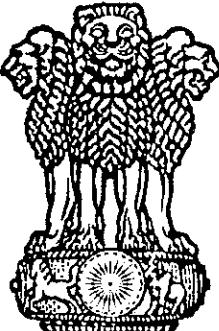


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THURSDAY, JULY 31, 2003

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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1263-L.—31st July, 2003.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XI of 2003

**THE WEST BENGAL TAXATION LAWS
(AMENDMENT) ACT, 2003.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette, Extraordinary*, of the 31st July, 2003.]

An Act to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Sales Tax Act, 1994, the West Bengal Building Tax Act, 1996, and the West Bengal Sales Tax (Settlement of Dispute) Act, 1999.

WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Sales Tax Act, 1994, the West Bengal Building Tax Act, 1996, and the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, for the purposes and in the manner hereinafter appearing;

2 of 1899.
Ben. Act V
of 1922.
Ben. Act X
of 1935.
West Ben.
Act VI of 1979.
West Ben. Act
XLIX of 1994.
West Ben. Act
XIX of 1996.
West Ben. Act IV
of 1999.

*The West Bengal Taxation Laws (Amendment)
Act, 2003.*

(Sections 1-3.)

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

Short title and commencement.

1. (1) This Act may be called the West Bengal Taxation Laws (Amendment) Act, 2003.

(2) Save as otherwise provided, it shall come into force on such date, or shall be deemed to have 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.

Application and amendment of Act 2 of 1899.

2. (1) The Indian Stamp Act, 1899 (hereinafter referred to as the principal Act), shall, in its application to West Bengal, be amended for the purpose and in the manner hereinafter provided.

(2) In Schedule 1A to the principal Act, in article 23, in the column under the heading “Proper Stamp-duty”,—

- (a) in clause (a), for the words “six *per centum*”, the words “eight *per centum*” shall be substituted;
- (b) in clause (c), for the words “five *per centum*”, the words “six *per centum*” shall be substituted.

Amendment of Ben. Act V of 1922.

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

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

- ‘(5a) “multiplex theatre complex” means a film-theatre-cum-cultural centre which provides not less than three theatres in such complex,—
 - (i) with a minimum sitting capacity of 1000 in the city of Kolkata, where the Commissioner of Police is the licensing authority under the West Bengal Cinemas (Regulation) Act, 1954, or
 - (ii) with a minimum sitting capacity of 800 in an area, where the District Magistrate is the licensing authority under the West Bengal Cinemas (Regulation) Act, 1954,
and includes such other multi-entertainment activities and facilities, as the State Government may, by notification in the *Official Gazette*, specify;’;

(2) in section 3, sub-section (3aa) shall be omitted;

(3) for clause (a) of section 8C, the following clause shall be substituted:—

- “(a) the proprietor of a new multiplex theatre complex or, as the case may be, the proprietor of an existing cinema hall which has been converted into a multiplex theatre complex, shall be entitled to retain, by way of subsidy, the amount of entertainments tax as collected against the value of ticket for admission to such multiplex theatre complex for a period not exceeding—

(i) in the case of a new multiplex theatre complex, four years or till such date when the total amount of entertainments tax retained by such proprietor, by way of subsidy, does not exceed the total amount invested for the purpose of making the new multiplex theatre complex, whichever is earlier, from the date of commencement of such multiplex theatre complex; or

(ii) in the case of an existing cinema hall converted into a multiplex theatre complex, three years or till such date when the total amount of entertainments tax retained by such proprietor, by way of subsidy, does not exceed the total amount invested for converting an existing cinema hall into a multiplex theatre complex, whichever is earlier, from the date of commencement of such multiplex theatre complex:

West Ben. Act
XXXIX of 1954.

*The West Bengal Taxation Laws (Amendment)
Act, 2003.*

(Sections 4, 5.)

Provided that no proprietor shall be allowed to enjoy the benefit of retention of entertainments tax by way of subsidy unless—

- (a) such complex is recommended for considering it as a multiplex theatre complex by the Director of Film, Information and Cultural Affairs Department, Government of West Bengal, in such manner as may be specified in the notification issued in this behalf by the said department; and
- (b) one theatre in such complex is reserved for a total period of not less than one month in a year exclusively for exhibition of films in Bengali or Nepali or *Santhali* language:

Provided further that where an existing cinema hall is converted to a multiplex theatre complex, such existing cinema hall shall not reduce its original sitting capacity:

Provided also that on the expiry of the period or date, as the case may be, of enjoying the benefit of retaining of entertainments tax, by way of subsidy, under this clause, no further benefit under this section shall be allowed to the proprietor of such complex and he shall make payment of entertainments tax in accordance with the provisions of the Act from the date following the date on which he ceases to enjoy such benefit;”.

4. In the Bengal Electricity Duty Act, 1935, in the Second Schedule,—

- (a) after exemption (14), the following exemption shall be added:—

“(15) an industrial unit set up in any Special Economic Zone, save in respect of premises used for residential purposes, from the date of first commercial production.”;

- (b) after *Explanation* (6), the following *Explanation* shall be added:—

‘*Explanation* (7).—For the purposes of exemption (15), the expression “Special Economic Zone” means a geographical area notified as such by the Government.’.

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

- (1) in section 8, for sub-section (2), the following sub-section shall be deemed to have been substituted with effect from the 1st day of April, 2003:—

“(2) The amount of tax due from any person who stands enrolled before the commencement of any year shall be paid by him before the 30th day of September of that year:

Provided that subject to such conditions and restrictions as may be prescribed, an enrolled person shall not be required to make payment of tax in terms of his certificate of enrolment in respect of the year or years, during which he is not temporarily engaged in any profession, trade or calling in West Bengal.”;

- (2) in the Schedule,—

- (a) in the entry in column (2) against serial No. 3 in column (1), for the words “Chief agents,”, the words “Postal agents under the National Small Savings Scheme or Chief agents,” shall be deemed to have been substituted with effect from the 1st day of April, 2003;

Amendment of
Ben. Act X of
1935.

Amendment of
West Ben. Act VI
of 1979.

*The West Bengal Taxation Laws (Amendment)
Act, 2003.*

(Section 6.)

(b) for the entry in column (3) against sub-item (i) of item (a) in column (2) against serial No. 7 in column (1), the following entry shall be deemed to have been substituted with effect from the 1st day of April, 2003:—

“Rs. 300 per annum.”;

(c) for the entry in column (3) against sub-item (ii) of item (a) in column (2) against serial No. 7 in column (1), the following entry shall be deemed to have been substituted with effect from the 1st day of April, 2003:—

“Rs. 200 per annum.”.

Amendment of
West Ben. Act
XLIX of 1994.

6. In the West Bengal Sales Tax Act, 1994,—

(1) in section 2,—

(a) in clause (35), after the word, figures and letter “section 16A,”, the words, figures and letter “turnover tax payable under section 16B,” shall be inserted;

(b) in clause (40), in sub-clause (c), after the word, figures and letter “section 16A”, the words, figures and letter “and the amounts charged as turnover tax payable under section 16B” shall be inserted;

(2) after section 16A, the following section shall be inserted:—

“Liability to pay turnover tax. 16B. (1) Every dealer who has incurred liability to pay tax under section 9, or section 10, shall be liable to pay a turnover tax, at the rate specified in column (3) of Schedule VIIIB against goods specified in column (2) of that Schedule, on the turnover of sales of such goods in West Bengal except such part of turnover—

(a) as represents sales in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, or in the course of import of the goods into, or export out of, the territory of India within the meaning of section 5 of that Act;

(b) as represents such other sales as may be prescribed.

(2) The dealer liable to pay turnover tax under sub-section (1) shall, notwithstanding anything to the contrary contained in section 39, section 40, section 41, section 42, or section 43, make payment of the turnover tax in the manner referred to in section 30.”;

(3) after section 43A, the following section shall be inserted:—

“Option to make payment of deferred tax at discounted rate. 43B. Notwithstanding anything contained elsewhere in this Act, any dealer eligible under section 40, or section 42, or section 43, to defer the tax payable according to his returns referred to under sub-section (2) of section 30 or the tax due from him according to a notice issued under section 47, shall have an option to make payment before the expiry of the period for which he is eligible to defer the payment of such tax on the basis of a discount formula, and in such manner, as may be prescribed.”;

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Act, 2003.*

(Section 6.)

(4) after Chapter X, the following Chapter shall be inserted:—

“CHAPTER XA
Voluntary disclosure

**Voluntary
disclosure.**

90B. (1) Notwithstanding anything contained to the contrary elsewhere in this Act, where any person or dealer (hereinafter referred to as the declarant in this section), makes a declaration to the Commissioner, on or before the 30th day of September, 2003, in respect of any turnover of sales or purchases of goods relating to any return period—

- (a) for which he has failed to submit a return under section 30, or
- (b) which he has failed to disclose in any return submitted under section 30, or
- (c) which has escaped assessment by reason of omission or failure on the part of the declarant to submit a return under section 30 or to disclose fully and truly all material facts and particulars relating to such turnover of sales or purchases or otherwise,

such turnover of sales or purchases or particulars of such turnover of sales or purchases shall not be taken into account for the purposes of imposition of penalty under section 76 or prosecution under section 88.

Explanation.—For the removal of doubts, it is explained that the declaration under this section may be made, where the books of accounts, registers or documents, including computerised or electronic accounts maintained on any computer or electronic media, of the declarant have been seized or any allegation of evasion of tax by the declarant is being investigated into under this Act.

(2) The declaration referred to in sub-section (1) shall be made in such form and in such manner as may be prescribed and before making the declaration, the declarant shall pay—

- (a) the tax payable according to the declaration, and
- (b) a composition fee at the rate of five *per centum* of the tax referred to in clause (a), in lieu of interest payable under section 31 or penalty leviable under section 76.

(3) A copy of the declaration made under sub-section (1), along with the enclosures thereto, shall be, submitted by the declarant to the appropriate assessing authority within seven days from making of the application under that sub-section, and the information contained therein shall be taken into account by the authorities under this Act for the purposes of assessment under section 45 or section 46, or reopening under sub-section (2) or sub-section (4) of section 46A of the assessment deemed to have been made under sub-section (1) of section 45 or appeal under section 79 or revision under section 80, section 81 or section 82, or review under section 83.

(4) Where the Commissioner is satisfied about the correctness of the declaration made under this section, he shall grant, in the prescribed manner, a certificate to the declarant setting forth therein the particulars of turnover of sales or purchases, the period to which such particulars relate and the amount of tax and composition fee paid according to the declaration.

*The West Bengal Taxation Laws (Amendment)
Act, 2003.*

(Section 6.)

(5) The immunity provided under sub-section (1) shall not be available to the declarant if—

- (a) the certificate referred to in sub-section (4) has not been issued to the declarant; or
- (b) the certificate referred to in sub-section (4) is obtained by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars; or
- (c) it is found that the particulars of turnover of sales or purchases furnished in the declaration are not correct or complete; or
- (d) the penalty has already been imposed under section 76, or sanction has already been accorded for prosecution under section 88, in respect of the turnover of sales or purchases.

(6) All particulars contained in a declaration referred to in sub-section (1) shall be treated as confidential in the public interest and no court or authority shall be entitled to require any Government servant to produce before it such particulars or any part thereof, or to give evidence before it in respect thereof:

Provided that nothing in this sub-section shall apply to disclosure of any of the particulars contained in the declaration for any of the purposes as referred to in any of the clauses of sub-section (3) of section 93.

(7) The declarant shall not be entitled to apply for re-opening of any assessment or re-assessment made, or to claim any set off or relief in any appeal, revision, review or other proceeding in relation to any assessment or re-assessment, in view of the making of the declaration under this section.

(8) Any declaration made under sub-section (1) shall not be recalled, withdrawn or materially changed after submission before the Commissioner and the amount of tax and composition fee paid while making the declaration under sub-section (1), shall not be refundable under any circumstances.”;

(5) in Schedule IV,—

(a) in Part A, after serial No. 223 in column (1) and the entry relating thereto in column (2), the following serial Nos. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“223A. Boulder, ballast and stone chips.

223B. Sand.

223C. Electronic device used in any addressable system including set top box.”;

(b) in Part B, after serial No. 6 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“7. Mineral turpentine oil.”;

(6) in Schedule VIII A,—

(a) the entries in column (2), sub-column (a) and sub-column (b) of column (3), and column (4), against serial No. 19 in column (1), shall be omitted,

(b) the entries in column (2), sub-column (a) and sub-column (b) of column (3), and column (4), against serial No. 20 in column (1), shall be omitted;

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Act, 2003.*

(Sections 7, 8.)

(7) after Schedule VIIIA, the following Schedule shall be inserted:—

“SCHEDULE VIIIB

[See section 16B.]

**Goods on which and the rate at which turnover tax
shall be payable under section 16B.**

Sl. No.	Description of goods	Rate of tax
(1)	(2)	(3)
1.	Cement.	Three
2.	Cream, paste or ointment as specified in item (i) in column (2) against serial No. 24 in column (1) of Part A of Schedule IV.	Three
3.	Body powder as specified in item (ii) in column (2) against serial No. 24 in column (1) of Part A of Schedule IV.	Three
4.	Perfumes, depilatories, cosmetics, toilet articles and preparations (whether medicated or not) including hair cream, hair dye, hair tonic, hair conditioner and hair lotion as specified in column (2) against serial No. 54 in column (1) of Part A of Schedule IV.	Three
5.	Television set.	Three.”.

Amendment of
West Ben. Act
XIX of 1996.

7. In the West Bengal Building Tax Act, 1996, in section 4, for the words “five per centum”, the words “ten per centum” shall be substituted.

Amendment of
West Ben. Act IV
of 1999.

8. In the West Bengal Sales Tax (Settlement of Dispute) Act, 1999,—

(1) in section 2, in sub-section (1), in clause (a), for the words, figures and letters “the 31st day of March, 2001,”, the words, figures and letters “the 31st day of March, 2003,” shall be substituted;

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

(a) for the words, figures and letters “the 31st day of March, 2001,”, the words, figures and letters “the 31st day of March, 2003,” shall be substituted;

(b) the following proviso shall be added:—

“Provided that an applicant shall not be eligible to make an application for settlement of dispute under this Act after the 31st day of December, 2003, for any period for which the appeal or revision has been presented on or before the 31st day of March, 2003.”;

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

(a) for the words, figures and letters “the 31st day of March, 2001,”, the words, figures and letters “the 31st day of March, 2003,” shall be substituted;

(b) after the proviso, the following proviso shall be added:—

“Provided further that after the 31st day of December, 2003, the provisions of this sub-section shall not apply to the application

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Act, 2003.*

(Section 8.)

pending before the Tribunal or the High Court or the Supreme Court, where such application has been made to the Tribunal, or the High Court or the Supreme Court, as the case may be, on or before the 31st day of March, 2003.”;

(4) in section 5,—

(a) in sub-section (1),—

(i) in clause (a), for the words, figures and letters “the 31st day of December, 2001,”, the words, figures and letters “31st day of December, 2003,” shall be substituted;

(ii) in clause (b), for the words, figures and letters “the 31st day of December, 2001,”, the words, figures and letters “31st day of December, 2003,” shall be substituted;

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

“(5) Where a certificate of settlement has not yet been issued under sub-section (1) of section 8 in respect of any application under sub-section (1) made before coming into force of this sub-section in respect of any period, the applicant may, on fulfilling the conditions and in the manner prescribed, apply for settlement of arrear tax, penalty or interest in dispute in respect of such period:

Provided that upon making of an application under this sub-section, the application made before coming into force of this sub-section, shall be deemed to have been withdrawn by the applicant.”;

(5) for section 6, the following section shall be substituted:—

“Payment of amount payable by applicant. 6. (1) Save as otherwise provided in the proviso to sub-section (1) of section 8, every applicant shall, before making the application under section 5 for settlement of any arrear tax, penalty or interest in dispute for any period, pay the amount calculated at the rate specified in section 7 into the Reserve Bank of India or any appropriate Government Treasury in such manner as is specified in the relevant Act.

(2) A copy of duly receipted challan showing payment of the amount payable for settlement shall be furnished to the designated authority along with the application made under section 5.”;

(6) in section 7, in sub-section (1),—

(a) the words, figures and brackets “under sub-section (2) of section 6” shall be omitted;

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

“(a) where the dispute relates to any arrear tax in dispute,—

(i) at the rate of thirty-three *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, if the application under section 5 is made on or before the 30th day of September, 2003; or

(ii) at the rate of thirty-five *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, if the application under section 5 is made after the 30th day of September, 2003, but on or before the 31st day of October, 2003; or

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Act, 2003.*

(Section 8.)

- (iii) at the rate of thirty-seven *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, if the application under section 5 is made after the 31st day of October, 2003, but on or before the 30th day of November, 2003; or
- (iv) at the rate of thirty-nine *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, if the application under section 5 is made after the 30th day of November, 2003, but on or before the 31st day of December, 2003; or";

(7) in section 8, for sub-section (1), the following sub-section shall be substituted:—

“(1) The designated authority shall, within seven working days of the receipt of the application under section 5 along with the copy of duly receipted challan showing payment of the amount payable for settlement, issue a provisional certificate of settlement to the applicant in such form as may be prescribed:

Provided that where no payment is required to be made by an applicant, the designated authority shall issue the provisional certificate of settlement within seven working days of the receipt of the application under section 5, notwithstanding that no receipted copy of challan has been furnished along with the application under section 5:

Provided further that the designated authority may, within a period of three months following the month in which the application under section 5 is made, verify the correctness of the declaration made and the amount paid on the basis of such declaration, and if the designated authority finds any discrepancy in the declaration or finds any short payment of the amount payable for settlement, such authority shall issue a notice to the applicant asking him to rectify the discrepancy or to make payment of the amount short paid:

Provided also that, where—

- (a) the notice referred to in the second proviso is not issued, the provisional certificate of settlement issued to the applicant shall, on the expiry of the period referred to in that proviso, become final and the dispute in respect of which the application has been made shall be deemed to have been settled for the purposes of this Act and the relevant Act;
- (b) the notice referred to in the second proviso is issued, the dispute shall not be deemed to have been settled until the discrepancy, or the short payment, mentioned in that notice is rectified or made to the satisfaction of the designated authority and the designated authority signifies such satisfaction to the applicant in writing:

Provided also that in a case where the provisions of sub-section (4) of section 5 apply and a provisional certificate is issued under this sub-section in respect of the appeal pending for a period, the revision pending for such period shall also be deemed to have been settled under clause (a) of the third proviso, on expiry of the period mentioned in the second proviso.”

By order of the Governor,

A. K. BHATTACHARYA,
Principal Secy. to the Govt. of West Bengal &
Secy., Law Department.