

GOVERNMENT OF WEST BENGAL
LEGISLATIVE DEPARTMENT

West Bengal Act IV of 1984

THE WEST BENGAL TAXATION LAWS
(SECOND AMENDMENT) ACT, 1984.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*,
Extraordinary, of the 29th March, 1984.]

[29th March, 1984.]

An Act to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) 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 State Tax on Professions, Trades, Callings and Employments Act, 1979.

Ben. Act V
of 1922.
Ben. Act VI
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
1979.

WHEREAS it is expedient to amend the Bengal Amusements Tax Act, 1922, the Bengal Finance (Sales Tax) 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 State Tax on Professions, Trades, Callings and Employments Act, 1979, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Thirty-fifth 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 (Second Amendment) Act, 1984.

(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 Amusements Tax Act, 1922, in section 3,—

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

“(1) Except as otherwise expressly provided in this Act, there shall be charged, levied and paid to the State Government a tax at the rate specified in sub-section (3) on all payments for admission to any entertainment:

Short title
and
commence-
ment.

Amendment
of Ben. Act
V of 1922.

(Section 2.)

Provided that in the case of any admission to—

- (a) an entertainment for horse racing, tax shall be charged on all payments for such admission at the rate specified in column 2 of the Table below in respect of the class of admission specified in the corresponding entry in column 1 of that Table:—

Table

Class of admission	Rate of tax
1	2
Where the payment for admission—	
(i) does not exceed Rs. 5	Twenty-five <i>per centum</i> on such payment
(ii) exceeds Rs. 5 but does not exceed Rs. 10	Rs. 1.25 plus fifty <i>per centum</i> on the amount by which such payment exceeds Rs. 5,
(iii) exceeds Rs. 10	Rs. 3.75 plus seventy-five <i>per centum</i> on the amount by which such payment exceeds Rs. 10 and

- (b) a cabaret held in a place other than in a hotel or a restaurant, tax shall be charged at the rate of hundred *per centum* on all payments for such admission.”;

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

“(3) The rate of entertainments tax upon the value of tickets for admission to any theatre or circus or any class of entertainments, other than cinematograph exhibition, shall be as shown in the Table below:—

Table

Value of tickets	Rate of entertainments tax
1	2
(a) Up to Rs. 4.99	Nil,
(b) Above Rs. 4.99 but up to Rs. 9.99	20 <i>per centum</i> of such value,
(c) Above Rs. 9.99 but up to Rs. 14.99	30 <i>per centum</i> of such value,
(d) Above Rs. 14.99	40 <i>per centum</i> of such value:

(Section 3.)

Provided that where the entertainments tax is not a multiple of five paise, such tax shall be rounded off to the next higher multiple of five paise.”.

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

Amendment
of Ben. Act
VI of 1941.

(1) in section 2,—

- (a) in clause (1a), for the words “contract” wherever it occurs, the words “works contract” shall be substituted;
- (b) in clause (b), for the word “contract”, the words “works contract” shall be substituted;
- (c) in clause (c), for the words “contract and includes the Government.”, the words, figure and letter “works contract and includes the Government or any person making a sale under section 6D.” shall be substituted;
- (d) in clause (g),—

- (i) for the words beginning with “sale” means’ and ending with “charge or pledge.”, the following words shall be substituted:—

‘sale’ means any transfer of property in goods for cash or deferred payment or other valuable consideration, and includes—

- (i) any delivery of goods on hire-purchase or any system of payment by instalments,
- (ii) any transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, or
- (iii) any supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration,

and such delivery, transfer or supply of any goods shall be deemed to be a sale of those goods by the person making the delivery, transfer or supply and a purchase of those goods by the person to whom such delivery, transfer or supply is made, but does not include a mortgage, hypothecation, charge or pledge.”;

(Section 3.)

- (ii) *Explanation 1* shall be omitted;
- (e) in clause (h), in sub-clause (i),—
 - (i) for the word “sale”, the words, figure and letter “sale, other than that referred to in section 6D,” shall be substituted;
 - (ii) for the words “the cost of installation when such cost”, the words “the cost of installation or interest when such cost or interest” shall be substituted;
- (f) in clause (hb), for the words, figure and letter “or section 6C;”, the words, figures and letters “, section 6C or section 6D;” shall be substituted;
- (2) in section 4,—
 - (a) in sub-section (2), for the word “sales”, the words, figure and letter “sales, other than those referred to in section 6D,” shall be substituted;
 - (b) in sub-section (4), for the word “sales”, the words, figure and letter “sales, other than those referred to in section 6D,” shall be substituted;
- (3) in section 4A, for the words “all sales”, the words, figure and letter “all sales, other than those referred to in section 6D,” shall be substituted;
- (4) in section 5,—
 - (a) in sub-section (1),—
 - (i) in clause (aa),—
 - (A) after the word “gold”, the words “and lottery tickets” shall be inserted;
 - (B) for the words and figures “included in Schedule II,” the words, letters and brackets “specified by the State Government under clause (cccc),” shall be substituted;
 - (C) after the word “re-sale”, the words, brackets, figures and letters “, other than that by way of sale referred to in sub-clause (ii) of clause (g) of section 2 or in section 6D,” shall be inserted;
 - (ii) in clause (aaa), after the words “for sale”, the words, figure and letter “, other than that referred to in section 6D,” shall be inserted;
 - (iii) clause (aaaa) shall be omitted;

(Section 3.)

- (iv) in clause (bb),—
- (A) in sub-clause (i), after the words “for sale”, the words, figure and letter “, other than that referred to in section 6D,” shall be inserted;
 - (B) in sub-clause (ii), after the words “for sale”, the words, figure and letter “, other than that referred to in section 6D,” shall be inserted;
- (v) after clause (cc), the following clauses shall be inserted:—
- “(ccc) four *per centum* of such part of his taxable turnover as represents sales referred to in sub-clause (ii) of clause (g) of section 2;
 - (cccc) 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 this clause, where he proves to the satisfaction of the Commissioner that such goods are purchased, on or after the date with effect from which such goods are specified for the purposes of this clause, 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;”;
- (vi) in clause (d),—
- (A) for the words “fifteen *per centum*”, the words “eleven *per centum*” shall be substituted;
 - (B) after the words “sales of goods included in Schedule II”, the words “, other than those specified by the State Government under clause (cccc)” shall be inserted;
 - (C) the first proviso shall be omitted;

(Section 3.)

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

“(dd) twenty *per centum* of such part of his taxable turnover as represents sales of lottery tickets;”

(viii) in clause (e),—

(A) the letters and brackets “(aaaa),” shall be omitted;

(B) after the letters and brackets “(cc)”, the letters and brackets “,(ccc),(cccc)” shall be inserted;

(C) for the word, letter and brackets “and (d).”, the letters, brackets and word “,(d) and (dd).” shall be substituted;

(b) in sub-section (2),—

(i) in clause (a),—

(A) in sub-clause (ii), for the words and figures “and goods included in Schedule II, specified in the certificate of registration of such dealer as being intended for re-sale”, the words, brackets, figures and letters “, specified in the certificate of registration of such dealer as being intended for re-sale, other than that by way of sale referred to in sub-clause (ii) of clause (g) of section 2 or in section 6D,” shall be substituted;

(B) in sub-clause (vb), after the words “sales of”, the words “lottery tickets,” shall be inserted;

(ii) in clause (b),—

(A) in sub-clause (iv),—

(I) for the words, “ten and three-fourths *per centum*”, the words “nine and three-fourth *per centum*”, shall be substituted;

(Section 3.)

(II) for the words "twelve *per centum*", the words "eleven *per centum*" shall be substituted;

(B) in sub-clause (iva),—

(I) for the words "thirteen and a half *per centum*", the words "sixteen and three-fourths *per centum*" shall be substituted;

(II) for the words "fifteen *per centum*", the words "twenty *per centum*" shall be substituted;

(c) in sub-section (3), in clause (b),—

(i) in sub-clause (v),—

(A) for the words "ten and three-fourths *per centum*", the words "nine and three-fourths *per centum*" shall be substituted;

(B) for the words "twelve *per centum*", the words "eleven *per centum*" shall be substituted;

(ii) in sub-clause (vi), for the words "twelve *per centum*", the words "eleven *per centum*" shall be substituted;

(5) in section 6C, after sub-section (3), the following sub-section shall be added:—

"(4) A dealer shall be liable to pay tax under this section in respect of purchases made during any period up to the 31st day of March, 1984.";

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

6D. (1) Notwithstanding anything contained elsewhere in this Act,—
"Liability to payment of tax on the transfer of property in goods involved in the execution of works contract and rate thereof.

(a) any transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract (hereinafter referred to as contractual transfer) shall be deemed to be a sale of those goods by the person making the transfer and the purchase of those goods by the person to whom such transfer is made;

(Section 3.)

- (b) (i) every dealer whose contractual transfer price during the last year ending on or before the 31st day of March, 1984 exceeds rupees two lakhs shall, in addition to the tax payable by him under section 5 and section 6B, if any, be liable to pay from the 1st day of April, 1984 a tax at the rate specified in sub-section (3) of such part of his contractual transfer price as specified in sub-section (2);
- (ii) every dealer, other than a dealer referred to in sub-clause (i), whose contractual transfer price during any year ending on or after the 1st day of April, 1984 exceeds rupees two lakhs shall, in addition to the tax payable by him under section 5 and section 6B, if any, be liable to pay from the first day of the year immediately following such year a tax at the rate specified in sub-section (3) of such part of his contractual transfer price as specified in sub-section (2);
- (iii) every dealer who has become liable to pay tax under sub-clause (i) or sub-clause (ii) shall continue to be so liable until the expiry of three consecutive years during each of which the contractual transfer price does not exceed, rupees two lakhs and on the expiry of such three years his liability to pay such tax shall cease;
- (iv) every dealer, whose liability to pay tax has ceased under the provisions of sub-clause (iii), shall, if the contractual transfer price during any year again exceeds rupees two lakhs, be liable to pay from the first day of the year immediately following such year the tax at the rate specified in sub-section (3) of such part of his contractual transfer price as specified in sub-section (2).
- (2) The tax payable under sub-section (1) shall be levied on that part of contractual transfer price of a dealer during any period which remains after deducting therefrom his contractual transfer price during that period on—
- (a) contractual transfer of goods referred to in section 14 of the Central Sales Tax Act, 1956, on a prior sale whereof in West Bengal due tax under this Act or under the West Bengal Sales Tax Act, 1954, if such goods are notified for taxation under that Act, is shown to the satisfaction of the Commissioner to have been paid;

74 of 1956.
West Ben.
Act IV of
1954.

IV of 1984.]

(Section 3.)

- (b) contractual transfer of goods, sales of which are declared tax-free under section 6;
- (c) contractual transfer of goods, sales of which are generally exempt from tax under sub-clause (vi) of clause (a) of sub-section (2) of section 5;
- (d) contractual transfer of goods, on the purchase of which tax is payable by him under section 6C;
- (e) such other contractual transfers as may be prescribed.

(3) The tax under this section shall be levied at the rate of four per centum of such part of the contractual transfer price as specified in sub-section (2).

Explanation 1.—In this section, the expression “contractual transfer price”, used in relation to any period, shall mean the aggregate of the amounts received or receivable by a dealer during such period as valuable consideration for the transfer of property in goods used in execution of a works contract, whether or not the amount receivable as valuable consideration for such transfer is separately shown in the works contract, and shall include the value of such goods purchased, manufactured, processed or procured otherwise by the dealer and the cost of freight or delivery as may be incurred by such dealer for carrying such goods to the place where these are used in execution of such works contract, but shall not include such portion of the aforesaid amounts as may be prescribed.

Explanation 2.—For the purpose of this section, the expression “goods” shall include commodities specified for taxation under section 25 of the West Bengal Sales Tax Act, 1954 and, notwithstanding anything contained in this Act or in the West Bengal Sales Tax Act, 1954, tax shall be levied on such commodities under this section.”;

(7) in section 7,—

- (a) in sub-section (1), for the words, figure and letter “or section 6C”, the words, figure and letters “, section 6C or section 6D” shall be substituted;
- (b) in the proviso to sub-section (1), after the figure and letter “6C”, the words, figure and letter “or section 6D” shall be inserted;

West Ben.
Act IV of
1954.

of 1956.
West Ben.
Act IV of
54.

(Section 4.)

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

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

“(bb1) the particulars to be contained in a declaration referred to in the proviso to clause (cccc) of sub-section (1) of section 5, the form of such declaration and the manner in which such declaration is to be furnished;”;

(b) after clause (ddd), the following clause shall be inserted:—

“(dddd) that other contractual transfers, price in respect of which may be deducted in computing the part of contractual transfer price on which tax shall be levied and the portion of the valuable consideration for the transfer of property in goods used in execution of a works contract which shall not be included in the contractual transfer price, under section 6D;”;

(9) in Schedule I, in the entry in column 1 against item 7, for the words “fifteen rupees.”, the words “ten rupees.” shall be substituted.

Amendment
of West Ben.
Act IV of
1954.

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

(1) (a) in the long title, after the word “*circumstances*.”, the words “*and to regulate subsequent transactions of specified notified commodities*,” shall be inserted;

(b) in the preamble, after the word “*circumstances*.”, the words “*and to regulate subsequent transactions of specified notified commodities*,” shall be inserted;

(2) in section 2,—

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

“(bb) “*licensed re-seller*” means a re-seller under clause (ccc) who has obtained a re-sale licence under section 5A;”;

(b) after clause (cc), the following clauses shall be inserted:—

“(ccc) “*re-seller*” means any person who sells notified commodities specified under section 8E but is not a dealer under clause (b);

[West Ben. Act

IV of 1984.]

(Section 4.)

(cccc) "re-sale-price" used in relation to a re-seller means the amount of the money consideration for the sale of notified commodities specified under section 8E, which are not manufactured, made or processed by him in West Bengal or brought by him into West Bengal from any place outside West Bengal for the purpose of sale in West Bengal, less any sum allowed as cash discount according to trade practice, but includes any sum charged for containers or other materials for the packing of such notified commodities;"

(3) after section 5, the following section shall be inserted:—

"Re-sale
licence for re-
sellers.

5A. Notwithstanding anything contained elsewhere in this Act,—

- (a) every re-seller, whose aggregate of the re-sale-prices or parts of re-sale-prices receivable during the financial year ending on the 31st day of March, 1984 exceeds rupees one lakh, shall make an application in the prescribed manner to the prescribed authority within three months from the date of coming into force of this section to get himself licensed;
- (b) every re-seller, other than those referred to in clause (a), whose aggregate of the re-sale-prices or parts of re-sale-prices receivable during any financial year commencing after the 31st day of March, 1984 exceeds rupees one lakh, shall make an application in the prescribed manner to the prescribed authority within three months from the date on which such aggregate of re-sale-prices first exceeds rupees one lakh during that financial year;
- (c) the prescribed authority shall issue a re-sale licence to the applicant in the prescribed form, if the prescribed authority is satisfied that the application for licence is *bona fide* and is in order;
- (d) the prescribed authority shall cancel the re-sale licence issued under clause (c), if the aggregate of re-sale-prices of the re-seller to whom such licence is granted fails to exceed rupees one lakh during each of three successive financial years;

(Section 4.)

- (e) if a re-seller, who is liable to apply for a re-sale licence under clause (a) or clause (b), fails to make such application within the period specified therein, the prescribed authority may, after giving the re-seller an opportunity of being heard, impose by way of penalty a sum not exceeding rupees two hundred and fifty for each month of default:

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

- (f) for the purposes of this section, the prescribed authority shall have the power to determine the re-sale-price or aggregate thereof of a re-seller.”;

- (4) after section 8C, the following sections shall be inserted:—

“Return by a
licensed re-
seller and
penalty.

8D. Notwithstanding anything contained elsewhere in this Act,—

- (a) every licensed re-seller shall submit to the prescribed authority a statement containing such particulars of re-sale-prices and purchase prices of notified commodities for each financial year in such form and manner and by such date as may be prescribed;
- (b) if a licensed re-seller fails to submit any statement by the prescribed date as required under clause (a), the prescribed authority may, after giving such re-seller an opportunity of being heard, in the prescribed manner, impose by way of penalty a sum not exceeding rupees two thousand and five hundred for default in respect of each financial year:

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

Power of State
Government to
specify notified
commodities.

8E. The State Government may, by notification in the *Official Gazette*, specify notified commodities for the purposes of clause (ccc) and clause (cccc) of section 2.”;

IV of 1984.]

(Section 4.)

- (5) in section 10, in sub-section (1),—
 - (a) after the words and figure “of section 9, be paid by the dealer”, the words, letters, figures and brackets “, or the amount of penalty imposed under clause (e) of section 5A or clause (b) of section 8D shall be paid by the re-seller,” shall be inserted;
 - (b) in the proviso,—
 - (i) for the word “dealer” in the two places where it occurs, the words “dealer or re-seller” shall be substituted;
 - (ii) the words “, if any,” shall be omitted;
- (6) in section 12, in the *Explanation* to sub-section (5), for the word and figure “section 9.”, the words, figures and letters “section 9 and also penalty under section 5A or section 8D.” shall be substituted;
- (7) in section 13,—
 - (a) in sub-section (1),—
 - (i) for the words “Every dealer”, the words “Every dealer or licensed re-seller” shall be substituted;
 - (ii) in clause (a),—
 - (A) after the words “sale in West Bengal,”, the words “or secured otherwise,” shall be inserted;
 - (B) after the words “purchase prices,”, the words “or of re-sale-prices and purchase prices, as the case may be,” shall be inserted;
 - (C) after the word “dealer”, the words “or the re-seller” shall be inserted;
 - (b) in sub-section (1A), after the word “dealer”, the word “, re-seller” shall be inserted;
 - (c) in sub-section (2), after the word “dealer”, the words “or the re-seller” shall be inserted;
 - (d) in sub-section (3), after the word “dealer”, the words “or the re-seller” shall be inserted;
 - (e) in sub-section (4), after the word “dealer”, the words “or the re-seller” shall be inserted;
- (8) in section 16, in sub-section (1),—
 - (a) after clause (aa), the following clause shall be inserted:—

“(aaa) contravenes the provisions of clause (a) or clause (b) of section 5A.”;

(Section 5.)

- (b) after clause (b), the following clause shall be inserted:—
 - “(bb) contravenes the provisions of clause (a) of section 8D,”;
- (c) in the first proviso, for the word and figure “section 9:”, the words, figures, letters and brackets “section 9 or clause (e) of section 5A or clause (b) of section 8D:” shall be substituted;
- (9) in section 21, in sub-section (2),—
 - (a) after clause (b), the following clause shall be inserted:—
 - “(b1) the manner in which application for licence shall be made and the form in which licence shall be issued under section 5A;”;
 - (b) after clause (bbbb), the following clause shall be inserted:—
 - “(bbbb1) the form and manner in which statement shall be submitted and penalty imposed under section 8D;”.

Amendment
of West Ben.
Act XLIII of
1973.

5. In the West Bengal Primary Education Act, 1973, in Chapter X,—

- (1) in section 78,—
 - (a) in sub-section (1), after the words “are assessed”, the words “, or all such properties which are liable to such assessment,” shall be inserted;
 - (b) in sub-section (2),—
 - (i) in clause (a), for the words “in respect of lands,”, the words “in respect of lands, other than a tea estate,” shall be substituted;
 - (ii) after clause (a), the following clause shall be inserted:—
 - “(aa) in respect of tea estate, rupees six on each kilogram of tea on the despatches from such tea estate of tea grown therein:
- Provided that the State Government may fix different rates on despatches of different classes of tea.

IV of 1984.]

[West Ben. Act

(Section 5.)

Explanation.—For the purposes of this clause and section 78B,—

- (1) “tea” shall mean the plant *Camellia Sinensis* (L) O. Kuntze as well as all varieties of the product known commercially as tea made from the leaves of the plant *Camellia Sinensis* (L) O. Kuntze, including green tea and green tea leaves, processed or unprocessed; and
- (2) “tea estate” shall mean any land used or intended to be used for growing tea and shall include land comprised in factory, workshop and housing for persons employed in the tea estate and other lands for purposes ancillary to the growing of tea.’;

(2) after section 78A, the following section shall be added:—

“Levy,
recovery,
etc., of cess
in respect of
tea estate.

78B. (1) Notwithstanding anything contained in sub-section (4) of section 78 or in the Cess Act, 1880,—

Ben. Act IX
of 1880.

- (a) on and from the 14th day of April, 1984, the education cess payable under sub-section (1) of section 78 in respect of a tea estate referred to in clause (aa) of sub-section (2) of that section on despatches of tea from such tea estate shall be paid by the owner of the tea estate in such manner, for such period and by such date as may be prescribed, and shall be levied by such authority (hereinafter referred to as the prescribed authority) in such manner as may be prescribed;
- (b) every owner of a tea estate shall get himself registered with the prescribed authority in the manner prescribed;
- (c) every owner of a tea estate shall file a return showing the amount of education cess payable by him under clause (a) in such form, for such period and by such date as may be prescribed;
- (d) every owner of a tea estate shall be liable to pay, by way of penalty in default of payment of the education

(Section 5.)

cess payable by him under clause (a) or filing without any reasonable cause the return under clause (c) for any period by the prescribed date, an amount, not exceeding the amount of such cess payable for such period as may be levied by the prescribed authority at the time of assessment of such cess under clause (e), in such manner as may be prescribed:

Provided that the prescribed authority shall give the owner of the tea estate an opportunity of being heard before imposition of such penalty;

- (e) the education cess under clause (aa) of sub-section (2) of section 78 on despatches of tea on and from the 14th day of April, 1984 shall be assessed by the prescribed authority in the manner prescribed, and if the return under clause (c) is not accepted, the owner of the tea estate shall be given a reasonable opportunity of being heard before making such assessment;
- (f) any appeal, revision or review, as the case may be, from an order of assessment or any other order passed under this section shall lie to such authority, on such conditions and in such manner as may be prescribed;
- (g) recovery of the education cess assessed under clause (e) or refund of any amount of such cess found to have been paid in excess after assessment shall be made in the manner prescribed;
- (h) every owner of a tea estate shall be liable to pay by way of penalty an amount, not exceeding the amount of cess assessed under clause (e) and remaining unpaid, for default in payment of such cess without reasonable cause. The penalty shall be imposed by the prescribed authority in the manner prescribed;
- (i) if the owner of a tea estate fails without reasonable cause to get himself registered under clause (b), he shall be punishable with simple imprisonment for a term which may extend to one year or with fine of one thousand rupees, or with both, and in the case of a continuing offence, with a further fine which may extend to one hundred rupees for every day during which such offence continues after first conviction:

[West Ben. Act

IV of 1984.]

(Section 6.)

Provided that no Court shall take cognizance of any offence punishable under this clause except with the previous sanction of the prescribed authority, and no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence;

- (j) the State Government or the prescribed authority may appoint persons to assist the prescribed authority;
- (k) any powers, duties or functions of the prescribed authority may be delegated to any person appointed under clause (j) in such manner as may be prescribed;
- (l) the State Government may, if it considers necessary so to do, by notification in the *Official Gazette*, exempt such categories of despatches or such percentage of despatches from the liability to pay the whole or any part of the education cess, or reduce the rate of the education cess payable thereon, under clause (aa) of sub-section (2) of section 78, on such terms and conditions as may be specified in the notification:

Provided that the State Government may, at any time, add to, amend, vary or rescind any such notification.

Explanation.—"Owner" with reference to a tea estate, the possession of which has been transferred by lease, mortgage or otherwise, means the transferee so long as his right to possession subsists."

6. In the West Bengal Motor Spirit Sales Tax Act, 1974,—

Amendment
of West Ben.
Act XI of
1974.

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

'(dd) "tax" means the tax payable under section 4 or section 4A';

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

"Liability to
payment of
turnover tax
and rate
thereof.

4A. (1) Every dealer shall, in addition to the tax payable by him under section 4, be liable to pay, subject to the provisions of sub-section (2), from the 1st day of April, 1984, a turnover tax at the rate of one *per centum* of his turnover of sales.

(Sections 7, 8.)

(2) No turnover tax shall be payable on turnover of sales as represents sales of motor spirit wholly exempt from tax or on which no tax may be imposed in accordance with the provisions of section 5 or section 20.

(3) No dealer shall realise from his purchaser the turnover tax payable by him under this section."

Amendment
of West Ben.
Act XVI of
1976.

7. In the West Bengal Rural Employment and Production Act, 1976, in section 4, in sub-section (2), in clause (b), for the words, "fifteen per centum", the words "seventeen per centum" shall be substituted.

Amendment
of West Ben.
Act VI of
1979.

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

(1) in Serial No. 4, in column 2, for the words "building contractors", the words "contractors or commission agents or *del credere* agents or mercantile agents" shall be substituted;

(2) in Serial No. 7,—

(a) in column 2 against item (a),—

(i) for the words "registered under", the words "liable to pay tax under" shall be substituted;

(ii) for the words, figures and brackets "and the West Bengal Sales Tax Act, 1954 (West Ben. Act IV of 1954)", the words, figures and brackets "or the West Bengal Sales Tax Act, 1954 (West Ben. Act IV of 1954) or the Central Sales Tax Act, 1956 (74 of 1956)" shall be substituted;

(b) in column 2 against item (c), for the words, figures and brackets "Owners of rice mills as defined under the West Bengal Paddy Purchase Tax Act, 1970 (West Ben. Act XV of 1970)", the words "Occupiers, owners, lessees or licencees, as the case may be, of rice mills" shall be substituted;

(3) for Serial No. 9 and the entry relating thereto, the following serial No. and entry shall be substituted:—

"9. Employers or shop-keepers as defined under the West Bengal Shops and Establishments Act, 1963 (West Ben. Act XIII of 1963), whether or not their establishments or shops are situated within an area to which the aforesaid Act applies, and who are not covered by entry 7.

[West Ben. Act

IV of 1984.]

(Section 6.)

er of sales
from tax or
with the
turnover

Act, 1976,
fifteen per
cent.

illings and

ntractors",
el credere

rds "liable

d the West
Act IV of
its "or the
t Ben. Act
t, 1956 (74

figures and
under the
1970 (West
s, owners,
rice mills"

following

under the
1963 (West
establishments
aforesaid Act

Such employers or shop-keepers—

- (i) where there are no employees Rs. 50 *per annum*,
- (ii) where there are less than five employees Rs. 150 *per annum*,
- (iii) where there are five or more employees Rs. 250 *per annum*.”;
- (4) for Serial No. 11 and the entry relating thereto, the following Serial No. and entry shall be substituted:—
 “11. (a) Licensed foreign liquor or country liquor vendors and employers of residential hotels Rs. 250 *per annum*,
- (b) Owners, lessees or licencees, as the case may be, of Cinema Houses, Theatres, Nursing Homes or Pathological Laboratories Rs. 250 *per annum*.”;
- (5) for Serial No. 18 and the entry relating thereto, the following Serial No. and entry shall be substituted:—
 “18. Partnership firms when engaged in any professions, trades or callings. Rs. 200 *per annum*.”.