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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. 510-L.—7th July, 2021.—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. 9 of 2021**

**THE WEST BENGAL FINANCE BILL, 2021.**

**A**

**BILL**

*to amend the Indian Stamp Act, 1899, in its application to West Bengal and the West Bengal Goods and Services Tax Act, 2017.*

WHEREAS it is expedient to amend the Indian Stamp Act, 1899, in its application to West Bengal and the West Bengal Goods and Services Tax Act, 2017, for the purposes and in the manner hereinafter appearing;

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

1. (1) This Act may be called the West Bengal Finance Act, 2021.

(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, with prospective or retrospective effect as required, as the State Government may, by

2 of 1899.

West Ben. Act  
XXVIII of 2017.

*The West Bengal Finance Bill, 2021.*

(Clauses 2, 3.)

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.

Application and amendment of Act 2 of 1899.

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

(2) In Schedule IA to the principal Act, in article 23, after the entries in the column under heading "Proper Stamp-Duty", after the first proviso, the following proviso shall be inserted:—

"Provided further that if any document, other than document for amalgamation of contiguous land, is executed on or before 30th day of October, 2021, the proper stamp duty payable under this article will be as below:—

- (a) Four per centum of the market value, in case the market value of the property does not exceed rupees one crore, and five per centum of the market value, in case the market value of the property exceeds rupees one crore, when the property is situated in the areas to which the Kolkata Improvement Act, 1911, or Howrah Improvement Act, 1956, extends;
- (b) Four per centum of the market value, in case the market value of the property does not exceed rupees one crore, and five per centum of the market value, in case the market value of the property exceeds rupees one crore, when the property is situated in the areas of any Municipal Corporation or Municipality or a notified area other than those included in clause (a);
- (c) Three per centum of the market value, in case the market value of the property does not exceed rupees one crore, and four per centum of the market value, in case the market value of the property exceeds rupees one crore, when the property is situated in the areas other than those included in clause (a) or clause (b)."

Ben. Act 5 of 1911.  
West Ben. Act XIV of 1956.

Amendment of West Ben. Act XXVIII of 2017.

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

(1) in section 7, in sub-section (1), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017:—

"(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or *vice versa*, for cash, deferred payment or other valuable consideration.

*Explanation.*— For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one such person to another;"

(2) in section 16, in sub-section (2), after clause (a), the following clause shall be inserted:—

"(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;"

(3) in section 35, sub-section (5) shall be omitted:

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*(Clause 3.)*

(4) for section 44, the following section shall be substituted:—

“Annual return. 44. Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account 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.”;

(5) in section 50, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017:—

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.”;

(6) in section 74, in *Explanation*.—1, in clause (ii), for the words and figures “sections 122, 125, 129 and 130”, the words and figures “sections 122 and 125” shall be substituted;

(7) in section 75, in sub-section (12), the following *Explanation* shall be inserted:—

‘*Explanation*.— For the purposes of this sub-section, the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.’;

(8) in section 83, for sub-section (1), the following sub-section shall be substituted:—

“(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.”;

(9) in section 107, to sub-section (6), the following proviso shall be added:—

“Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.”;

*The West Bengal Finance Bill, 2021.**(Clause 3.)*

(10) in section 129,—

(a) in sub-section (1),—

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

“(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;”;

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

“(b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;”;

(b) sub-section (2) shall be omitted;

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

“(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).”;

(d) in sub-section (4), for the words “No tax, interest or penalty”, the words “No penalty” shall be substituted;

(e) for sub-section (6), the following sub-section shall be substituted:—

“(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.”;

(11) in section 130,—

(a) in sub-section (1), for the words “Notwithstanding anything contained in this Act, if”, the word “Where” shall be substituted;

(b) in sub-section (2), in the second proviso, for the words, brackets and figures “amount of penalty leviable under sub-section (1) of section 129”, the words “penalty equal to hundred per cent. of the tax payable on such goods” shall be substituted;

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

*The West Bengal Finance Bill, 2021.**(Clause 3.)*

(12) for section 151, the following section shall be substituted:—

“Power to call for information. 151. The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.”;

(13) in section 152,—

(a) in sub-section (1),—

- (i) the words “of any individual return or part thereof” shall be omitted;
- (ii) after the words “any proceedings under this Act”, the words “without giving an opportunity of being heard to the person concerned” shall be inserted;

(b) sub-section (2) shall be omitted;

(14) in Schedule II, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

**STATEMENT OF OBJECTS AND REASONS.**

The Bill, namely the West Bengal Finance Bill, 2021, seeks to make amendments in the following Acts:—

(i) the Indian Stamp Act, 1899, in its application to West Bengal, is sought to be amended *inter alia* for the following purposes:—

The entire Country and the State is reeling under a devastating pandemic induced economic slowdown. Like others, the Real Estate Sector has been affected very badly and is passing through a huge slump in sales and piling of unsold stock. Buying power of the public has also been affected badly adding more worry to the slowdown. In order to address the same, to trigger demand in the Real Estate market and in turn to create positive impacts in all related industries, the government is coming up with a policy intervention in the form of rebate on the existing rate of stamp duty for a specific period.

Also, to uphold the State Government’s aim of “Affordable housing for all”, the market intervention would support the Registrant public strongly in utilizing the available easy home loans in buying houses amidst this slowdown situation.

This will not only improve the demand and sales in the Real Estate Sector but also ensure increase in employment opportunities related to the sector and a general upsurge in the economy as a whole.

(ii) the West Bengal Goods and Services Tax Act, 2017, is sought to be amended on recommendation of the Goods and Services Tax Council, mainly to provide relief, to simplify provisions and to remove the major inconveniences caused to the taxpayers and seeks *inter alia* :—

(a) to amend section 7, with retrospective effect from the 1st day of July, 2017, by inserting a new clause (aa) in sub-section (1) thereof, so as to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or *vice versa*, for cash, deferred payment or other valuable consideration, and

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- to clarify that the person or its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one person to another;
- (b) to amend section 16, by inserting a new clause (aa) in sub-section (2) thereof, so as to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note;
  - (c) to omit sub-section (5) of section 35, so as to remove the mandatory requirement of getting annual accounts audited and the reconciliation statement submitted by specified professional;
  - (d) to substitute a new section for section 44, so as to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self-certification basis. It further empowers the Commissioner to exempt a class of taxpayers from the requirement of filing the annual return;
  - (e) to amend section 50, so as to charge interest on net cash liability retrospectively with effect from the 1st day of July, 2017;
  - (f) to amend section 74, so as to make seizure and confiscation of goods and conveyances in transit a separate proceeding from the recovery of tax;
  - (g) to amend section 75, so as to insert an *Explanation* in sub-section (12) to clarify that "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39;
  - (h) to substitute sub-section (1) of section 83, so as to provide that provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV till the expiry of a period of one year from the date of order made thereunder;
  - (i) to insert a new proviso in sub-section (6) of section 107, so as to provide that no appeal shall be filed against an order of penalty under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant;
  - (j) to amend section 129, so as to delink the proceedings under that section relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty;
  - (k) to amend section 130, so as to delink the proceedings under that section relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit;
  - (l) to substitute section 151, so as to empower the Commissioner to call for information from any person relating to any matter dealt with in connection with the Act;
  - (m) to amend sub-section (1) of section 152, so as to provide that no information obtained under sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned; and

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- (n) to omit paragraph 7 of Schedule II, with retrospective effect from the 1st day of July, 2017, consequent to the amendments made in section 7.
2. The Bill has been framed with the above objects in view.
3. There is no financial implication involved in giving effect to the provisions of the Bill.

Kolkata,  
*The 7th July, 2021.*

DR. AMIT MITRA,  
*Member-in-charge.*

By order of the Governor,  
SUGATO MAJUMDAR,  
*Secy. to the Govt. of West Bengal,  
Law Department.*