

The

Kolkata Gazette
सत्यमेव जयते
Extraordinary
Published by Authority

AGRAHAYANA 6]

TUESDAY, NOVEMBER 27, 2018

[SAKA 1940

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. 2010-L.—27th November, 2018.—The Governor having been pleased to order, under rule 66 of the Rules

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

Bill No. 34 of 2018

**THE WEST BENGAL TAXATION LAWS
(AMENDMENT) BILL, 2018.**

**A
BILL**

to amend the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, and the West Bengal Goods and Services Tax Act, 2017.

WHEREAS it is expedient to amend the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, and the West Bengal Goods and Services Tax Act, 2017, for the purposes and in the manner hereinafter appearing;

West Ben. Act IV
of 1999.
West Ben. Act
XXVIII of 2017.

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

Short title and
commencement.

1. (1) This Act may be called the West Bengal Taxation Laws (Amendment) Act, 2018.

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 2.)

(2) Save as otherwise provided, this section shall come into force with immediate effect, and the other provisions of this Act shall 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 and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of
West Ben. Act IV
of 1999.

2. In the West Bengal Sales Tax (Settlement of Dispute) Act, 1999,—

- (1) in the long title, for the words, figures and brackets “arrear tax or penalty under the Central Sales Tax Act, 1956 (74 of 1956)”, the words, figures and brackets “arrear tax, late fee, interest or penalty under the West Bengal Value Added Tax Act, 2003 (West Ben. Act XXXVII of 2003), the West Bengal Tax on Entry of Goods into the Local Areas Act, 2012 (West Ben. Act I of 2012) and the Central Sales Tax Act, 1956 (74 of 1956)” shall be substituted;
- (2) in section 2, in sub-section (1), for clause (a), the following clause shall be substituted:—

‘(a) “arrear tax, penalty, late fee or interest in dispute” means,—

- (i) tax, by whatever name called, which is payable by an assessee under the relevant Act, or
- (ii) penalty imposed or which can be imposed upon an assessee due to late payment or non-payment of tax as mentioned in sub-clause (i), or for default in furnishing return in accordance with the provisions of the relevant Act, or
- (iii) penalty imposed or which can be imposed upon an assessee in cases other than cases mentioned in (ii) in accordance with the provisions of the relevant Act; or
- (iv) late fee which is payable by an assessee under the relevant Act, or
- (v) interest which is payable by an assessee under the relevant Act,

which, as the case may be, is in dispute in any proceeding including audit, special audit, assessment, appeal, revision or review or for recovery of arrears of dues, in respect of the relevant Act and pending before any authority on the 31st day of October, 2018;’;

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

“Eligibility for
settlement.

4. Subject to the other provisions of this Act, an application shall be eligible to make an application for settlement of arrear tax, penalty, late fee or interest in dispute in a case which is pending on the 31st day of October, 2018, before any authority,—

- (a) in respect of any period ending on or before the 30th day of June, 2017, for which—
 - (i) an audit, special audit or assessment has been made; or
 - (ii) an appeal, revision or review petition has been filed; or
 - (iii) a revision or review proceeding has been initiated; or
 - (iv) a notice or order has been issued intimating the applicant for payment of tax, interest, late fee or penalty; or
 - (v) a notice has been issued in any proceeding under the relevant Act proposing payment of tax, interest, late fee or penalty; or

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 2.)

- (b) in respect of a proceeding for recovery of arrears of dues which has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913 or to a Tax Recovery Officer under the relevant Act, on or before the 31st day of March, 2014;”;
- (4) in section 4A, for sub-section (1), the following sub-section shall be substituted:—

Ben. Act III of 1913.

“(1) Where any application 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 31st day of October, 2018, in respect of—

West Ben. Act VIII of 1987.

- (a) a proceeding for recovery of arrears of dues which has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913 or to a Tax Recovery Officer under the relevant Act, on or before the 31st day of March, 2014;
- (b) any case where any tax, interest, late fee or penalty due from any applicant is in dispute in respect of any period ending on or before the 30th day of June, 2017, under the relevant Act or any other proceeding has been made relating to any period ending on or before the 30th day of June, 2017, other than a proceeding for recovery of arrears of dues which has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913 or to a Tax Recovery Officer under the relevant Act, after 31st day of March, 2014,

such arrear tax, penalty, late fee or interest due shall be deemed to be “arrear tax, penalty, late fee or interest” within the meaning of clause (a) of sub-section (1) of section 2, and such pending application shall be deemed to be a “revision pending” for the purpose of settlement of arrear tax, penalty, late fee or interest in dispute, and such applicant shall be eligible to make an application for settlement of the arrear tax, penalty, late fee or interest in dispute, as referred to in clause (a) of sub-section (1) of section 2, in accordance with the provisions of this Act and the rules made thereunder:

Provided that the provisions of this section shall apply only where, in respect of an application under this sub-section, the applicant 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 Act.”;

- (5) in section 5,—

(a) in sub-section (1),—

- (i) in clause (a), for the words, figures, letters and brackets “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”, the words, figures and letters “on or before the 31st day of January, 2019,” shall be substituted;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 2.)

- (ii) in clause (b), for the words, figures, letters and brackets “on or before the 30th day of June, 2017, in case of the relevant Act referred to in sub-clause (v) of clause (c) of sub-section (1) of section 2, or on or before the 31st day of March, 2017, for all other relevant Acts”, the words, figures and letters “on or before the 31st day of January, 2019,” shall be substituted;
- (b) after sub-section (1), the following sub-section shall be inserted:—
- “(1a) Where an application for settlement has been submitted under sub-section (1) upon payment of amount as referred in sub-clause (B) of clause (ii) of sub-section (1) of section 7, such an application shall be deemed to have been made within the due date only when the applicant furnishes proof of payment of the full amount payable as installments within 10 days from the expiry of three months following the month in which such application was submitted.”;
- (c) in sub-section (3), for the words “appellate authority or the revisional authority before whom the appeal or revision”, the words “appellate authority, the revisional authority or the reviewing authority before whom the appeal, revision or review” shall be substituted;
- (d) in sub-section (5), for the words “arrear tax, penalty or interest”, the words “arrear tax, penalty, late fee or interest” shall be substituted;
- (6) in section 6, in sub-section (1), for the words “arrear tax, penalty or interest”, the words “arrear tax, penalty, late fee or interest” shall be substituted;
- (7) in section 7,—
- (a) in sub-section (1), —
- (i) in clause (a),—
- (A) after sub-clause (i), the following sub-clause shall be inserted:—
- “(ia) to any arrear tax which otherwise is admitted by the assessee in the return furnished, or in writing before any authority, at the rate of hundred *per centum*, or the actual amount paid in respect of such arrear tax in dispute, whichever is higher;”;
- (B) for sub-clause (ii), the following sub-clause shall be substituted:—
- “(ii) to any other arrear tax in dispute not covered in clause (i), or clause (ia),—
- (A) at the rate of thirty-five *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 is made along with proof of payment of such amount in full; or

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 2.)

- (B) 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 is made alongwith the proof of payment of fifteen *per centum* of the arrear tax in dispute together with a prayer for granting instalment for payment of the remaining balance and such balance amount is paid in maximum of three monthly instalments from the month following the month in which such application has been submitted;”;
- (C) sub-clause (iii) shall be omitted;
- (ii) after clause (aa), the following clause shall be inserted:—
- “(ab) where the dispute relates to any arrear late fee other than the late fee as mentioned in clause (aa), at the rate of zero *per centum* or the actual amount paid in respect of such arrear late fee in dispute, whichever is higher;”;
- (iii) in *Explanation III*, for the words “tax in dispute shall cover all types of disputes related to the pending appeal or revision case”, the words “arrear tax, penalty, late fee or interest in dispute in respect of a case shall cover all types of disputes pending before any authority relating to that case under the relevant Act” shall be substituted;
- (b) for sub-section (2), the following sub-section shall be substituted:—
- “(2) Where the dispute relates to—
- (a) any arrear of penalty referred to in sub-clause (ii) of clause (a) of sub-section (1) of section 2 and an application has been made under this Act in respect of such penalty in dispute, the arrear penalty in dispute shall be waived;
- (b) any arrear of penalty referred to in sub-clause (iii) of clause (a) of sub-section (1) of section 2 and an application has been made under this Act in respect of such penalty in dispute, for arrear penalty in dispute, at the rate of fifty *per centum* of the arrear penalty in dispute, or the actual amount paid in respect of such arrear penalty in dispute, whichever is higher;
- (c) notwithstanding anything contained in clause (b) above, any arrear of penalty referred to in sub-clause (iii) of clause (a) of sub-section (1) of section 2 where the dispute relates to the relevant Act referred to in sub-clause (v) of clause (e) of sub-section (1) of section 2 and an application has been made under this Act in respect of such penalty in dispute, the arrear penalty in dispute shall be waived.”;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

- (8) in section 8, to sub-section (1), the following proviso shall be added:—
 “Provided also that the period of fifteen working days as mentioned in this sub-section shall be counted from the date of submission of proof of payment made in instalments as mentioned in sub-section (1a) of section 5.”;
- (9) in section 10,—
- (a) in the heading, for the words “appeal and revision” the words “appeal, revision and review” shall be substituted;
 - (b) for the words “appeal or revision” the words “appeal, revision or review” shall be substituted;
 - (c) for the words “the appellate or the revisional authority” the words “the appellate or the revisional or the reviewing authority” shall be substituted;
- (10) in section 11,—
- (a) in the heading, for the words “appellate and revisional” the words “appellate, revisional and reviewing” shall be substituted;
 - (b) for the words “appellate authority or revisional authority” the words “appellate authority, revisional authority or reviewing authority” shall be substituted;
 - (c) for the words “appeal or revision or both” occurring in two places, the words “appeal or revision or both or review” shall be substituted;
- (11) in section 12, in sub-section (2),—
- (a) for the words “appeal or revision or both” occurring in two places, the words “appeal or revision or both or review” shall be substituted;
 - (b) for the words “arrear tax, penalty or interest”, the words “arrear tax, penalty, late fee or interest” shall be substituted;
- (12) in section 13, for the words “the appellate authority or the revisional authority” the words “the appellate authority, the revisional authority or the reviewing authority” shall be substituted.

Amendment of
West Ben. Act
XXVIII of 2017.

3. In the West Bengal Goods and Services Tax Act, 2017,—

- (1) in section 2,—
- (a) in clause (4), for the words “the Appellate Authority and the Appellate Tribunal”, the words, figures and brackets “the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171” shall be substituted;
 - (b) in clause (16), for the words “Central Board of Excise and Customs”, the words “Central Board of Indirect Taxes and Customs” shall be substituted;
 - (c) in clause (17), for sub-clause (h), the following sub-clause shall be substituted:—
 “(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and”;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

- (d) clause (18) shall be omitted;
- (e) in clause (35), for the word, letter and brackets “clause (c)”, the word, letter and brackets “clause (b)” shall be substituted;
- (f) in clause (69), in sub-clause (f), after the word and figures “article 371”, the words, figures and letter “and article 371J” shall be inserted;
- (g) in clause (102), the following *Explanation* shall be inserted:—
- Explanation.*—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;”;
- (2) in section 7, with effect from the 1st day of July, 2017,—
- (a) in sub-section (1),—
- (i) in clause (b), after the words “or furtherance of business:”, the word “and” shall be inserted and shall always be deemed to have been inserted;
- (ii) in clause (c), after the words “a consideration”, the word “and” shall be omitted and shall always be deemed to have been omitted;
- (iii) clause (d) shall be omitted and shall always be deemed to have been omitted;
- (b) after sub-section (1), the following sub-section shall be inserted and shall always be deemed to have been inserted:—
- “(1A) Where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.”;
- (c) in sub-section (3), for the words, figures and brackets “sub-sections (1) and (2)”, the words, figures, letter and brackets “sub-sections (1), (1A) and (2)” shall be substituted;
- (3) in section 9, for sub-section (4), the following sub-section shall be substituted:—
- “(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

(4) in section 10, —

(a) in sub-section (1),—

- (i) for the words, “in lieu of the tax payable by him, an amount calculated at such rate”, the words, brackets and figures “in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate” shall be substituted;
- (ii) in the proviso, for the words “one crore rupees”, the words “one crore and fifty lakh rupees” shall be substituted;
- (iii) after the proviso, the following proviso shall be inserted:—

“Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in the State in the preceding financial year or five lakh rupees, whichever is higher.”;

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

“(a) save as provided in sub-section (1), he is not engaged in the supply of services;”;

(5) in section 12, in sub-section (2), in clause (a), for the words, figures and brackets “sub-section (1) of section 31”, the word and figures “section 31” shall be substituted;

(6) in section 13, in sub-section (2), the words, figure and brackets “sub-section (2) of section 31”, occurring in two places, the word and figures “section 31” shall be substituted;

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

(a) in clause (b), for the *Explanation*, the following *Explanation* shall be substituted:—

Explanation.— For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

- (i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
- (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.”;

(b) in clause (c), for the word and figures “section 41”, the words, figures and letter “section 41 or section 43A” shall be substituted;

(8) in section 17,—

(a) in sub-section (3), the following *Explanation* shall be inserted:—

Explanation.—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.”;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

(b) in sub-section (5),—

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

“(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—

(A) further supply of such motor vehicles; or

(B) transportation of passengers; or

(C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used—

(i) for making the following taxable supplies, namely:—

(A) further supply of such vessels or aircraft; or

(B) transportation of passengers; or

(C) imparting training on navigating such vessels;
or

(D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged—

(A) in the manufacture of such motor vehicles, vessels or aircraft; or

(B) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him.”;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

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

“(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(i) membership of a club, health and fitness centre; and

(ii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”.

(9) in section 20, in the *Explanation*, in clause (c), for the words and figures “under entry 84”, the words, figures and letter “under entries 84 and 92A” shall be substituted;

(10) in section 22,—

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

“Provided further that where such person makes taxable supplies of goods or services or both from a special category State in respect of which the Central Government has enhanced the aggregate turnover referred to in the first proviso, he shall be liable to be registered if his aggregate turnover in a financial year exceeds the amount equivalent to such enhanced turnover.”;

(b) in the *Explanation*, in clause (iii), after the words “Constitution”, the words “except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand” shall be inserted;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

(11) in section 24, in clause (x), after the words “commerce operator” the words and figures “who is required to collect tax at source under section 52” shall be inserted.

(12) in section 25,—

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

“Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the State.”; 28 of 2005.

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

“Provided that a person having multiple places of business in the State may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.”;

(13) in section 29,—

(a) in the marginal heading, after the word “Cancellation”, the words “or suspension” shall be inserted;

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

“Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.”;

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

“Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.”.

(14) in section 34,—

(a) in sub-section (1),—

(i) for the words “Where a tax invoice has”, the words “Where one or more tax invoices have” shall be substituted;

(ii) for the words “a credit note”, the words “one or more credit notes for supplies made in a financial year” shall be substituted;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

(b) in sub-section (3),—

- (i) for the words “Where a tax invoice has”, the words “Where one or more tax invoices have” shall be substituted;
- (ii) for the words “a debit note”, the words “one or more debit notes for supplies made in a financial year” shall be substituted.

(15) in section 35, in sub-section (5), the following proviso shall be inserted:—

“Provided that nothing contained in this sub-section shall apply to any department of the Central Government or the State Government or a local authority, whose books of accounts are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”.

(16) in section 39,—

(a) in sub-section (1),—

- (i) for the words “in such form and manner as may be prescribed”, the words “in such form, manner and within such time as may be prescribed” shall be substituted;
- (ii) the words “on or before the twentieth day of the month succeeding such calendar month or part thereof” shall be omitted;
- (iii) the following proviso shall be inserted:—

“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.”;

(b) in sub-section (7), the following proviso shall be inserted:—

“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.”;

(c) in sub-section (9),—

- (i) for the words “in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed”, the words “in such form and manner as may be prescribed” shall be substituted;
- (ii) in the proviso, for the words “the end of the financial year”, the words “the end of the financial year to which such details pertain” shall be substituted.

(17) after section 43, the following section shall be inserted:—

“Procedure for
furnishing return
and availing
input tax credit.

43 A. (1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

(2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.

(3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.

(4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.

(5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.

(6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.

(7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.

(8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—

- (i) within six months of taking registration;
- (ii) who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount,

shall be such as may be prescribed.”.

(18) in section 48, in sub-section (2), after the word and figures “section 45”, the words “and to perform such other functions” shall be inserted.

(19) in section 49,—

- (a) in sub-section (2), for the word and figures “section 41”, the words, letter and figures “section 41 or section 43 A” shall be substituted;
- (b) in sub-section (5),—

(i) in clause (c), the following proviso shall be inserted:—

“Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”;

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

“Provided that the input tax credit on account of Union territory, shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”.

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

(20) after section 49, the following sections shall be inserted:—

“Utilisation of input tax credit subject to certain conditions.

49A. Notwithstanding anything contained in section 49, the input tax credit on account of State tax shall be utilised towards payment of integrated tax or State tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully towards such payment.

Order of utilisation of input tax credit.

49B. Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.”;

(21) in section 52, in sub-section (9), for the word and figures “section 37”, the words and figures “section 37 or section 39” shall be substituted;

(22) in section 54,—

(a) in sub-section (8), in clause (a),—

(i) for the words “zero-rated supplies of goods or services or both”, the words “export of goods or services or both” shall be substituted;

(ii) for the words “zero-rated supplies”, the word “exports” shall be substituted;

(b) in the *Explanation*, in clause (2),—

(i) in sub-clause (c), in item (i), after the words “foreign exchange”, the words “or in Indian rupees wherever permitted by the Reserve Bank of India” shall be inserted;

(ii) for sub-clause (c), the following sub-clause shall be substituted, namely:—

“(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;”;

(23) in section 79, after sub-section (4), the following *Explanation* shall be inserted:—

Explanation.—For the purposes of this section, the word “person” shall include “distinct persons” as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.”;

(24) in section 107, in sub-section (6), in clause (b), after the words “arising from the said order,”, the words “subject to a maximum of twenty-five crore rupees,” shall be inserted;

(25) in section 112, in sub-section (8), in clause (b), after the words “arising from the said order,”, the words “subject to a maximum of fifty crore rupees,” shall be inserted;

(26) in section 129, in sub-section (6), for the words “seven days”, occurring in two places, the words “fourteen days” shall be substituted;

(27) in section 143, in sub-section (1), in clause (b), after the proviso, the following proviso shall be inserted:—

“Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.”;

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

(Clause 3.)

- (28) in Schedule I, in paragraph 4, for the words “taxable person”, the word “person” shall be substituted;
- (29) in Schedule II, in the heading, after the word “ACTIVITIES”, the words “OR TRANSACTIONS” shall be inserted and shall always be deemed to have been inserted with effect from the 1st day of July, 2017;
- (30) in Schedule III,—
- (a) after paragraph 6, the following paragraphs shall be inserted:—
- “7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8. (a) Supply of warehoused goods to any person before clearance for home consumption;
- (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”;
- (b) *Explanation* shall be renumbered as *Explanation 1* and after *Explanation 1*, so renumbered, the following *Explanation* shall be inserted:—
- ‘*Explanation 2.*—For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.’.

52 of 1962.

STATEMENT OF OBJECTS AND REASONS.

The Bill, namely, the West Bengal Taxation Laws (Amendment) Bill, 2018, seeks to amend the following principal Acts:—

- (1) the West Bengal Sales Tax (Settlement of Dispute) Act, 1999.

The provision seeks, *inter alia*, to—

- (a) provide relief to the tax payers by introduction of a comprehensive scheme for settlement of disputes involving all types of arrear tax, interest, penalty or late fee under the relevant Acts pending before any authority on the 31st day of October, 2018,—
- (i) in respect of any period ending on or before the 30th day of June, 2017, for which assessment, audit, special audit etc. have been made, or appeal or revision or review petition has been filed, or a notice or order has been issued regarding payment of tax, interest, late fee or penalty;
- (ii) in respect of a proceeding for recovery of arrears of dues which has been referred to a Certificate Officer under the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913) or to a Tax Recovery Officer under the relevant Act, on or before the 31st day of March, 2014;
- (b) provide for relief to the tax payers through settlement of dispute, if an application is made on or before the 31st day of January, 2019, on payment of—
- (i) 100% of admitted tax under the West Bengal Tax on Entry of Goods into Local Areas Act, 2012 or under any of the other relevant Acts;
- (ii) 35% of the arrear tax in dispute, or 40% of the arrear tax in dispute if paid in instalment, as the case may be, under any of the other relevant Acts; and
- (iii) 50% of the amount of penalty payable, in case of penalty for evasion of tax,

*The West Bengal Taxation Laws
(Amendment) Bill, 2018.*

as the case may be, or the actual amount paid in respect of such arrear in dispute, whichever is higher, and there will be complete waiver of arrear late fee, other penalty and interest in dispute.

(2) the West Bengal Goods and Services Tax Act, 2017.

The provision seeks to amend the provisions of the principal Act on recommendation of the Goods and Services Tax Council mainly to remove the major inconveniences caused to the taxpayers, especially, small and medium enterprises, and *inter alia*,—

- (a) to amend section 2 to clarify certain expressions used in the principal Act;
- (b) to amend section 7 to clarify the scope of supply;
- (c) to amend section 9 empowering the State Government to notify classes of registered persons to pay tax on reverse charge basis for receipt of specified goods from unregistered suppliers;
- (d) to amend section 10 to enhance the limit of composition levy from one crore rupees to one crore and fifty lakh rupees;
- (e) to amend section 17 to further expand the scope of input tax credit;
- (f) to amend section 25 to facilitate the tax payer to have the option to obtain multiple registrations for multiple places of business located within the State and to provide for separate registration for Special Economic Zone unit or developer;
- (g) to amend section 29 to insert a provision for temporary suspension of registration while cancellation of registration is under process;
- (h) to insert a new section 43A to provide for the new system of filing return and availing of input tax credit;
- (i) to insert new section 49A and section 49B, regarding utilisation of input tax credit;
- (j) to amend section 107 to provide that the amount of pre-deposit payable for filing of appeal shall be capped at twenty-five crore rupees;
- (k) to amend section 112 to provide that the amount of pre-deposit payable for filing of appeal before the Appellate Tribunal shall be capped at fifty crore rupees;
- (l) to amend section 143 to authorise the Commissioner to extend the period relating to supply of inputs or capital goods by a principal in respect of jobwork;
- (m) to amend Schedule III to specify certain other supplies of goods which shall be treated neither as supply of goods nor as supply of services.

2. The Bill has been framed with the above objectives in view.

3. There is no financial implication involved in the Bill.

KOLKATA,
The 27th November, 2018.

DR. AMIT MITRA,
Member-in-Charge.

By order of the Governor,

SANDIP KUMAR RAY CHAUDHURI,
Secy. to the Govt. of West Bengal.
Law Department.