

The West Bengal Building Tax Act, 1996.

WEST BENGAL

India

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Act 19 of 1996

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The West Bengal Building Tax Act, 1996. West Bengal Act 19 of 1996 [30th July, 1996.] Assent of the Governor first published in the Calcutta Gazette. Extraordinary. dated the 30th July, 1996. An Act to provide for levy, collection, enforcement and recovery of building tax and for matters connected therewith or incidental thereto. Whereas it is expedient to provide for the levy, collection, enforcement and recovery of building tax and for matters connected therewith or incidental thereto; It is hereby enacted as follows : -

1. Short title, extent and commencement. -

(1) This Act may be called the West Bengal Building Tax Act, 1996. (2) It extends to the whole 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 the context otherwise requires, - (a) "annual value", in relation to any year, means - (i) the cost of construction of a building or part thereof with fittings and fixtures, including the market value of the land or the proportionate market value of the land if such land relates to any part of a building, or (ii) in the case where transfer of ownership or delivery of possession of any building or part thereof is made otherwise than by way of a registered instrument, the market value of such building, excluding such amount of depreciation and cost of repair or maintenance of the building as may be prescribed. Explanation. - "Any year" shall mean the year during which a building or part thereof is constructed or during which the ownership or possession of a building or part thereof is transferred or delivered, as the case may be ; (b) "building" means any house or structure of masonry or bricks, constructed wholly or partly, with four or more storeys including the ground floor, on any land - (i) owned by any person, or (ii) held by any person in his possession or control under the authority, or with the permission, of the owner of the land, where such house or structure has been constructed on or after the 1st day of April, 1980, by a person or where such house or

structure has been in occupation or possession of, or in use by, a person on or after the 1st day or April, 1980;(c)"building tax" means the tax levied under section 4;(d)"Bureau" means the Bureau of Investigation to in section 7 of the West Bengal Sales Tax Act, 1994;(e)"owner" means any person -(i)who has constructed a building in his own name or in the name of any other person under the authority of such person for the purpose of transfer of the possession, or ownership, of such building or part thereof, otherwise than by way of any instrument registered under the Registration Act, 1908, and where such person does not use or occupy the building or part thereof himself, or(ii)who is in occupation or possession of such building or part thereof, or who uses such building or part thereof, and delivery or transfer of such possession, or ownership, of such building or part thereof, has been made to him otherwise than by a conveyance referred to in clause (10) of section 2 of the Indian Stamp Act, 1899, and registered under the Registration Act, 1908,but does not include any person who is in possession of such building or part thereof, or who uses such building or part thereof, as a bona fide tenant;(f)"period" means of period of time commencing on or after the date of coming into force of this Act during which a person continues to be the owner of a building or part thereof;(g)"prescribed" means prescribed by rules made under this Act;(h)"year" means the financial year.

3. Taxing authorities. -

(1)For carrying out the purposes of the this Act, the State Government, by notification published in the Official Gazette, shall prescribe an authority (hereinafter referred to as the prescribed authority), and may appoint such officers to assist the prescribed authority and to exercise jurisdiction, powers and authority over such area or areas, as may be specified therein.(2)Subject to such restrictions and conditions as may be prescribed, the prescribed authority may, by an order in writing, delegate any of its powers and authority under this Act, except the power under sub-section (4) of section 20, to any other officers appointed under sub-section (1) to assist it.(3)The officers appointed under sub-section(1) to assist the prescribed authority shall exercise such powers and authority, and perform such duties, of the prescribed authority under this Act as may be delegated to them under sub-section (2).(4)Notwithstanding anything to the contrary contained in sub-section(1), the prescribed authority may transfer any case or matter from any officer appointed under sub-section (1) to assist the prescribed authority, whether such officer has jurisdiction over the area to which the case or matter relates or not, provided such officer is otherwise competent to deal with the case or matter in exercise of the powers, or in performance of the duties, referred to in sub-section (2).(5)The prescribed authority may transfer to, or withdraw to himself from, any officer any case or matter which any other officer appointed under sub-section (1) to assist the prescribed authority is competent to deal with in exercise of the powers and authority delegated to him under sub-section (2) or transfer from any such officer any such case or matter to any other officer appointed under sub-section (1), who is otherwise competent to deal with such case or matter under sub-section (2), to deal with such case or matter.(6)The prescribed authority and the officers appointed under subsection (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

4. Liability to pay building tax. -

Every owner within the meaning of sub-clause (i), or sub-clause (ii), as the case may be, of clause (e) of section 2 of a building or part thereof shall be liable to pay a building tax at the rate of five per centum of the annual value of such building or part thereof, for the period during which such person continues to be the owner of such building or part thereof.

5. Declaration for determination of annual value of building. -

Every owner within the meaning of sub-clause (i) or sub-clause (ii), as the case may be, of clause (e) of section 2, of a building or part thereof shall furnish a declaration in such Form, in such manner, and within such period as may be prescribed, -(i)in the case where such building or part thereof has been constructed by him with respect to the amount of the cost of construction of such building or part thereof including the market value of the land, if he does not use himself, or is not in occupation or possession of, such building or part thereof, or(ii)in the case where transfer of ownership or possession of a building or part thereof has been made or delivered to him, otherwise than by a registered instrument, with respect to the market value of such building,for determination of annual value under section 6.

6. Determination of annual value of building and tax payable. -

(1)The prescribed authority shall, on receipt of the declaration referred to in section 5, or on the basis of information received by him, determine in such manner' as may be prescribed the annual of a building or part thereof and the amount of the building tax payable by the owner for the period during which he continues to be owner of such building or part thereof, after giving him a reasonable opportunity of being heard.(2)The prescribed authority shall, in such manner as may be prescribed, demand, by a notice, from the owner of a building or part thereof the amount of the building tax determined under sub-section (1) for the period during which such person continues to be owner of such building or part thereof.(3)On the service of notice upon the owner of a building or part thereof under sub-section (2, the amount of building tax, if not paid within the prescribed time, shall be a charge upon the building or part thereof of the defaulting owner and every other charge created subsequent to the service of the notice under sub-section (2) shall be postponed.

7. payment of tax. -

(1)Every owner of a building or part thereof shall make payment of the building tax by such time and after such intervals as may be prescribed into the Reserve Bank of India or a Government Treasury and a receipted challan showing the payment of such tax in respect of a period or part thereof shall be furnished to the prescribed authority in such manner as may be prescribed.(2)If the owner fails to make payment of tax referred to in sub-section (1) within the prescribed time, such tax shall be recoverable as an arrear of land revenue.

8. Refund of tax. -

Where any owner proves to the satisfaction of the prescribed authority, upon application made by him within one year from the date of payment of the tax by him, that a tax in respect of the building or part thereof has been paid by him in excess of what is payable under section 6, the amount of the excess tax so paid by him shall be refunded to him in the prescribed manner.

9. Maintenance of records. -

(1) Every owner shall maintain and keep true and upto date records or documents in respect of the construction, its plan, and cost of construction, repair or maintenance of a building or part thereof incurred by him or in respect of the valuable consideration for transfer of the building or part thereof to him for his occupation or use. (2) The records or documents referred to in sub-section (1) shall at all reasonable time be open to inspection by the prescribed authority. (3) The prescribed authority may, subject to such conditions and restrictions as may be prescribed, require any person to produce, and explain, and or the records or documents in respect of any building or part thereof.

10. Power to inspect building. -

The prescribed authority or any officer appointed under sub-section (1) of section 3 to assist it may, subject to such restrictions and conditions as may be prescribed and upon information received or otherwise, that the owner of a building or part thereof is attempting to evade tax under this Act, enter such building or part thereof for inspection, or any place where the owner is suspected to have concealed any records or documents in respect of such building or part thereof, in order to collect material information with respect to possible annual value of such building or part thereof if such building or part thereof is liable to tax under this Act.

11. Power to make seizure of records. -

Where the prescribed authority or any officer appointed under sub-section (1) of section 3 has reasons to believe that person is attempting to evade payment of tax payable in respect of any building or part thereof under this Act, such authority or officer may, after recording such reasons in writing, seize the records or documents referred to in sub-section (1) of section 9 in respect of such building or part thereof upon granting receipt for the records or documents seized: Provided that the prescribed authority or the officer shall not retain, or authorise the retention of, any of the records or documents seized for a period exceeding six months from the date of seizure unless it or he records, in writing, the reasons therefor.

12. Bureau. -

(1) The Bureau may, on information, or when the State Government or the prescribed authority so directs, carry out investigation or hold inquiry into any case of alleged or suspected evasion of tax as well as malpractices connected therewith and a report of such investigation or inquiry shall be sent

to the State Government or the prescribed authority, as the case may be.(2)The Bureau may, for the purpose of carrying out investigation or holding inquiry under sub-section (1), exercise all the powers of the prescribed authority under section 10 and section 11.

13. Appeal. -

(1)Any person or owner aggrieved by any order passed or action taken under this Act may, in such manner and by such time as may be prescribed, appeal to such authority as may be prescribed (hereinafter referred to as the appellate authority):Provided that no appeal shall be entertained by the appellate authority unless it is satisfied that the appellant has paid such amount of tax as he admits to be due from him.(2)The appellate authority may, in its discretion, pending disposal of an appeal, stay recovery of tax due from an owner on such terms and conditions as may be specified in his stay order.

14. Review. -

Subject to such rules as may be made by the State Government, any order passed under this Act by the prescribed authority or any officer appointed under sub-section (1) of section 3, may be reviewed by the prescribed authority or the person passing it, upon application or on its or his own motion.

15. Suo motu revision. -

Subject to such rules as may be made by the State Government, the prescribed authority may, on its own motion, revise any order passed by any officer appointed under sub-section (1) of section 3 to assist the prescribed authority.

16. Power of taking evidence on oath. -

The prescribed authority or any officer appointed under sub-section (1) of section 3 shall, for the purposes of this Act, have the same powers as are vested in a court when trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters.: -(a)enforcing the attendance of any person and examining him on oath and affirmation,(b)compelling production of records or documents, and(c)issuing commissions for the examination of any witness,and any proceeding including inquiry or investigation under this Act before the prescribed authority or any officer appointed under sub-section (1) of section 3 of assist the prescribed authority shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228, and for the purposes of section 196, of the Indian Penal Code.

17. Power of State Government to exempt from payment of tax. -

Where the State Government is satisfied that the delivery of possession of a building or part thereof has been made to any owner by a registered instrument within one year from the date of construction or delivery or possession thereof, as the case may be, [or within three years from the

date of commencement of this Act,] [Words substituted for the words 'or from the date of commencement of this Act.' by W.B. Act 3 of 1999 w.e.f. 22.1.1997.] whichever is later, or if the State Government considers it expedient in the public interest, that Government may, by notification published in the Official Gazette, or by a special order, exempt such class or classes of owners of such buildings or parts thereof or such class or classes of buildings or parts thereof occupied or used by such class or classes of owners, for such occupation or use of such buildings or parts thereof or for such period or periods as may be specified therein, from payment of tax under this Act.

18. Indemnity of Government servant. -

No suit, prosecution or other legal proceedings shall lie against any Government servant for anything which is in goods faith done or intended to be done under this Act or the rules made thereunder.

19. Bar to proceedings in civil court. -

No order passed or action taken against any person under this Act or the rules made thereunder by the prescribed authority or any officer appointed under sub-section (1) of section 3 to assist the prescribed authority shall be called into question in any civil court and no appeal or application for revision shall lie against any order passed under this Act or the rules made thereunder in any civil court.

20. Offences and penalties. -

(1)(a)Whoever fails to make payment of tax under section 7 by the date prescribed, shall be punishable with simple imprisonment for three years, or with fine not exceeding ten thousand rupees, or with both.(b)The offence punishable under this sub-section shall be cognizable and non-bailable.(2)Whoever -(i)furnishes false declaration referred to in section 5, or(ii)fails to furnish declaration referred to in section 5 within the prescribed time, or(iii)fails to produce or explain the records or documents under section 9, or(iv)obstructs the prescribed authority or any officer appointed under sub-section (1) of section 3 to assist the prescribed authority from entering any building for inspection under section 10,shall be punishable with simple imprisonment which may extend to two years, or with fine not exceeding ten thousand rupees, or with both.(3)Whoever obstructs the prescribed authority or any officer appointed under sub-section (1) of section 3 to assist it or any officer of the Bureau while making inspection under section 10 or seizure of records or documents under section 11 shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.(4)Any offence punishable under sub-section (2) or sub-section(3) shall be cognizable and bailable.(5)No court shall take cognizance of any offence under this Act or the rules made thereunder except with the previous sanction of the prescribed authority, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate shall try such offence.

21. Power to make rules. -

(1)The State Government may, by notification published in the Official Gazette, make rules prospectively or retrospectively 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 matters which are required to be prescribed or to be provided for by rules.