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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. 544-L.—20th May, 2017.—The Governor having been pleased to order, under rule 66 of the Rules

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

Bill No. 23 of 2017**THE WEST BENGAL TAXATION LAWS
(AMENDMENT) BILL, 2017.****A
BILL**

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

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

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

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

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

(Clauses 1, 2.)

Short title and commencement.

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

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

Amendment of Ben. Act V of 1922.

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

‘Settlement of disputes.

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

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

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

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

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

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

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

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

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

West Ben. Act VIII of 1987.

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

(Clause 3.)

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

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

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

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

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

(b) A copy of duly receipted challan showing payment of the amount payable for settlement, shall be furnished to the designated authority along with the application made under sub-section (4).

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

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

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

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

West Ben. Act
IV of 1999.

Amendment of
West Ben. Act
XXI of 1972.

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

‘Settlement of
disputes.

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

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

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

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

(Clause 3.)

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

West Ben. Act
VIII of 1987.

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

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

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

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

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

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

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

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

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

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

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

(Clause 4.)

(b) A copy of duly receipted challan showing payment of the amount payable for settlement, shall be furnished to the designated authority along with the application made under sub-section (4).

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

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

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

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

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

West Ben. Act
IV of 1999.

Amendment of
West Ben. Act VI
of 1982.

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

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

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

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

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

West Ben. Act
VIII of 1987.

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

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

(Clause 4.)

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

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

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

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

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

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

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

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

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

(b) A copy of duly receipted challan showing payment of the amount payable for settlement, shall be furnished to the designated authority along with the application made under sub-section (4).

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

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

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

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

(Clause 5.)

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

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

West Ben. Act
IV of 1999.

Amendment of
West Ben. Act IV
of 1999.

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

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

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

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

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

West Ben. Act
I of 2012.

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

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

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

‘(e) “relevant Act” means—

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

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

(2) in section 4,—

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

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

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

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(Amendment) Bill, 2017.*

(Clause 5.)

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

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

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

(3) in section 4A,—

(a) in sub-section (1),—

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

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

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

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

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

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

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

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

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

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

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(Amendment) Bill, 2017.*

(Clause 5.)

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

STATEMENT OF OBJECTS AND REASONS.

The Bill, namely, the West Bengal Taxation Laws (Amendment) Bill, 2017, seeks to amend the following principal Acts:—

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

The provision seeks to provide relief to the taxpayers by introduction of settlement of disputes scheme for arrear tax or penalty in cases pending in appeal or revision or under litigation on payment of fifty *per centum* of the arrear tax in dispute or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, and the disputed amount of penalty shall be waived;

- (ii) the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972.

The provision seeks to provide relief to the taxpayers by introduction of settlement of disputes scheme for arrear tax, interest or penalty in cases pending in appeal or revision or under litigation on payment of fifty *per centum* of the arrear tax in dispute, or the actual amount paid in respect of such arrear tax in dispute, whichever is higher, and the disputed amount of penalty and interest shall be waived;

- (iii) the West Bengal Entertainment-cum-Amusement Tax Act, 1982.

The provision seeks to provide relief to the taxpayers by introduction of settlement of disputes scheme for arrear tax, interest or penalty in cases pending in appeal or revision or under litigation on payment of fifty *per centum* of the arrear tax in dispute, or the actual amount paid in respect of such arrear tax in dispute, whichever is higher and the disputed amount of penalty and interest shall be waived;

- (iv) the West Bengal Sales Tax (Settlement of Disputes) Act, 1999.

The provision seeks to provide relief to the taxpayers by introduction of settlement of disputes scheme for arrear tax, interest, penalty or late fee under the West Bengal Tax on Entry of Goods into Local Areas Act, 2012, on payment of one hundred *per centum* of the arrear tax in dispute, or the actual amount paid in respect of such arrear tax in dispute, whichever is higher and the disputed amount of interest and late fee not paid shall be waived.

*The West Bengal Taxation Laws
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2. The Bill has been framed with the above objectives in view.
3. There is no financial implication involved in the Bill.

KOLKATA:

The 20th May, 2017.

DR. AMIT MITRA,

Member-in-Charge.

By order of the Governor,

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