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PART IIIA—Ordinances promulgated by the Governor of West Bengal under the Constitution of India.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Ordinance No. I of 2010

**THE WEST BENGAL TAXATION LAWS (AMENDMENT)
ORDINANCE, 2010.**

WHEREAS it is expedient to amend the West Bengal Sales Tax Act, 1994 and the West Bengal Value Added Tax Act, 2003, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XLIX of 1994.
West Ben.
Act XXXVII
of 2003.

AND WHEREAS the Legislative Assembly of the State of West Bengal is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

The Governor is pleased, in exercise of the power conferred by clause (1) of article 213 of the Constitution of India, to make and promulgate the following Ordinance:—

Short title and
commencement.

1. (1) This Ordinance may be called the West Bengal Taxation Laws (Amendment) Ordinance, 2010.

(2) It shall come into force with effect from the 15th day of November, 2010.

Amendment of
section 72 of West
Ben. Act XLIX of
1994.

2. In the West Bengal Sales Tax Act, 1994, in section 72,—

(1) for sub-section (1), the following sub-sections shall be substituted:—

“(1) When a goods vehicle transporting any goods enters into West Bengal and is bound for any place outside West Bengal, the transporter transporting such goods, shall, before entering of such vehicle into West Bengal, make a declaration in such Form, available in the website, as may be prescribed,—

*The West Bengal Taxation Laws (Amendment)
Ordinance, 2010.
(Section 2.)*

- (a) *firstly*, by way of transmitting certain information required to be furnished in connection with the said declaration electronically through such website, either under digital signature or without any digital signature, including a statement made by him that the goods being so transported in his vehicle shall not be unloaded, delivered or sold in West Bengal;
- (b) *secondly*, by way of generating electronically the paper form of the declaration created on the basis of the information which has been successfully transmitted by him electronically under clause (a):

Provided that if there is any possibility of transshipment in West Bengal of the goods so carried by such transporter, he shall declare the same in the said declaration while making it:

Provided further that where the transporter makes declaration of the possible transshipment in West Bengal as mentioned in the first proviso or where after leaving the place through which the goods vehicle enters into West Bengal, any transshipment is made under any compelling circumstances, such transporter who makes such transshipment, shall transmit the particulars of the new vehicle electronically through such website:

Provided also that the provisions of this sub-section shall not apply where the transporter transporting such goods proves to the satisfaction of the Commissioner or such other authority as may be prescribed, that the transport of such goods in such vehicle is in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, to sub country as the State Government may, by notification, specify.

74 of 1956.

(1A) The paper form of the declaration generated in the manner mentioned in sub-section (1), shall remain valid for a period not exceeding seven days computed from the expected date of entry of the goods vehicle in West Bengal as declared by the transporter in such declaration and where the goods are bound for export to a foreign country or the goods have been imported from a foreign country, such paper form of the declaration shall remain valid for a period not exceeding thirty days computed from the expected date of entry of the goods vehicle in West Bengal as declared by the transporter.

(1B) If the transporter transporting the goods in a goods vehicle cannot enter into West Bengal with a valid declaration in paper form before the expected date of exit as declared by such transporter in the declaration referred to in sub-section (1), such transporter may again generate a fresh declaration in paper form in the manner mentioned in sub-section (1) after cancelling the earlier one.

(1C) The transporter shall not transport any goods in a goods vehicle bound for any place outside West Bengal unless he has in his possession of a valid declaration in paper form referred to in sub-section (1).

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Ordinance, 2010.*

(Section 2.)

(1D) Where it appears to the transporter transporting the goods in a goods vehicle, after entering into West Bengal with the declaration referred to in sub-section (1) that for certain reason, it will not be possible for him to move outside West Bengal with the said declaration with the goods transported in a goods vehicle, within the period specified in the declaration, he shall, before the expiry of the validity of the said declaration, make application for revalidation of the said declaration to the Commissioner in the following manner:—

- (a) *firstly*, by making such application electronically for revalidation of the declaration for such time as deemed necessary by him; and
- (b) *secondly*, by generating electronically the paper form of the declaration revalidated by the Commissioner,

and shall commence the transportation of the goods by the goods vehicle bound for place outside West Bengal with the said revalidated declaration.”;

(2) in sub-section (2),—

- (a) for the words, figure and brackets “For the purpose of sub-section (1), the consignment note or the document of like nature the declaration together with such other documents as may be prescribed, shall be produced before the Commissioner at the first check post that the transporter reaches after entry of the vehicle into West Bengal or,” the following words, figure and brackets shall be substituted:—

“The transporter shall enter from any place into West Bengal with a valid declaration, in paper form, generated by him in accordance with the provisions of sub-section (1) together with such other documents as may be prescribed and shall produce the said declaration including those documents before the Commissioner.”;

- (b) for the words “before it reaches the first check post, before such other authority as may be prescribed, at the place where the vehicle is intercepted”, the following words shall be substituted:—

“by him during its transit from the place of entry into West Bengal and ultimate exit of the goods vehicle outside West Bengal with such goods.”;

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

(4) sub-section (4) shall be omitted;

(5) in sub-section (5),—

- (a) for the words, figures and brackets “at any place, other than those referred to in sub-section (2) and sub-section (4), within West Bengal”, the words “at any place within West Bengal” shall be substituted;
- (b) for the words, figure and brackets “other documents referred to in sub-section (2) and”, the words, figure and brackets “other documents referred to in sub-section (2) and shall, upon being satisfied after verification of the goods with such declaration and other documents, return the declaration and other documents after countersigning the same in such manner as may be prescribed and may” shall be substituted;

*The West Bengal Taxation Laws (Amendment)
Ordinance, 2010.
(Section 3.)*

- (6) after sub-section (5), the following sub-section shall be inserted:—
- “(5A) The transporter transporting the goods in a goods vehicle bound for any place outside West Bengal with the declaration referred to in sub-section (1), shall, within a period of two days after the exit of the said vehicle outside West Bengal, inform the Commissioner electronically through the website of the date, time and place of exit of the goods vehicle outside West Bengal and obtain, after transmission of the said information, by way of generating electronically, a receipt in return acknowledging receipt of the said information.”;
- (7) in sub-section (6), for the words, figure and brackets “the Commissioner or the other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (8) in sub-section (7),—
- (a) for the words, figure and brackets “the Commissioner or the other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (b) in the proviso, for the words “the Commissioner or the other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (9) in sub-section (9), for the words, “the Commissioner or the other authority”, the words “the Commissioner” shall be substituted;
- (10) for sub-section (14), the following sub-section shall be substituted:—
- “(14) Subject to the provisions of sub-section (10) and sub-section (12), if the goods vehicle, transporting the goods, does not move outside West Bengal within the period of validity of the declaration or if no receipt as referred to in sub-section (5A) is obtained from the Commissioner, it shall be presumed that the goods so transported have been sold in West Bengal by the transporter transporting the said goods in the said vehicle, and he shall be deemed to be a dealer under this Act.”.

Amendment of
West Ben. Act
XXXVII of 2003.

3. In the West Bengal Value Added Tax Act, 2003,—
- (1) in section 16, in sub-section (2), in clause (ba), for the words “twelve decimal five zero *per centum*”, the words “thirteen decimal five zero *per centum*” shall be substituted;
- (2) in section 80,—
- (a) for sub-section (1), the following sub-sections shall be substituted:—
- “(1) When a goods vehicle transporting any goods, other than goods specified in Schedule A, enters into West Bengal and is bound for any place outside West Bengal, the transporter, carrier or transporting agent or any other person transporting such goods, shall, before entering of such vehicle into West Bengal, make a declaration in such Form, available in the website, as may be prescribed,—
- (a) *firstly*, by way of transmitting certain information required to be furnished in connection with the said declaration electronically through such website, either under digital signature or without any digital signature, including a statement made by him that the goods being so transported in his vehicle shall not be unloaded, delivered or sold in West Bengal,
- (b) *secondly*, by way of generating electronically the paper form of the declaration created on the basis of the information which has been successfully transmitted by him electronically under clause (a):
- Provided that if there is any possibility of transshipment in West Bengal of the goods so carried by such transporter, carrier or transporting agent or any other person, he shall declare the same in the said declaration while making it:

*The West Bengal Taxation Laws (Amendment)
Ordinance, 2010.*

(Section 3.)

Provided further that where the transporter, carrier or transporting agent or any other person makes declaration of the possible transshipment in West Bengal as mentioned in the first proviso or where after leaving the place through which the goods vehicle enters into West Bengal, any transshipment is made under any compelling circumstances, such transporter, carrier or transporting agent or any other person who makes such transshipment, shall transmit the particulars of the new vehicle electronically through such website:

Provided also that the provisions of this sub-section shall not apply where the transporter, carrier or transporting agent or any other person transporting such goods proves to the satisfaction of the Commissioner or such other authority as may be prescribed, that the transport of such goods in such vehicle is in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, to such country as the State Government may, by notification, specify.

74 of 1956.

(1A) The paper form of the declaration generated in the manner mentioned in sub-section (1), shall remain valid for a period not exceeding seven days computed from the expected date of entry of the goods vehicle in West Bengal as declared by the transporter, carrier or transporting agent or any other person in such declaration and where the goods are bound for export to a foreign country or the goods have been imported from a foreign country, such paper form of the declaration shall remain valid for a period not exceeding thirty days computed from the expected date of entry of the goods vehicle in West Bengal as declared by the transporter, carrier or transporting agent or any other person in such declaration.

(1B) If the transporter, carrier or transporting agent or any other person transporting the goods in a goods vehicle cannot enter into West Bengal with a valid declaration in paper form before the expected date of exit of the goods vehicle from West Bengal as declared by such transporter, carrier or transporting agent or any other person in the said declaration referred to in sub-section (1), such transporter, carrier or transporting agent or any other person may again generate a fresh declaration in paper form in the manner mentioned in sub-section (1) after cancelling the earlier one.

(1C) The transporter, carrier or transporting agent or any other person shall not transport any goods in a goods vehicle bound for any place outside West Bengal unless he has in his possession of a valid declaration in paper form referred to in sub-section (1).

(1D) Where it appears to the transporter, carrier or transporting agent or any other person transporting the goods in a goods vehicle, after entering into West Bengal with the declaration referred to in sub-section (1) that for certain reason, it will not be possible for him to move outside West Bengal with the said declaration alongwith the goods transported in a goods vehicle, within the period specified in the declaration, he shall, before the expiry of the validity of the said declaration, make application for revalidation of the said declaration to the Commissioner in the following manner:—

- (a) *firstly*, by making such application electronically for revalidation of the declaration for such time as may be deemed necessary by him; and

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(Section 3.)

- (b) *secondly*, by generating electronically the paper form of the declaration revalidated by the Commissioner, and shall commence the transportation of the goods by the goods vehicle bound for place outside West Bengal with the declaration so revalidated.”;
- (b) in sub-section (2),—
- (i) for the words, figures and brackets “For the purpose of sub-section (1), the declaration referred to in sub-section (1) together with such other documents as may be prescribed, shall be produced before the Commissioner at the first check post that the transporter, carrier or transporting agent or any other person reaches after entry of the vehicle into West Bengal or,”, the following words, figure and brackets shall be substituted:—
- “The transporter, carrier or transporting agent or any other person shall enter from any place into West Bengal with a valid declaration, in paper form, generated by him in accordance with the provisions of sub-section (1) together with such other documents as may be prescribed and shall produce the said declaration including those documents before the Commissioner.”;
- (ii) for the words “before it reaches the first check post, before such other authority as may be prescribed, at the place where the vehicle is intercepted”, the following words shall be substituted:—
- “by him during its transit from the place of entry into West Bengal and ultimate exit of the goods vehicle outside West Bengal with such goods.”;
- (c) sub-section (3) shall be omitted;
- (d) sub-section (4) shall be omitted;
- (e) in sub-section (5),—
- (i) for the words, figures and brackets “at any place, other than those referred to in sub-section (2) and sub-section (4), within West Bengal”, the words “at any place within West Bengal” shall be substituted;
- (ii) for the words, figure and brackets “other documents referred to in sub-section (2) and”, the words, figure and brackets “other documents referred to in sub-section (2) and shall, upon being satisfied after verification of the goods with such declaration and other documents, return the declaration and other documents after countersigning the same in such manner as may be prescribed and may” shall be substituted;
- (f) after sub-section (5), the following sub-section shall be inserted:—
- “(5A) The transporter, carrier or transporting agent or any other person transporting the goods in a goods vehicle bound for any place outside West Bengal with the declaration, referred to in sub-section (1), shall, within a period of two days after the exit of the said vehicle outside West Bengal, inform the Commissioner electronically through the website of the date, time and place of exit of the goods vehicle outside West Bengal and obtain, after transmission of the said information, by way of generating electronically, a receipt in return acknowledging receipt of the said information.”;

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- (g) in sub-section (6), for the words, figure and brackets “the Commissioner or any other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (h) in sub-section (7),—
- (i) for the words, figure and brackets “the Commissioner or any other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (ii) in the proviso, for the words, figure and brackets “the Commissioner or any other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (i) in sub-section (9), for the words, figure and brackets “the Commissioner or any other authority referred to in sub-section (5)”, the words “the Commissioner” shall be substituted;
- (j) for sub-section (14), the following sub-section shall be substituted:—
- “(14) Subject to the provisions of sub-section (10) and sub-section (12), if the goods vehicle, transporting the goods, does not move outside West Bengal within the period of validity of the declaration or if no receipt as referred to in sub-section (5A) is obtained from the Commissioner, it shall be presumed that the goods so transported have been sold in West Bengal by the transporter, carrier or transporting agent or any other person transporting the said goods in the said vehicle, and he shall be deemed to be a dealer under this Act.”;
- (3) in Schedule CA, for the words and figures “List of goods taxable at 12.5%”, the words and figures “List of goods taxable at 13.5%” shall be substituted.

KOLKATA,
The 12th November, 2010.

M. K. NARAYANAN
Governor of West Bengal.

By order of the Governor,
K. Y. S. MANHAS,
*Pr. Secy.-in-charge to the Govt. of West Bengal,
Law Department.*