

The West Bengal Motor Vehicles (Taxation On Goods And Passengers) Act, 1985

WEST BENGAL

India

The West Bengal Motor Vehicles (Taxation On Goods And Passengers) Act, 1985

Act 4 of 1985

- Published on 31 March 1985
- Commenced on 31 March 1985
- [This is the version of this document from 31 March 1985.]
- [Note: The original publication document is not available and this content could not be verified.]

The West Bengal Motor Vehicles (Taxation On Goods And Passengers) Act, 1985 West Bengal Act 4 of 1985 [31st March, 1985.] Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, dated the 31st March, 1985. An Act to provide for the levy of a tax on goods and passengers carried in goods vehicles and stage carriages in the State of West Bengal. Whereas it is expedient to provide for the levy of a tax on goods and passengers carried in goods vehicles and stage carriages in the State of West Bengal; It is hereby enacted as follows:-

1. Short title, extent and commencement. -

(1) This Act may be called the West Bengal Motor Vehicles (Taxation on Goods and Passengers) Act, 1985. (2) It extends to the whole of the State of West Bengal. (3) It 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.

2. Definitions. -

In this Act, unless there is anything repugnant in the subject or context, - (1) "goods" includes all kinds of movable property other than actionable claims, stock, shares or securities or personal luggage of passengers travelling in the vehicle when such luggage is not charged for or the equipments used in such vehicle; (2) "goods vehicle" means any motor vehicle, constructed or adapted for use for the carriage of goods, or any motor vehicle not so constructed or adapted but used for the carriage of goods solely or in addition to passengers and includes a trailer when attached to such vehicle; (3) "month" means any month reckoned according to the English Calendar; (4) "notification" means a notification published in the Official Gazette; (5) "operator" means the owner or any person having possession or control of a goods vehicle or a stage carriage

and includes any person whose name is entered in the permit granted under the Motor Vehicles Act, 1939, as the holder thereof;(6)"passenger" means any person travelling in a stage carriage but shall not include the owner or the conductor or an employee of the operator of such carriage travelling in the bona fide discharge of his duties in connection with the vehicle;(7)"prescribed" authority" means the authority prescribed by the State Government by notification for carrying out the purposes of this Act;(8)"quarter" means a quarter of the English Calender year;(9)"stage carriage" means a motor vehicle carrying or adapted to carry more than four persons excluding the driver which carries passengers for hire or reward at separate fares paid or payable by, or for, individual passengers, either for the whole journey or for stages of the journey, and includes such a carriage when used as a contract carriage within the meaning of the Motor Vehicles Act, 1939;(10)"State" means the State of West Bengal;(11)"tax" means the tax referred to in section 4 and section 5;(12)"year" means the English Calender year.

3. Taxing authorities. -

(1)For carrying out the purposes of this Act, the State Government shall prescribe an authority (hereinafter referred to as the prescribed authority) and may, by notification, appoint persons to assist him.(2)Persons appointed under sub-section (1) to assist the prescribed authority shall exercise such powers as may be conferred, and perform such duties as may be required by or under this Act, over such area or areas as may be specified by the State Government by notification.(3)The powers, duties or functions of the prescribed authority may be delegated to the persons appointed under sub-section (1) to assist him in accordance with such rules as may be prescribed.(4)The prescribed authority and the persons appointed under sub-section (1) to assist him shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.(5)Notwithstanding anything contained in sub-section (2), the prescribed authority may transfer any case or matter from any person appointed under sub-section (1) to assist him to any other person so appointed whether such person has jurisdiction over the area to which the case or matter relates or not, provided that such person is otherwise competent to deal with such case or matter in exercise of the powers or in performance of the duties referred to in sub-section (2).(6)The State Government may, by notification, set up check-posts or create barrier or both at various places in any part of the State.

4. Levy and charge of tax. -

(J)Subject to other provisions of this Act, there shall be levied and collected from an operator a tax on all goods carried by goods vehicles and on all passengers carried by stage carriages at such rate not exceeding thirty per centum of the value of the freight, or fare, attributable to a journey within the State, as may, by notification, be fixed in this behalf by the State Government and different rates may be fixed in respect of different classes of such vehicles :Provided that the State Government may, by notification, also fix a lump sum not exceeding seventy-five rupees which may be paid by an operator for a single journey of such vehicle in lieu of the tax chargeable on the freight or fare in case the tax calculated at such rate exceeds the lump sum as specified therein.(2)The tax payable shall be paid at such point and in such manner as may be prescribed.

5. Payment of tax at compounded rate. -

(1) Notwithstanding anything contained in sub-section (1) of section 4, the prescribed authority may permit an operator, in such circumstances, under such conditions and against such class of goods vehicles or stage carriages as may be specified by the State Government by notification, to compound the tax payable either under sub-section (1) of section 4 or under the proviso thereto by paying, in lieu thereof, a tax at the rate fixed in this behalf for any quarter of the year in respect of the vehicles mentioned in such notification and different rates may be fixed by the State Government by such notification for different classes of goods vehicles and stage carriages: Provided that the State Government shall not fix any amount of tax which exceeds two hundred and fifty rupees for a quarter in respect of any class of vehicles mentioned in the notification. (2) Tax payable under this Act shall be paid at such point and in such manner as may be prescribed.

6. Verification of payment of tax and determination of tax. -

(1) Save as is provided in this Act, no goods or passengers shall be allowed to be carried by a goods vehicle or stage carriage unless the driver or the person-in-charge of such goods vehicle or stage carriage has in his possession such documents as may be prescribed showing the freight or fare on which tax is chargeable under this Act or denoting that the tax due under this Act has been paid. (2) Where the prescribed authority is satisfied that the operator has not paid any tax due under this Act, he shall determine and collect such tax at such point and in such manner as may be prescribed.

7. Refund of tax. -

The prescribed authority shall, in the prescribed manner, refund to an operator applying in this behalf any amount of tax which he paid in excess of the amount due from him: Provided that no refund shall be made unless the claim for refund is made within six months from the date of payment or from the date of the order giving rise to such refund.

8. Appeal and revision. -

(1) Subject to the rules made under this Act, any operator objecting to the imposition of any tax or any order passed under this Act may, within sixty days from the date of imposition of such tax or from the date of such order, appeal in the prescribed manner to such authority as may be prescribed. (2) The appellate authority as may be prescribed may, after giving the appellant a reasonable opportunity of being heard, pass such order as he thinks fit. (3) Subject to the rules made under this Act, and for reasons to be recorded in writing, the prescribed authority may, on his own motion, revise any order passed under this Act.

9. Furnishing information and maintenance of accounts. -

Every operator shall furnish any information that may be required by the prescribed authority in order to enable him to carry out the purposes of this Act and maintain such accounts as may be prescribed for determination of tax payable under this Act.

10. Interception, search, detention and seizure of vehicle and accounts. -

(1)The prescribed authority or any person appointed under subsection (1) of section 3 to assist him may, for the purpose of verifying whether any goods vehicles or stage carriages are carrying goods or passengers in contravention of any provisions of this Act, and subject to such restrictions as may be prescribed,-(i)intercept and search any goods vehicles or stage carriages at any place on any route in the State;(ii)data in such vehicle where he has reason to believe that the tax payable under this Act in respect of the goods carried by such vehicles has not been paid until evidence in support of payment of the tax is produced or such tax is paid in the prescribed manner;(iii)seize the goods vehicle or stage carriage upon granting proper receipt in the prescribed manner after detention where tax is not paid within such time as may be prescribed from the time of detention.(2)Any driver or a person in charge of the goods vehicle or stage carriage shall, in accordance with such rules as may be made under this Act, stop his vehicle at any place on the route at the instance of the prescribed authority or any person appointed under sub-section (i) of section 3 to assist him and detain it until such reasonable times as may be required to search and inspection referred to in sub-section (1).

11. Offences and penalty. -

(1)Whoever-(a)fails to furnish information and maintain accounts under section 9,(b)fails to comply with the requirement of the provisions of subsection (2) of section 10, or(c)obstructs any officer authorised in this behalf making interception, inspection, detention and seizure under section 10, or(d)fraudulently evades tax payable under this Act, or(e)contravenes any of the provisions of this Act or rules made thereunder, shall be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both and for the offence of contravention of sub-section (2) of section 10 the Court may, in addition to fine, order confiscation of his goods vehicle or stage carriages seized under section 10.(2)In any prosecution for an offence under this Act which requires a culpable mental state of the part of the accused, the Court shall presume the existence of such culpable mental state until the contrary is proved.Explanation.- In this sub-section "culpable mental state" includes intention, motive, knowledge of fact and belief in, or reason to believe, a fact.

12. Compounding of offences. -

Subject to such conditions as may be prescribed, any person alleged to have committed an offence under any of the clauses of sub-section (1) of section 11. may either before, or after, commencement of any proceedings against him in respect of such offence at his option compound such offence by

paying to the prescribed authority such sum not exceeding five thousand rupees as may be determined by the prescribed authority.

13. Power to make rules. -

(1)The State Government may, by notification, make rules, with retrospective or prospective effect, for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:-(a)the point at which and the manner in which tax shall be paid as required under section 4, section 5 and section 6;(b)the documents as required under sub-section (1) of section 6;(c)the manner in which refund is to be made and the time by which an application of refund is to be made under section 7;(d)the conditions subject to which and the manner in which appeal is to be made under section 8 and the form for appeal therefor;(e)the conditions subject to which a revision is to be made by the prescribed authority on his own motion under sub-section (3) of section 8;(f)the accounts as required to be maintained under section 9;(g)the conditions and restrictions subject to which interception, search, detention and seizure are to be made under section 10.

14. Exemption from payment of tax. -

Notwithstanding anything contained in section 4 or section 5, the State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification and subject to such conditions as may be specified therein, direct that no tax shall be payable in respect of the carriage of such goods or passengers or such class of goods or passengers as may be specified in such notification or that tax shall be paid at such lower rate as may be specified in that notification.

15. Bar to certain proceedings. -

(1)No suit shall lie in any civil court against any action taken or order passed under this Act or the rules made thereunder.(2)No suit, prosecution or other legal proceeding shall lie against any authority under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

16. Power to remove difficulties. -

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order not inconsistent with the provisions of this Act, remove the difficulty :Provided that no such order shall be made after the expiry of a period of two years from the date of publication of this Act in the Official Gazette.