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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 947-L.—31st July, 2006.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XVIII of 2006

THE WEST BENGAL FINANCE ACT, 2006.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Kolkata Gazette, Extraordinary*, of the 31st July, 2006.]

An Act to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Entertainment-cum-Amusement Tax Act, 1982, the West Bengal Sales Tax Act, 1994, the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, the West Bengal State Tax on Consumption or Use of Goods Act, 2001, the West Bengal Transport Infrastructure Development Fund Act, 2002, and the West Bengal Value Added Tax Act, 2003.

*The West Bengal Finance Act, 2006.**(Sections 1-3.)*

WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application to West Bengal, the Bengal Amusements Tax Act, 1922, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the West Bengal Entertainment-cum-Amusement Tax Act, 1982, the West Bengal Sales Tax Act, 1994, the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, the West Bengal State Tax on Consumption or Use of Goods Act, 2001, the West Bengal Transport Infrastructure Development Fund Act, 2002 and the West Bengal Value Added Tax Act, 2003, for the purposes and in the manner hereinafter appearing;

2 of 1899.
Ben. Act V of 1922.
Ben. Act IV of 1944.
West Ben. Act XXI of 1972.
West Ben. Act VI of 1979.
West Ben. Act VI of 1982.
West Ben. Act XLIX of 1994.
West Ben. Act IV of 1999.
West Ben. Act XV of 2001.
West Ben. Act XXI of 2002.
West Ben. Act XXXVII of 2003.

It is hereby enacted in the Fifty-seventh 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 Finance Act, 2006.

(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.

Application and amendment of Act 2 of 1899.

2. (1) The Indian Stamp Act, 1899 (hereinafter referred to as the principal Act) shall, in its application to West Bengal, be amended for the purpose and in the manner hereinafter provided.

(2) In Schedule IA to the principal Act, in article 23, in the column under the heading “Proper Stamp-duty”,—

- (a) in clause (a), for the words “eight *per centum*”, the words “six *per centum*” shall be substituted;
- (b) in clause (b), for the words “eight *per centum*”, the words “six *per centum*” shall be substituted;
- (c) in clause (c), for the words “six *per centum*”, the words “five *per centum*” shall be substituted.

Amendment of Ben. Act V of 1922.

3. In the Bengal Amusements Tax Act, 1922,—

(1) in section 8A,—

(a) for sub-section (2), the following sub-section shall be substituted:—

“(2) If no return is submitted under section 4 by a proprietor in relation to a cinematograph exhibition or if the return submitted by such proprietor appears to the prescribed authority to be incorrect or incomplete, he shall, after giving such proprietor a reasonable opportunity of being heard and after making such enquiry as he considers necessary, assess to the best of his judgement the amount of entertainments tax, surcharge or additional surcharge payable under this Act by such proprietor and where such proprietor fails to submit the return within such date as may be prescribed by rules made under this Act, or the date as specified in the arrangement approved by the State Government, or has wilfully furnished incorrect particulars in the return submitted, as the case may be, the prescribed authority may, if he is satisfied that there is no reasonable cause for the default or for furnishing incorrect information in the return, direct such proprietor to pay by way of penalty in addition to the amount of entertainments tax, surcharge or additional surcharge so assessed a

*The West Bengal Finance Act, 2006.**(Section 3.)*

sum not exceeding double the amount of entertainments tax, within the date specified in a notice issued in this behalf by the prescribed authority.”;

(b) for sub-section (3), the following sub-section shall be substituted:—

“(3) Where—

- (a) any proprietor in relation to any entertainment, other than horse racing and cinematograph exhibition, has not obtained any prior permission from the prescribed authority before holding any entertainment, or
- (b) any proprietor referred to in clause (a), or any proprietor in relation to a pool game or bowling game or sports and games held in an amusement park, theme park or water games park, as the case may be, has not furnished any particulars to the prescribed authority as required under the provisions of this Act or the rules made thereunder, or
- (c) upon enquiry or information received, the prescribed authority has reasons to believe that—
 - (i) the proprietor referred to in clause (a) has furnished incorrect particulars at the time of obtaining permission from the prescribed authority to hold any entertainment referred to in this sub-section, or
 - (ii) the proprietor in relation to a pool game or bowling game or sports and games held in an amusement park, theme park or water games park, has furnished any particulars required under the provisions of this Act or rules made thereunder which are incorrect or incomplete,

the prescribed authority shall, in such manner as may be prescribed, proceed to assess to the best of his judgement the amount of entertainments tax payable by such proprietor after giving him a reasonable opportunity of being heard, and after giving credit for the security furnished under section 4 of the Act, if any, direct such proprietor to pay the amount of tax so assessed in such manner, and within such date, as may be prescribed:

‘Provided that where the proprietor in relation to pool game or bowling game or sports and games held in an amusement park, theme park or water games park fails to submit the particulars within such date as may be prescribed or wilfully furnishes incorrect particulars and where the prescribed authority is satisfied that there is no reasonable cause for the default, or for furnishing the incorrect particulars, the prescribed authority may direct such proprietor to pay by way of penalty in addition to the amount of entertainments tax so assessed, a sum not exceeding the amount of entertainments tax, which shall be paid within the date specified in a notice issued in this behalf by the prescribed authority.”;

(2) to section 8C, the following *Explanation* shall be added:—

‘*Explanation.*—For the purpose of this section, the expression “total amount invested”, in respect of making a new multiplex theatre complex or converting an existing cinema hall into a new multiplex theatre complex, shall mean any amount paid by the proprietor—

- (a) for purchasing or developing land for the construction of the multiplex theatre complex and in case, the land so purchased is utilised

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for building any commercial or industrial or residential unit in addition to the multiplex theatre complex, proportionate value of land actually utilised for the construction of the multiplex theatre complex including the proportionate share of land required to be kept vacant as per existing building rules of the municipality where such multiplex theatre complex is situated; or

- (b) for defraying the cost of construction of the building in which the multiplex theatre complex is situated along with the amount paid towards the cost of construction of the space utilised for setting up of other multi-entertainment activities and facilities as notified by the State Government in the *Official Gazette* in accordance with the provision of clause (5a) of section 2 of the Act and owned by the proprietor; or
 - (c) where the land and/or building in which the multiplex theatre complex is situated have been taken under a lease agreement for a period of not less than thirty-three years, for premium paid, for the purpose of setting up the multiplex theatre complex; or
 - (d) for purchasing materials and equipments necessary to set up a multiplex theatre complex including cost of computer hardware and software; or
 - (e) for purchasing materials and equipments necessary to set up other multi-entertainment activities and facilities as notified by the State Government in the *Official Gazette* in accordance with the provision of clause (5a) of section 2 of the Act.’;
- (3) in section 11E,—
- (a) for sub-section (1), the following sub-section shall be substituted:—

“(1) Any proprietor, in relation to an entertainment, may prefer an appeal against any order of assessment under section 8A or any other order made under the Act, within thirty days from the receipt of a notice of demand or order in respect thereof, or such further period as may be allowed by the said authority for cause shown to his satisfaction, to such authority, and in such manner, as may be prescribed by rules made under this Act:

Provided that no appeal shall be entertained by the said authority unless it is satisfied that such amount of entertainments tax, surcharge or additional surcharge as the appellant may admit to be due from him, has been paid.”;
 - (b) for sub-section (2), the following sub-section shall be substituted:—

“(2) Subject to such procedures as may be prescribed by rules made under this Act, the appellate authority in disposing of any appeal under sub-section (1), may confirm, cancel or modify any order of assessment under section 8A or any other order made under the Act.”;
 - (c) for sub-section (3), the following sub-section shall be substituted:—

“(3) Subject to the rules as may be made under this Act, in respect of any assessment made or order passed by the prescribed authority, the prescribed authority may, upon application made within thirty days from the date of receipt of demand notice or order, or on

The West Bengal Finance Act, 2006.

(Sections 4, 5.)

its own motion, within four years from the date of such assessment or order and after giving the proprietor an opportunity of being heard, review such assessment or order passed under the Act.”;

(4) after section 11E, the following sections shall be inserted:—

“Second appeal to
Commissioner of
Entertainments
Tax. 11EA. Any proprietor, in relation to an entertainment, if aggrieved by an order made under the Act by the appellate authority, may, in such manner as may be prescribed by rules made under this Act, prefer an appeal to the Commissioner of Entertainments Tax against such order within thirty days from the date of communication of the order or such further period as may be allowed by the said authority for cause shown to his satisfaction.

Suo motu revision
by Commissioner
of Entertainments
Tax. 11EB. The Commissioner of Entertainments Tax may, on his own motion, call for the record of any proceedings under this Act in which an order has been passed by an authority subordinate to him and after making such enquiry, may revise the order so passed or may pass such order as he thinks fit:

Provided that the Commissioner of Entertainments Tax shall not pass an order under this section, which is prejudicial to the interest of the proprietor without giving him a reasonable opportunity of being heard:

Provided further that the Commissioner of Entertainments Tax shall not, on his own motion, revise an order under this section after expiry of three years from the date of the order sought to be revised.”;

(5) in section 20A, in sub-section (1), for the words “two *per centum*”, the words “one *per centum*” shall be substituted;

(6) in section 20B, in sub-section (1), for the words “two *per centum*”, the words “one *per centum*” shall be substituted.

Amendment of
Ben. Act IV
of 1944.

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

(1) in section 26C, for the words “two *per centum*”, the words “one *per centum*” shall be substituted;

(2) in section 26D, in sub-section (1), for the words “two *per centum*”, the words “one *per centum*” shall be substituted;

(3) in section 26E, in sub-section (1), for the words “two *per centum*”, the words “one *per centum*” shall be substituted;

(4) in section 44, in sub-section (1a), for the words “two *per centum*”, the words “one *per centum*” shall be substituted.

Amendment of
West Ben. Act
XXI of 1972.

5. In the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972,—

(1) in section 3, in sub-section (1), for the words “which is provided with luxury,”, the words “which is provided with luxury, or within the premises of such hotel or restaurant,” shall be substituted;

(2) in section 4,—

(a) for clause (a), the following clause shall be substituted:—

“(a) in the case of a restaurant situated—

(i) within the area of Kolkata as described in Schedule I to the Kolkata Municipal Corporation Act, 1980, at the rate

West Ben. Act
LIX of 1980.

*The West Bengal Finance Act, 2006.**(Section 6.)*

of an annual sum of rupees two thousand for every ten square metres or part thereof,

- (ii) within the area of Kolkata Metropolitan Planning Area as described in the First Schedule to the West Bengal Town and Country (Planning and Development) Act, 1979, excluding the area as mentioned in sub-clause (i), at the rate of an annual sum of rupees one thousand and five hundred for every ten square metres or part thereof,
- (iii) within the area of Siliguri Municipal Corporation, Asansol Municipal Corporation and Durgapur Municipal Corporation, as mentioned in the Siliguri Municipal Corporation Act, 1990, the Asansol Municipal Corporation Act, 1990 and the Durgapur Municipal Corporation Act, 1994, respectively, at the rate of an annual sum of rupees one thousand for every ten square metres or part thereof,
- (iv) within any area not included in the area as mentioned in sub-clause (i), sub-clause (ii) or sub-clause (iii), at the rate of an annual sum of rupees five hundred for every ten square metres or part thereof,

West Ben. Act
XIII of 1979.

West Ben. Act
XXX of 1990.
West Ben. Act
XXXI of 1990.
West Ben. Act
LIII of 1994.

in respect of so much of the floor area of restaurant which is provided with luxury, and”;

(b) second proviso shall be omitted.

Amendment of
West Ben. Act
VI of 1979.

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

- (1) in section 5, in sub-section (6), for the words “not exceeding rupees twenty for each English calendar month of delay in case of an employer and not exceeding rupees ten for each English calendar month of delay in the case of others”, the words “a sum of rupees five hundred for delay of each twelve English calendar months or part thereof, in case of an employer and a sum of rupees one hundred for delay of each twelve English calendar months or part thereof, in the case of others” shall be substituted;
- (2) in section 7, in sub-section (4a),—
 - (a) for the words “after the expiry of six years”, the words “after the expiry of two years” shall be substituted;
 - (b) in the first proviso, for the words, figures and letters “on or before the 31st day of March, 2006:”, the words, figures and letters “on or before the 31st day of March, 2007:” shall be deemed to have been substituted with effect from the 1st day of January, 2006;
 - (c) after the first proviso, the following proviso shall be inserted:—

“Provided further that the assessment in respect of any of the years or parts of the years ending within the period commencing from the 1st day of April, 2000 and ending on the 31st day of March, 2006, shall, notwithstanding the provisions of this section, be made on or before the 31st day of March, 2008.”;
- (3) in section 7A,—
 - (a) in sub-section (1),—
 - (i) for the words “year and if it appears to the Commissioner from the returns furnished by each of such employers that the amount

*The West Bengal Finance Act, 2006.**(Section 6.)*

of tax paid by each of such employers for such year does not exceed three thousand rupees”, the word “year,” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted:—

“Provided that the provision of this sub-section shall not apply to any registered employer,—

- (a) if the assessment of tax payable by such registered employer has not been made for at least one year in the last seven successive years immediately preceding the year for such selection, or
 - (b) if he fails to comply with the requirement of sub-section (1), or sub-section (2), of section 15, or
 - (c) if any accounts, registers or other documents have been seized under section 17 from him during the period of three years immediately preceding the year of such selection.”;
- (b) in sub-section (2), for the words, figure and brackets “that the amount of tax paid by each of such employers of the class referred to in sub-section (1) for all the periods of a year does not exceed three thousand rupees and each of them is eligible for selection”, the words, figure and brackets “that each of the employers of the class referred to in sub-section (1) is eligible for selection” shall be substituted;
- (4) in section 8, in sub-section (2), for the words “paid by him before”, the words “paid by him on or before” shall be deemed to have been substituted with effect from the 1st day of April, 2005;
- (5) after section 8, the following section shall be inserted:—

“Option to make payment of tax for future period by enrolled person.

8A. Notwithstanding anything contained in sub-section (2) of section 8, any person who is duly enrolled or who gets himself enrolled under clause (c) of sub-section (4) of section 5 on or before the 31st day of March, 2007, and who has paid the tax in respect of the year commencing from the 1st day of April, 2006 and ending on the 31st day of March, 2007, by the 31st day of March, 2007 along with interest payable thereon under sub-section (3), or sub-section (3a), as the case may be, of section 9, may, at his option, pay tax at a time for a block of four successive years commencing from the 1st day of April, 2007 and ending on the 31st day of March, 2011, on or before the 31st day of March, 2007, at the rate applicable to him in respect of the year commencing from the 1st day of April, 2006 and ending on the 31st day of March, 2007:

Provided that where there is subsequent enhancement in the rate of tax after the 31st day of March, 2007, an enrolled person who has already paid the tax at a time for four years at his option under this section, prior to such change in the rate, shall not be liable to pay such enhanced amount of tax along with interest payable under the Act:

Provided further that nothing in this section shall apply to an enrolled person who makes such payment after the 31st day of March, 2007.”;

(6) in section 15, after sub-section (1), the following sub-section shall be inserted:—

“(1a) Every registered employer other than an officer of Government and any educational institution run by Government, who has paid or is

*The West Bengal Finance Act, 2006.**(Section 7.)*

liable to pay tax equal to or more than thirty thousand rupees in a year, shall, within seven months from the closing of such year, submit before the prescribed authority a certificate in the prescribed manner from a qualified practising Chartered Accountant or Cost Accountant or Company Secretary to the effect that such registered employer has complied with the requirement of the provisions of this Act and has discharged his liability towards payment of tax in respect of such year.”;

- (7) in section 19, in sub-section (1), for clause (a), the following clause shall be substituted:—

“(a) fails to comply with the requirement under sub-section (1), or sub-section (2), of section 5, or furnishes any incorrect information in a return under sub-section (1) of section 6, or”.

Amendment of
West Ben. Act
VI of 1982.

7. In the West Bengal Entertainment-cum-Amusement Tax Act, 1982,—

- (1) after section 5B, the following sections shall be inserted:—

“Interest payable
by cable operator
registered under
this Act and
determination
thereof.

5BA. (1) Where a cable operator registered under this Act fails to make full payment of tax payable under section 5B within the prescribed date, he shall pay a simple interest at the rate of one *per centum* for each month of default from the first day of such month next following the prescribed date upto the month preceding the month of full payment of such tax, or upto the month prior to the month of assessment in respect of the period under section 5C of this Act, whichever is earlier, upon so much of the amount of tax payable by him according to the return, where such return has been furnished, or according to such assessment, where such return has not been furnished, as remains unpaid at the end of such month of default.

(2) Where a cable operator registered under this Act fails to make payment of tax payable within the date fixed by the prescribed authority after the assessment made under section 5C, he shall pay a simple interest at the rate of one *per centum* for each month of default from the first day of the month next following the date specified in the demand notice upto the month prior to the month of full payment of such tax or upto the month preceding the month of commencement of proceedings under section 9, whichever is earlier, upon so much of the amount of tax payable by him according to such demand notice as remains unpaid at the end of such month of default.

(3) A cable operator liable to pay interest under sub-section (1) or sub-section (2) of this section, as the case may be, shall, in the prescribed manner, pay into a Government Treasury through treasury link bank or the Reserve Bank of India the amount of interest payable by, or due from, him by such date as may be prescribed.

(4) Where as a result of an order passed under section 10, the amount of tax payable is modified, the interest payable under sub-section (1) or sub-section (2) of this section, shall be determined or re-determined on the basis of such modified amount and the excess interest paid, if any, shall be refunded.

(5) Where the prescribed authority is satisfied that any cable operator is liable to pay interest under this section, such authority shall, in such manner as may be prescribed, determine the amount of interest payable by such cable operator.

*The West Bengal Finance Act, 2006.**(Section 8.)*

Interest payable by prescribed authority. 5BB. The prescribed authority shall, in the prescribed manner, pay a simple interest at the rate of one *per centum* for each month of delay in making refund of tax paid in excess which arises out of an order passed under section 5C or section 10, from the first day of such month next following the date of passing of such order upto the month preceding the month in which the refund is made, upon the amount of tax refundable to the cable operator according to such order.

Rounding off tax payable for calculation of interest. 5BC. In calculating the interest payable under section 5BB, the amount of tax in respect of which such interest is to be calculated, shall be rounded off to the nearest multiple of rupees ten and for this purpose, where such amount is less than rupees five, it shall be ignored.”;

(2) after section 8, the following section shall be inserted:—

“Seizure. 8A. If the prescribed authority or such other authority as the State Government may, by notification in the *Official Gazette*, appoint, has reason to believe, upon information or otherwise, that any cable operator liable to pay tax under sub-section (4a) of section 4A—

- (a) fails to get himself registered under this Act within the prescribed period; or
- (b) fails to submit a return to the prescribed authority under section 5B for each month showing his gross receipt and the amount of tax payable thereon in such manner, and within such time, as may be prescribed; or
- (c) is evading any tax or is attempting to evade payment of any tax, or has failed to deposit any tax, as the case may be,

he may, for reasons to be recorded in writing, seize such accounts, registers or documents, including those in the form of electronic record, or any computer or other electronic equipment of such cable operator, as may be necessary and shall grant such cable operator, a receipt for such accounts, registers or documents, including those in the form of electronic record, or any computer or electronic equipment seized by him and shall retain all or any of them only for such period as may be necessary for examination thereof or for prosecution or for any other purpose of this Act:

Provided that any officer as the State Government may, by notification in the *Official Gazette*, appoint to assist the prescribed authority, shall not retain any of the accounts, registers or documents, including those in the form of electronic record, or any computer or electronic equipment, seized under this section for a period exceeding one year from the date of the seizure unless he states the reason, in writing, therefor and obtains sanction of the prescribed authority in writing in respect thereof.”.

Amendment of West Ben. Act XLIX of 1994.

8. In the West Bengal Sales Tax Act, 1994,—

(1) after section 8, the following sections shall be inserted:—

‘Establishment of West Bengal Sales Tax Settlement Commission. 8A. (1) The State Government may, by notification, establish a Commission to be known as the West Bengal Sales Tax Settlement Commission (hereinafter referred to as the “Settlement Commission”) to discharge the function assigned to it under the Act.

*The West Bengal Finance Act, 2006.**(Section 8.)*

(2) The Settlement Commission shall consist of not less than three members.

(3) No person shall be eligible for appointment as a member of the Settlement Commission unless—

- (a) he is an Additional Commissioner or a Special Commissioner; or
- (b) he has been, prior to his retirement on superannuation from the service of the State Government, an Additional Commissioner or a Special Commissioner.

(4) A member of the Settlement Commission shall hold office for a term of two years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

(5) The other terms and conditions of appointment, salary or allowances payable to a member shall be such as may be prescribed.

(6) A member of the Settlement Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(7) The Settlement Commission shall sit in the bench of three members at such place, and discharge its functions in such manner, as may be prescribed.

Filing of application to Settlement Commission. 8B. (1) A dealer who intends to make an application for settlement of any case to the Settlement Commission, shall—

- (a) in case of any pending case, within one hundred and twenty days from the date of coming into force of this section; or
- (b) in any other case, within one hundred and twenty days from the date of receipt of notice of demand, the date of commencement of proceedings under section 88 or the date of registration of a dealer as a sick unit, as the case may be,

apply, in such form, and in such manner, as may be prescribed:

Provided that an appeal, which has been preferred after the expiry of the period prescribed for filing of such appeal, shall not be taken into consideration for the purpose of this section:

Provided further that the appropriate appellate and revisional authority shall not proceed with such case till disposal of the application by the Settlement Commission or till it stands rejected under the provisions of section 8C.

(2) The dealer shall, in his application, state the terms and conditions on which he is willing to settle the case.

Explanation.—For the purpose of this section, “case” means—

- (a) an appeal under section 79, or a revision under section 80, section 81 or section 82, against an order of assessment passed on or before the 30th day of June, 1996, pending till the date of coming into force of this section;
- (b) any proceedings arising out of an offence alleged to have been committed under section 88;
- (c) a notice of demand served to a dealer for realisation of tax, interest or penalty, if any, on an assessment which is inconsistent with an assessment made earlier under the Act due to application of different rate of tax in respect of any goods or non-admissibility of a claim of such dealer in respect of this assessment, in spite of the fact that no amendment in the provisions of, or no addition, alteration or modification in the Schedule to, the Act has been made during the period of such earlier assessment and this assessment or in spite of the fact that a particular practice or procedure has been followed by the dealer in respect of such earlier assessment;

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(Section 8.)

- (d) a notice of demand served to a dealer for realisation of tax, interest or penalty, if any, on an assessment made under the Act, where the dealer claims by producing verifiable documents that the rate of tax made applicable in respect of any goods in such assessment is different from the rate of tax applicable in respect of such goods under the normal trade practice;
- (e) a notice of demand served to a dealer for realisation of tax, interest or penalty, if any, on an assessment made under the Act, where such amount of tax, interest or penalty, if any, remains unrealised on the date of its registration as a sick unit with the Board for Industrial and Financial Reconstruction.

Proceedings before Settlement Commission. 8C. (1) On receipt of the application under section 8B, the Settlement Commission shall give an opportunity of hearing to the dealer making such application.

(2) After hearing the dealer concerned, the Settlement Commission shall refer the matter to the Commissioner for obtaining his views thereon.

(3) Where the Commissioner on the reference of the application under sub-section (2) for his views, finds that such application is not a fit case for settlement by the Settlement Commission, the Settlement Commission shall *prima facie*, reject such application based on such findings of the Commissioner.

(4) Where the Commissioner on the reference of the application under sub-section (2) for his views, agrees to the terms and conditions of the dealer, the Settlement Commission shall prepare a report, in writing, in respect of such terms and conditions of settlement.

(5) The Settlement Commission shall, after preparing the report under sub-section (4), forward it to the State Government for approval, and upon approval of such report by the State Government, the Settlement Commission shall settle the case, on payment by the dealer concerned of such sum as may be determined by it and in such manner as may be prescribed.

(6) The Settlement Commission shall settle the case within a period of three months from the date of receipt of the application and, in case the dealer and the Commissioner cannot agree to the terms and conditions of settlement, the application shall stand rejected at the expiry of the period of such three months.

(7) The provision of section 86 shall apply, *mutatis mutandis*, to the Settlement Commission.

Bar on further proceedings in respect of case settled by Settlement Commission. 8D. Upon settlement of the case by the Settlement Commission under section 8C,—

- (a) the demand involved in the case shall be deemed to have been fully satisfied and the pending case or cases shall not be proceeded with any further; or
 - (b) no proceedings by way of review or revision shall be taken in respect of such case; or
 - (c) the proceedings as referred to in clause (b) of *Explanation* to section 8B shall not be further proceeded with.;
- (2) in section 17, in sub-section (5), in clause (a), for the words, figures and letters “on or before the 31st day of March, 1997”, the words, figures and letters “on or before the 31st day of March, 2006” shall be substituted;
 - (3) in section 37, in sub-section (3), in the proviso, for the words “within twelve months from the date on which the tax or excess tax, as the case may be, is paid”, the words “within twelve months from the date on which the tax or excess tax, as the case may be, is paid or such further period as may be allowed by the Commissioner” shall be substituted;

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- (4) in section 43A, in the proviso, in clause (ii), for the words “the Directorate of Cottage and Small Scale Industries, Government of West Bengal”, the words “the Directorate of Cottage and Small Scale Industries, Government of West Bengal or with the Directorate of Tourism, Government of West Bengal” shall be substituted;
- (5) in section 46A,—
- (a) in sub-section (1),—
- (i) for the words, figures and letters “on or before the 30th day of June, 1999”, the words, figures and letters “on or before the 31st day of March, 2005” shall be substituted;
- (ii) for the words, figures and letters “on the 31st day of December, 1999”, the words, figures and letters “on the 1st day of July, 2006” shall be substituted;
- (b) in sub-section (3), for the words, figures and letters “on or before the 31st day of March, 2001”, the words, figures and letters “on or before the 31st day of January, 2007” shall be substituted;
- (c) in sub-section (4), for clause (b), the following clause shall be substituted:—
- “(b) where a dealer has furnished a declaration as referred to in sub-section (3) on or before the 31st day of January, 2007, he may, if necessary, furnish such declaration again on or before the 31st day of March, 2007 and if such dealer finds that on the basis of declaration furnished by him on or before the 31st day of March, 2007, an amount of tax or interest has been paid by him in excess of what was payable by him in respect of any return period relating to any year falling within the eligible period, and bring it to the notice of the Commissioner by making an application to him on or before the 30th day of September, 2007.”;
- (6) in section 79,—
- (a) in sub-section (1), for the words “appeal to the prescribed authority”, the words, figures and brackets “appeal to the Commissioner, the Special Commissioner, the Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the Commissioner as may be prescribed to exercise the power under this section” shall be substituted;
- (b) in sub-section (2), for clause (b), the following clause shall be substituted:—
- “(b) consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that such matter has not been raised before it by the appellant or that no order has been made in the said proceedings regarding such matter for any reason whatsoever.”;
- (7) section 81 shall be renumbered as sub-section (1) of that section and after sub-section (1) so renumbered, the following sub-section shall be inserted:—
- “(2) Notwithstanding anything contained in sub-section (1), the Commissioner may, upon application filed during the period commencing from the 1st day of July, 2006 and ending on the 30th day of June, 2008, revise a final appellate or revisional order from an order of assessment.”;
- (8) in section 82, after sub-section (5), the following sub-section shall be inserted:—
- “(6) Notwithstanding anything contained in sub-section (1), no application shall be filed before the Appellate and Revisional Board during the period commencing from the 1st day of July, 2006 and ending on the 30th day of June, 2008, against any final appellate or revisional order from an order of assessment.”;
- (9) in Schedule VIII, in the entry in column (3) against serial No. 2 in column (1), for the word “twenty-five”, the word “thirty” shall be substituted.

*The West Bengal Finance Act, 2006.**(Sections 9, 10.)*

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Amendment of
West Ben. Act
IV of 1999.

- 9.** In the West Bengal Sales Tax (Settlement of Dispute) Act, 1999,—
- (1) in section 2, in sub-section (1), in clause (a), for the words, figures and letters “the 31st day of March, 2003”, the words, figures and letters “the 31st day of August, 2006” shall be substituted;
 - (2) in section 4, in sub-section (1), for the words, figures and letters “an appeal or revision relating thereto is pending on the 31st day of March, 2003”, the words, figures and letters “an appeal or revision relating thereto which has been filed on or after the 1st day of April, 2003 but is pending on the 31st day of August, 2006” shall be substituted;
 - (3) in section 4A,—
 - (a) in sub-section (1), for the words, figures and letters “on the 31st day of March, 2003”, the words, figures and letters “on the 31st day of August, 2006” shall be substituted;
 - (b) in sub-section (1), in the second proviso,—
 - (i) for the words, figures and letters “the 31st day of December, 2003”, the words, figures and letters “the 31st day of January, 2007” shall be substituted, and
 - (ii) for the words, figures and letters “the 31st day of March, 2003”, the words, figures and letters “the 31st day of August, 2006” shall be substituted;
 - (4) in section 5, in sub-section (1), in clause (a), for the words, figures and letters “the 31st day of December, 2003”, the words, figures and letters “the 31st day of January, 2007” shall be substituted;
 - (5) in section 7, in sub-section (1), for clause (a), the following clause shall be substituted:—

“(a) where the dispute relates to any arrear tax in dispute,—

 - (i) at the rate of forty *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, if the application under section 5 is made on or before the 31st day of October, 2006; or
 - (ii) at the rate of forty-two *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, if the application under section 5 is made after the 31st day of October, 2006, but on or before the 30th day of November, 2006; or
 - (iii) at the rate of forty-four *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, if the application under section 5 is made after the 30th day of November, 2006, but on or before the 31st day of December, 2006; or
 - (iv) at the rate of forty-six *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, if the application under section 5 is made after the 31st day of December, 2006, but on or before the 31st day of January, 2007; or”.

Amendment of
West Ben. Act
XV of 2001.

10. In the West Bengal State Tax on Consumption or Use of Goods Act, 2001, in the Schedule, after serial No. 28 and the entries relating thereto, the following serial Nos. and the entries relating thereto shall be added:—

- “29. EDC machine.
30. Telecommunication and transmission apparatus.
31. Currency processing machine (counting).
32. All types of cameras.”.

*The West Bengal Finance Act, 2006.**(Sections 11, 12.)*Amendment of
West Ben. Act
XXI of 2002.**11.** In the West Bengal Transport Infrastructure Development Fund Act, 2002, in section 4, in sub-section (1), in clause (b),—

- (1) after sub-clause (viii), the following sub-clauses shall be inserted:—
 - “(ix) Bongaigaon Refinery and Petrochemicals Limited,
 - (x) Essar Oil Limited,
 - (xi) Oil and Natural Gas Corporation.”;
- (2) for the words, letters and brackets “to sub-clause (viii)”, the words, letters and brackets “to sub-clause (xi)” shall be substituted;
- (3) in item (A), for the words, letters and brackets “to sub-clause (viii)”, the words, letters and brackets “to sub-clause (xi)” shall be substituted;
- (4) in item (B), for the words, letters and brackets “to sub-clause (viii)”, the words, letters and brackets “to sub-clause (xi)” shall be substituted.

Amendment of
West Ben. Act
XXXVII of 2003.**12.** In the West Bengal Value Added Tax Act, 2003,—

- (1) in section 2,—
 - (a) in clause (10), *Explanation* shall be omitted;
 - (b) in clause (11), for sub-clause (ba), the following sub-clause shall be substituted:—
 - “(ba) a person who has set up an establishment with an intention of selling or purchasing goods in West Bengal,”;
 - (c) in clause (18),—
 - (i) in sub-clause (a), for the words, figures and brackets “other than those enjoying composition under sub-section (3) of section 16 or sub-section (4) of section 18”, the words, figures, letters and brackets “other than those enjoying composition under sub-section (3), sub-section (3A), or sub-section (3B), of section 16 or sub-section (4) of section 18” shall be substituted;
 - (ii) sub-clause (b) shall be omitted;
 - (iii) sub-clause (c) shall be omitted;
 - (d) in clause (22), for the words “printing, rearing”, the word “rearing” shall be substituted;
 - (e) in clause (23),—
 - (i) for sub-clause (c), the following sub-clause shall be substituted:—
 - “(c) in case of a registered dealer paying tax at a compounded rate under sub-section (3), sub-section (3A), or sub-section (3B), of section 16 or sub-section (4) of section 18, the amount of output tax,”;
 - (ii) in sub-clause (d), for the words and figures “respectively of section 118”, the words, figures and brackets “respectively of sub-section (1) of section 118” shall be substituted;
 - (f) in clause (26), for the words, figures and brackets “sub-section (4) of section 18”, the words, figures, letters and brackets “sub-section (3A), or sub-section (3B), of section 16 or sub-section (4) of section 18” shall be substituted;
 - (g) in clause (40), for the words “a sale in the course of inter-State trade or commerce”, the words “a sale deemed to have taken place in West Bengal in the course of inter-State trade or commerce or in the course of export out of the territory of India” shall be substituted;
 - (h) in clause (54), sub-clause (a) shall be omitted;
- (2) in section 8, in sub-section (4), for the words and figures “section 76, section 78”, the words and figures “section 76, section 77, section 78” shall be substituted;

*The West Bengal Finance Act, 2006.**(Section 12.)*

(3) after section 8, the following sections shall be inserted:—

Establishment of West Bengal Value Added Tax Settlement Commission. 8A. (1) The State Government may, by notification, establish a Commission to be known as the West Bengal Value Added Tax Settlement Commission (hereinafter referred to as the “Settlement Commission”) to discharge the function assigned to it under the Act.

(2) The Settlement Commission shall consist of not less than three members.

(3) No person shall be eligible for appointment as a member of the Settlement Commission, unless—

- (a) he is an Additional Commissioner or a Special Commissioner; or
- (b) he has been, prior to his retirement on superannuation from the service of the State Government, an Additional Commissioner or a Special Commissioner.

(4) A member of the Settlement Commission shall hold office for a term of two years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

(5) The other terms and conditions of appointment, salary or allowances payable to a member shall be such as may be prescribed.

(6) A member of the Settlement Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(7) The Settlement Commission shall sit in the bench of three members at such place, and discharge its functions in such manner, as may be prescribed.

Filing of application to Settlement Commission. 8B. (1) A dealer who intends to make an application for settlement of any case to the Settlement Commission, shall—

- (a) in case of any pending case, within one hundred and twenty days from the date of coming into force of this section; or
- (b) in any other case, within one hundred and twenty days from the date of receipt of notice of demand, the date of commencement of proceedings under section 93 or the date of registration of a dealer as a sick unit, as the case may be,

apply, in such form, and in such manner, as may be prescribed:

Provided that an appeal which has been preferred after the expiry of the period prescribed for filing of such appeal, shall not be taken into consideration for the purpose of this section.

(2) The dealer shall, in his application, state the terms and conditions on which he is willing to settle the case.

*The West Bengal Finance Act, 2006.**(Section 12.)*

Explanation.—For the purpose of this section, “case” means—

- (a) any proceedings arising out of an offence alleged to have been committed under section 93;
- (b) a notice of demand served to a dealer for realisation of tax, interest or penalty, if any, on an assessment which is inconsistent with an assessment made earlier under the Act due to application of different rate of tax in respect of any goods or non-admissibility of a claim of such dealer in respect of this assessment, in spite of the fact that no amendment in the provisions of, or no addition, alteration or modification in the Schedule to, the Act has been made during the period of such earlier assessment and this assessment or in spite of the fact that a particular practice or procedure has been followed by the dealer in respect of such earlier assessment;
- (c) a notice of demand served to a dealer for realisation of tax, interest or penalty, if any, on an assessment made under the Act where the dealer claims by producing verifiable documents that the rate of tax made applicable in respect of any goods in such assessment is different from the rate of tax applicable in respect of such goods under the normal trade practice;
- (d) a notice of demand served to a dealer for realisation of tax, interest or penalty, if any, on an assessment made under the Act, where such amount of tax, interest or penalty, if any, remains unrealised on the date of its registration as a sick unit with the Board for Industrial and Financial Reconstruction.

Proceedings
before Settlement
Commission.

8C. (1) On receipt of the application under section 8B, the Settlement Commission shall give an opportunity of hearing to the dealer making such application.

(2) After hearing the dealer concerned, the Settlement Commission shall refer the matter to the Commissioner for obtaining his views thereon.

(3) Where the Commissioner on the reference of the application under sub-section (2) for his views, finds that such application is not a fit case for settlement by the Settlement Commission, the Settlement Commission shall, *prima facie*, reject such application based on such findings of the Commissioner.

(4) Where the Commissioner on the reference of the application under sub-section (2) for his views, agrees to the terms and conditions of the dealer, the Settlement Commission shall prepare a report, in writing, in respect of such terms and conditions of settlement.

*The West Bengal Finance Act, 2006.**(Section 12.)*

(5) The Settlement Commission shall, after preparing the report under sub-section (4), forward it to the State Government for approval, and upon approval of such report by the State Government, the Settlement Commission shall settle the case on payment by the dealer concerned of such sum as may be determined by it and in such manner as may be prescribed.

(6) The Settlement Commission shall settle the case within a period of three months from the date of receipt of the application and in case the dealer and the Commissioner cannot agree to the terms and conditions of settlement, the application shall stand rejected at the expiry of the period of such three months.

(7) The provision of section 91 shall apply, *mutatis mutandis*, to the Settlement Commission.

Bar on further proceedings in respect of case settled by Settlement Commission.

8D. Upon settlement of the case by the Settlement Commission under section 8C,—

- (a) the demand involved in the case shall be deemed to have been fully satisfied and the pending case or cases shall not be proceeded with any further; or
- (b) no proceedings by way of review or revision shall be taken in respect of such case; or
- (c) the proceedings as referred to in clause (a) of *Explanation* to section 8B shall not be further proceeded with.;

(4) in section 11,—

- (a) in sub-section (1), for the words “as an occupier of a jute mill or a shipper of jute”, the words “as a shipper of jute” shall be substituted;
- (b) in sub-section (2), for the words “an occupier of a jute mill or a shipper of jute”, the words “a shipper of jute” shall be substituted;
- (c) in sub-section (3), for the words “shall be liable to pay tax on all his purchases of raw jute in West Bengal”, the words, letter, figures and brackets “shall be liable to pay tax on such part of his turnover of purchases of raw jute in West Bengal, as referred to in sub-clause (b) of clause (54) of section 2 which remains” shall be substituted;

(5) for section 12, the following section shall be substituted:—

“Contingent liability to pay tax on purchase.

12. (1) Every registered dealer, other than those enjoying composition under sub-section (3), sub-section (3A), or sub-section (3B), of section 16, or sub-section (4) of section 18, shall, in addition to the tax payable under any other provisions of this Act, be liable to pay tax on that part of his turnover of purchases which represents—

- (a) purchases of goods which are not meant for the purposes specified in clause (a) to clause (i), of sub-section (4) of section 22; or

*The West Bengal Finance Act, 2006.**(Section 12.)*

- (b) purchases of goods specified in the negative list appended to section 22 where no input tax credit or input tax rebate is allowed.

(2) Every registered dealer enjoying composition under sub-section (3), sub-section (3A), or sub-section (3B), of section 16, or sub-section (4) of section 18, shall, in addition to the tax payable under any other provisions of this Act, be liable to pay tax on his turnover of purchases.”;

(6) in section 16,—

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

“(ba) sales of goods which are zero-rated as specified in Schedule AA;”;

- (b) after sub-section (3), the following sub-sections shall be inserted:—

“(3A) Notwithstanding anything contained in sub-section (1) or sub-section (2), a registered dealer being a club having liability to pay tax under the Act, selling goods in West Bengal to its members or others, may, at its option, pay tax, in lieu of tax payable under sub-section (2), for each tax period of a year, at such compounded rate not exceeding eight *per centum* as the State Government may, by notification, specify, on the turnover of sales of such goods on which tax is payable, subject to such restrictions and conditions as may be prescribed:

Provided that such dealer shall not be entitled to issue tax invoice referred to in clause (48) of section 2 of the Act.

(3B) Notwithstanding anything contained in sub-section (1) or sub-section (2), a registered dealer having liability to pay tax under the Act, who makes sale by way of transferring the right to use any goods as mentioned in sub-clause (c) of clause (39) of section 2, may, at his option, pay tax, in lieu of tax payable under sub-section (2), for each tax period of a year, at such compounded rate not exceeding two *per centum* as the State Government may, by notification, specify, on the turnover of sales of such goods on which tax is payable, subject to such restrictions and conditions as may be prescribed:

Provided that such dealer shall not be entitled to issue tax invoice referred to in clause (48) of section 2 of the Act.”;

- (c) in sub-section (4), for the words “tax at full rate on the maximum retail price of such goods in the manner as may be prescribed:”, the words “tax at such rate on the maximum retail price of such goods as may be specified in that notification, and different rates may be fixed for different items of such goods:” shall be substituted;

*The West Bengal Finance Act, 2006.**(Section 12.)*

(7) for section 17, the following section shall be substituted:—

17. (1) The tax payable by a dealer, who is liable to pay tax on his turnover of purchases under section 11 or section 12, shall be levied—

- (a) in the case of a dealer liable to pay tax under section 11, at the rate of two *per centum* on such part of the turnover of purchases of raw jute as referred to in sub-section (3) of section 11; and
- (b) in the case of a dealer liable to pay tax under section 12, at the rate of tax as applicable to a sale of such goods under sub-section (2) of section 16, on his taxable turnover of purchases.

(2) The expression “taxable turnover of purchases” as stated in clause (b) of sub-section (1), shall mean, in the case of a registered dealer, that part of his turnover of purchases, which remains after deducting therefrom—

- (a) purchases of goods, sales of which are declared tax-free under section 21;
- (b) purchases of goods which are shown to the satisfaction of the Commissioner to have taken place in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 or in the course of import of goods into, or export of the goods out of the territory of India within the meaning of section 5 of that Act;
- (c) purchases of goods which are shown to the satisfaction of the Commissioner to have been made from a registered dealer in West Bengal;
- (d) such other purchases as may be prescribed.

74 of 1956.

(3) The burden of proof shall lie on the dealer who claims any purchase not liable to be taxed under sub-section (1).’;

(8) in section 17A, in the marginal note, for the words “Levy of tax on purchases by casual dealers at contractual transfer price”, the words “Levy of tax on purchases by casual dealers” shall be substituted;

(9) in section 22,—

(a) in sub-section (2), for the words and brackets ‘the dealer who has purchased taxable goods (hereinafter referred to as the “purchasing dealer”) during the tax period’, the words and brackets ‘the registered dealer who has purchased taxable goods (hereinafter referred to as the “purchasing dealer”) during a tax period for use by him in West Bengal’ shall be substituted;

(b) in sub-section (4),—

- (i) for the words “The input tax credit or input tax rebate shall be allowed”, the words “Subject to the other provisions of this section, the input tax credit or input tax rebate shall be allowed” shall be substituted;

*The West Bengal Finance Act, 2006.**(Section 12.)*

(ii) after clause (c), the following clause shall be inserted:—

“(ca) use as containers or materials for packing of goods intended for sale in the course of export out of India within the meaning of section 5 of the Central Sales Tax Act, 1956; 74 of 1956. or”;

(c) after sub-section (8), the following sub-section shall be inserted:—

“(8A) Notwithstanding anything contained elsewhere in this Act, a dealer as referred to in sub-section (8), in lieu of allowing his input tax credit or input tax rebate to be accumulated and carried forward until the expiry of his period of deferment, or tax holiday, or remission, as the case may be, may, at his option, and subject to such conditions and restrictions as may be prescribed, be entitled to refund of seventy-five *per centum* of the accumulated input tax credit or input tax rebate in respect of any quarter of a year in such manner as may be prescribed.”;

(d) in sub-section (12), in clause (a), for the words, figures and brackets “of section 16 or sub-section (4) of section 18”, the words, figures, letters and brackets “, or sub-section (3A), or sub-section (3B), of section 16, or sub-section (4) of section 18” shall be substituted;

(e) in sub-section (17),—

(i) for the words “net tax credit shall be determined”, the words “net tax credit for a tax period or a part thereof shall be determined” shall be substituted;

(ii) for the words, figures and brackets “or proviso to sub-section (15)”, the words, figures and brackets “or sub-section (15)” shall be substituted;

(f) in sub-section (20), for the words “registered dealer”, the words “registered purchasing dealer” shall be substituted;

(g) in the negative list,—

(i) for the entry in column (3) against serial No. 5 in column (1), the following entry in column (3) shall be substituted:—

“When the registered dealer is a works contractor and uses such goods in the execution of works contract, or when the registered dealer is in the business of dealing in such goods.”;

(ii) after serial No. 11 in column (1) and the entries relating thereto in column (2) and column (3), the following serial Nos. in column (1) and the entries relating thereto in column (2) and column (3), respectively, shall be inserted:—

“12.	Coal, furnace oil, or any other fuel used for any purpose.	When the registered dealer is in the business of dealing in such goods.
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13.	Generators and parts and accessories thereof used for captive generation.	When the registered dealer is in the business of dealing in such goods.”;
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*The West Bengal Finance Act, 2006.**(Section 12.)*

(10) in section 23,—

- (a) in sub-section (1), for the words, figures, letter and brackets “section 10, or section 11, or section 14, or sub-section (3) of section 27C”, the words and figures “section 10, or section 11, or section 14” shall be substituted;
- (b) in sub-section (2), for the words “within ninety days”, the words “within thirty days” shall be substituted;

(11) in section 24,—

- (a) in sub-section (1A), for the words “within one hundred and twenty days from the appointed day”, the words “within one hundred and twenty days from the appointed day or such further time as may be allowed by the Commissioner” shall be substituted;
- (b) in sub-section (2), for the words “as may be prescribed.”, the words “as may be prescribed:” shall be substituted;
- (c) to sub-section (2), the following proviso shall be added:—

“Provided that where the application is not disposed of by the prescribed authority within the prescribed period, the dealer shall be deemed to have been registered on the expiry of such period.”;

- (d) for the proviso to sub-section (2A), the following proviso shall be substituted:—

“Provided that where a dealer does not submit the information as required under sub-section (1A), the Commissioner may, after giving the dealer an opportunity of being heard, cancel the registration number, if any, allotted to him under the Act and his certificate of registration granted under clause (f) of section 119.”;

(12) after section 24, the following section shall be inserted:—

^{“Special provision for registration.”} 24A. (1) Notwithstanding anything contained in sub-section (1) and sub-section (2) of section 24, a dealer who is liable to pay tax under section 10, or section 11, but has failed to apply for registration under the Act, may, at his option, make an application for registration in the prescribed form to the prescribed authority under section 24 by the 31st day of October, 2006, along with a declaration by such dealer giving particulars of sales for year or part thereof, and proof of payment of tax, in lieu of tax payable under sub-section (2) of section 16, at the rate of one *per centum* on turnover of sales on which tax is payable as referred to in sub-section (1) of section 16, in respect of the period commencing on and from the appointed day and ending on the day preceding the date of filing such application:

Provided that the provisions of this sub-section shall not apply to any dealer,—

- (a) if any notice for determination of his liability under any of the provisions of the Act has been issued to him under section 66; or
- (b) if any accounts, registers or documents, including those in the form of electronic records have been seized from him under section 67 on or after the appointed day; or
- (c) if any accounts, registers or documents, including those in the form of electronic records have been seized from him under section 66 of the West Bengal Sales Tax Act, 1994 during the period of three years immediately preceding the appointed day.

*The West Bengal Finance Act, 2006.**(Section 12.)*

(2) If the application referred to in sub-section (1) filed by a dealer is found to be in order and the tax according to the declaration have been paid, the prescribed authority shall grant registration to such dealer within thirty days from the date of receipt of such application.

(3) The registration certificate issued under sub-section (2) shall be effective from the date of order granting such registration:

Provided that where a dealer makes an application together with a declaration and receipted challans showing payment of tax and such application is not disposed of by the registering authority within thirty days from the date of receipt of such application, the dealer shall be deemed to have been registered on expiry of such period.

(4) Notwithstanding anything contained in section 64, a dealer who has made an application under sub-section (1) shall not be entitled to issue tax invoice referred to in clause (48) of section 2 of the Act, during any period prior to the date of the order granting such registration.”;

(13) in section 28A, in sub-section (2), for the words “application of the dealer”, the words “application of the transporter, carrier or transporting agent” shall be substituted;

(14) in section 29,—

(a) in sub-section (1),—

(i) for the words, figure and brackets “under sub-section (2)”, the words, figures, letter and brackets “under sub-section (2) or sub-section (2A)” shall be substituted;

(ii) in clause (c), for the words “such appropriate authority.”, the words “such appropriate authority; or” shall be substituted;

(iii) after clause (c), the following clauses shall be inserted:—

“(d) the dealer has issued tax invoice to another dealer without entering into a transaction of sale, whether in full or in part, or has issued tax invoice showing tax for an amount in excess of the amount involved in a transaction of sale but has not deposited the tax in full, or has issued tax invoice in contravention of the provisions of section 64; or

(e) the dealer has defaulted in furnishing any return under section 32 together with receipted challan showing payment of net tax and interest payable, if any, according to such return within the prescribed date or the time as extended by the Commissioner; or

(f) the dealer has failed to pay the net tax or interest payable or tax due or interest due under this Act.”;

(b) after sub-section (3), the following sub-section shall be inserted:—

“(4) Where a dealer, within thirty days or within such further time as may be allowed by the appropriate authority from the date of cancellation of his certificate of registration under clause (e) or clause (f) of sub-section (1), submits the return and pays the net tax along with interest payable under section 33 or section 34A, or tax due or interest due, as the case may be, and makes an application to the appropriate authority for restoration of his certificate of registration, the appropriate authority shall, by an order in writing, restore the certificate of registration of such dealer with effect from the date of cancellation of such certificate as if the certificate were in force during the period in which it remained cancelled.”;

*The West Bengal Finance Act, 2006.**(Section 12.)*

- (15) in section 30C, in the marginal note, for the words “Penalty for non-furnishing or”, the words “Penalty for non-furnishing of information or” shall be substituted;
- (16) in section 30E, after sub-section (1), the following sub-section shall be inserted:—
- “(2) If a registered dealer fails to submit statements, accounts or declarations referred to in sub-section (1), he shall be liable to pay a penalty not exceeding five thousand rupees for each default, in the manner as may be prescribed.”;
- (17) in section 33, in sub-section (1), for the words and figures “upto the date of commencement of proceeding under section 55”, the words and figures “upto the date preceding the date of commencement of proceedings under section 55” shall be substituted;
- (18) in section 39, in sub-section (3), in the proviso—
- (a) for the words “within twelve months from the date on which the tax or excess tax, as the case may be, is paid”, the words “within twelve months from the date on which the tax or excess tax, as the case may be, is paid or such further period as may be allowed by the Commissioner” shall be substituted;
- (b) for the words “cash memo or bill”, the words “tax invoice, invoice, cash memo or bill” shall be substituted;
- (19) in section 40, in sub-section (1),—
- (a) for the words “deduct an amount towards tax equal to two *per centum* of such sum being paid in respect of such works contract:”, the following words, letters and brackets shall be substituted:—
- “deduct an amount towards tax equal to—
- (i) two *per centum*, when such contractor is registered under the Act and such registration is valid on the date of making such payment; or
- (ii) four *per centum*, in all other cases:”;
- (b) in the first proviso, clause (iii) shall be omitted;
- (20) in section 41, in sub-section (1), for the words, figures and brackets “interest payable under sub-section (1) of section 33, if any.”, the words, figures and brackets “interest payable under sub-section (1) of section 33, if any, and payment of such net tax and interest.” shall be substituted;
- (21) in section 43, in sub-section (1), for the words and figures “Notwithstanding anything contained in section 47 and section 49”, the words and figures “Notwithstanding anything contained in section 45, section 47 and section 49” shall be substituted;
- (22) in section 45,—
- (a) for sub-section (2), the following sub-section shall be substituted:—
- “(2) In making a provisional assessment under this section, the Commissioner or other authority as referred to in sub-section (1), shall—
- (a) where the dealer has failed to furnish return, assess the net tax of the dealer for the relevant return period on the basis of past returns or past records, and where no such returns or records are available, on the basis of information received by the Commissioner or such other authority and determine the interest payable by the dealer for the relevant return period; or

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- (b) where the dealer furnishes return but fails to make an application to the Commissioner, or fails to make payment of the net tax or interest, or fails to make payment of the unpaid amount of net tax or interest as mentioned in clause (b), clause (c) and clause (d), respectively, of sub-section (1), assess the net tax on the basis of return furnished and determine the interest payable or unpaid amount of interest, for the relevant period,

and impose a penalty not exceeding twice the assessed amount of net tax or the unpaid amount of net tax, as the case may be, and fix a date for production of documentary evidence for removing the cause for making the provisional assessment under sub-section (3), and shall direct the dealer by a notice to pay the assessed amount of net tax or the unpaid amount of net tax, as the case may be, with the interest payable or remaining unpaid and penalty imposed, in such manner, and within such date, as may be prescribed.”;

- (b) for sub-section (3), the following sub-section shall be substituted:—

“(3) If the dealer produces documentary evidence on or before the date fixed under sub-section (2) for removing the cause for which the provisional assessment has been made under sub-section (2), the authority mentioned in sub-section (1) shall close the proceedings initiated under this section and the provisional assessment made under sub-section (2) shall stand revoked.”;

- (c) for sub-section (4), the following sub-section shall be substituted:—

“(4) Where the dealer fails to take action in accordance with the provisions of sub-section (3) after receipt of demand notice issued under sub-section (2), but—

- (a) furnishes the return along with receipted copy of challan showing full payment of the net tax according to such return and the interest payable thereon, for the period in respect of which provisional assessment has been made under sub-section (2), and also submits receipted copy of challan showing payment of a sum equal to twenty *per centum* of the amount of net tax paid, or five thousand rupees, whichever is higher, by way of penalty, on or before the date fixed for payment of the amount demanded in the demand notice, the Commissioner or such other authority mentioned in sub-section (1) shall close the proceedings initiated under this section and the provisional assessment made under sub-section (2) shall stand revoked; or
- (b) furnishes receipted challan showing full payment of the net tax, the interest payable according to the demand notice and fifty *per centum* of the penalty demanded in such notice, on or before the date fixed for payment of the amount specified in such demand notice without furnishing the return, the provisional assessment made under sub-section (2) shall stand revoked to the extent of demand of net tax, interest and balance fifty *per centum* of penalty.”;

- (23) in section 46, in sub-section (1),—

- (a) in clause (e), for the words, letter and brackets “under clause (a)”, the words, letters and brackets “under clause (a) or clause (aa)” shall be substituted;

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- (b) in clause (g), for the words “brings to the notice of the Commissioner, in writing, within three months from the end of the following year that he wants refund of the excess amount of input tax credit or input tax rebate which has accumulated during that year and which has remained unadjusted at the end of the said following year”, the words “at his option, does not carry forward the excess amount of input tax credit or input tax rebate, which has accumulated during a year, to a return period in the following year and brings to the notice of the Commissioner, in writing, within three months from the end of the following year that he wants refund of the excess amount of input tax credit or input tax rebate which has accumulated during that year” shall be substituted;
- (c) for the words “net tax payable by such dealer in respect of such year or in respect of any return period of such year”, the words “net tax payable by such dealer in respect of such year or part thereof” shall be substituted;
- (d) in the second proviso, for the words, figure and brackets “has not been revoked under sub-section (3)”, the words, figure and brackets “has not been revoked under sub-section (4)” shall be substituted;
- (24) in section 47, in sub-section (3), after clause (a), the following clause shall be inserted:—
- “(aa) certain purchase price or part thereof has not been disclosed in such return, or has escaped levy of tax thereon at the appropriate rate, erroneously or otherwise, or”;
- (25) in section 61, in clause (aa),—
- (a) for the words “for any year the input tax credit exceeds the output tax payable for such year under this Act, the excess amount of net tax credit over output tax for such year,”, the words “for any return period the input tax credit exceeds the output tax payable for such return period under this Act, the excess amount of net tax credit over output tax for such return period,” shall be substituted;
- (b) in sub-clause (ii), for the words “during the year”, the words “for the return period” shall be substituted;
- (26) in section 66, for sub-section (1), the following sub-section shall be substituted:—
- “(1) The Commissioner, a Special Commissioner, an Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the Commissioner may, subject to such conditions as may be prescribed, require any dealer, casual dealer or any other person—
- (a) to produce before him any accounts, registers or documents, whether in the form of electronic record or not, or
- (b) to produce before him digital signature certificate granted under sub-section (4) of section 35 of the Information Technology Act, 2000, or
- (c) to furnish any information relating to—
- (i) stock of goods held by such dealer, casual dealer or person, or
- (ii) purchases or sales of goods made by such dealer, casual dealer or person, or
- (iii) purchases and uses of goods in execution of works contract by such dealer, casual dealer or person, or

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- (iv) receipts or deliveries of goods made by such dealer, casual dealer or person, or
 - (v) any receipts or payments, including loans, made by such dealer, casual dealer or person, or
 - (vi) any other matter,
 - (d) to explain to him any account, register or document, including those in the form of electronic record, produced by such dealer, casual dealer or person,
- as may be deemed necessary for the purposes of this Act.”;
- (27) in section 77, in sub-section (1), for the proviso, the following proviso shall be substituted:—
- “Provided that the sum of penalty that may be imposed under this sub-section shall be—
- (a) thirty *per centum* of the value of the goods, if the rate of tax leviable under sub-section (2) of section 16 in respect of such goods does not exceed four *per centum*;
 - (b) fifty *per centum* of the value of the goods, if the rate of tax leviable under sub-section (2) of section 16 in respect of such goods exceeds four *per centum*.”;
- (28) in section 81, in sub-section (1),—
- (a) for clause (a), the following clause shall be substituted:—

“(a) where carriage is caused by sale of such goods, two copies of tax invoice or invoice or bill or cash memorandum issued by the seller of such goods and a way bill in the prescribed form in case of such goods or class of goods, as the State Government may, by notification, specify, and such other documents as may be prescribed, or”;
 - (b) for clause (b), the following clause shall be substituted:—

“(b) where carriage is caused otherwise than by way of sale of such goods, two copies of forwarding note, delivery challan or document of like nature and a way bill in the prescribed form in case of such goods or class of goods, as the State Government may, by notification, specify, and such other documents as may be prescribed.”;
- (29) in section 84,—
- (a) in sub-section (1), for the words “appeal to the prescribed authority”, the words, figures and brackets “appeal to the Commissioner, the Special Commissioner, the Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the Commissioner as may be prescribed to exercise the power under this section” shall be substituted;
 - (b) in sub-section (2), for clause (b), the following clause shall be substituted:—

“(b) consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that such matter has not been raised before it by the appellant or that no order has been made in the said proceedings regarding such matter for any reason whatsoever.”;

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- (30) section 86 shall be renumbered as sub-section (1) of that section and after sub-section (1) so renumbered, the following sub-section shall be inserted:—

“(2) Notwithstanding anything contained in sub-section (1), the Commissioner may, upon application filed during the period commencing from the 1st day of July, 2006 and ending on the 30th day of June, 2008, revise a final appellate or revisional order from an order of provisional assessment or any other assessment.”;

- (31) in section 87, after sub-section (4), the following sub-section shall be inserted:—

“(5) Notwithstanding anything contained in sub-section (1), no application shall be filed before the Appellate and Revisional Board, during the period commencing from the 1st day of July, 2006 and ending on the 30th day of June, 2008, against any final appellate or revisional order from an order of provisional assessment or any other assessment.”;

- (32) in section 93, in sub-section (4), after clause (e), the following clause shall be inserted:—

“(f) tampers with or breaks open any sealing done under section 69,”;

- (33) in section 96, in the marginal note, for the words “for claiming input tax credit”, the words “for claiming excess input tax credit” shall be substituted;

- (34) section 99 shall be omitted;

- (35) in section 116, in sub-section (1), for the words, letter, figures and brackets “clause (b) of sub-section (4) of section 46”, the words, letter, figures and brackets “clause (b) of sub-section (3) of section 46” shall be substituted;

- (36) in section 117, for the words “granted such deferment”, the words “granted such deferment or exemption or remission of tax” shall be substituted;

- (37) in section 118, in sub-section (1),—

(a) in clause (a), for the words “with respect to gross value of the fixed capital assets, immediately before the appointed day and”, the words “with respect to gross value of the fixed capital assets, and” shall be substituted; and

(b) in clause (c), for the words “with respect to gross value of the fixed capital assets, immediately before the appointed day and”, the words “with respect to gross value of the fixed capital assets, and” shall be substituted;

- (38) after section 118, the following section shall be inserted:—

“Amendment
of eligibility
certificate.

118A. (1) Where any registered dealer referred to in sub-clause (a), or sub-clause (b), or sub-clause (c), of sub-section (1) of section 118—

- (a) effects any change in the ownership of the business; or
(b) sells or otherwise disposes of the industrial unit in respect of which he has been granted the certificate of eligibility; or
(c) effects any change in the name of his business or class or classes of goods specified in his certificate of eligibility; or
(d) effects any change in the capacity of production of the industrial unit for which he has been granted the certificate of eligibility; or

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- (e) effects any change in the gross value of fixed capital asset of the industrial unit for which he has been granted the certificate of eligibility; or
- (f) effects any change in the location of the industrial unit for which he has been granted the certificate of eligibility; or
- (g) installs pollution control equipment in the industrial unit,

he shall, within such period, in such manner and subject to such restrictions and conditions, as may be prescribed, inform the prescribed authority accordingly and the prescribed authority may amend the certificate of eligibility in accordance with the information furnished to him.

(2) A registered dealer shall not be eligible for the benefits referred to in sub-clause (a), or sub-clause (b), or sub-clause (c), of sub-section (1) of section 118, if such dealer contravenes any of the provisions of sub-section (1).”;

(39) in Schedule A,—

- (a) after serial No. 3A in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“3B. Bed sheets, pillow covers, bed-spreads, bed-covers, towels, napkins, table cloth, duster, handkerchief, *sataranchi* and blankets.”;

- (b) in the entry in column (2) against serial No. 6 in column (1), for the words “*Charkha, Ambar Charkha*; handlooms and handloom fabrics and *Gandhi Topi*.”, the words “*Charkha, Ambar Charkha, Gandhi Topi* and handlooms and handloom fabrics, when they are manufactured or made in India.” shall be substituted;

- (c) after serial No. 12 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“12A. Elastic fabric tape.”;

- (d) in the entry in column (2) against serial No. 20C in column (1), for the words “brass and bell metal.”, the words “brass and bell metal, paintings, articles made of bamboo and cane” shall be substituted;

- (e) after serial No. 21A in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“21B. Incense sticks commonly known as *agarbati, dhupkathi, dhupbati* and *hawan samagri* including *sombrani* and *lobhana*.”;

- (f) entry in column (2) against serial No. 23A in column (1) shall be omitted;

- (g) after serial No. 25A in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—

“25B. Oil cake.”;

(40) in Schedule C,—

(a) in Part I,—

- (i) entry in column (2) against serial No. 10A in column (1) shall be omitted;

- (ii) entry in column (2) against serial No. 21 in column (1) shall be omitted;

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- (iii) in the entry in column (2) against serial No. 25A in column (1), for the words, figures and brackets “Drugs and Cosmetics Act, 1940 (23 of 1940).”, the words, figures and brackets “Drugs and Cosmetics Act, 1940 (23 of 1940), and including *Isabgul*.” shall be substituted;
 - (iv) for the entry in column (2) against serial No. 26 in column (1), the following entry in column (2) shall be substituted:—
“Edible oils other than coconut oil.”;
 - (v) entry in column (2) against serial No. 26A in column (1) shall be omitted;
 - (vi) in column (2) against serial No. 31 in column (1), the following entry shall be inserted:—
“*Ghee*.”;
 - (vii) after serial No. 33A in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—
“33B. Gums and adhesives.”;
 - (viii) entry in column (2) against serial No. 40 in column (1) shall be omitted;
 - (ix) after serial No. 43C in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—
“43D. Lac and shellac.”;
 - (x) for the entry in column (2) against serial No. 44B in column (1), the following entry in column (2) shall be substituted:—
“Lime, limestone and dolomite.”;
 - (xi) for the entry in column (2) against serial No. 73 in column (1), the following entry in column (2) shall be substituted:—
“Skimmed milk powder, dairy whitener and UHT milk.”;
 - (xii) entry in column (2) against serial No. 78 in column (1) shall be omitted;
 - (xiii) after serial No. 81 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and the entry relating thereto in column (2) shall be inserted:—
“81A. Timber, that is to say,—
 - (i) log;
 - (ii) plank, veneer and splint;
 - (iii) rafter;
 - (iv) sleeper;
 - (v) beam;
 - (vi) pillar; and
 - (vii) sawn or sized timber.”;
- (b) in Part III, for the entry in column (4) against serial No. 189 in column (1), the following entry shall be substituted:—
“Purified terephthalic acid and Alluric acid.”.

By order of the Governor,

S. K. CHAKRABARTI,
Secy. to the Govt. of West Bengal,
Law Department.