



The West Bengal Sales Tax (Settlement of Dispute) Act, 1999

Act 4 of 1999

Keyword(s):

Arrer Tax, Applicant, Penalty or Interest in Dispute

Amendment appended: 22 of 2017

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GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT

Legislative

West Bengal Act IV of 1999

**THE WEST BENGAL SALES TAX (SETTLEMENT
OF DISPUTE) ACT, 1999.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 5th April, 1999.]

[5th April, 1999.]

An Act to provide for expeditious enforcement of payment of arrear tax, penalty or interest in dispute under the sales tax laws in West Bengal by way of settlement of such dispute.

WHEREAS it is expedient to provide for enforcement of payment of, and settlement of dispute relating to, arrear tax, penalty or interest under the West Bengal Sales Tax Act, 1994, and other laws referred to in sub-section (1) of section 106 of that Act, and for enforcement of payment of, and settlement of dispute relating to, arrear tax or penalty under the Central Sales Tax Act, 1956;

It is hereby enacted in the Fiftieth 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 (Settlement of Dispute) Act, 1999.

(2) It extends to the whole of West Bengal.

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

Short title,
extent and
commence-
ment.

2. (1) In this Act, unless the context otherwise requires,—

(a) “arrear tax, penalty or interest in dispute” means,—

(i) tax, by whatever name called, payable by an assessee upon assessment under the relevant Act, or,

(ii) penalty imposed upon an assessee for default in furnishing return in accordance with the provisions of the relevant Act, or,

Definitions.

(Section 2.)

- (iii) interest payable an assessee under the relevant Act,—
- (A) as determined for delayed payment or non-payment of tax before assessment; or
 - (B) as accrued in respect of non-payment of tax or short payment of tax after assessment,

which, as the case may be, is in dispute in any appeal or revision pending before the appellate authority or revisional authority on the 31st day of December, 1998, under the relevant Act.

Explanation.—For the purposes of this Act, the interest referred to in item (B) of sub-clause (iii) shall be deemed to be an arrear interest in dispute;

- (b) “applicant” means a “dealer”, an “occupier of a jute mill” or a “shipper of jute” as defined in the relevant Act, and includes legal heir, successor, assignee or nominee of such dealer, occupier of a jute mill or a shipper of jute where the business of such dealer, occupier of a jute mill or shipper of jute has ceased to exist or has been discontinued prior to the date of coming into force of this Act, but does not include such dealer, occupier of a jute mill or shipper of jute, if any proceeding for prosecution has been instituted against him for any offence punishable under any of the provisions of the relevant Act;
- (c) “designated authority” means the authority appointed under section 3;
- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “relevant Act” means—
 - (i) the West Bengal Sales Tax Act, 1994,
 - (ii) any of the Acts referred to in sub-section (1) of section 106 of the West Bengal Sales Tax Act, 1994, or
 - (iii) the Central Sales Tax Act, 1956,and includes the rules made, or notification issued, under the Act referred to in sub-clause (i), sub-clause (ii) or sub-clause (iii).

West Ben.
Act XLIX of
1994.

74 of 1956.

(2) Unless there is anything repugnant in the subject or context, all expressions used in this Act, which are not defined, but defined in the relevant Act, or used in the relevant Act, shall have the same meaning as in the relevant Act.

(Sections 3-6.)

3. For carrying out the purposes of this Act, the State Government may, by notification published in the *Official Gazette*, appoint one or more authorities referred to in section 3, section 4 or section 5 of the West Bengal Sales Tax Act, 1994, to be the designated authority, and such authority shall exercise jurisdiction over such area or areas as the State Government may specify in the notification.

Designated authority.

4. (1) Subject to the other provisions of this Act, an applicant shall be eligible to make an application for settlement of arrear tax, penalty or interest in dispute in respect of any period for which an assessment has been made under the relevant Act and an appeal or revision relating thereto is pending on the 31st day of December, 1998, before any appellate authority or revisional authority, as the case may be.

Eligibility for settlement.

(2) Notwithstanding anything contained in sub-section (1), an applicant shall not be eligible to make an application for settlement of arrear tax, penalty or interest in respect of any period under the relevant Act for which the appeal or revision has been finally heard by the appellate authority or the revisional authority, as the case may be.

Explanation.—For the purposes of this sub-section, no appeal or revision shall be deemed to have been heard only by reason of any stay order having been passed by any appellate or revisional authority in connection with such appeal or revision.

5. (1) An application for the purpose of section 4 shall be made to the designated authority by an applicant in such form, and in such manner, as may be prescribed, on or before the 30th day of September, 1999, or by such later date as the State Government may, by notification in the *Official Gazette*, specify from time to time.

Application by the applicant.

(2) A separate application shall be made by an applicant for different periods under each of the relevant Acts.

(3) The applicant shall send a copy of the application made under sub-section (1) to the appellate authority or the revisional authority before whom the appeal or revision, as the case may be, is pending, within seven days from the date of making such application before the designated authority.

6. (1) The designated authority shall, ordinarily within sixty days from the date of receipt of an application referred to in section 5, verify the correctness of the particulars furnished in such application with reference to the connected records available with the assessing authority, appellate authority or any other authority with whom such records may be available, as the case may be.

Determination of amount payable by the applicant.

(Section 7.)

(2) Where the designated authority is satisfied about the correctness of the particulars set forth in the application made by an applicant, he shall determine, by an order in writing, the amount payable by the applicant for the purpose of settlement of arrear tax, penalty or interest in dispute at the rate specified in section 7:

Provided that while determining the amount payable by the applicant for the purpose of settlement of arrear tax, penalty or interest, the designated authority shall take into account any amount of arrear tax, penalty or interest in dispute, paid by the applicant before making an application under section 5 and deduct the amount so paid by him from the amount determined as payable by the applicant under this sub-section:

Provided further that the amount payable by an applicant as determined under this sub-section shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, then, if such part is fifty paise or more, it shall be rounded off to the nearest rupee, and if such part is less than fifty paise, it shall be ignored.

(3) After the amount payable by an applicant is determined under sub-section (2), the designated authority shall, subject to such conditions and restrictions (including payment by instalments) as may be prescribed, require the applicant, by a notice in such form as may be prescribed, to pay the amount so determined under sub-section (2) within thirty days from the date of receipt of such notice by the applicant or within such further time as may be prescribed:

Provided that no notice shall be issued by the designated authority where the application made by an applicant relates only to an arrear penalty in dispute.

(4) The amount required to be paid in terms of the notice issued under sub-section (3) shall be paid into the Reserve Bank of India or any appropriate Government Treasury in such manner as is specified in the relevant Act.

(5) A copy of duly receipted challan showing payment of the amount specified in the notice issued under sub-section (3) shall be furnished to the designated authority by the applicant within fifteen days, or within such further time as the designated authority may allow, of making payment in accordance with the provisions of sub-section (4).

7. (1) The amount payable by an applicant for settlement of dispute under this Act shall be determined under sub-section (2) of section 6—

(a) where the dispute relates to any arrear tax in dispute, at the rate of thirty-three *per centum* of the arrear tax in dispute; or

Rate applicable in determining the amount payable.

(Sections 8-10.)

(b) where the dispute relates to any arrear interest in dispute, at the rate of five *per centum* of the arrear tax in dispute for the period to which such interest relates, or the amount of the arrear interest in dispute, whichever is less.

(2) The arrear penalty in dispute shall be waived.

8. (1) The designated authority, on being satisfied about the payment of the amount which the applicant is required to pay by virtue of the notice under sub-section (3) of section 6, shall settle the dispute in respect of which an application has been made under sub-section (1) of section 5 and issue a certificate of settlement for such dispute, in such form as may be prescribed, to the applicant, ordinarily within thirty days of receipt of the copy of duly receipted challan in support of payment made by the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of such arrear tax, penalty or interest in dispute:

Settlement of dispute and issue of certificate of settlement.

Provided that where no payment is required to be made by an applicant and no notice is issued to him under the proviso to sub-section (3) of section 6, the designated authority shall settle the dispute and issue a certificate of settlement for such dispute to such applicant:

Provided further that a certificate of settlement shall be issued by the designated authority separately in respect of every application made under section 5.

(2) The designated authority, for reasons to be recorded in writing, may refuse to settle a dispute, or rectify or amend a certificate of settlement issued under sub-section (1):

Provided that no order adversely affecting the applicant shall be passed without allowing the applicant a reasonable opportunity of being heard.

9. A certificate of settlement issued under sub-section (1) of section 8 shall be conclusive as to the dispute to which it relates, and no matter covered by such certificate of settlement shall be re-opened in any proceeding of review or revision, or in any other proceeding, under the relevant Act.

Bar on re-opening of settled cases.

10. Notwithstanding anything to the contrary contained in any provision in the relevant Act, the appeal or revision for any period pending before the appellate or the revisional authority, as the case may be, in respect of which a certificate of settlement is issued under sub-section (1) of section 8, shall be deemed to have been withdrawn by the applicant from the date of making of the application by the applicant under sub-section (1) of section 5.

Withdrawal of appeal and revision.

(Sections 11-14.)

Appellate and revisional authority not to proceed in certain cases.

11. No appellate authority or revisional authority shall proceed to decide any appeal or revision under the relevant Act relating to any period in respect of which an application has been made by an applicant under section 5:

Provided that such authority shall proceed to decide such appeal or revision for such period in accordance with the provisions of the relevant Act, if a certificate of settlement referred to in sub-section (1) of section 8 is refused to the applicant by an order passed by the designated authority in writing under sub-section (2) of section 8.

Revocation of certificate of settlement.

12. (1) Notwithstanding anything contained in section 9 or section 10, where it appears to the designated authority that an applicant has obtained the benefit of settlement under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the certificate of settlement issued under sub-section (1) of section 8.

(2) If a certificate of settlement is revoked under sub-section (1), the appeal or revision, as the case may be, under the relevant Act, covered by such certificate of settlement, shall, notwithstanding the provision of section 9 or section 10, stand revived or reinstated immediately upon such revocation, and such appeal or revision shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrear tax, penalty or interest in dispute in such appeal or revision has ever been made under this Act.

Information to be sent to the authorities under the relevant Act.

13. The designated authority shall keep the assessing authority, the appellate authority or the revisional authority, who, for the time being, has jurisdiction over the applicant under the relevant Act, informed, *inter alia*, of—

- (a) making of an application by an applicant under section 5;
- (b) passing of any order by the designated authority under section 8; or
- (c) revocation of any certificate of settlement under section 12, in such form and manner, and within such time, as may be prescribed.

No refund of amount paid under the Act.

14. Any amount paid by an applicant under section 6 shall not be refundable under any circumstances:

IV of 1999.]

(Sections 15, 16.)

Provided that in the case of revocation of a certificate of settlement in accordance with section 12, the amount paid by the applicant under section 6 shall be treated to have been paid under the relevant Act for the period for which the certificate of settlement has been revoked.

15. The State Government may, by notification published in the *Official Gazette*, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act, and such rules may provide for all or any of the matters which, under any provision of this Act, is required to be prescribed or to be provided by rules.

Power of the State Government to make rules.

16. If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of two years from the date of coming into force of this Act.

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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 595-L.—2nd June, 2017.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XXII of 2017

**THE WEST BENGAL TAXATION LAWS
(AMENDMENT) ACT, 2017.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette*,
Extraordinary, of the 2nd June, 2017.]

An Act to amend the Bengal Amusements Tax Act, 1922, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Entertainment-cum-Amusement Tax Act, 1982, and the West Bengal Sales Tax (Settlement of Disputes) Act, 1999.

WHEREAS it is necessary and expedient to amend the Bengal Amusements Tax Act, 1922, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Entertainment-cum-Amusement Tax Act, 1982, and the West Bengal Sales Tax (Settlement of Disputes) Act, 1999, for the purposes and in the manner hereinafter appearing;

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

Ben. Act V of 1922.
West Ben. Act XXI of 1972.
West Ben. Act VI of 1982.
West Ben. Act IV of 1999.

*The West Bengal Taxation Laws
(Amendment) Act, 2017.*

(Sections 1, 2.)

Short title and commencement.

1. (1) This Act may be called the West Bengal Taxation Laws (Amendment) Act, 2017.

(2) Save as otherwise provided, this section shall come into force at once, 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 as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different provisions of this Act.

Amendment of Ben. Act V of 1922.

2. In the Bengal Amusements Tax Act, 1922, after section 11F, the following section shall be inserted:—

‘Settlement of disputes.

11G. (1) A proprietor shall be eligible to make an application for settlement of arrear tax or penalty in dispute in respect of any period ending on or before the 31st day of March, 2017, for which an assessment has been made under the Act and an appeal or revision relating thereto is pending on the 30th day of April, 2017, before any appellate authority or the Commissioner of Entertainment Tax as revisional authority, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), a proprietor shall not be eligible to make an application for settlement of arrear tax or penalty in respect of any period under the Act for which the appeal or revision has been finally heard by the appellate authority or the revisional authority, as the case may be.

Explanation.—For the purposes of this sub-section, no appeal or revision shall be deemed to have been heard by reason of any stay order having been passed by any appellate or revisional authority in connection with such appeal or revision.

(3) Where any tax or penalty due from any proprietor is in dispute in respect of any period ending on or before the 31st day of March, 2017, for which an assessment has been made under the Act and where any application relating thereto is pending before the West Bengal Taxation Tribunal established under section 3 of the West Bengal Taxation Tribunal Act, 1987 (hereinafter referred to as the Tribunal), or the High Court, or the Supreme Court, on the 30th day of April, 2017, then, notwithstanding anything contained elsewhere in this section,—

- (a) such arrear tax or penalty due shall be deemed to be “arrear tax or penalty in dispute” within the meaning of *Explanation*, and
- (b) such pending application shall be deemed to be a “revision pending” under this section for the purpose of settlement of arrear tax or penalty in dispute referred to in clause (a), and such proprietor shall be eligible to make an application for settlement of the arrear tax or penalty in dispute, as referred to in clause (a), in accordance with the provisions of this section and the rules made thereunder:

Provided that the provisions of this clause shall apply where, before making an application under this clause, the proprietor obtains the leave of the Tribunal or the High Court or the Supreme Court, as the case may be, for settlement of such dispute under this section.

Explanation.—For the purposes of this section, the expression “arrear tax or penalty in dispute” means,—

- (i) tax payable by a proprietor upon assessment under the Act, or
- (ii) penalty imposed upon a proprietor for default in furnishing return in accordance with the provisions of the Act,

which is in dispute in any appeal or revision pending before the appellate authority or revisional authority on 30th day of April, 2017 under the Act;

West Ben. Act VIII of 1987.

*The West Bengal Taxation Laws
(Amendment) Act, 2017.*

(Section 3.)

(4) (a) An application for the purpose of sub-section (1), or sub-section (3), shall be made to the designated authority by a proprietor in such form, and in such manner, as may be prescribed, on or before the 30th day of June, 2017, or by such later date as the State Government may, by notification in the *Official Gazette*, specify, from time to time.

(b) A separate application shall be made by a proprietor for different periods under the Act.

(c) The proprietor shall send a copy of the application made under clause (a) to the appellate authority or the revisional authority before whom the appeal or revision, as the case may be, is pending, within seven days from the date of making such application before the designated authority.

Explanation.—For the purposes of this section, the expression “designated authority” means one or more authorities referred to as “prescribed authorities” in the Act appointed by the State Government by notification published in the *Official Gazette* to be the designated authority, and such authority shall exercise jurisdiction over such area or areas as the State Government may specify in the notification.

(5) (a) Every proprietor shall, before making the application under sub-section (4) for settlement of any arrear tax or penalty in dispute for any period, pay the amount calculated at the rate specified in sub-section (6) into the Reserve Bank of India or any appropriate Government Treasury in such manner as may be prescribed.

(b) 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 sub-section (4).

(6) (a) The amount payable by a proprietor for settlement of dispute under this section shall be determined, at the rate of fifty *per centum* of the arrear tax in dispute where the dispute relates to arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher:

Provided that the tax admitted to be payable by a proprietor shall be payable in full and such tax shall not be construed as arrear tax in dispute.

(b) The arrear penalty in dispute shall be waived.

(7) The provisions of section 8, section 9, section 10, section 11, section 12, section 13 and section 14, of the West Bengal Sales Tax (Settlement of Disputes) Act, 1999, to the extent not inconsistent with the provisions of this Act, shall, *mutatis mutandis*, apply in respect of settlement of disputes under this section.’

West Ben. Act
IV of 1999.

Amendment of
West Ben. Act
XXI of 1972.

3. In the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, after section 5C, the following section shall be inserted:—

‘Settlement of
disputes. 5D. (1) A proprietor shall be eligible to make an application for settlement of arrear tax, penalty or interest in dispute in respect of any period ending on or before 31st day of March, 2017 for which an assessment has been made under the Act and an appeal or revision relating thereto is pending on the 30th day of April, 2017, before any appellate authority or before the Commissioner as revisional authority, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), a proprietor shall not be eligible to make an application for settlement of arrear tax, penalty or interest in respect of any period under the Act for which the appeal or revision has been finally heard by the appellate authority or the revisional authority, as the case may be.

Explanation.—For the purposes of this sub-section, no appeal or revision shall be deemed to have been finally heard by reason of any stay order having been passed by any appellate or revisional authority in connection with such appeal or revision.

*The West Bengal Taxation Laws
(Amendment) Act, 2017.*

(Section 3.)

(3) Where any tax, penalty or interest due from any proprietor is in dispute in respect of any period for which an assessment has been made under the Act and where any application relating thereto is pending before the West Bengal Taxation Tribunal established under section 3 of the West Bengal Taxation Tribunal Act, 1987 (hereinafter referred to as the Tribunal), or the High Court, or the Supreme Court, on the 30th day of April, 2017, then, notwithstanding anything contained elsewhere in this Section,—

West Ben. Act
VIII of 1987.

- (a) such arrear tax, penalty or interest due shall be deemed to be “arrear tax, penalty or interest in dispute” within the meaning of *Explanation*; and
- (b) such pending application shall be deemed to be a “revision pending” under this Section for the purpose of settlement of arrear tax, penalty or interest in dispute referred to in clause (a), and such proprietor shall be eligible to make an application for settlement of the arrear tax, penalty or interest in dispute, as referred to in clause (a), in accordance with the provisions of this section and the rules made thereunder:

Provided that the provisions of this clause shall apply only where, before making an application under this clause, the proprietor obtains the leave of the Tribunal or the High Court or the Supreme Court, as the case may be, for settlement of such dispute under this section.

Explanation.—For the purposes of this section, the expression “arrear tax, penalty or interest in dispute” means,—

- (i) tax payable by a proprietor upon assessment under the Act, or
- (ii) penalty imposed upon a proprietor for default in furnishing return in accordance with the provisions of the Act, or,
- (iii) interest payable by a proprietor under the Act,

which is in dispute in any appeal or revision pending before the appellate authority or revisional authority on 30th day of April, 2017 under the Act.

(4) (a) An application for the purpose of sub-section (1) or sub-section (3) shall be made to the designated authority by a proprietor in such form, and in such manner, as may be prescribed, on or before the 30th day of June, 2017, or by such later date as the State Government may, by notification in the *Official Gazette*, specify from time to time.

(b) A separate application shall be made by a proprietor for different periods under the Act.

(c) The proprietor shall send a copy of the application made under clause (a) to the appellate authority or the revisional authority before whom the appeal or revision, as the case may be, is pending, within seven days from the date of making such application before the designated authority.

Explanation.—For the purposes of this section, the expression “designated authority” means one or more authorities referred to as “prescribed authorities” in the Act appointed by the State Government by notification published in the *Official Gazette* to be the designated authority, and such authority shall exercise jurisdiction over such area or areas as the State Government may specify in the notification.

(5) (a) Every proprietor shall, before making the application under sub-section 4 for settlement of any arrear tax, penalty or interest in dispute for any period, pay the amount calculated at the rate specified in sub-section 6 into the Reserve Bank of India or any appropriate Government Treasury in such manner as is specified in the relevant Act.

*The West Bengal Taxation Laws
(Amendment) Act, 2017.*

(Section 4.)

(b) 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 sub-section (4).

(6) (a) The amount payable by a proprietor for settlement of dispute under this section shall be determined,—

- (i) where the dispute relates to arrear tax in dispute, at the rate of fifty *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher;
- (ii) where the dispute relates to any arrear interest in dispute for non-payment of any arrear tax in dispute and an application has been made under this section in respect of such arrear tax in dispute, the arrear interest in dispute shall be waived:

Provided that the tax admitted to be payable by a proprietor shall be payable in full and such tax shall not be construed as arrear tax in dispute.

(b) The arrear penalty in dispute shall be waived.

(7) The provisions of section 8, section 9, section 10, section 11, section 12, section 13 and section 14, of the West Bengal Sales Tax (Settlement of Disputes) Act, 1999, to the extent not inconsistent with the provisions of this Act, shall apply *mutatis mutandis* in respect of settlement of disputes under this section.’

West Ben. Act
IV of 1999.

Amendment of
West Ben. Act VI
of 1982.

4. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982, after section 11A, the following section shall be inserted:—

‘Settlement of
disputes. 11B. (1) A proprietor shall be eligible to make an application for settlement of arrear tax, penalty or interest in dispute in respect of any period ending on or before 31st day of March, 2017 for which an assessment has been made under the Act and an appeal or revision relating thereto is pending on the 30th day of April, 2017, before any appellate authority.

(2) Notwithstanding anything contained in sub-section (1), a cable operator shall not be eligible to make an application for settlement of arrear tax, penalty or interest in respect of any period under the Act for which the appeal or revision has been finally heard by the appellate authority or the revisional authority, as the case may be.

Explanation.—For the purposes of this sub-section, no appeal or revision shall be deemed to have been finally heard only by reason of any stay order having been passed by any appellate or revisional authority in connection with such appeal or revision.

(3) Where any tax, penalty or interest due from any cable operator is in dispute in respect of any period for which an assessment has been made under the Act and where any application relating thereto is pending before the West Bengal Taxation Tribunal established under section 3 of the West Bengal Taxation Tribunal Act, 1987 (hereinafter referred to as the Tribunal), or the High Court, or the Supreme Court, on the 30th day of April, 2017, then, notwithstanding anything contained elsewhere in this section,—

West Ben. Act
VIII of 1987.

- (a) such arrear tax, penalty or interest due shall be deemed to be “arrear tax, penalty or interest in dispute” within the meaning of *Explanation* given at the end of this sub-section, and
- (b) such pending application shall be deemed to be a “revision pending” under this Section for the purpose of settlement of arrear tax, penalty or interest in dispute referred to in clause (a), and such proprietor shall be eligible to make an application for settlement of the arrear tax, penalty or interest in dispute, as referred to in clause (a), in accordance with the provisions of this Section and the rules made thereunder.

*The West Bengal Taxation Laws
(Amendment) Act, 2017.*

(Section 4.)

Provided that the provisions of this clause shall apply only where, before making an application under this clause, the cable operator obtains the leave of the Tribunal or the High Court or the Supreme Court, as the case may be, for settlement of such dispute under this Section.

Explanation.—For the purposes of this section, the expression "arrear tax, penalty or interest in dispute" means,—

- (i) tax payable by a cable operator upon assessment under the Act, or,
- (ii) penalty imposed upon a cable operator for default in furnishing return in accordance with the provisions of the Act, or,
- (iii) interest payable by a cable operator under the Act,

which is in dispute in any appeal or revision pending before the appellate authority or revisional authority on 30th day of April, 2017 under the Act.

(4) (a) An application for the purpose of sub-section (1) or sub-section (3) shall be made to the designated authority by a cable operator in such form, and in such manner, as may be prescribed, on or before the 30th day of June, 2017, or by such later date as the State Government may, by notification in the *Official Gazette*, specify from time to time.

(b) A separate application shall be made by a cable operator for different periods under the Act.

(c) The cable operator shall send a copy of the application made under clause (i) to the appellate authority or the revisional authority before whom the appeal or revision, as the case may be, is pending, within seven days from the date of making such application before the designated authority.

Explanation.—For the purposes of this section, the expression "designated authority" means one or more authorities referred to as "prescribed authorities" in the Act appointed by the State Government by notification published in the *Official Gazette* to be the designated authority, and such authority shall exercise jurisdiction over such area or areas as the State Government may specify in the notification.

(5) (a) Every cable operator shall, before making the application under sub-section (4) for settlement of any arrear tax, penalty or interest in dispute for any period, pay the amount calculated at the rate specified in sub-section (6) into the Reserve Bank of India or any appropriate Government Treasury in such manner as may be prescribed.

(b) 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 sub-section (4).

(6) (a) The amount payable by a cable operator for settlement of dispute under this section shall be determined,—

- (i) where the dispute relates to arrear tax in dispute, at the rate of fifty *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher;
- (ii) where the dispute relates to any arrear interest in dispute for non-payment of any arrear tax in dispute and an application has been made under this section in respect of such arrear tax in dispute, the arrear interest in dispute shall be waived:

Provided that the tax admitted to be payable by a cable operator shall be payable in full and such tax shall not be construed as arrear tax in dispute.

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(b) The arrear penalty in dispute shall be waived.

(7) The provisions of section 8, section 9, section 10, section 11, section 12, section 13 and section 14, of the West Bengal Sales Tax (Settlement of Disputes) Act, 1999, to the extent not inconsistent with the provisions of this Act, shall *mutatis mutandis* apply in respect of settlement of dispute under this section.’

West Ben. Act
IV of 1999.

Amendment of
West Ben. Act IV
of 1999.

5. In the West Bengal Sales Tax (Settlement of Disputes) Act, 1999,—

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

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

“(aa) notwithstanding anything contained in clause (a), the arrear tax, interest, late fee or penalty in dispute relating to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2 means the tax, interest, late fee, and penalty, as the case may be, payable by the applicant under the said Act.

Explanation.—Tax referred to in this clause means the tax payable in accordance with the provisions of sub-section (1) of section 4 of the West Bengal Tax on Entry of Goods into Local Areas Act, 2012.”;

West Ben. Act
I of 2012.

(ii) in clause (b), the following proviso shall be inserted:—

“Provided that the applicant shall also include a dealer and an importer other than a dealer as referred to in clause (g) and clause (k), as the case may be, of sub-section (1) of section 2 of the West Bengal Tax on Entry of Goods into Local Areas Act, 2012.”;

(iii) for clause (e), the following clause shall be substituted,—

‘(e) “relevant Act” means—

- (i) the West Bengal Sales Tax Act, 1994;
- (ii) any of the Acts referred to in sub-section (1) of section 106 of the West Bengal Sales Tax Act, 1994;
- (iii) the West Bengal Value Added Tax Act, 2003;
- (iv) the Central Sales Tax Act, 1956; or
- (v) the West Bengal Tax on Entry of Goods into Local Areas Act, 2012,

and includes the rules made, or notifications issued, under the Acts referred to in sub-clause (i), sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v).’;

(2) in section 4,—

(a) in sub-section (1), the following proviso shall be inserted:—

“Provided that an applicant shall be eligible to make an application for settlement of arrear tax, interest, late fee or penalty in dispute relating to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2 in respect of any period ending on or before the 31st day of March, 2017, for which—

- (i) an assessment has been made; or
- (ii) an assessment has been initiated; or
- (iii) a notice has been issued intimating the applicant about the non-payment of tax, interest, late fee or penalty;

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under the said relevant Act and irrespective of whether any appeal or revision or review relating thereto, as the case may be, is pending before any appellate authority or revisional authority or reviewing authority.”;

(b) in sub-section (2), the following proviso shall be inserted:—

“Provided that the above provisions shall not be applicable to any application filed in accordance with the provisions of the proviso to sub-section (1) of section 4.”;

(3) in section 4A,—

(a) in sub-section (1),—

(i) for the words “tax, penalty or interest due from an applicant”, the words “tax, interest, late fee or penalty due from an applicant” shall be substituted;

(ii) for the words and figures “on the 30th day of September, 2016 relating to any period upto the 31st day of March, 2014”, the words and figures “on the 31st day of March, 2017 relating to any period upto the 31st day of March, 2015 in case of the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2, or on the 30th day of September, 2016 relating to any period upto the 31st day of March, 2014 for all other relevant Acts” shall be substituted;

(b) in sub-section (2), the following proviso shall be inserted:—

“Provided that the above provisions shall not be applicable to any application filed in accordance with the provisions of the proviso to sub-section (1) of section 4.”;

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

(a) in clause (a), for the words and figures “on or before the 31st day of March, 2017”, the words and figures “on or before the 30th day of June, 2017 in case of the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2, or on or before the 31st day of March, 2017, for all other relevant Acts” shall be substituted;

(b) in clause (b), for the words and figures “on or before the 31st day of March, 2017”, the words and figures “on or before the 30th day of June, 2017 in case of the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2, or on or before the 31st day of March, 2017, for all other relevant Acts” shall be substituted;

(5) in section 7, in sub-section (1), after clause (a), the following clause shall be inserted:—

“(aa) notwithstanding anything contained in clause (a), where the dispute relates to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2—

(i) for any arrear tax in dispute, at the rate of hundred *per centum* of the remaining balance amount of arrear tax in dispute, or the actual amount paid in respect of such arrear tax in dispute, whichever is higher;

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- (ii) for any arrear late fee in dispute, at the rate of zero *per centum*, or the actual amount paid in respect of such arrear late fee in dispute, whichever is higher;”.

By order of the Governor,

MADHUMATI MITRA,
*Secy. to the Govt. of West Bengal,
Law Department.*