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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. 399-L.—26th March, 2012.—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. 4 of 2012

**THE WEST BENGAL TAX ON ENTRY OF GOODS INTO
 LOCAL AREAS BILL, 2012.**

**A
 BILL**

to provide for the levy and collection of taxes on the entry of certain goods into a local area of the State of West Bengal for consumption, use or sale therein and to provide for matters connected therewith or incidental thereto for the purpose by creating a Compensatory Entry Tax Fund.

WHEREAS it is expedient to provide for the levy and collection of taxes on the entry of certain goods into a local area of the State of West Bengal for consumption, use or sale therein and to provide for matters connected therewith or incidental thereto for the purpose by creating a Compensatory Entry Tax Fund;

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

*The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.**(Chapter I.—Preliminary.—Clauses 1, 2.)***CHAPTER I**
PreliminaryShort title,
extent and
commencement.**1.** (1) This Act may be called the West Bengal Tax on Entry of Goods into Local Areas Act, 2012.

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

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date or dates as the State Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act.

Definitions.

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

(a) “Additional Commissioner” means an Additional Commissioner as defined in clause (1) of section 2 of the West Bengal Value Added Tax Act, 2003;

(b) “Appellate and Revisional Board” means the Appellate and Revisional Board as defined in clause (2) of section 2 of the West Bengal Value Added Tax Act, 2003;

(c) “appointed day”, in relation to any provision of this Act, means the date on which such provision comes into force;

(d) “appropriate Government Treasury” shall have the same meaning as defined in clause (3A) of section 2 of the West Bengal Value Added Tax Act, 2003, and shall include such other branches or extension counters of banks as may be specified by notification;

(e) “Bureau” means the Bureau as defined in clause (4) of section 2 of the West Bengal Value Added Tax Act, 2003;

(f) “Commissioner” means the Commissioner as defined in clause (8) of section 2 of the West Bengal Value Added Tax Act, 2003;

(g) “dealer” means a dealer under the West Bengal Value Added Tax Act, 2003, or under the West Bengal Sales Tax Act, 1994, as the case may be, and includes—

(i) a handling or delivery agent or an agent acting in any manner on behalf of the principal, or any other person who takes delivery or is entitled to take delivery of goods on behalf of a dealer on its entry into a local area,

(ii) where specified goods entering any local area have been dispatched to such local area by rail, road, water, air or post, and the consignee of such specified goods does not take delivery of such goods upon entry and such specified goods are sold under the provisions of any other law, the purchaser or any other person who takes delivery of such goods on his behalf;

(h) “entry of goods”, with all its grammatical variations and cognate expressions, means bringing of goods into a local area from any place outside that local area or any place outside the State or from outside India, for consumption, use or sale therein, whether by a dealer or an importer other than a dealer himself or by any other person;

(i) “Fund” means the West Bengal Compensatory Entry Tax Fund established under sub-section (1) of section 15;

(j) “goods” includes all kinds of movable property other than actionable claims, stocks, shares or securities;

(k) “importer” includes a person who in any capacity brings, or causes entry of, any specified goods into a local area for consumption or use therein and a dealer;

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

*The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.**(Chapter I.—Preliminary.—Clause 2.)*

- (l) “import value”, in respect of a consignment of specified goods upon entry of such goods in a local area by or on behalf of a dealer or an importer other than a dealer, means—
 - (a) the price or cost at which the dealer or importer other than a dealer has purchased or procured or acquired or obtained the specified goods, as shown in the original tax invoice, invoice or bill or stock transfer advice or document of like nature; or
 - (b) where the tax invoice, invoice or bill or stock transfer advice or document of like nature is not available or is not produced, or where the price or cost of such specified goods is not separately mentioned therein, or where the tax invoice, invoice or bill or stock transfer advice or document of like nature produced is proved to be false or the information furnished therein is found to be incorrect, the prevailing market price of such specified goods in the local area;
- (m) “local area” means the areas within the limits of a Municipal Corporation or any municipality or *Gram Panchayat* or Notified Area Council or any other local authority by whatever name called, constituted or continued in the State of West Bengal by any law for the time being in force;
- (n) “notification” means a notification published in the *Official Gazette*;
- (o) “person” includes any company or association or body of individuals whether incorporated or not and also a Hindu undivided family, a firm, a local authority, Government of India, the Government of any State or Union Territory, a statutory body, a trust or other body corporat, a society including a co-operative society, a factor, a broker, a commission agent, a *del credere* agent, an auctioneer, an agent for handling or transporting of goods or handling of document of title to goods, or any other mercantile agent, by whatever name called, an educational institution, any bank, any hospital or nursing home or diagnostic centre, a joint-venture company, and a limited liability partnership or other juristic person;
- (p) “prescribed” means prescribed by the rules made under this Act;
- (q) “receive”, in the context of receiving of goods, means to take delivery or possession of any goods, whether actual or constructive, or cause the goods to be received by any other person;
- (r) “return period” means a period, as may be prescribed, for which a return is required to be furnished under section 9;
- (s) “registered dealer” means a dealer registered under section 7 and the expression “unregistered dealer” shall be construed accordingly;
- (t) “Schedule” means the Schedule appended to this Act;
- (u) “Special Commissioner” means a Special Commissioner as defined in clause (43) of section 2 of the West Bengal Value Added Tax Act, 2003;
- (v) “specified goods” means goods specified in column (2) of the Schedule and in respect of which the State Government has specified the rate of tax under sub-section (2) of section 4;
- (w) “State” means the State of West Bengal;
- (x) “State Government” means the Government of West Bengal;
- (y) “turnover of imports”, used in relation to any registered dealer with reference to a period of time, means the aggregate of the import value of specified goods which the dealer brings or receives in any local area during the period for consumption, use or sale therein, and, used in relation to an unregistered dealer or importer other than a dealer, means the import value of a consignment of specified goods brought or received in any local area for consumption, use or sale therein, whether by the dealer or the importer other than a dealer himself or by any other person;
- (z) “year” means the year commencing on the first day of April and ending on the last day of March.

The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.

(*Chapter II.—Applicability of provisions of West Bengal Value Added Tax Act, 2003 or West Bengal Sales Tax Act, 1994.—Clause 3.—Chapter III.—Levy and collection of tax.—Clause 4.*)

(2) Words and expressions used and not defined in this Act but defined in the West Bengal Sales Tax Act, 1994, or the West Bengal Value Added Tax Act, 2003, shall have the same meanings as respectively assigned to them in that Acts to the extent they are not inconsistent with this Act and the rules made thereunder.

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

CHAPTER II**Applicability of provisions of West Bengal Value Added Tax Act, 2003 or West Bengal Sales Tax Act, 1994.**

Applicability of provisions of West Bengal Value Added Tax Act, 2003, or West Bengal Sales Tax Act, 1994.

3. (1) Subject to the other provisions of this Act and the rules made thereunder, the provisions of the West Bengal Value Added Tax Act, 2003, and the rules made thereunder including provisions relating to returns, scrutiny, audit, special audit, provisional assessment, assessment, registration of a dealer or the transferee of any business, imposition of the tax liability of a person carrying on business on the transferee of, or successor to, such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, recovery of tax including that from third parties, appeals, reviews, revisions, references, refunds, penalties, charging and payment of interest, late fee, interception and detention of goods vehicles or of goods transported otherwise, maintenance of accounts and records, furnishing of information, production of and inspection of books of accounts and documents or records, search of goods vehicles or of place of business including factory or warehouse, seizure of goods or of books of accounts and documents or records, compounding of offences and treatment of documents furnished by a dealer as confidential, so far not inconsistent with any provision of this Act and the rules made thereunder, shall, *mutatis mutandis*, apply, whether or not the goods specified in the Schedule are covered within the definition of "goods" under that Act.

(2) For the purposes of this Act, and specifically for the matters referred to in sub-section (1), the authorities or other persons under the West Bengal Sales Tax Act, 1994 or the West Bengal Value Added Tax Act, 2003, shall have the same powers similar to the powers they are authorised to exercise under the West Bengal Sales Tax Act, 1994, or the West Bengal Value Added Tax Act, 2003, as the case may be, and the rules made thereunder, so far not inconsistent with any provision of this Act and the rules made thereunder.

CHAPTER III**Levy and collection of tax**

Incidence and levy of tax.

4. (1) Subject to the provisions of this Act, there shall be levied a tax under this Act which shall be payable by a dealer or an importer other than a dealer, on the entry of all or any specified goods into a local area for consumption, use or sale therein, on his taxable turnover of imports, or on the quantity or weight of any specified goods as may be notified by the State Government, at such rate or rates as may be specified under sub-section (2).

Explanation.—Where any specified goods are consumed, used or sold in a local area by a dealer or an importer other than a dealer, it shall be presumed, unless the contrary is proved by him, that such goods had entered into that local area for consumption, use or sale therein.

(2) The State Government may, by notification, specify the rate of tax levied under this Act, which shall not exceed five *per centum* when such tax is levied on taxable turnover of imports, and different rate or rates of tax may be specified in respect of different specified goods, or for the different categories of consumption or use or sale of such specified goods, or for different local areas.

(3) The State Government shall have regard to financial needs for development and facilitation of trade, commerce and industry in the local areas of the State while specifying the rate or rates of tax under sub-section (2).

The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.

(*Chapter III.—Levy and collection of tax.—Clauses 5, 6.—Chapter IV.—Registration, return and payment of tax.—Clause 7.*)

(4) Subject to such restrictions and conditions as may be prescribed, no tax under this Act shall be levied, and accordingly the import value of goods shall not be included in turnover of imports of a dealer or an importer other than a dealer, in respect of—

- (a) entry of specified goods dispatched, at the time of entry into a local area, directly to a place for immediate export of such goods out of the territory of India within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, from such place in the same form in which such goods have been entered into the local area;
- (b) entry of specified goods dispatched, at the time of entry into a local area, directly to a place outside the State in the same form in which such goods have been entered into the local area; and
- (c) such other entry of goods, either in full or in part, as may be prescribed.

(5) The expression “taxable turnover of imports” as stated in sub-section (1) shall mean, in respect of a dealer or an importer other than a dealer liable to pay tax on the entry of specified goods into a local area for consumption, use or sale therein, that part of his turnover of imports which remains after deducting therefrom—

- (a) turnover of imports relating to entry of specified goods into a local area, if it is proved to the satisfaction of the Commissioner that such goods have already been subjected to tax under this Act in the same form;
- (b) turnover of imports relating to entry of specified goods into a local area, if it is proved to the satisfaction of the Commissioner that such goods have been purchased in the same form against a tax invoice, or invoice, or bill issued under the West Bengal Value Added Tax Act, 2003, or the West Bengal Sales Tax Act, 1994, by a dealer registered under the West Bengal Value Added Tax Act, 2003, or the West Bengal Sales Tax Act, 1994, as the case may be;
- (c) turnover of imports relating to entry of specified goods into a local area where it is proved to the satisfaction of the Commissioner that such goods have been transported from within West Bengal from another place of business of such dealer or importer other than a dealer;
- (d) such other turnover of imports, either in full or in part, as may be prescribed.

Power of State Government to amend Schedule.

Power to exempt tax.

5. The State Government, after giving by notification not less than fourteen days' notice of its intention so to do, may, by like notification, with prospective or retrospective effect, add to, amend, or alter any Schedule to this Act.

6. (1) The State Government may, if it is necessary so to do in public interest, by notification, exempt, either in full or in part, the tax payable under this Act by any specified class of dealers or importer other than a dealers or on any class of specified goods.

(2) Any exemption notified under sub-section (1) may be subject to such restrictions and conditions as may be specified in the notification.

(3) The State Government may, by notification, withdraw, cancel or vary any notification issued under sub-section (1), with prospective or retrospective effect.

CHAPTER IV

Registration, return and payment of tax

Registration of dealers, and under certain conditions, of importer other than dealer.

7. (1) Every dealer within the meaning of the West Bengal Value Added Tax Act, 2003, or the West Bengal Sales Tax Act, 1994, who is liable to pay tax under this Act on entry of goods shall obtain registration under this Act in such manner, under such conditions and within such period as may be prescribed.

74 of 1956.

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

*The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.**(Chapter IV.—Registration, return and payment of tax.—Clauses 8-10.)*

(2) Every registered dealer within the meaning of the West Bengal Value Added Tax Act, 2003, or the West Bengal Sales Tax Act, 1994, as on the appointed day, shall be deemed to be a dealer registered under this Act upon submitting an application to that effect in such manner, to such authority and within such period as may be prescribed.

Declaration to be made by a dealer or an importer other than a dealer for entry of goods.

8. (1) In respect of entry of any consignment of specified goods into a local area by or on behalf of a dealer or an importer other than a dealer for consumption, use or sale therein, the dealer or the importer other than a dealer shall make a declaration in such form, in such manner and containing such particulars relating to entry of such goods, as may be prescribed and such a declaration shall be carried along with the specified goods till such goods reach the destination within the local area.

(2) The declaration referred to in sub-section (1) shall be produced under such circumstances, and in such manner, as may be prescribed, upon demand by the Commissioner or by such other person authorized by the Commissioner in this behalf, at any place within a local area.

Return and payment of tax by registered dealers.

9. (1) Every registered dealer shall, either electronically or manually, submit a return in such form containing such particulars, to such authority, within such period, in such manner and along with such documents, as may be prescribed.

(2) A registered dealer shall pay into the appropriate Government Treasury in the prescribed manner and within the prescribed date the full amount of tax payable by him under this Act on the basis of the return to be submitted under sub-section (1) and shall furnish along with such return satisfactory proof of the payment of such tax.

(3) Where the Commissioner is satisfied that a registered dealer has defaulted in, or has attempted to evade, payment of tax under this Act, he may, for reasons to be recorded in writing, demand from such registered dealer an amount towards security for safeguarding revenue in respect of the tax payable under this Act, either for a single consignment or for tax payable for a particular period, and such security shall be adjusted against the tax payable under this Act for that consignment or that period, as the case may be.

Payment of tax and security by dealers, and by importer other than dealer.

10. (1) An unregistered dealer or an importer other than a dealer liable to pay tax under this Act shall ascertain the import value of goods on his own assessment, referred to herein as self-assessment, in respect of consignment of specified goods at the time of entry of such goods into a local area for consumption, use or sale therein and determine the tax payable under the provisions of this Act accordingly upon his self-assessment.

(2) While making the declaration under section 8 in respect of entry of specified goods, the unregistered dealer or importer other than a dealer shall in the prescribed manner pay into the appropriate Government Treasury a security towards the amount of tax payable under this Act as determined by him under sub-section (1) upon such self-assessment and the proof of payment of such security shall accompany the declaration made by such dealer or importer other than a dealer under section 8.

(3) If it is found by an unregistered dealer or importer other than a dealer within two years from entry of any consignment of specified goods that—

(a) the security paid by him under sub-section (2) in respect of entry of such consignment of specified goods is lower than the amount of tax actually payable by him under this Act, he shall pay the full amount of tax, after adjustment of the amount already paid as security, to such authority, within such period, in such manner and along with such documents, as may be prescribed; and

(b) if such security paid under sub-section (2) in respect of entry of such consignment of specified goods is in excess of the amount of tax actually payable by him under this Act, he shall apply for refund of the amount paid in excess to such authority, within such period, in such manner, and along with such documents, as may be prescribed.

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

The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.

(*Chapter V.—Assessment of tax, imposition of penalty and determination of interest and late fee and refund of tax and security.—Clause 11.*)

CHAPTER V

Assessment of tax, imposition of penalty and determination of interest and late fee and refund of tax and security.

Assessment of tax, imposition of penalty and determination of late fee and interest.

11. (1) No assessment of tax shall be made by the Commissioner in respect of any dealer or importer other than a dealer except as provided in this section and unless an assessment is made under this section the tax paid by a registered dealer in terms of a return furnished under section 9 or by an unregistered dealer or an importer other than a dealer in terms of the self-assessment under section 10, shall be accepted as full payment of admitted tax payable under this Act.

(2) If for a return period of a year—

- (a) no return is furnished by a registered dealer under sub-section (1) of section 9; or
- (b) the return furnished by a registered dealer appears to the Commissioner to be incorrect or incomplete; or
- (c) a claim for refund has been made by a registered dealer; or
- (d) the Commissioner is satisfied that an assessment is required to be made for any other purpose under this Act,

the Commissioner shall assess the registered dealer, either for the return period or for the year containing that return period, upon giving reasonable opportunity of hearing and in such manner as may be prescribed, to the best of his judgement to ascertain the amount of tax payable under this Act, recording the reasons for such assessment.

(3) While making any assessment under sub-section (2), the Commissioner may also direct the registered dealer to pay, in addition to the tax assessed, a penalty not less than fifty *per centum* and not more than one hundred and fifty *per centum*, of the amount of tax that has not been disclosed by the registered dealer in his return, or in the case of failure to submit a return, one hundred and fifty *per centum*, of the tax to be demanded upon such assessment, as the case may be.

(4) If—

- (a) no declaration under section 8 is made by an unregistered dealer or an importer other than a dealer upon his self-assessment under section 10; or
- (b) the Commissioner is satisfied that a declaration made under section 8 by an unregistered dealer or an importer other than a dealer upon his self-assessment under section 10 is not correct and complete or that the full amount of tax payable in respect of such self-assessment has not been paid; or
- (c) a claim for refund has been made by an unregistered dealer or an importer other than a dealer,

the Commissioner shall assess the unregistered dealer or the importer other than a dealer, upon giving reasonable opportunity of hearing in such manner as may be prescribed, to the best of his judgement to ascertain the amount of tax payable under this Act in respect of the entry of that consignment of specified goods upon recording the reasons for such assessment.

(5) If no assessment is made by the Commissioner under sub-section (4) in respect of any declaration made under section 8 by an unregistered dealer or an importer other than a dealer upon his self-assessment under section 10, the same shall be accepted as duly assessed and no further action will be taken in respect of such declaration except specifically required for the purposes of this Act.

(6) Determination of interest and determination of late fee payable under this Act may be made upon scrutiny of return or at the time of assessment of tax.

(7) No refund of tax or security shall be made unless an assessment in respect of the said period, or entry of goods, as the case may be, is made.

The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.

(*Chapter V.—Assessment of tax, imposition of penalty and determination of interest and late fee and refund of tax and security.—Clause 12.—Chapter VI.—Collection of tax and measures for checking evasion of tax.—Clause 13.*)

Limitation for assessment.

12. (1) No assessment in respect of a registered dealer shall be made after the 30th day of June next following the expiry of two years from the end of the year in respect of which or part of which the assessment is made, or the date of assessment made in respect of the relevant assessment period under the West Bengal Sales Tax Act, 1994, or the West Bengal Value Added Tax Act, 2003, as the case may be, whichever is later.

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

(2) No assessment in respect of an unregistered dealer or an importer other than a dealer shall be made after six years from the end of the year to which the relevant declaration furnished under section 8 relates.

(3) Notwithstanding anything contained in sub-section (1), or sub-section (2), when a fresh assessment is required to be made in pursuance of an order in appeal or revision, or in pursuance of any order of the Appellate and Revisional Board under this Act or any court, or in consequence of an order in appeal or revision, or in pursuance of any order of the Appellate and Revisional Board or any court under the West Bengal Value Added Tax Act, 2003, or the West Bengal Sales Tax Act, 1994, such fresh assessment may be made at any time within two years from the date of such order.

(4) In computing the time limited by sub-section (1), sub-section (2), or sub-section (3), for making any assessment under section 11, the period during which the Commissioner is restrained from commencing or continuing any proceedings from such assessment by an order of an authority under the West Bengal Sales Tax Act, 1994, or the West Bengal Value Added Tax Act, 2003, or under this Act, as the case may be, or any court, shall be excluded.

CHAPTER VI

Collection of tax and measures for checking evasion of tax

Seizure of goods for failure to produce declaration under section 8 and penalty therefor.

13. (1) For failure to produce a declaration required to be made under section 8 by a dealer or an importer other than a dealer at the time of entry of specified goods into a local area for consumption, use or sale therein, the Commissioner may seize the consignment of specified goods and detain such consignment till such time as is required for the purposes of this Act.

(2) Failure to produce a declaration required to be made under section 8 by a dealer or an importer other than a dealer at the time of entry of specified goods into a local area for consumption, use or sale therein shall be deemed to be wilful contravention of the provisions of this Act with intention of evasion of tax, unless the contrary is proved.

(3) When any consignment of specified goods is seized under sub-section (1) and the Commissioner is satisfied that the entry of such goods into a local area was made for the purpose of consumption, use or sale therein, whether by the dealer or the importer other than a dealer himself or by any other person, he shall, after giving the dealer or importer other than a dealer or the transporter or the person from whom such goods have been seized an opportunity of being heard, impose, in the manner as may be prescribed, a penalty for an amount equivalent to twice the amount of tax payable under this Act.

(4) The penalty imposed under sub-section (2) shall be over and above the tax payable under this Act, and the seized consignment of specified goods shall be released upon payment of such penalty, along with payment of the tax payable by an unregistered dealer or importer other than dealer under this Act on entry of such specified goods.

The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.

(Chapter VII.—Offence and penalties.—Clause 14.)

CHAPTER VII

Offences and penalties

Offences and penalties.

14. (1) Any person, who—

- (a) fails to pay, within the time allowed any tax assessed or any interest or late fee determined or any penalty imposed on him under this Act, or
- (b) neglects or refuses to produce and explain any accounts or records or documents in accordance with the provisions of this Act or the rules made thereunder,

shall, on conviction, be liable to be punished with fine which may extend to ten thousand rupees.

(2) Any person, who—

- (a) wilfully submits an untrue return or declaration or fails to submit a return or declaration as required by the provisions of this Act or the rules made thereunder, or
- (b) fraudulently evades or attempts to evade the payment of any tax, or any other amount due from him under this Act,

shall, on conviction, be liable to be punished, if it is a first offence, with fine which may extend to ten thousand rupees, and if it is a second or subsequent offence with simple imprisonment which may extend to six months or with fine which may extend to twenty-five thousand rupees or with both.

(3) Whoever wilfully attempts in any manner to evade or defeat any tax imposed under this Act, shall, in addition to any other penalty provided by any law for the time being in force, be liable also for the offence of dishonest misappropriation of property under section 403 of the Indian Penal Code, and shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding twenty-five thousand rupees or with both.

(4) Whoever knowingly produces incorrect declaration, accounts, registers, documents or electronic record or knowingly furnishes incorrect information or suppresses material information shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding twenty-five thousand rupees or with both.

(5) Any person, who knowingly is involved in any fraudulent evasion or attempt at evasion or abetment of evasion of any tax payable under this Act, shall, on conviction, be liable to be punished with simple imprisonment which may extend to six months or with fine which may extend to twenty-five thousand rupees or with both.

(6) Whoever obstructs any officer making inspection or search or seizure or taking other action under this Act, shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding twenty-five thousand rupees or with both.

(7) In any prosecution for an offence under this Act required a culpable mental state on the part of accused, the court shall presume the existence of such culpable mental state until the contrary is proved.

Explanation.—In this sub-section, “culpable mental state” includes intention, motive, knowledge of a fact, or belief in, or reason to believe, a fact.

(8) Any offence punishable under this Act shall be non-cognizable and bailable.

(9) No court shall take cognizance of any offence under this Act of the rules made thereunder except with the previous sanction of the Commissioner.

(10) Notwithstanding anything contained elsewhere in the Act, no prosecution for any offence enumerated hereinbefore shall be instituted in respect of the same fact for which a penalty has been imposed under any other provisions of the Act and subsequently paid by the dealer and no such penalty shall be imposed *vice versa*.

45 of 1860.

The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.

(Chapter VIII.—West Bengal Compensatory Entry Tax Fund and its utilisation.—Clauses 15-18.)

CHAPTER VIII

West Bengal Compensatory Entry Tax Fund and its utilisation

Establishment of fund.

15. (1) There shall be established for the purposes of this Act, a fund to be called the West Bengal Compensatory Entry Tax Fund.

(2) The Fund shall be under the control of the State Government and there shall be credited thereto—

- (a) any sum of money credited under section 16;
- (b) any sum of money credited under section 17;
- (c) any sum realised by the State Government in carrying out its function under this Act or in the administration of this Act;
- (d) any fund provided by the Central Government for the development or facilitating the trade, commerce and industry in the State as mentioned in section 18.

(3) The balance to the credit of the Fund shall not lapse at the end of the financial year.

Crediting of proceeds to the Fund.

16. The proceeds of the levy under this Act shall first be credited to the Consolidated Fund of West Bengal, and the State Government may, if the State Legislature by appropriation made by law in this behalf so provides, credit such proceeds to the Fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of this Act.

Grants and loans by State Government.

17. The State Government may, after due appropriation made by the State Legislature by law in this force, credit in the Fund, by way of grants or loans, such sums or money as the State Government may consider necessary.

Utilisation of proceeds of levy.

18. (1) The proceeds of the levy under this Act, net of the cost of collection and incidental expenses, shall be utilized for the development or facilitating the trade, commerce and industry in the State which shall include the following:—

- (a) construction, development and maintenance of roads and bridges for linking the market and industrial areas;
- (b) construction, development and maintenance of transport hubs and cold storage facilities wherever possible;
- (c) construction, development and maintenance of linking the markets and industrial areas to railway stations, ports, waterways and airports, wherever possible;
- (d) construction, development and maintenance of railway over-bridges and sub-ways;
- (e) creating infrastructure for supply of electricity and water to industries and other commercial complexes;
- (f) creating, development and maintenance of other infrastructure for the furtherance of trade, commerce and industry in general;
- (g) providing finance, aids, grants and subsidies for creating, developing and maintaining pollution free environment in the concerned areas;
- (h) any other purpose connected with the development of trade, commerce and industry or for facilities relating thereto;
- (i) providing finance, aids, grants and subsidies to local bodies and State Government agencies for the purposes specified above.

The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.

(*Chapter IX.—Management of Fund.—Clauses 19, 20.—*
Chapter X.—Miscellaneous.—Clauses 21-24.)

(2) The State Government shall—

- (a) ensure that the proceeds of tax collected under this Act, net of the cost of collection and incidental expenses, are utilized for facilitating trade, commerce and industry in the State;
- (b) identify the areas which require immediate development or maintenance of infrastructure and other facilities and allot proceeds of tax under this Act for the purposes specified in sub-section (1);
- (c) ensure that the proceeds of tax collected under this Act, net of the cost of collection and incidental expenses, are not much more than the amount actually required for development of local areas for facilitating trade, commerce and industry in the State.

CHAPTER IX

Management of Fund

Maintenance of accounts.

19. The State Government shall maintain proper accounts and other records in such forms, and in such manner, as may be prescribed.

Administration of Fund.

20. The State Government shall administer the Fund and take such decisions regarding investment in the development or facilitating the trade, commerce and industry in the State.

CHAPTER X

Miscellaneous

Indemnity of Government servant.

21. No suit, prosecution or other legal proceedings shall lie against any State Government servant for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Power of State Government to make rules.

22. (1) The State Government may, by notification, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed, or to be provided for, by rules.

(3) In making any rules under this section, the State Government may direct that a breach thereof shall be punishable with fine not exceeding one thousand rupees and, when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of such offence.

Power to remove difficulties.

23. 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:

Provided that no such orders shall be made after the expiry of a period of two years from the appointed day.

Repeal and saving.

24. (1) The West Bengal State Tax on Consumption or Use of Goods Act, 2001, is hereby repealed.

West Ben. Act XV of 2001.

*The West Bengal Tax on Entry of Goods into Local Areas Bill, 2012.**(Chapter X.—Miscellaneous.—Clause 24.—Schedule.)*

(2) Notwithstanding anything contained elsewhere in this Act, the provisions of this Act shall not—

- (a) affect any right, privilege, obligation or liability acquired, accrued or incurred under the anything done or any action taken under the said repealed Act; or
- (b) affect any penalty, forfeiture or punishment incurred in respect of any offences committed against, or in respect of any contravention of any provision of the said repealed Act; or
- (c) affect any investigation, legal proceeding or remedy, in respect of any such privilege, obligation or liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, any such forfeiture may be made and penalty or punishment may be imposed under the said repealed Act.

SCHEDULE

[See clause (v) of section 2 read with sub-section (2) of section 4]

| Serial No. | Description of goods | |
|------------|---|-------------------------------|
| (1) | (2) | |
| 1. | Goods referred to in Schedule C, Schedule CA and Schedule D of the West Bengal Value Added Tax Act, 2003. | West Ben. Act XXXVII of 2003. |
| 2. | Goods specified in Schedule IV and in Schedule VIIA of the West Bengal Sales Tax Act, 1994. | West Ben. Act XLIX of 1994. |

STATEMENT OF OBJECTS AND REASONS.

It is considered necessary and expedient to provide for the levy and collection of taxes on the entry of certain goods into a local area of the State of West Bengal for consumption, use or sale therein and to provide for matters connected therewith or incidental thereto by way of creating a Compensatory Entry Tax Fund.

2. It is further considered necessary and expedient to create such fund of the State of West Bengal to meet, either in full or in part, the expenditure for development and facilitation of trade, commerce and industry in the State and related measures including infrastructure for movement of goods and maintenance thereof.

3. The Bill has been framed with the above objects in view.

KOLKATA,
The 24th March, 2012.

DR. AMIT MITRA,
Member-in-charge.

FINANCIAL MEMORANDUM.

There is no financial implication involved in the Bill.

KOLKATA,
The 24th March, 2012.

DR. AMIT MITRA,
Member-in-charge.

By order of the Governor,

B. K. SRIVASTAVA,
Secy.-in-charge to the Govt. of West Bengal,
Law Department.