

The West Bengal Finance Act, 2017

WEST BENGAL

India

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Act 3 of 2017

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The West Bengal Finance Act, 2017 (West Bengal Act No. 3 of 2017) [Passed by the West Bengal Legislature] [Assent of Governor was first published in the Kolkata Gazette Extraordinary, of the 6th March, 2017] An Act to amend the Indian Stamp Act, 1899, in its application to West Bengal, the West Bengal Taxation Tribunal Act, 1987, the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, the West Bengal Tax on Entry of Goods into Local Areas Act, 2012, and the West Bengal Value Added Tax Act, 2003, and to provide for validation in respect of levy, assessment and collection of tax etc. under the West Bengal Tax on Entry of Goods into Local Areas Act, 2012. Whereas it is expedient to amend the Indian Stamp Act, 1899 (2 of 1899.) in its application to West Bengal, the West Bengal Taxation Tribunal Act, 1987 (West Ben. Act VIII of 1987), the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, (West Ben. Act IV of 1999), the West Bengal Tax on Entry of Goods into Local Areas Act, 2012 (West Ben. Act I of 2012), the West Bengal Value Added Tax Act, 2003, (West Ben. Act XXXVII of 2003) to provide for validation in respect of levy, assessment and collection of tax etc. under the West Bengal Tax on Entry of Goods into Local Areas Act, 2012, and for the purposes and in the manner hereinafter appearing; It is hereby enacted in the Sixty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:-

1. Short title and commencement.

(1) This Act may be called the West Bengal Finance Act, 2017. (2) Save as otherwise provided, this section and section 6 shall come into force at once, section 5 shall be deemed to have come into force retrospectively from the 1st day of April, 2012, 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.

2. Application and amendment of Act 2 of 1899.

(1) In the Indian Stamp Act, 1899, (2 of 1899) in its application to West Bengal (hereinafter referred to as the principal Act) shall, in its application to West Bengal, be amended for the purpose and in the manner hereinafter provided. (2) In Schedule 1A to the principal Act, - (a) in Article 5, in item (d), after the entries in the column under heading "Proper stamp-duty", the following proviso shall be inserted: - "Provided that in case of agreement relating to sale or assignment or lease-cum-sale for flats or apartments or units which are under construction or to be constructed, the stamp-duty shall be charged at the rate of two per centum of the market value of the property subject to fulfillment of conditions as mentioned in Article 23. Explanation. - For the flats or apartments or units whose plan has been sanctioned within the period from the 1st day of January, 2015 to the date of effect of this section, the above provisions shall, mutatis mutandis, apply at the time of registration of such agreement, subject to the conditions that the final conveyance shall be completed within the 31st day of January, 2019." (b) in Article 23, after the entries in the column under heading "Proper stamp-duty", the following provisos shall be inserted: - "Provided that in any case when an agreement relating to sale is executed and registered with the ad valorem stamp-duty required under the proviso to article 5(d) and in furtherance of such agreement - (a) if the final conveyance is made within four years from the date of agreement or within two years from the date of completion/occupancy certificate issued by appropriate authority or from the date of procurement of electric connection, whichever is earlier, in favour of the original purchaser or in favour of the member(s) of his/her family, the market value of the property as assessed at the time of registration of such agreement shall be treated as the market value of the property for the purpose of determination of chargeability at the time of registration of the final conveyance and the stamp duty to be paid on such conveyance shall be the difference between the duty payable and the duty already paid under the proviso to Article 5(d) at the time of registration of the agreement or rupees ten, whichever is greater; (b) If the final conveyance is made, beyond the time limit as specified in clause (a), in favour of the original purchaser or in favour of the member(s) of his/her family, the market value of the property shall be reassessed at the time of registration of such conveyance and the stamp-duty to be paid on such conveyance shall be the difference between the duty payable and the duty already paid under the proviso to Article 5(d) at the time of registration of the agreement or rupees ten, whichever is greater: Provided further that the above provisions shall not be applicable, if final conveyance is made in favour of any person or persons other than the original purchaser or the member(s) of his/her family. Explanation. - For the purpose of this article, the expression "member of a family" shall have the same meaning as defined in Article 33'; (c) in Article 43, - (i) in item (a), in the column under heading "Description of Instruments", for the words "of any goods including currency", the words "of any goods or commodities, excluding currency and interest rate relating to forward contract," shall be substituted; (ii) in item (aa), in the column under heading "Description of Instruments", for the words "of any goods including currency", the words "of any goods or commodities, excluding currency and interest rate relating to forward contract," shall be substituted; (iii) in item (ab), in the column under heading "Description of Instruments", for the words "of any goods including currency", the words "of any goods or commodities, excluding currency and interest rate relating to forward contract," shall be substituted; (iv) in item (ac), in the column under heading "Description of Instruments", for the words "of any goods including currency", the words "of any goods or commodities, excluding currency and interest rate relating to

forward contract," shall be substituted;(v)after item (ac) , in the columns under heading "Description of Instruments" and "Proper stamp-duty" the following entries shall be inserted:-

"(ad) of currency and interest raterelating to forward contract, including futures and premium onoptions contract and also including all exercise and assignedcontracts, traded through an association or otherwise;	-One paise for every Rs 5000 or part thereof"
(vi)in item (b), in sub-item (iv), in the columns under heading "Description of Instruments", for the words "if relating to forward contracts", the words "if relating td forward contracts, including futures and premium on options contract and also including all exercise and assigned contracts," shall be substituted;(vii)after item (b), in the columns under heading "Description of Instruments" and "Proper stamp-duty", the following entries relating thereto shall be inserted:-	
"(bb) of debt security including bond; Fifty paise for every Rs. 1,00,000 or part thereof;"	
(d)in the columns under headings "Description of Instruments" and "Proper stamp-duty", the following entries relating thereto shall be inserted:-"43A. Note or Record of Transaction. - [Electronics or otherwise] effected by a broker or agent on self-account (proprietary trade) through a stock exchange or the association or otherwise-	
(a) if relating to purchase or sale of any goodsor commodities, excluding currency and interest rate relating toforward contract, exceeding in value twenty rupees;	Fifty paise for every Rs 5 000 or part thereof;"
(aa) if relating to purchase or sale of any goods or commodities,excluding currency and interest rate relating to forwardcontract, exceeding in value twenty rupees but not delivered;	Five paise for every Rs. 5,000 or part thereof;"
(ab) if relating to purchase or sale of any goods or commodities,excluding currency and interest rate relating to forwardcontract, exceeding in value twenty rupees relating to future andoptions trading;	Five paise for every Rs. 5,000 or part thereof;"
(ac) if relating to purchase, or sale of any goods orcommodities, excluding currency and interest rate relating toforward contract, exceeding in value twenty rupees relating toforward contract of commodities, including futures and premium onoptions contract and also including all exercise and assignedcontracts;	Five paise for every Rs. 5,000 or part thereof;"
(ad) if relating to purchase or sale of currency and interestrates relating to forward contract, including futures and premiumon options contract and also including all exercise and assignedcontracts;	One paise for every Rs. 5,000 or part thereof;"
(b) if relating to purchase or sale of any stockor marketable security exceeding in value twenty rupees but notbeing a debt security or Government security;	
(i) in case of delivery	Fifty paise for every Rs. 5,000 or partthereof;"
(ii) in case of non-delivery	Five paise for every Rs. 5,000 or part thereof;"

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| (iii) if relating to future and options trading | Five paise for every Rs. 5,000 or part thereof;" |
| (iv) if relating to forward contracts, including futures and premium on options contract and also including all exercise and assigned contracts; | Five paise for every Rs. 5,000 or part thereof;" |
| (bb) of debt security including bond | Fifty paise for every Rs. 5,000 or part thereof;" |
| (c) of a Government security | Subject to maximum of rupees fifty, fifty paise for every Rs. 10,000 or part thereof of the value of these security"; |
- (e) in Article 63, after the entries in the column under heading "Proper stamp-duty", the following provisos are to be added:-` Provided that in any case when an agreement relating to assignment or lease-cum-sale is executed and registered with the ad valorem stamp-duty required under the proviso to Article 5(d) and in furtherance of such agreement-(a) if the final assignment or lease-cum-sale is made, within four years from the date of agreement or within two years from the date of completion or occupancy certificate issued by appropriate authority or from the date of procurement of electric connection, whichever is earlier, in favour of the original purchaser or in favour of the members of his or her family, the market value of the property as assessed at the time of registration of such agreement shall be treated as the market value of the property for the purpose of determination of chargeability at the time of registration of the final assignment or lease-cum-sale and the stamp-duty to be paid on such assignment or lease-cum-sale, shall, be the difference between the duty payable and the duty already paid under the proviso to article 5(d) at the time of registration of the agreement or rupees ten, whichever is greater;(b) if the final assignment or lease-cum-sale is made beyond the time limit as specified in clause (a), in favour of the original purchaser or in favour of the member(s) of his/her family, the market value of the property shall be reassessed at the time of registration of such assignment or lease-cum-sale and the stamp duty to be paid on such assignment or lease-cum-sale, shall be the difference between the duty payable and the duty already paid under the proviso to article 5(d) at the time of registration of the agreement or rupees ten, whichever is greater: Provided further that the above provisions shall not be applicable if final assignment or lease-cum-sale is made in favour of any person or persons other than those specified therein. Explanation. - For the purpose of this article, the expression "member of a family" shall have the same meaning as defined in Article 33.

3. Amendment of West Ben. Act VIII of 1987.

- In the West Bengal Taxation Tribunal Act, 1987 (West Ben. Act VIII of 1987), in the Schedule, after the last entry relating to "The West Bengal Value Added Tax Act, 2003", the following entries shall be inserted under the columns with headings "Year", "Number" and "Short title of the specified State Act", respectively:- "2012 The West Bengal Tax on Entry of Goods into Local Areas Act, 2012".

4. Amendment of West Ben. Act IV of 1999.

- In the West Bengal Sales Tax (Settlement of Dispute) Act, 1999, (West Ben. Act IV of 1999.) in section 8, in sub-section (1), for the words "seven working days", the words "fifteen working days" shall be substituted.

5. Amendment of West Ben. Act I of 2012.

- In the West Bengal Tax on Entry of Goods into Local Areas Act, 2012, (West Ben. Act I of 2012.) (1) in section 4, in sub-section (5), for clause (b) and clause (c), the following clause shall be deemed to have been substituted with effect from 1st day of April, 2012:-(b) turnover of imports of a dealer whose such turnover does not exceed rupees five lakh during a return period, subject to a maximum of total deduction of rupees twenty lakh in a year"; (2) in section 18, in sub-section (1), in clause (c), for the words "maintenance of linking", the words "maintenance of infrastructure for linking" shall be deemed to have been substituted from the 1st day of April, 2012.

6. Validation in respect of the West Bengal Tax on Entry of Goods into Local Areas Act. 2012.

- Notwithstanding anything contained in any judgment, decree or order of any court or other authority, no levy, assessment including provisional assessment, deemed assessment or summary assessment, reassessment or collection of any tax, interest, late fee or penalty made or purporting to have been made under the provisions of the West Bengal Tax on Entry of Goods into Local Areas Act, 2012 (West Ben. Act I of 2012.) (hereinafter referred to as the said Act) before the date of coming into force of this provision, shall be deemed to be invalid or ever to have been invalid on the ground only that such levy, assessment including provisional assessment, deemed assessment or summary assessment, reassessment or collection was not in accordance with law and such tax, interest, late fee or penalty levied, assessed, reassessed or collected or imposed or purporting to have been levied, assessed, reassessed or collected or imposed shall, for all purposes, be deemed to be and always to have been validly levied, assessed, reassessed or collected or imposed as if such levy, assessment including provisional assessment, deemed assessment or summary assessment, reassessment or collection or action or thing, had been made, taken or done under the said Act as amended by section 5 of the principal Act, and accordingly -(i) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any authority in connection with the levy, assessment including provisional assessment, deemed assessment or summary assessment, reassessment or collection of such tax, interest, late fee or penalty shall, for all purposes, be deemed to be and to have always been done or taken in accordance with law; (ii) no suit or other proceedings shall be maintained or continued in any court against the State Government or any person or other authority whatsoever for the refund of any tax, interest, late fee or penalty so paid; (iii) refund shall be made upon assessment to a dealer who has already paid the tax but is covered by clause (b) of sub-section (5) of section 4 of the said Act; and (iv) no court shall enforce any decree or order directing the refund of any tax, interest, late fee or penalty so paid: Provided that nothing in this section shall be construed as preventing any person from questioning, in accordance

with the provisions of the said Act and rules made thereunder, the assessment of any tax for any period, or from claiming refund of any tax, interest or late fee paid by him in excess of the amount payable by him under the said Act.

7. Amendment of West Ben. Act XXXVII of 2003.

- In the West Bengal Value Added Tax Act, 2003, (West Ben. Act XXXVII of 2003.) (1) in section 10, in sub-section (3), in clause (b), in the proviso, for the words "ten lakh rupees", the words "twenty lakh rupees" shall be substituted; (2) in section 14, - (a) in sub-section (4), for the words "ten lakh rupees", occurring in two places, the words "twenty lakh rupees" shall be substituted; (b) in sub-section (5), for the words "ten lakh rupees", the words "twenty lakh rupees" shall be substituted; (c) in sub-section (6), for the words "ten lakh rupees", the words "twenty lakh rupees" shall be substituted; (d) in sub-section (7), for the words "ten lakh rupees", the words "twenty lakh rupees" shall be substituted; (e) in sub-section (8), for the words "ten lakh rupees", the words "twenty lakh rupees" shall be substituted; (3) in section 16, in sub-section (3), - (a) for the words "at such compounded rate not exceeding one per centum", the words "at such compounded rate or rates not exceeding three per centum" shall be substituted; (b) for the words, figure and brackets "in lieu of tax payable under sub-section (2), on all his sales", the words, figure and brackets "in lieu of tax payable under sub-section (2), on all his sales, and for such purpose different rates may be prescribed for different class of dealers" shall be substituted; (c) in the proviso, clause (b) shall be omitted; (4) in section 30E, - (a) sub-section (1A) shall be omitted; (b) sub-section (I B) shall be omitted; (c) in sub-section (1C), for the words, figures, letters and brackets "Every registered dealer, other than those mentioned in sub-section (1A) or sub-section (IB), who are required", the words "Every registered dealer who is required" shall be substituted; (d) in sub-section (2), for the words, figures, letters and brackets "subsection (1), sub-section (1A), sub-section (IB)", the words, figure and brackets "sub-section (1)" shall be substituted; (5) in section 77, in sub-section (1), in the TABLE, - (a) in the entry in column (2) against serial number 1 in column (1), for the words "does not exceed four per centum", the words "does not exceed five per centum" shall be substituted; (b) in the entry in column (2) against serial number 2 in column (1), for the words "exceeds four per centum but does not exceed fifteen per centum", the words "exceeds five per centum but does not exceed fifteen per centum" shall be substituted; (6) in Schedule A, - (a) after serial number 4A in column (1) and the corresponding entry in column (2), the following serial numbers in column (I) and entries relating thereto in column (2) shall be inserted: - "4B. Biodiesel, excluding ethanol.

4C. Biomass briquettes;"

(b) after serial number 20E in column (1) and the corresponding entry in column (2), the following serial number in column (1) and entries relating thereto in column (2) shall be inserted: - "20F. Hair bands and hair clips;" (c) after serial number 22BA in column (1) and the corresponding entry in column (2), the following serial number in column (1) and entry relating thereto in column (2) shall be inserted: - "22BB. Kerosene stove"; (d) after serial number 23AA in column (1) and the corresponding entry in column (2), the following serial number in column (1) and entry relating thereto in column (2) shall be inserted. "23AB. Leaf plates and cups"; (e) in the entry in column (2) against serial number 35D in column (1), for the words "solar lights," the words "solar lights, solar

water heaters," shall be substituted;(f)in the entry in column (2) against serial number 40 in column (1), for the words "Tile frame", the words "Teracotta tiles, tile frame" shall be substituted;(7)in Schedule C,-(a)in Part 1,-(i)serial number 13A in column (1) and the corresponding entries in column (2) shall be omitted;(ii)`"Serial number 34A in column (1) and the corresponding entries in column (2) shall be omitted;(iii)serial number 43BB in column (1) and the corresponding entries in column (2) shall be omitted;(iv)serial number 44 in column (1) and the corresponding entries in column (2) shall be omitted;(v)in the entry in column (2) against serial number 54B in column (1), after item `number (xxvii) and the entry thereto, the following item number and entry thereto shall be inserted:-"(xxviii) Machinery for generation of electricity from waste".