

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act III of 1996

**THE WEST BENGAL SALES TAX
(AMENDMENT) ACT, 1996.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, of the 20th March, 1996.]

[20th March, 1996.]

An Act to amend the West Bengal Sales Tax Act, 1994.

West Ben.
Act XLIX of
1994.

WHEREAS it is expedient to amend the West Bengal Sales Tax Act, 1994, for the purposes and in the manner hereinafter appearing;

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

1. (1) This Act may be called the West Bengal Sales Tax (Amendment) Act, 1996.

Short title
and
commencement.

(2) Section 1 and clause (b) of section 2 shall be deemed to have come into force on the 1st day of May, 1995; clause (a) of section 2, section 4 and section 6 shall be deemed to have come into force on the 1st day of November, 1995; and the remaining provisions of this Act shall come into force on such date, or shall be deemed to have come into force on such date not earlier than the 1st day of May, 1995, 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 West Bengal Sales Tax Act, 1994 (hereinafter referred to as the principal Act), in section 2,—

Amendment
of section 2
of West Ben.
Act XLIX of
1994.

(a) in clause (35), after the words and figures “surcharge payable under section 16”, the words, figures and letter “and additional sales tax payable under section 18A” shall be inserted;

(b) in clause (40), in sub-clause (a), after the words “in West Bengal,” the words “but excluding such sales as the State Government may, by notification, specify,” shall be inserted.

(Sections 3, 4.)

Amendment
of section 14.

3. In section 14 of the principal Act,—

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

“(2A) Every casual trader liable to pay tax under sub-section (1) on purchases of any goods shall pay, in such manner and within such time as may be prescribed, the amount of tax payable on purchase price of such goods.”

(b) in sub-section (4),—

(i) after the words “in respect of such goods”, the words, figures, letter and brackets “and, if the person is a casual trader liable to pay tax under sub-section (1), document evidencing payment of tax made under sub-section (2A)” shall be inserted;

(ii) in clause (a), after the words, figure and brackets “under sub-section (1)”, the words and figures “and has complied with the restrictions and conditions referred to in section 73” shall be inserted;

(iii) in clause (b), after the words “on behalf of a casual trader”, the words, figures, letter and brackets “liable to pay tax under sub-section (1) and the evidence of payment under sub-section (2A) is not produced” shall be inserted;

(c) in sub-section (8), the words “or transporter” shall be omitted.

Insertion
of new
section 18A.

4. After section 18 of the principal Act, the following section shall be inserted:—

“Levy and rate
of additional
sales tax.

18A. (1) In addition to surcharge payable under section 16, there shall be levied an additional sales tax on the tax payable by a dealer under section 17 in respect of sales of goods specified in part B of Schedule IV, other than furnace oil and kerosene oil, at the rate of twenty *per centum* of such tax.

(2) No dealer shall realise from his purchaser any amount of additional sales tax payable by him under this section.”

III of 1996.]

(Section 5.)

5. For section 73 of the principal Act, the following section shall be substituted:—

“Measure to prevent evasion of tax on sales in West Bengal or to ensure payment of tax on purchases in West Bengal.

Substitution of new section for section 73.

73. (1) No consignment of—

(a) (i) goods, imported from outside West Bengal or manufactured in West Bengal, or goods, other than those specified in

Schedule IV, purchased in West Bengal, shall be despatched by a consignor in a goods vehicle from any place in West Bengal to a destination in West Bengal, or

(ii) goods shall be despatched by a consignor in a goods vehicle from any place in West Bengal to a destination outside West Bengal, or

(b) goods shall be carried by a transporter in a goods vehicle from any place in West Bengal to a destination in or outside West Bengal,

except in accordance with such restrictions and conditions as may be prescribed to prevent evasion of tax on sales in West Bengal or to ensure payment of tax on purchases in West Bengal, as the case may be:

Provided that the provisions of this sub-section shall not apply where the transporter carrying such goods proves to the satisfaction of the person appointed under sub-section (1) of section 3 and authorised by the Commissioner in this behalf (hereinafter referred to in this section as the authorised officer) that consequent upon sale of goods in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, a goods vehicle carrying such goods is bound for such country as the State Government may, by notification, specify.

(2) If, any person transporting any consignment of goods, or any person in charge of a goods vehicle carrying such consignment at the time of interception, contravenes the provisions of clause (b) of sub-section (1), the authorised officer shall first intercept and detain the goods vehicle for a period ordinarily not exceeding twenty-four hours to enable him to furnish such document as provided in sub-section (1) in respect of such consignment of goods, and thereafter, if such person fails to furnish such document, the authorised officer shall seize such consignment of goods from his custody.

(Sections 6, 7.)

(3) Where any consignment of goods is seized under sub-section (2), the authorised officer may, after giving an opportunity of being heard to the person transporting the consignment of goods or the person in charge of such vehicle, as the case may be, from whom such consignment is seized, by an order in writing, impose on him a penalty to the extent of not less than one thousand rupees and not more than twenty thousand rupees for contravention of the provisions of clause (b) of sub-section (1), and direct him to pay such penalty in such manner and by such time as may be prescribed.

(4) The consignment of goods seized under sub-section (2) shall be released on payment of penalty imposed under sub-section (3).

(5) If the penalty imposed under sub-section (3) is not paid, the seized goods shall be sold in open auction and the sale proceeds thereof shall be applied in the manner, and subject to the conditions, provided in sub-section (4), sub-section (5), sub-section (6), sub-section (7), and sub-section (8), of section 71, as may be applicable for the purposes of this section.

(6) If the State Government is, at any time, of the opinion that it would be in the public interest so to do, it may, by notification, exempt from such date, for such period, and subject to such conditions, as may be specified therein, any class or classes of transporter carrying any class or classes of goods referred to in sub-section (1) from complying with the restrictions and conditions referred to in that sub-section."

Amendment
of section 88.

6. In section 88 of the principal Act,—

(a) after sub-section (8), the following sub-section shall be inserted:—

“(8A) Whoever realises any amount of additional sales tax referred to in section 18A in contravention of the provisions thereof shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to one year or with fine not exceeding five thousand rupees or with both.”

(b) in sub-section (10), for the words, figure and brackets “or sub-section (8)”, the words, figures, letter and brackets, “sub-section (8) or sub-section (8A)”, shall be substituted.

Repeal and
saving.

7. (1) The West Bengal Sales Tax (Amendment) Ordinance, 1995, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been validly done or taken under the principal Act as amended by this Act.

West Ben.
Ord. II of
1995.