

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act I of 1997

**THE WEST BENGAL SALES TAX
 (AMENDMENT) ACT, 1997.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*,
Extraordinary, of the 19th February, 1997.]

[19th February, 1997.]

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-eighth 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, 1997.

Short title
and
commence-
ment.

(2) It shall be deemed to have come into force on the 13th day of January, 1997.

2. In the West Bengal Sales Tax Act, 1994 (hereinafter referred to as the principal Act), to section 17, the following *Explanation* shall be added, and shall be deemed to have been added, with effect from the 1st day of May, 1995:—

Amendment
of section 17
of West Ben.
Act XLIX of
1994.

‘Explanation.—For the purposes of sub-section (2) or sub-section (3), the expressions “for resale by him in West Bengal” and “for sales by him in West Bengal”, with their grammatical variations, shall include a sale in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, and a sale in the course of the export out of the territory of India within the meaning of sub-section (1) of section 5 of that Act.’

74 of 1956.

3. In section 22 of the principal Act, after sub-section (4), the following sub-section shall be inserted:—

Amendment
of section 22.

“(5) A re-roller shall not be entitled to any claim under sub-section (1) for set-off of the amount of tax realised from him in respect

(Section 4.)

of his purchases of iron and steel, referred to in clause (iv) of section 14 of the Central Sales Tax Act, 1956, from dealer who, during the eligible period,—

- (a) enjoys exemption from payment of tax on his sales under section 39, or
- (b) enjoys remission of tax under section 41, section 42 or section 43.”.

Insertion of
new section
22A.

4. After section 22 of the principal Act, the following section shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of May, 1995:—

“Set-off of tax payable on sales of replenishment licence or export-import scrip or special import licence or such other licence as the State Government may by notification specify.

22A. (1) Subject to the other provisions of this section, there shall be a set-off of the amount of tax realised from a dealer who sells replenishment licence or export-import scrip or special import licence or such other licence as the State Government may by notification specify in respect of his purchases of such replenishment licence or export-import scrip or special import licence or such other licence as the State Government may by notification specify against the amount of tax payable by him on sales by him in West Bengal of such replenishment licence or export-import scrip or special import licence or such other licence as the State Government may by notification specify.

(2) A dealer who intends to claim a set-off of the amount of tax under sub-section (1) shall, for the purpose of determining the amount of tax to be set-off, maintain accounts, records or evidence in respect of the amount of the premia payable by him on his purchases, and receivable by him on his sales, of such replenishment licence or export-import scrip or special import licence or such other licence as the State Government may by notification specify.

(3) No claim for set-off of the amount of tax under sub-section (1) shall be allowed to a dealer against his purchases of replenishment licence or export-import scrip or special import licence or such other licence as the State Government may by notification specify, unless the amount of tax from such dealer has been separately charged in the bill or cash memorandum issued to him by a dealer from whom he has purchased such replenishment licence or export-import scrip or special import licence or such other licence as the State Government may by notification specify.”.

I of 1997.]

(Sections 5-7.)

5. Section 45 of the principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted:—

Amendment
of section 45.

(2) Where upon search or seizure of any accounts, registers or documents, or of any goods of a dealer registered under this Act, or upon enquiry or information received, the Commissioner has reasons to believe that the dealer has not accounted for the turnover of sales of goods or purchases of goods as appear from such accounts, registers or documents in the books of accounts referred to in section 62, or has not shown such turnover in his return furnished under section 30, in respect of any return period, the Commissioner shall, notwithstanding anything contained in sub-section (1), proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax payable by the dealer in respect of such return period after giving the dealer a reasonable opportunity of being heard and direct such dealer to pay the amount of tax so assessed in such manner and by such date as may be prescribed.”.

6. Anything done or any action taken under the principal Act as amended by this Act before the publication of this Act in the *Official Gazette* shall be deemed to have been validly done or taken under the principal Act as amended by this Act as if this Act were in force when such thing was done or such action was taken.

Validation.

7. (1) The West Bengal Sales Tax (Amendment) Ordinance, 1997, is hereby repealed.

Repeal and
saving.

(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. I of
1997.