

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act IV of 1998

**THE WEST BENGAL TAXATION LAWS
(AMENDMENT) ACT, 1998.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 1st July, 1998.]

[1st July, 1998.]

An Act to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976, the West Bengal Entertainment-cum-Amusement Tax Act, 1982, and the West Bengal Sales Tax Act, 1994.

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 Agricultural Income-tax Act, 1944, the West Bengal Primary Education Act, 1973, the West Bengal Rural Employment and Production Act, 1976, the West Bengal Entertainment-cum-Amusement Tax Act, 1982, and the West Bengal Sales Tax Act, 1994, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Forty-ninth 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 (Amendment) Act, 1998.

Short title
and
commencement.

(2) Except as otherwise provided, it shall come into force on such date, or shall be deemed to have come into force on such date not earlier than the first 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. (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.

Application
and
amendment
of Act 2 of
1899.

(Section 2.)

(2) In Schedule IA to the principal Act,—

(a) against article 31 in the first column, for the entry relating thereto in the second column, the entry “The same duty as a Conveyance (No. 23) on the market value of the property of the greatest value.” shall be substituted;

(b) for article 33 in the first column and the entry relating thereto in the second column, the following article in the first column and entries relating thereto in the second column shall be substituted:—

“33. Gift—Instrument of, not being a Settlement (No. 58) or Will or Transfer (No. 62)—

(i) when made to a member of a family; one-half of one *per centum* of the market value of the property which is the subject-matter of the Gift.

(ii) when made to any other person. The same duty as a Conveyance (No. 23) on the market value of the property which is the subject-matter of the Gift.

Explanation.—For the purpose of this article, member of a family shall include parent, spouse, son, unmarried and widowed daughter (residing with parent), grandson or granddaughter.”;

(c) against article 45 in the first column, in the entry relating thereto in the second column, for the words, letters, figures and brackets “The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.”, the words “one-half of one *per centum* of the market value of the separated share or shares of the property.” shall be substituted;

(d) for article 58 in the first column and the entries relating thereto in the second column, the following article in the first

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column and entries relating thereto in the second column shall be substituted:—

“58. Settlement—

A.—Instrument of
(including a deed
of dower)—

The same duty as a Conveyance (No. 23) on the market value of the immovable property for the settlement thereof for the purpose referred to in sub-clause (b) of clause (24) of section 2, and the same duty as a Bottomry Bond (No. 16) for the settlement of any other property for other purposes for a sum equal to the market value of the property which is the subject-matter of such settlement:

Provided that where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed rupees five.

Exemption.—Deed
of dower executed on
the occasion of a
marriage between
Muhammadans.

B.—Revocation of—

The same duty as a Conveyance (No. 23) on the market value of the immovable property for settlement thereof for the purpose referred to in sub-clause (b) of clause (24) of section 2, and the same duty as a Bottomry Bond (No. 16) for the settlement of any other property for other purposes for a sum equal to the market value of such property, but not exceeding rupees thirty.”.

(Sections 3-5.)

Amendment
of Ben. Act
V of 1922.

3. In the Bengal Amusement Tax Act, 1922,—
 - (1) in section 3, to sub-section (3b), the following proviso shall be added:—

“Provided that subject to such conditions and restrictions as may be prescribed, the provisions of this sub-section shall not apply to a proprietor in relation to a cinematograph exhibition in respect of admissions without payment to a seat or other accommodation therein, where such proprietor is a club, society or any other person and holds such exhibition occasionally.”;
 - (2) in section 7, in sub-section (1), after the words “in the case of a cinematograph exhibition,”, the words, figures, letter and brackets “other than a cinematograph exhibition referred to in the proviso to sub-section (3b) of section 3,” shall be inserted;
 - (3) in section 8A, in sub-section (3),—
 - (a) in clause (c), after the words “in this sub-section,”, the word “or” shall be added;
 - (b) after clause (c), the following clause shall be inserted:—

“(d) any proprietor referred to in clause (a) has given security under section 4.”.

Amendment
of Ben. Act
IV of 1944.

4. In the Bengal Agricultural Income-tax Act, 1944,—
 - (1) in section 50, after the words “against the agricultural income-tax”, the words “, interest or penalty,” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991;
 - (2) in section 57, in sub-section (1), the words “, subject to the condition of previous publication,” shall be omitted.

Amendment
of West Ben.
Act XLIII of
1973.

5. In the West Bengal Primary Education Act, 1973, in section 78B, after clause (hl), the following clause shall be inserted:—

“(hm) where an owner of a tea estate, who is liable to pay interest under clause (hc), makes—

 - (i) full payment of cess assessed under clause (e) in respect of the years commencing on the fourteenth day of April, 1984 and ending on the thirty-first day of March, 1995 or part thereof, as the case may be, and

(Section 6.)

(ii) full payment of interest payable in accordance with the direction of the Supreme Court of India contained in its judgement delivered on the twenty-fifth day of November, 1994 in the case of Goodricke Group Limited and Others *versus* State of West Bengal and Others and also in the matter of similar other cases,

within the 31st day of March, 1999, the interest payable under clause (hc) for the period as aforesaid by such owner, accrued up to the thirty-first day of March, 1999 or the date of actual payment of such dues, whichever is earlier, shall, notwithstanding anything to the contrary contained in this section or elsewhere in this Act, be waived to the extent of fifty *per centum* of the total amount of such interest payable by such owner for such period:

Provided that there shall be no waiver of such interest payable for such period under clause (hc), if such owner of a tea estate fails to make payment of any part of cess referred to in sub-clause (i), and any part of interest referred to in sub-clause (ii), within the date so specified;”.

6. In the West Bengal Rural Employment and Production Act, 1976, in section 4, in sub-section (3), after clause (g12), the following clause shall be inserted:—

Amendment
of West Ben.
Act XIV of
1976.

“(g13) where an owner of a tea estate, who is liable to pay interest under clause (g3), makes—

(i) full payment of cess assessed under clause (d) in respect of the years commencing on the first day of April, 1981 and ending on the thirty-first day of March, 1995 or part thereof, as the case may be, and

(ii) full payment of interest payable in accordance with the direction of the Supreme Court of India contained in its judgement delivered on the twenty-fifth day of November, 1994 in the case of Goodricke Group Limited and Others *versus* State of West Bengal and Others and also in the matter of similar other cases,

within the 31st day of March, 1999, the interest payable under clause (g3) for the period as aforesaid by such owner, accrued up to the thirty-first day of March, 1999 or the date of actual payment of such dues, whichever is earlier, shall, notwithstanding anything to the contrary contained in this section or elsewhere in this Act, be waived to the extent of fifty *per centum* of the total amount of such interest payable by such owner for such period:

(Sections 7, 8.)

Provided that there shall be no waiver of such interest payable for such period under clause (g3), if such owner of a tea estate fails to make payment of any part of cess referred to in sub-clause (i), and any part of interest referred to in sub-clause (ii), within the date so specified;”.

Amendment
of West Ben.
Act VI of
1982.

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

(1) in section 4A,—

- (a) sub-section (4) shall be omitted;
- (b) the proviso to sub-section (4a) shall be omitted;
- (c) in sub-section (5), the words, figure and brackets “or transmit for exhibition of performance referred to in sub-section (4) during any week” shall be omitted;

(2) in section 5, sub-section (4) shall be omitted.

Amendment
of West Ben.
Act XLIX of
1994.

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

(1) in section 2, for clause (35), the following clause shall be substituted:—

‘(35) “tax” means tax payable under the Act, and includes surcharge payable under section 16, additional surcharge payable under section 16A and additional sales tax payable under section 18A;’;

(2) in section 17,—

(a) in sub-section (2A), for the words “, the tax payable by a dealer”, the words, figures, letters and brackets “, and subject to the provisions of sub-clause (viiia) of clause (a) of sub-section (3), the tax payable by a dealer” shall be substituted;

(b) in sub-section (3), in clause (a), after sub-clause (viii), the following sub-clause shall be inserted:—

“(viiia) sales of goods specified in Schedule VIIIA, on a prior sale whereof in West Bengal by a registered dealer due tax under sub-section (2A) of this section has been paid:

Provided that the provisions for deduction of turnover of sales of a dealer under this sub-clause shall not apply unless the dealer making such sales produces before the Commissioner evidence of sales made to him in West Bengal

(Section 8.)

by a registered dealer and furnishes in the prescribed manner a declaration containing prescribed particulars in the prescribed form, obtainable in such manner and subject to such conditions and restrictions as may be prescribed, from the prescribed authority, duly filled up and signed by the registered dealer from whom such goods are purchased;”;

(3) in section 30A,—

- (a) in the marginal note, for the words and figures “under section 17.”, the words “under the Act.” shall be substituted;
- (b) in sub-section (1),—
 - (i) for the words and figures “contained in section 17, the amount of tax payable under that section”, the words “contained elsewhere in this Act, the amount of tax payable under this Act” shall be substituted;
 - (ii) in the proviso,—
 - (A) in clause (b), the word “and” shall be omitted; and
 - (B) for clause (c), the following clauses shall be substituted:—
 - “(c) where the turnover of sales or any part thereof for such year represents sales of goods imported by him from any place outside West Bengal, or
 - (b) where he is liable to pay tax under section 12 or section 15.”;
 - (c) in sub-section (2), for the words and figures “under section 17.”, the words “under any of the provisions contained elsewhere in this Act.” shall be substituted;
 - (d) in sub-section (5), for the words “, as may be prescribed.”, the words, figures and brackets “, as may be prescribed, and such dealer shall not be required to furnish returns under section 30 in respect of any period of such year unless he is so required under sub-section (6).” shall be substituted;

(Section 8.)

(4) in section 45A,—

(a) in sub-section (1), in the proviso,—

(i) in clause (a), for the word “have”, the word “has” shall be substituted;

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

“(aa) if assessment of tax payable by such dealer has not been made for three consecutive years taking into consideration such assessment made under this Act as well as under the Bengal Finance (Sales Tax) Act, 1941, or the West Bengal Sales Tax Act, 1954, since repealed under sub-section (1) of section 106, or”;

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

“(bb) if any accounts, registers or documents have been seized under this Act or under any of the Acts referred to in sub-section (1) of section 106 from him during the period of three years immediately the preceding year of such selection, or”;

(b) in sub-section (3),—

(i) in the first proviso,—

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

“(b) all or any of the declarations referred to in the provisos to sub-section (2), or in sub-section (2A), of section 17, and required to be furnished by such dealer in support of his claim for concessional rate of tax specified in sub-section (2) or sub-section (2A) of that section, as preferred by him in his returns for all or any of the periods of such year, have not been received by him, or”;

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(Section 8.)

(B) for clause (c), the following clause shall be substituted:—

“(c) all or any of the declarations referred to in clause (a) of sub-section (3) of section 17, and required to be furnished in support of his claim for deduction under clause (a) of sub-section (3) of that section, as preferred by him in his returns for all or any of the periods of such year, have not been received by him, or”;

(C) in clause (d), the words, figures and brackets “sub-clause (vi), sub-clause (vii),” shall be omitted;

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

“Provided also that where a registered dealer of the class referred to in sub-section (1), other than a dealer selected under sub-section (2) for assessment under sub-section (1) of section 45, brings to the notice of the Commissioner in writing ordinarily within three months after such registered dealer comes to know that he was not selected for assessment under sub-section (1) of section 45, in respect of any year referred to in this sub-section, and due to his error in fact or in law an amount of tax has been paid by him in excess of what was payable by him during any return period relating to such year, and requests the Commissioner for making assessment under sub-section (1) of section 45 in respect of such year, the Commissioner may, if he is satisfied on the grounds adduced by such registered dealer for making such assessment, proceed to make assessment in respect of such year before the expiry of the period of limitation provided in sub-section (1), or sub-section (2), of section 48.”;

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- (c) the *Explanation* shall be omitted;
- (5) in section 68, in the marginal note, the words, letter and figures "specified in Part A of Schedule IV and notified goods" shall be omitted;
- (6) in Schedule IV, in Part A,—
 - (a) for serial No. 1 in column (1) and the entries relating thereto in column (2), the following serial Nos. and entries relating thereto shall be substituted:—
 - “1. Aerated water including soda water and non-alcoholic beverage (excluding fruit juice, fruit concentrate, fruit squash, fruit syrup and fruit cordial) when sold in sealed containers including sealed polythene bottles, pouches or packets.
 - 1A. Fruit juice, fruit concentrate, fruit squash, fruit syrup and fruit cordial when sold in sealed containers including sealed polythene bottles, pouches or packets.”;
 - (b) for serial No. 29 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and entry relating thereto in column (2) shall be substituted:—
 - “29. Cellophane paper, polyester film and all other packaging films.”;
 - (c) after serial No. 29 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and entry relating thereto in column (2) shall be inserted:—
 - “29A. X-ray film and other diagnostic films, graphic art film and film of all other varieties and descriptions except those specified elsewhere in this Schedule or in any other Schedule.”;
 - (d) against serial No. 50 in column (1), in the entry relating thereto in column (2), for the word “spaghetti.”, the words “spaghetti and cornflakes.” shall be substituted;
 - (e) after serial No. 129 in column (1) and the entry relating thereto in column (2), the following serial Nos. in column (1) and entries relating thereto in column (2) shall be added:—
 - “130. Hollow polyester fibre.
 - 131. Gold.
 - 132. Silver.”;

(Section 8.)

(7) in Schedule V,—

(a) for serial No. 6 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and entry relating thereto in column (2) shall be substituted:—

“6. Motor operated electrically or otherwise and pump operated with or without motor.”;

(b) after serial No. 10 in column (1) and the entries relating thereto in column (2), the following serial Nos. in column (1) and entries relating thereto in column (2) shall be added:—

“11. Kerosene stove.

12. Margarine sold as a butter substitute under various trade names and descriptions.”;

(8) in Schedule VIII,—

(a) the entries in column (2) and column (3) against serial No. 7 in column (1) shall be omitted;

(b) the entries in column (2) and column (3) against serial No. 8 in column (1) shall be omitted;

(c) in serial No. 9 in column (1), in the entry relating thereto in column (3), for the word “two”, the word “one” shall be substituted;

(9) in Schedule VIIIA, after serial No. 4 in column (1) and the entries relating thereto in column (2), column (3) and column (4), the following serial No. in column (1) and entries relating thereto in column (2), column (3) and column (4) respectively shall be added:—

“5. Electric bulbs, that is to say,

General Lighting System

(G.L.S.) lamps.

Seven Three.”;

(10) in Schedule IX,—

(a) the entry in column (2) against serial No. 6 in column (1) shall be omitted;

(b) the entry in column (2) against serial No. 9 in column (1) shall be omitted.