by clause (a) from that part of the turnover of the dealer which is taxable at the rate of two *per centum* of the turnover;
- (iii) two and three-fourths *per centum* of the balance remaining after making the deduction allowed by clause (a) from that part of the turnover of the dealer which is taxable at the rate of three *per centum* of the turnover;
- (iv) three and three-fourths *per centum* of the balance remaining after making the deduction allowed by clause (a) from that part of the turnover of the dealer which is taxable at the rate of four *per centum* of the turnover;

*The West Bengal Taxation Laws (Amendment) and
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VIII of 1983.]

(Section 4.)

- (v) ten and three-fourths *per centum* of the balance remaining after making the deduction allowed by clause (a) from that part of the turnover of the dealer which is taxable at the rate of twelve *per centum* of the turnover;
- (vi) seven and one-fourth *per centum* of the balance remaining after making the deduction allowed by clause (a) from that part of the turnover of the dealer which is taxable at rates other than one, two, three, four or twelve *per centum* of the turnover.”;
- (d) in sub-section (6), in clause (b), for the words “two *per centum*”, the words “three *per centum*” shall be substituted;
- (3) in Schedule I,—
 - (a) in the entry in column 1 against item 1, for the words “bran thereof.”, the words “bran thereof, but excluding rice (*Oryza sativa* L.) and wheat (*Triticum vulgare*, *T. compactum*, *T. spaerococcum*, *T. durum*, *T. aestivum* L., *T. dicoccum*),” shall be substituted;
 - (b) in the entry in column 1 against item 6, after the word “sak”, the words “, other than dry chillies” shall be inserted and shall be deemed always to have been inserted;
 - (c) in the entry in column 1 against item 11, after the word “Milk”, the words “, other than powdered or condensed milk.” shall be inserted and shall be deemed always to have been inserted;
 - (d) item 43 and the entry relating thereto in column 1 shall be omitted;
- (4) in Schedule II,—
 - (a) for serial No. 19 and the entry relating thereto, the following serial No. and entry shall be substituted:—

“19. Articles, other than utensils, made wholly or principally of stainless steel.”;
 - (b) after serial No. 41 and the entry relating thereto, the following serial No. and entry shall be added:—

“42. Footwears of all descriptions, when sold at a price exceeding fifty rupees per pair.”.

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[West Ben. Act

(Section 5.)

Amendment
of Ben. Act
XI of 1941.

5. In the Bengal Raw Jute Taxation Act, 1941, after section 9A, the following section shall be inserted:—

“Special
mode of
recovery.

9B. (1) Notwithstanding the issue of a requisition under sub-section (3) of section 9 for realisation of tax or penalty as an arrear of land revenue, the authority referred to in clause (b) of section 6 or clause (b) of section 7 may, at any time or from time to time, by notice in the prescribed form, require any person from whom money is due or may become due to the defaulting occupier of a jute-mill or shipper of jute or any person who holds or may subsequently hold money for or on account of such defaulting occupier or shipper of jute to deposit in the Treasury or the Reserve Bank of India under the appropriate head of account either forthwith upon the money becoming due or being held or at or within the time specified in the aforesaid notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the said occupier or shipper of jute in respect of arrears or the whole of money when it is equal to the arrears or less than the amount of arrears.

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for or on account of the defaulting occupier of a jute-mill or shipper of jute jointly with any other person and for the purposes of this section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the defaulting occupier of a jute-mill or shipper of jute at his last address known to the authority referred to in sub-section (1) and, in the case of a joint account, to all joint holders at their last addresses known to such authority.

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice and, in particular, where any such notice is issued to a post-office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim respecting any property in relation to which a notice under this section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

VIII of 1983.]

(Section 5.)

(6) Where a person to whom a notice under this section is sent proves to the satisfaction of the authority referred to in sub-section (1), that the sum demanded or any part thereof is not due to the defaulting occupier of a jute-mill or shipper of jute or that he does not hold any money for or on account of such occupier or shipper of jute or that the money demanded or any part thereof is not likely to be due to the said occupier or shipper of jute or to be held for or on account of such occupier or shipper of jute, nothing contained in this section shall be deemed to require such person to deposit any sum or part thereof, as the case may be.

(7) The authority referred to in sub-section (1) may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for depositing any sum demanded or part thereof.

(8) The Treasury or the Reserve Bank of India, as the case may be, shall grant a receipt for any amount deposited in compliance with a notice issued under this section and the person depositing the amount shall be fully discharged from his liability to the defaulting occupier of a jute-mill or shipper of jute to the extent of the amount so deposited.

(9) Any person discharging any liability to the defaulting occupier of a jute-mill or shipper of jute after receipt of a notice this section shall be personally liable to the authority referred to in sub-section (1) to the extent of his own liability to such occupier or shipper of jute so discharged or to the extent of the occupier's or the shipper's liability for any sum due under this Act, whichever is less.

(10) If the person to whom any notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be a defaulting occupier of a jute-mill or shipper of jute in respect of the amount specified in the notice and further proceedings may be started against him for the realisation of the amount as if it were an arrear due from him and the notice shall have the same effect as attachment of a debt.

(11) The authority referred to in sub-section (1) may apply to the court in whose custody there is money belonging to the defaulting occupier of a jute-mill or shipper of jute for payment to him of the entire amount of such money or, if it is more than the tax or penalty due, such amount of money as is sufficient to cover the tax or the penalty imposed:

Provided that any dues or property exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any requisition under this section."

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Repealing Act, 1983.*

[West Ben. Act

(Sections 6-10.)

Amendment
of West Ben.
Act IV of
1954.

6. In the West Bengal Sales Tax Act, 1954, in section 4, in sub-section (3), in clause (a), for the words "two *per centum*", the words "three *per centum*" shall be substituted.

Amendment
of West Ben.
Act XI of
1974.

7. In section 4 of the West Bengal Motor Spirit Sales Tax Act, 1974, in the Table below sub-section (2),—

- (a) in column 2 against item 2B, for the words "Six *per centum*", the words "Eight *per centum*" shall be substituted, and
- (b) in the proviso to item 2B, for the words "one *per centum*", the words "two *per centum*" shall be substituted.

Amendment
of West Ben.
Act XIV of
1976.

8. In section 4 of the West Bengal Rural Employment and Production Act, 1976, in sub-section (2), in clause (b), for the words "rupees seven and fifty paise", the words "rupees fifteen" shall be substituted.

Amendment
of West Ben.
Act VI of
1979.

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

- (1) in Serial No. 1,—
 - (a) in column 3 against item (iv), for the letters and figure "Rs. 6", the letters and figure "Rs. 7" shall be substituted;
 - (b) in column 3 against item (v), for the letters and figures "Rs. 10", the letters and figures "Rs. 12" shall be substituted;
 - (c) in column 3 against item (vi), for the letters and figures "Rs. 15", the letters and figures "Rs. 18" shall be substituted;
- (2) in Serial No. 2, in the proviso, for the letters, figures and words "Rs. 200 *per annum*.", the letters, figures and words "Rs. 250 *per annum*." shall be substituted.

Amendment
of West Ben.
Act XVII of
1979.

10. In the West Bengal Multi-storeyed Building Tax Act, 1979, after section 10, the following section shall be inserted:—

"Other
modes of
recovery.

10A. (1) Notwithstanding any action taken in pursuance of section 10, the Commissioner or any person appointed under sub-section (2) of section 4 may recover the tax or penalty by any one or more of the modes provided in this section.

(2) If any owner is in receipt of any income chargeable under the head "Salaries" under the Income-Tax Act, 1961, the Commissioner or any person appointed under sub-section (2) of section 4 may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax or penalty due from such owner, and such person shall comply with any such requisition and shall pay the sum so deducted into the Treasury or the Bank specified in the requisition to the credit of the State Government.

43 of 1961.

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VIII of 1983.]

(Section 10.)

(3) (a) The Commissioner or any person appointed under sub-section (2) of section 4 may, at any time, or from time to time, by notice in writing, require any person, from whom money is due or may become due to the owner or any person who holds or may subsequently hold money for or on account of the owner to pay into the Treasury or the Bank specified in the notice to the credit of the State Government, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the owner in respect of arrears or whole of the money when it is equal to or less than the amount due.

(b) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the owner jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(c) A copy of such notice shall be forwarded to the owner at his last address known to the Commissioner or any person appointed under sub-section (2) of section 4 and, in the case of a joint account, to all the joint holders at their last addresses known to the Commissioner or any person appointed under sub-section (2) of section 4.

(d) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice and, in particular, where any such notice is issued to a post-office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(e) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of such notice shall be void as against any demand contained in the notice.

(4) Where a person to whom a requisition or notice under this section is sent proves to the satisfaction of the Commissioner or any person appointed under sub-section (2) of section 4, as the case may be, that the sum demanded or any part thereof is not due to the owner or that he does not hold any money for or on account of the owner or that the money demanded or any part thereof is not likely to be due to the owner or to be held for or on account of the owner, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be.

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Repealing Act, 1983.*

[West Ben. Act

(Section 11.)

(5) The Commissioner or any person appointed under sub-section (2) of section 4 may, at any time or from time to time, amend or revoke any requisition or notice issued under this section or extend the time for making any payment in pursuance of such requisition or notice.

(6) A receipt shall be granted for any amount paid in compliance with a requisition or notice under this section, and the person paying the amount shall be fully discharged from his liability to the owner to the extent of the amount so paid.

(7) Any person discharging any liability to the owner after receipt of a requisition or notice under this section shall be personally liable to the Commissioner or any person appointed under sub-section (2) of section 4 to the extent of the owner's liability for any sum due under this Act or to the extent of his liability to the owner, whichever is less.

(8) Subject to the provisions of sub-section (4), if a person to whom a requisition or notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be an owner in default in respect of the amount specified in the requisition or the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax or penalty due from him in the manner provided in section 10.

(9) The Commissioner or any person appointed under sub-section (2) of section 4 may apply to the court in whose custody there is money belonging to the owner for payment to him of the entire amount of such money or, if it is more than the tax or penalty due, an amount sufficient to discharge the tax or the penalty:

Provided that any dues or property exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any requisition or notice made under this section."

5 of 1908.

Repeal and
savings.

11. The West Bengal Paddy Purchase Tax Act, 1970 shall stand repealed with effect from the date coming into force of sub-clause (a) of clause (3) of section 4 of this Act:

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Act XV of
1970.

Provided that such repeal shall not affect—

- (i) any right, title, obligation or liability already acquired, accrued or incurred or anything done or suffered before the aforesaid date,
- (ii) any legal proceeding or remedy in respect of such right, title, obligation or liability, or

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(Section 11.)

- (iii) the levy, determination, collection or refund of any tax, or the imposition or recovery of any penalty, which may have become payable before the aforesaid date, under the West Bengal Paddy Purchase Tax Act, 1970,

West Ben.
Act XV of
1970.

and any such proceeding may be instituted, continued or disposed of, and any such remedy may be enforced and any such tax may be levied, determined or collected or any such refund may be made and any such penalty may be imposed or recovered as if this Act had not been passed.
