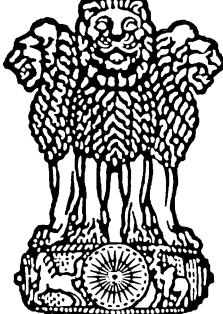


**The**  
  
**Kolkata** **Gazette**  
 सत्यमेव जयते  
*Extraordinary*  
 Published by Authority

AGRAHAYANA 12]

FRIDAY, DECEMBER 3, 2010

[SAKA 1932]

**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. 1649-L.—3rd December, 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 which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

**Bill No. 34 of 2010**

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

**A**  
**BILL**

*to amend the West Bengal Sales Tax Act, 1994 and the West Bengal Value Added Tax Act, 2003.*

WHEREAS it is expedient to amend 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:—

Short title and commencement.

1. (1) This Act may be called the West Bengal Taxation Laws (Second Amendment) Act, 2010.

(2) It shall be deemed to have come into force with effect from the 15th day of November, 2010.

West Ben. Act  
XLIX of 1994.  
West Ben. Act  
XXXVII of  
2003.

*The West Bengal Taxation Laws (Second Amendment)  
Bill, 2010*

(Clause 2.)

Amendment of  
section 72 of West  
Ben. Act XLIX of  
1994.

2. In the West Bengal Sales Tax Act, 1994, in section 72,—

(1) for sub-section (1), the following sub-sections shall be substituted:—

“(1) When a goods vehicle transporting any goods enters into West Bengal and is bound for any place outside West Bengal, the transporter transporting such goods, shall, before entering of such vehicle into West Bengal, make a declaration in such Form, available in the webside, as may be prescribed,—

(a) *firstly*, by way of transmitting certain information required to be furnished in connection with the said declaration electronically through such website, either under digital signature or without any digital signature, including a statement made by him that the goods being so transported in his vehicle shall not be unloaded, delivered or sold in West Bengal;

(b) *secondly*, by way of generating electronically the paper form of the declaration created on the basis of the information which has been successfully transmitted by him electronically under clause (a):

Provided that if there is any possibility of transhipment in West Bengal of the goods so carried by such transporter, he shall declare the same in the said declaration while making it:

Provided further that where the transporter makes declaration of the possible transhipment in West Bengal as mentioned in the first proviso or where after leaving the place through which the goods vehicle enters into West Bengal, any transhipment is made under any compelling circumstances, such transporter who makes such transhipment, shall transmit the particulars of the new vehicle electronically through such website:

Provided also that the provisions of this sub-section shall not apply where the transporter transporting such goods proves to the satisfaction of the Commissioner or such other authority as may be prescribed that the transport of such goods in such vehicle is in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, to such country as the State Government may, by notification, specify.

(1A) The paper form of the declaration generated in the manner mentioned in sub-section (1), shall remain valid for a period not exceeding seven days computed from the expected date of entry of the goods vehicle in West Bengal as declared by the transporter in such declaration and where the goods are bound for export to a foreign country or the goods have been imported from a foreign country, such paper form of the declaration shall remain valid for a period not exceeding thirty days computed from the expected date of entry of the goods vehicle in West Bengal as declared by the transporter.

(1B) If the transporter transporting the goods in a goods vehicle cannot enter into West Bengal with a valid declaration in paper form before the expected date of exit as declared by such transporter in the declaration referred to in sub-section (1), such transporter may again generate a fresh declaration in paper form in the manner mentioned in sub-section (1) after cancelling the earlier one.

(1C) The transporter shall not transport any goods in a goods vehicle bound for any place outside West Bengal unless he has in his possession of a valid declaration in paper form referred to in sub-section (1).

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

*(Clause 2.)*

(1D) Where it appears to the transporter transporting the goods in a goods vehicle, after entering into West Bengal with the declaration referred to in sub-section (1) that for certain reason, it will not be possible for him to move outside West Bengal with the said declaration with the goods transported in a goods vehicle, within the period specified in the declaration, he shall, before the expiry of the validity of the said declaration, make application for revalidation of the said declaration to the Commissioner in the following manner:—

- (a) *firstly*, by making such application electronically for revalidation of the declaration for such time as deemed necessary by him; and
- (b) *secondly*, by generating electronically the paper form of the declaration revalidated by the Commissioner,

and shall commence the transportation of the goods by the goods vehicle bound for place outside West Bengal with the said revalidated declaration.”;

(2) in sub-section (2),—

- (a) for the words, figure and brackets “For the purpose of sub-section (1), the consignment note or the document of like nature the declaration together with such other documents as may be prescribed, shall be produced before the Commissioner at the first check post that the transporter reaches after entry of the vehicle into West Bengal or,”, the following words, figure and brackets shall be substituted:—

“The transporter shall enter from any place into West Bengal with a valid declaration, in paper form, generated by him in accordance with the provisions of sub-section (1) together with such other documents as may be prescribed and shall produce the said declaration including those documents before the Commissioner.”;

- (b) for the words “before it reaches the first check post, before such other authority as may be prescribed, at the place where the vehicle is intercepted”, the following words shall be substituted:—

“by him during its transit from the place of entry into West Bengal and ultimate exit of the goods vehicle outside West Bengal with such goods.”;

(3) sub-section (3) shall be omitted;

(4) sub-section (4) shall be omitted;

(5) in sub-section (5),—

- (a) for the words, figures and brackets “at any place, other than those referred to in sub-section (2) and sub-section (4), within West Bengal”, the words “at any place within West Bengal” shall be substituted;

- (b) for the words, figure and brackets “other documents referred to in sub-section (2) and”, the words, figure and brackets “other documents referred to in sub-section (2) and shall, upon being satisfied after verification of the goods with such declaration and other documents, return the declaration and other documents after countersigning the same in such manner as may be prescribed and may” shall be substituted;

*The West Bengal Taxation Laws (Second Amendment)  
Bill, 2010*

(Clause 3.)

- (6) after sub-section (5), the following sub-section shall be inserted:—  
 “(5A) The transporter transporting the goods in a goods vehicle bound for any place outside West Bengal with the declaration referred to in sub-section (1), shall within a period of two days after the exit of the said vehicle outside West Bengal, inform the Commissioner electronically through the website of the date, time and place of exit of the goods vehicle outside West Bengal and obtain, after transmission of the said information, by way of generating electronically, a receipt in return acknowledging receipt of the said information.”;
- (7) in sub-section (6), for the words, figure and brackets “the Commissioner or the other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (8) in sub-section (7),—  
 (a) for the words, figure and brackets “the Commissioner or the other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;  
 (b) in the proviso, for the words, figure and brackets “the Commissioner or the other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (9) in sub-section (9), for the words “the Commissioner or the other authority”, the words “the Commissioner” shall be substituted;
- (10) for sub-section (14), the following sub-section shall be substituted:—  
 “(14) Subject to the provisions of sub-section (10) and sub-section (12), if the goods vehicle, transporting the goods, does not move outside West Bengal within the period of validity of the declaration or if no receipt as referred to in sub-section (5A) is obtained from the Commissioner, it shall be presumed that the goods so transported have been sold in West Bengal by the transporter transporting the said goods in the said vehicle, and he shall be deemed to be a dealer under this Act.”.

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

Amendment of  
West Ben. Act  
XXXVII of  
2003.

- (1) in section 16, in sub-section (2), in clause (ba), for the words “twelve decimal five zero *per centum*”, the words “thirteen decimal five zero *per centum*” shall be substituted;
- (2) in section 18, sub-section (1), in clause (b), for the words “twelve decimal five zero *per centum*”, the words “thirteen decimal five zero *per centum*” shall be substituted;
- (3) in section 80,—  
 (a) for sub-section (1), the following sub-sections shall be substituted:—  
 “(1) When a goods vehicle transporting any goods, other than goods specified in Schedule A, enters into West Bengal and is bound for any place outside West Bengal, the transporter, carrier or transporting agent or any other person transporting such goods, shall, before entering of such vehicle into West Bengal, make a declaration in such Form, available in the website, as may be prescribed,—  
 (a) *firstly*, by way of transmitting certain information required to be furnished in connection with the said declaration electronically through such website, either under digital signature or without any digital signature, including a statement made by him that the goods being so transported in his vehicle shall not be unloaded, delivered or sold in West Bengal,

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

*(Clause 3.)*

- (b) *secondly*, by way of generating electronically the paper form of the declaration created on the basis of the information which has been successfully transmitted by him electronically under clause (a):

Provided that if there is any possibility of transhipment in West Bengal of the goods so carried by such transporter, carrier or transporting agent or any other person, he shall declare the same in the said declaration while making it:

Provided further that where the transporter, carrier or transporting agent or any other person makes declaration of the possible transhipment in West Bengal as mentioned in the first proviso or where after leaving the place through which the goods vehicle enters into West Bengal, any transhipment is made under any compelling circumstances, such transporter, carrier or transporting agent or any other person who makes such transhipment, shall transmit the particulars of the new vehicle electronically through such website:

Provided also that the provisions of this sub-section shall not apply where the transporter, carrier or transporting agent or any other person transporting such goods proves to the satisfaction of the Commissioner or such other authority as may be prescribed, that the transport of such goods in such vehicle is in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, to such country as the State Government may, by notification, specify.

74 of 1956.

(1A) The paper form of the declaration generated in the manner mentioned in sub-section (1), shall remain valid for a period not exceeding seven days computed from the expected date of entry of the goods vehicles in West Bengal as declared by the transporter, carrier or transporting agent or any other person in such declaration and where the goods are bound for export to a foreign country or the goods have been imported from a foreign country, such paper form of the declaration shall remain valid for a period not exceeding thirty days computed from the expected date of entry of the goods vehicles in West Bengal as declared by the transporter, carrier or transporting agent or any other person in such declaration.

(1B) If the transporter, carrier or transporting agent or any other person transporting the goods in a vehicle cannot enter into West Bengal with a valid declaration in paper form before the expected date of exit of the goods vehicle from West Bengal as declared by such transporter, carrier or transporting agent or any other person in the said declaration referred to in sub-section (1), such transporter, carrier or transporting agent or any other person may again generate a fresh declaration in paper form in the manner mentioned in sub-section (1) after cancelling the earlier one.

(1C) The transporter, carrier or transporting agent or any other person shall not transport any goods in a goods vehicle bound for any place outside West Bengal unless he has in his possession of a valid declaration in paper form referred to in sub-section (1).

*The West Bengal Taxation Laws (Second Amendment)  
Bill, 2010*

*(Clause 3.)*

(1D) Where it appears to the transporter, carrier or transporting agent or any other person transporting the goods in a goods vehicle, after entering into West Bengal with the declaration referred to in sub-section (1) that for certain reason, it will not be possible for him to move outside West Bengal with the said declaration along with the goods transported in a goods vehicle, within the period specified in the declaration, he shall, before the expiry of the validity of the said declaration, make application for revalidation of the said declaration to the Commissioner in the following manner:—

- (a) *firstly*, by making such application electronically for revalidation of the declaration for such time as may be deemed necessary by him, and
- (b) *secondly*, by generating electronically the paper form of the declaration revalidated by the Commissioner, and shall commence the transportation of the goods by the goods vehicle bound for place outside West Bengal with the declaration so revalidated.”;

(b) in sub-section (2),—

- (i) for the words, figures and brackets “For the purpose of sub-section (1), the declaration referred to in sub-section (1) together with such other documents as may be prescribed, shall be produced before the Commissioner at the first check post that the transporter, carrier or transporting agent or any other person reaches after entry of the vehicle into West Bengal or”, the following words, figure and brackets shall be substituted:—

“The transporter, carrier or transporting agent or any other person shall enter from any place into West Bengal with a valid declaration, in paper form, generated by him in accordance with the provisions of sub-section (1) together with such other documents as may be prescribed and shall produce the said declaration including those documents before the Commissioner.”;

- (ii) for the words “before it reaches the first check post, before such other authority as may be prescribed, at the place where the vehicle is intercepted”, the following words shall be substituted:—

“by him during its transit from the place of entry into West Bengal and ultimate exit of the goods vehicle outside West Bengal with such goods.”;

- (c) sub-section (3) shall be omitted;
- (d) sub-section (4) shall be omitted;
- (e) in sub-section (5),—

- (i) for the words, figures and brackets “at any place other than those referred to in sub-section (2) and sub-section (4), within West Bengal”, the words “at any place within West Bengal” shall be substituted;
- (ii) for the words, figure and brackets “other documents referred to in sub-section (2) and”, the words, figure and brackets “other documents referred to in sub-section (2) and shall, upon being satisfied after verification of the goods with such

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

(Clause 4.)

declaration and other documents, return the declaration and other documents after countersigning the same in such manner as may be prescribed and may" shall be substituted;

(f) after sub-section (5), the following sub-section shall be inserted:—

“(5A) The transporter, carrier or transporting agent or any other person transporting the goods in a goods vehicle bound for any place outside West Bengal with the declaration, referred to in sub-section (1) shall within a period of two days after the exit of the said vehicle outside West Bengal, inform the Commissioner electronically through the website of the date, time and place of exit of the goods vehicle outside West Bengal and obtain, after transmission of the said information, by way of generating electronically, a receipt in return acknowledging receipt of the said information.”;

(g) in sub-section (6), for the words, figure and brackets “the Commissioner or any other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;

(h) in sub-section (7),—

(i) for the words, figures and brackets “the Commissioner or any other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;

(ii) in the proviso, for the words, figure and brackets “the Commissioner or any other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;

(i) in sub-section (9), for the words, figure and brackets “the Commissioner or any other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;

(j) for sub-section (14), the following sub-section shall be substituted:—

“(14) Subject to the provisions of sub-section (10) and sub-section (12), if the goods vehicle, transporting the goods, does not move outside West Bengal within the period of validity of the declaration or if no receipt as referred to in sub-section (5A) is obtained from the Commissioner, it shall be presumed that the goods so transported have been sold in West Bengal by the transporter, carrier or transporting agent or any other person transporting the said goods in the said vehicle, and he shall be deemed to be a dealer under this Act.”;

(4) in Schedule CA, for the words and figures “Lists of goods taxable at 12.5%”, the words and figures “Lists of goods taxable at 13.5%” shall be substituted.

Repeal and saving.

4. (1) The West Bengal Taxation Laws (Amendment) Ordinance, 2010, is hereby repealed.

West Ben. Ord. I of 2010.

(2) Notwithstanding such repeal, anything done or any action taken under the West Bengal Sales Tax Act, 1994 and the West Bengal Value Added Tax Act, 2003, as amended by the said Ordinance, shall be deemed to have been validly done or taken under the West Bengal Sales Tax Act, 1994 and the West Bengal Value Added Tax, 2003, as amended by this Act.

West Ben. Act XLIX of 1994.  
West Ben. Act XXXVII of 2003.

*The West Bengal Taxation Laws (Second Amendment)  
Bill, 2010*

**STATEMENT OF OBJECTS AND REASONS.**

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

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

The provision seeks to introduce a scheme for dematerialization of the transit declaration electronically, when a goods vehicle transporting any goods enters into West Bengal and is bound for any place outside West Bengal, by way of amending section 72;

- (ii) the West Bengal Value Added Tax Act, 2003.

The provision seeks—

- (a) to increase rate of tax from twelve decimal five zero *per centum* to thirteen decimal five zero *per centum* of such part of the turnover of sales as represents sales of goods specified in Schedule CA;
- (b) to cause the consequential change in the rate of tax applicable on taxable contractual transfer price which represents goods other than declared goods and goods involved in printing of materials, due to increase in rate of tax as mentioned in clause (a) above;
- (b) to introduce a scheme for dematerialization of the transit declaration electronically, when a goods vehicle transporting any goods, other than goods specified in Schedule A, enters into West Bengal and is bound for any place outside West Bengal, by way of amending section 80.

2. As the West Bengal Legislative Assembly was not in session and as it was necessary to take immediate action in the matter, an Ordinance, namely, the West Bengal Taxation Laws (Amendment) Ordinance, 2010 (West Ben. Ord. I of 2010) was promulgated.

- 3. The Bill seeks to replace the said Ordinance by an Act of the State Legislature.
- 4. The Bill has been framed with the above objects in view.
- 5. There is no financial implication involved in the Bill.

KOLKATA,  
The 3rd December, 2010.

ASIM KUMAR DASGUPTA,  
Member-in-charge.

By order of the Governor,

K. Y. S. MANHAS,  
Pr. Secy.-in-charge to the Govt. of West Bengal,  
Law Department.