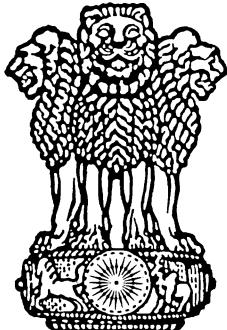


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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1076-L.—14th July, 2010.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 24 of 2010

THE WEST BENGAL TAXATION LAWS (AMENDMENT) BILL, 2010.

A
BILL

to amend the Bengal Amusements Tax Act, 1922, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Sales Tax Act, 1994 and the West Bengal Value Added Tax Act, 2003.

WHEREAS it is expedient to amend the Bengal Amusements Tax Act, 1922, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Sales Tax Act, 1994 and the West Bengal Value Added Tax Act, 2003, for the purposes and in the manner hereinafter appearing;

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

Ben. Act V of 1922.
West Ben. Act VI of 1979.
West Ben. Act XLIX of 1994.
West Ben. Act XXXVII of 2003.

The West Bengal Taxation Laws (Amendment) Bill, 2010.

(Clauses 2, 3.)

(2) Save as otherwise provided, it 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, in section 3, in sub-section (3), in Table,—

(1) after item (bbb) and the entries relating thereto in column (1), column (2) and column (3), the following item and the entries relating thereto in column (1), column (2) and column (3), respectively, shall be inserted:—

“(bbbb) Sports & games excluding those referred to in item (bb) or item (bbb)	(i) up to Rs. 500	Nil
	(ii) above Rs. 500	20 per centum of such value
	(iii) up to Rs. 3000 (for season ticket)	Nil
	(iv) above Rs. 3000 (for season ticket)	20 per centum of such value.”;

(2) in item (c),—

- (a) sub-item (iiA) and the entries relating thereto in column (1) shall be omitted;
- (b) in the entries in sub-item (iv), for the words, letters and brackets “or item (bbb)”, the words, letters and brackets “, item (bbb) or item (bbbb)” shall be substituted.

Amendment of
West Ben. Act VI
of 1979.

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

(1) in section 7,—

(a) in sub-section (6),—

- (i) in clause (a), for the words “payment of the tax”, the words “payment of the tax and interest” shall be substituted;
- (ii) for the words, figures and letters “on or before the 31st day of March, 2000”, the words, figures and letters “on or before the 31st day of March, 2010” shall be substituted;
- (iii) for the words, figures and letters “on the 31st day of December, 2001”, the words, figures and letters “on the 31st day of December, 2010” shall be substituted;

(b) in sub-section (6A),—

- (i) for the words “tax payable”, the words “tax and interest payable” shall be substituted;
- (ii) for the words “of tax”, occurring in two places, the words “of tax and interest” shall be substituted;
- (iii) for the words, figures and letters “by the 30th day of June, 2002”, the words, figures and letters “by the 30th day of June, 2011” shall be substituted;

The West Bengal Taxation Laws (Amendment) Bill, 2010.

(Clause 4.)

- (c) in sub-section (6B),—
 - (i) in clause (a),—
 - (A) in sub-clause (i), for the words “amount of tax”, the words “amount of tax and interest” shall be substituted;
 - (B) in sub-clause (iii), for the words “balance amount of tax”, the words “balance amount of tax and interest” shall be substituted;
 - (ii) in clause (b), for the words “amount of tax”, the words “amount of tax and interest” shall be substituted;
 - (iii) for the words “showing payment of tax”, the words “showing payment of tax and interest” shall be substituted;
- (d) in sub-section (8), for the words, figures and letters “on or before the 31st day of December, 2002”, the words, figures and letters “on or before the 31st day of December, 2011” shall be substituted;
- (2) after section 9A, the following section shall be inserted:—
 “Determination of late fee. 9B. The late fee payable under sub-section (2) of section 6 shall be determined in such manner, within such time, and by such authority, as may be prescribed.”.

Amendment of
West Ben. Act
XLIX of 1994.

- 4. In the West Bengal Sales Tax Act, 1994,—
 - (1) in section 52, in sub-section (4), for the words and figures “or section 56”, the words, figures and letter “, section 56 or section 56A” shall be substituted;
 - (2) in section 56A, in sub-section (3), for the words and letter “in such form and in such manner as may be prescribed in the rules in Schedule X”, the words “in such form, and in such manner, as may be prescribed” shall be substituted;
 - (3) in section 103, in sub-section (2), for the words “court-fee stamp to be affixed to”, the words “court-fee stamp to be affixed, or a receipt showing payment in such manner as may be prescribed, to be annexed, to” shall be substituted;
 - (4) In SCHEDULE X.—
 - (a) in the heading,—
 - (i) after the words “RULES REGULATING THE PROCEDURE FOR RECOVERY OF TAX, PENALTY AND INTEREST”, the words “AND SETTLEMENT OF THE TOTAL AMOUNT RECOVERABLE” shall be inserted;
 - (ii) for the words, figures and brackets “(See section 52.)”, the words, figures, letter and brackets “(See section 52 and section 56A.)” shall be substituted;
 - (b) in PART SIX,—
 - (i) after rule 91, the following rule shall be inserted:—
 “Settlement of amount specified in certificate and amount of interest and charges, recoverable from certificate-debtor. 91A. (1) A certificate-debtor shall make an application for settlement of total a mount recoverable in respect of a certificate for which a notice under sub-section (5) of section 52 has been issued by Tax Recovery Officer on or before the 31st day of March, 2004.
 (2) The application shall contain the name, trade name, certificate of registration No., certificate case No., total amount recoverable, amount payable and paid for settlement, etc.

*The West Bengal Taxation Laws (Amendment) Bill, 2010.**(Clause 5.)*

(3) Every applicant shall, before making the application for settlement, pay the amount calculated at the rate specified in sub-section (5) of section 56A, as may be applicable.

(4) The appropriate Tax Recovery Officer shall issue a certificate of settlement to the applicant on being satisfied that there is no discrepancy in the application made under sub-section (3) of section 56A and the amount has been paid in full as per provisions of sub-section (5) of section 56A.

(5) Where upon verification in accordance with the provisions of sub-section (6) of section 56A, the appropriate Tax Recovery Officer finds any discrepancy in the application or finds payments made by the applicant in short of amount payable for settlement, he shall issue a notice to the applicant in the prescribed form within one month following the month in which the application was received, asking him to rectify the discrepancy or to make the payment of the amount which was paid in short within thirty days from the date of service of the notice upon him and he shall issue a certificate of settlement to the applicant on satisfactory compliance by the applicant of the notice as per the provisions of clause (a) of sub-section (6) of section 56A or reject the application where the applicant does not comply with the requirement of the said notice, as the case may be.

(6) Where it appears to the appropriate Tax Recovery Officer that the benefit of settlement has been obtained by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the certificate of settlement.

(7) The appropriate Tax Recovery Officer shall inform to the appropriate assessing authority, the appellate authority or the revisional authority in respect of acceptance of application for settlement, or issuance of certificate of settlement, or rejection of application for settlement or revocation of certificate of settlement.”;

(ii) in rule 92, for the words “warrant or certificate to be issued under these rules”, the words “warrant, certificate or certificate of settlement” shall be substituted.

5. In the West Bengal Value Added Tax Act, 2003,—

(1) in section 2, in clause (18), in sub-clause (a), for the words, figure, letter and brackets “or sub-section (3B)”, the words, figures, letter and brackets “sub-section (3B), or sub-section (6)” shall be substituted;

(2) in section 16, in sub-section (6),—

(a) for the words “manufactured by him”, the words “manufactured by him in West Bengal” shall be substituted;

(b) in clause (b), for the words “on or after the date”, the words “in the preceding year commencing on or after the date” shall be substituted;

The West Bengal Taxation Laws (Amendment) Bill, 2010.

(Clause 5.)

- (3) in section 112, in sub-section (2), for the words “court-fee stamp to be affixed to”, the words “court-fee stamp to be affixed, or a receipt showing payment in such manner as may be prescribed, to be annexed, to” shall be substituted;
- (4) in Schedule F, in rule 64, for the words “twelve *per centum*”, the words “twelve *per centum per annum*” shall be deemed to have been substituted with effect from the 21st day of October, 2009.

STATEMENT OF OBJECTS AND REASONS.

The Bill, namely, the West Bengal Taxation Laws (Amendment) Bill, 2010, seeks to amend the following principal Acts:—

- (i) the Bengal Amusements Tax Act, 1922.

The provision seeks to charge and levy a tax on all payments for admission to any sports and games, if value of tickets is above Rs. 500 and in case of a season ticket, is above Rs. 3000, since there is no provision to charge and levy a tax on all payments for admission to any sports and games other than sports and games held in an amusement park, theme park or water games park, or pool game or bowling game;

- (ii) the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979.

The provision seeks—

- (a) to reintroduce the provision that where a registered employer has furnished returns in respect of any year ending on or before the 31st day of March, 2010 and has paid tax and interest according to such return, the assessment of tax, subject to certain conditions, in respect of such year shall be deemed to have been made on the 31st day of December, 2010;
- (b) to provide for determination of late fee;

- (iii) the West Bengal Sales Tax Act, 1994.

The provision seeks—

- (a) to amend sub-section (4) of section 52 in order that the Tax Recovery Officers may exercise jurisdiction for settlement of amount specified in a certificate including the amount of interest and charges recoverable in respect of such certificate under section 56A;
- (b) to make the provisions of sub-section (3) of section 56A more clear and meaningful;
- (c) to widen the scope of the existing provision for payment of fees for making appeal, application for review or revision, etc. in court-fee stamp, by the provision for payment of such fee by a receipt in such manner as may be prescribed;
- (d) to bring consequential changes in the heading of Schedule X with the mentioning for settlement of the amount specified in certain certificate including interest and charges recoverable in respect of such certificate;

The West Bengal Taxation Laws (Amendment) Bill, 2010.

- (e) to incorporate in Schedule X the rules regulating the procedure for settlement of the amount specified in certain certificate including the amount of interest and charges recoverable in respect of such certificate from certificate-debtor in accordance with the provisions of section 56A;
- (f) to incorporate in Schedule X the rules empowering the State Government to prescribe form for making application for settlement of the certificate amount and also for certificate of settlement to be issued;
- (iv) the West Bengal Value Added Tax Act, 2003.

The provision seeks—

- (a) to amend the definition of “input tax” in order that the amount of tax paid or payable by a registered dealer paying tax at compounded rate in accordance with the provision of sub-section (6) of section 16 on sale of cooked foods, non-alcoholic drinks and beverages, specified in Schedule CA, does not come within the meaning of input tax;
- (b) to bring clarity that a registered dealer who opts to make payment of tax at compounded rate under sub-section (6) of section 16 on sale of cooked foods, etc., specified in Schedule CA, from his hotel, *mandap*, restaurant, etc. in West Bengal, shall manufacture such goods in West Bengal only;
- (c) to amend clause (b) of sub-section (6) of section 16 for the purpose of clarifying that a registered dealer whose turnover of sales of cooked foods, etc., specified in Schedule CA, does not exceed fifteen lakh rupees in the preceding year commencing on or after the date of coming into force of sub-section (6) of section 16, may also opt for payment of tax at compounded rate;
- (d) to widen the scope of the existing provision for making payment of fees for making appeal, application for review or revision, etc. in court-fee stamp, by the provision for payment of such fee by a receipt in such manner as may be prescribed.

2. This Bill has been framed with the above objects in view.

KOLKATA,
The 13th July, 2010.

ASIM KUMAR DASGUPTA,
Member-in-charge.

FINANCIAL MEMORANDUM.

There is no financial implication involved in the Bill.

KOLKATA,
The 13th July, 2010.

ASIM KUMAR DASGUPTA,
Member-in-charge.

By order of the Governor,

MITA BASU ROY,
*Pr. Secy. to the Govt. of West Bengal,
Law Department.*