

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT

Legislative

West Bengal Act XXIX of 1994

**THE WEST BENGAL TAXATION LAWS
(SECOND AMENDMENT) ACT, 1994.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 1st July, 1994.]

[1st July, 1994.]

An Act to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, and the West Bengal Entertainment-cum-Amusement Tax Act, 1982.

WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Finance (Sales Tax) Act, 1941, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Sales Tax Act, 1954, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, and the West Bengal Entertainment-cum-Amusement Tax Act, 1982, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Forty-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, 1994.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In the Indian Stamp, Act, 1899, in its application to West Bengal, in Schedule 1A, in article 23, for the words “Ten *per centum* of the market value.”, the words, letters, figures and brackets “Ten *per centum* of the market value:

Amendment
of Act 2 of
1899.

Provided that in any case where sale or lease-cum-sale agreement is executed and is stamped with the *ad valorem* stamp required for such agreement under item (d) of article 5 and in furtherance of such agreement a conveyance is subsequently executed, the duty on such conveyance shall not exceed ten rupees or the difference of the duty payable on such conveyance and the duty payable under item (d) of article 5, whichever is greater.” shall be substituted with effect from the 28th day of March, 1994.

2 of 1899.
Ben. Act VI
of 1941.
Ben. Act IV
of 1944.
West Ben.
Act IV of
1954.
West Ben.
Act VI of
1979.
West Ben.
Act VI of
1982.

(Section 3.)

Amendment
of Ben. Act
VI of 1941.

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

(1) in section 4,—

(a) in sub-section (6), the words “or enrolled” in the two places where they occur shall be omitted;

(b) in sub-section (7), the words “or enrolled” in the two places where they occur shall be omitted;

(2) in section 5, in sub-section (1),—

(a) in clause (aa), after the words “other than gold”, the words and the figures “, foreign liquor as specified in serial number 14 of Schedule IV” shall be inserted and shall be deemed to have been inserted with effect from the 11th day of April, 1994;

(b) in clause (b), for the words “sales of footwears”, the words “sales of gold or silver ornaments, whether set with stone or other material or not, including gold and silver filigree, diamond and other precious stones, pearl, footwears” shall be substituted and shall be deemed to have been substituted with effect from the 11th day of April, 1994;

(3) in section 10G, in sub-section (1), in the second proviso, for the words, figures and letters “in respect of any period commencing on or after the 1st day of April, 1989, and ending on or before the 31st day of March, 1992,” the words “in respect of a period of three years commencing on the date on which such tax becomes first payable,” shall be substituted and shall be deemed to have been substituted with effect from the 11th day of April, 1994;

(4) in section 10H, after sub-section (5), the following *Explanation* shall be added:—

*‘Explanation.—*The expression “gross value of fixed capital assets”, in relation to a closed industrial unit, shall, for the purposes of section 10F or section 10G, mean the value of the land, freehold or leasehold, office building excluding residential portion, factory shed, plant and machinery including productive equipments, as stood on the date on which the ownership of the business of such unit is transferred, and the cost of new plant and machinery including productive equipments, if any, purchased and installed by the transferee dealer on or before the date of first commercial production after rehabilitation or revival of such closed industrial unit.’;

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(Section 3.)

- (5) in section 10I, after sub-section (5), the following *Explanation* shall be added:—

Explanation.—The expression “gross value of fixed capital assets”, in relation to a sick industrial unit, shall, for the purposes of section 10F or section 10G, mean the value of land, freehold or leasehold, office building excluding residential portion, factory shed, plant and machinery including productive equipments, as stood on the date of rehabilitation or revival of such sick industrial unit, and the cost of new plant and machinery including productive equipments, if any, purchased and installed by a dealer on or before the date of first commercial production in such sick industrial unit.’;

- (6) after section 10I, the following section shall be inserted:—

<p>“Power of the State Government to relax certain provisions of the Act.</p>	<p>10J. Notwithstanding anything contained in section 10F, section 10G, section 10H or section 10I or the rules made thereunder, the State Government may, if it considers necessary or expedient so to do, by notification in the <i>Official Gazette</i>, relax the provisions of section 10F, section 10G, section 10H or section 10I or the rules made thereunder in such manner, to such extent, and on such terms and conditions, as it deems fit in the public interest.”;</p>
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- (7) in Schedule IV,—

- (a) serial number 10 and the entry relating thereto under the heading “Description of goods” shall be omitted and shall be deemed to have been omitted with effect from the 11th day of April, 1994;
- (b) serial number 20 and the entry relating thereto under the heading “Description of goods” shall be omitted and shall be deemed to have been omitted with effect from the 11th day of April, 1994;
- (c) serial number 22 and the entry relating thereto under the heading “Description of goods” shall be omitted and shall be deemed to have been omitted with effect from the 11th day of April, 1994;

- (8) in Schedule V,—

- (a) serial number 1 and the entries relating thereto under the heading “Description of goods” shall be omitted and shall be deemed to have been omitted with effect from the 11th day of April, 1994;

(Section 4.)

- (b) after serial number 3 and the entry relating thereto under the heading "Description of goods" the following serial number and entries shall be added:—
"4. Cast iron castings."

Amendment
of Ben. Act
IV of 1944.

4. In the Bengal Agricultural Income-tax Act, 1944,—

- (1) in section 3, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect the 1st day of April, 1994:—

"(2) Notwithstanding anything contained in sub-section (1), agricultural income tax shall not be charged in respect of—

- (a) the total agricultural income of the previous year of any individual or Hindu undivided family where such total agricultural income does not exceed ten thousand rupees;
(b) the total agricultural income of the previous year of the Central Government or any State Government or any local authority;
(c) the agricultural income of the previous year of any individual or Hindu undivided family where such agricultural income is derived from—
(i) land which is used for agricultural purposes other than those for producing tea,
(ii) land by agriculture other than that for producing tea,
(iii) land by the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce, other than tea, raised or received by him fit to be taken to market, or
(iv) land by the sale by a cultivator or receiver of rent-in-kind of the produce, other than tea, raised or received by him, in respect of which no process has been performed other than as process of the nature described in sub-clause (iii).";

- (2) in the proviso to sub-section (2) of section 26A, after the words "total agricultural income", the words "on the basis" shall be inserted and shall be deemed to have been inserted with effect from the 11th day of April, 1994.

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(Section 5.)

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

Amendment
of West Ben.
Act, IV of
1954.

- (1) in section 81, in sub-section (1), in the second proviso, for the words, figures and letters “in respect of any period commencing on or after the 1st day of April, 1989, and ending on or before the 31st day of March, 1992,” the words “in respect of a period of three years commencing on the date on which such tax becomes first payable,” shall be substituted and shall be deemed to have been substituted with effect from the 11th day of April, 1994;

- (2) in section 8J, after sub-section (5), the following *Explanation* shall be added:—

Explanation.—The expression “gross value of fixed capital assets”, in relation to a closed industrial unit, shall, for the purposes of section 8H or section 8I, mean the value of the land, freehold or leasehold, office building excluding residential portion, factory shed, plant and machinery including production equipments, as stood on the date on which the ownership of the business of such unit is transferred, and the cost of new plant and machinery including productive equipments, if any, purchased and installed by the transferee dealer on or before the date of first commercial production after rehabilitation or revival of such closed industrial unit.’;

- (3) in section BK, after sub-section (5), the following *Explanation* shall be added:—

Explanation.—The expression “gross value of fixed capital assets”, in relation to a sick industrial unit, shall, for the purposes of section BH or section BI, mean the value of land, freehold, lease hold office building excluding residential portion, factory shed, plant and machinery including productive equipments as stood on the date of rehabilitation or revival of such industrial unit, and the cost of new plant and machinery including productive equipments, if any, purchased and installed by a dealer on or before the date of first commercial production in such sick industrial unit.’;

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

“Power of the State Government to relax certain provisions of the Act. BL. Notwithstanding anything contained in section BH, section BI, section BJ, or section BK or the rules made thereunder, the State Government may, if it considers necessary or expedient so to do, by notification in the *Official Gazette* relax the provisions of section BH, section BI, section BJ or section BK or the rules made thereunder in such manner, to such extent, and on such terms and conditions, as it deems fit in the public interest.”.

(Sections 6, 7.)

Amendment
of West Ben.
Act VI 1954.

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

- (1) in the second proviso to section 4, in clause (a), for words “the rate of tax under said entry, or”, the words and figure “the rate of tax under such entry or any of such entries is higher than that in entry 1, or” shall be substituted;
- (2) in sub-section (1) of section 14, for the words and figures “under section 5, 6, 7, 9 and 10”, the words “under this Act” shall be substituted;

- (3) after section 17A, the following section shall be inserted:

“Determina-
tion of tax
payable by
persons who
are not rolled.

178. (1) If upon information which has come into its possession, the prescribed authority is satisfied that any person, who has been liable to pay tax under this Act in respect of any period or periods, has failed to get himself enrolled and pay the tax payable by him in respect of such period or periods, the prescribed authority shall, in the prescribed manner, determine to the best of its judgment the amount of tax for such period or periods, and in making such determination, the prescribed authority shall give such person a reasonable opportunity of being heard.

(2) The amount of tax determined under sub-section (1) that may be directed to be paid by such person, shall be paid by such person in the prescribed manner by such date as may be specified in a notice issued by the prescribed authority in this behalf, and the date to be specified shall not be less than fifteen days from the date of service of the said notice.”;

- (4) in the Schedule, in Entry 16,—
 - (a) in item (a), for the words “State level”, the word “Apex” shall be substituted;
 - (b) in item (b), for the words “District level”, the word “Central” shall be substituted.

Amendment
of West Ben.
Act VI 1982.

7. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982, in section 4A, in sub-section (4a), for the words “receiver with dish antenna,” the words “receiver or receivers connected with antenna,” shall substituted and shall be deemed to have been substituted with effect from the 11th day of April, 1994.