

WEST BENGAL FINANCE ACT, 1993

O Ben. Act X of 1935. Ben. Act. VI of 1941, West Ben. Act IV of] 954. West Ben. Act V of West Ben. Act XI of GOVERNMENT OF WEST BENGAL LAW DEPARTMENT Legislative West Bengal Act V of 1993 THE WEST BENGAL FINANCE ACT, 1993. [Passed by the West Bengal Legislature.] [Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, of the 7th April, 1993.] [7th April, 1993.] An Act to amend the Bengal Electricity Duty Act, 1935, the Bengal Finance (Sales Tax) Act, 1941, the West Bengal Sales Tax Act, 1954, the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the West Bengal Motor Spirit Sales Tax Act, 1974. WHEREAS it is expedient to amend the Bengal Electricity Duty Act, 1935, the Bengal Finance (Sales Tax) Act, 1941, the West Bengal Sales Tax Act, 1954, the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the West Bengal Motor Spirit Sales Tax Act, 1974, for the purposes and in the manner hereinafter appearing; 1. (1) This Act may be called the West Bengal Finance Act, 1993. (2) It shall come into force on the 15th day of April, 1993

2. In the Bengal Electricity Duty Act, 1935, in the Second Schedule, (1) after exemption (12), the following exemption shall be added: "(13) a- newly set up industrial unit, save in respect of premises used for residential purposes, for a period of five years from the date of first commercial production."; (2) after Explanation (4), the following Explanation shall be added: 'Explanation (5).—For the purposes of exemption (13), the expression "a newly set up industrial unit" means an industrial unit which is established and commissioned by its owner for the manufacture of goods in West Bengal for the first time on or after the 1st day of April, 1993, under any scheme approved by the State Government.' 77 Short title and commencement. Amendment of Ben. Act X of 1935. The West Bengal Finance Act, 1993. [West Ben. Act Amendment of Ben. Act VI of 1941. 3. (Section 3.) In the Bengal Finance (Sales Tax) Act, 1941,— (1) in section 2, after clause (1a), the following Clause shall be inserted: '(1 a-I) "casual trader" means a person, other than a registered dealer, who, whether as a principal or agent or in any other capacity, makes occasional purchases of goods in West Bengal for purposes other than his personal use or consumption of such goods in West Bengal or makes occasional sales of goods in West Bengal, and who has no fixed place of business in West Bengal, and includes a consignor or a consignee of goods in West Bengal or a transporter as defined in clause (a) of the Explanation to section 14C and an owner or lessee of a godown or warehouse let out to any person for storage of goods. Explanation I.—A transporter, who while carrying goods in his goods vehicle within the meaning of section 14C fails to identify the consignee or consignor in West Bengal or fails to furnish correct particulars of such consignee or consignor, shall be deemed to be a casual trader in respect of any goods carried in his goods vehicle. Explanation 2.—An owner or lessee of a godown or warehouse, who fails to identify the owner of any goods stored in such godown or warehouse or fails to furnish correct particulars of such owner of the goods, shall be deemed to be a casual trader in respect of such goods;' ; (2) after section 4B, the following sections shall be inserted:— 4C. (1) Notwithstanding anything "Liability to pay purchase contained elsewhere in this Act, a casual trader tax by a shall, subject to the provision of sub- casual trader. section (3), be liable to pay tax on his every purchase of goods in West Bengal: Provided that no tax shall be levied on (a) purchases of goods sales of which are declared tax-free under section 6; (b) purchases of goods specified in section 14 of the Central Sales Tax Act, 1956, on aprior sale or purchase whereof in West Bengal due tax is shown to the satisfaction of the Commissioner to have been paid; 78 74 of 1956. The West Bengal Finance Act, 1993. V of 1993.] (Section 3.) (c) purchases of goods in West Bengal which are shown to the satisfaction of the Commissioner to have been made from a registered dealer in West Bengal; (d) such other purchases on such conditions and restrictions as may be prescribed. (2) The tax payable by a casual trader on purchase of any goods shall be levied at the rate as applicable to the sale of such goods under clause (a), clause (bbb), clause (bbbb), clause (c), clause (cccc), clause (d), clause (d l), or clause (e), as the case may be, of sub-section (1) of section 5. (3) Where a casual trader makes regular sales in the course of business from a fixed place of business in West Bengal and gets himself registered under section 7 or section 8, tax, if any, paid under this section on purchases made within one year immediately preceding the date of registration shall, on application, be refunded in accordance with the provision of sub-section (1) of section 12. (4) The tax payable under this section shall, notwithstanding anything contained in sub-section

(2) of section 11, be determined and collected in such manner and by such authority as may be prescribed and paid by a casual trader at such time and at such interval as may be prescribed. (5) The provisions of production, inspection and seizure of accounts and search under section 14 shall apply to a casual trader as and when the Commissioner requires him to produce accounts and documents, or as and when the Commissioner makes any seizure of accounts and documents from him or search, as the case may be. (6) Where there is no claimant of the ownership of any goods, whether in the custody of a transporter or stored in a godown or warehouse in West Bengal, and where such transporter, or such owner or lessee of the godown or warehouse denies his liability to pay tax under this section. the Commissioner or any person appointed under sub-section (I) of section 3 to assist him Inay, with a view to checking evasion of tax payable under this section, seize such goods from the custody of the transporter or from the godown or warehouse of the owner or lessee of goods, if necessary. by breaking open the door of such godown or warehouse, and shall, before making seizure, prepare an inventory of such goods in the prcsnee of the transporter or the ownrcr or the lessee of the godown or warehouse, as the ease rmay be, and get such inventory countersigned by hilli or any other witness. 79 The West Bengal Finance Act, 1993. [West Ben. Act (Section 3.) (7) If the goods seized under sub-section (6) are not claimed by the bona fide owner of such goods within fifteen days from the date of seizure, the Commissioner may sell such goods in open auction and adjust the amount of tax on purchases of goods that may be determined under sub-section (4) with the sale proceeds of the goods and deposit the balance, if any, with a Government Treasury for refund to the bona fide owner of goods upon claim preferred in the prescribed manner within one year. (8) The provisions of appeal, review or revision under section 20 shall apply to deterrnination of tax or any order passed under this section or section 4D. Liability to. pay ta_x on sales by a casual trader. 4D. (1) Notwithstanding anything contained elsewhere in this Act, a casual trader shall be liable to pay tax on all his sales in West Bengal of goods, brought by him into West Bengal from outside West Bengal, or procured by him otherwise than by way of purchase from a person, other than a registered dealer: Provided that no tax shall be levied on (a) sales of goods declared tax-free •under section 6; (b) Sales of goods notified under section 4A, tax on which is payable by him; (c) sales of goods which are effected on or after the date on which •he has become liable to pay tax under section 4 or sub-section (3) of section 8 and has been registered under section 7 or section 8. (2) The tax payable under this section by a casual trader shall be levied at the rate provided in clause (a), clause (bbb), clause (c), clause (cccc), clause (d), clause (d l) or clause (e), as the case may be, of sub-section (1) of section 5. (3) The tax payable under this section shall, notwithstanding anything contained in sub-section (2) of section 1 1, be determined and collected in such manner and by such authority as may be prescribed and paid by a casual trader at such time and at such interval as may be prescribed."; (3) in section 5, in sub-section (2), in sub-clause (ii) of clause (a), after the words and figures "the Central Sales Tax Act, 1956", the words, letters and figures "and goods referred to in Serial No. 46 of Schedule 11" shall be inserted; 80 74 of 1956. The West Bengal Finance Act, 1993. V of 1993.] (Section 3.) (4) in section 6D,— (a) in sub-section (l), in clause (a), after the words and brackets "(hereinafter referred to as contractual transfer)", the words "in West Bengal" shall be inserted and shall be deemed to have been inserted from the 1st day of April, 1984; (b) in the Explanation I, after the words "goods used", the words "by way of accretion or accession in West Bengal" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984; (5) in section IOF,— (a) in sub-section (1),— (i) in clause (a),— (A) for the words "such area in West Bengal as may be prescribed," , the words "West shall be substituted; Bengal," (B) after the words "in respect of goods", the words " , other than such goods as may be prescribed," shall be inserted; (ii) in clacuse (b),— (A) for the words "such area in West Bengal as may be prescribed," , the words "West Bengal," shall be substituted; (B) after the words "in respect of goods", the words " , other than such goods as may be prescribed," shall be inserted; (iii) for the words "seven years," , the words "nine years," shall be substituted; (iv) for the words "in different areas.' ' , the words "in different areas as may be prescribed:" shall be substituted; (b) to sub-section (l), the following provisos shall be added:— "Provided that deferment of payment of tax payable by a dealer in respect of sales of goods manufactured by him in any of the prescribed areas may be restricted to sales of such class or classes of goods as may be prescribed: 81 The West Bengal Finance Act, 1993. [West Ben. Act (Section 3.) Provided further that the period prescribed under this sub-section and sub-section (2) may, subject to such conditions and restrictions as may be prescribed, be extended by two years in the cases of such industrial units as may be prescribed where investment in fixed capital assets exceeds one hundred

crore rupees." , (c) in sub-section (2), for the words "seven years", the words "nine years, or eleven years in the case of the industrial units referred to in the second proviso to sub-section (1)," shall be substituted; (d) in sub-section (3), (i) for the words "ninety per centum", the words "one hundred per centum" shall be substituted; (ii) for the words "thirty-five crore", the words "fifty crore" shall be substituted; (e) after sub-section (3), the following sub-sections shall be inserted:— (3a) A newly set up industrial unit or an existing industrial unit, (a) where such newly set up industrial unit was established and commissioned by the dealer for manufacture of goods in West Bengal for the first time on or after the 1st day of April, 1989, but not later than the 31st day of March, 1993, or (b) where such existing industrial unit was established before the 1st day of April, 1989, and has enjoyed, or has been entitled to enjoy, the benefit of deferment of payment of tax in accordance with the provisions of sub-section (2) and sub-section (3) as they stood before the coming into force of the West Bengal Finance Act, 1993, shall continue to be so eligible in accordance with the said provisions. (3b) Subject to such conditions and restrictions as may be prescribed, a dealer who has enjoyed the benefit of deferment of payment of tax under this section may, in addition to such benefit as enjoyed by him, be eligible, if he so opts, for further deferment of payment of such amount of tax or the aggregate of the amounts of tax as may be equivalent to 82 The West Bengal Finance Act, 1993. V of 1993.] (Section 3.) the capital investment subsidy receivable by him under any scheme approved by the State Government for such period, not exceeding four years from such date, as may be prescribed."; (f) in the Explanation, (i) for the words "For the purposes of this section," the words, figures and letter "For the purposes of this section or section IOG," shall be substituted; (ii) in clause (i), for the figures "1989," the figures "1993," shall be substituted; (iii) in clause (iii), after the word "capacity", the words, figures and letters "on or after the 1st day of April, 1993," shall be inserted; (iv) in clause (iv), for the words "fixed assets", the words "fixed capital assets" shall be substituted; (6) in section IOG, (a) in sub-section (1) (i) for the word "new", wherever it occurs, the words "newly set up" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1990; (ii) for the words "in such area in West Bengal as may be prescribed.", the words "in West Bengal," shall be substituted; the words (iii) for the words "ninety per centum", "one hundred per centum" shall be substituted; (iv) for the words "thirty-five crore", the words "fifty crore" shall be substituted; (v) for the words "in different areas:", the words "in different areas as may be prescribed:" shall be substituted; (vi) in the proviso,— (A) for the words "five years" the words "nine years" shall be substituted; (B) for the words "four years", the words "nine years" shall be substituted; (vii) after the existing proviso, the following provisos shall be added: 83 The West Bengal Finance Act, 1993. [West Ben. Act (Section 3.) "Provided further that a newly set up industrial unit or an existing industrial unit,— (a) where such newly set up industrial unit was established and commissioned by the dealer for manufacture of goods in West Bengal for the first time on or after the 1st day of June, 1990, but not later than the 31st day of March, 1993, or (b) where such existing industrial unit was established before the 1st day of June, 1990, and has enjoyed, or has been entitled to enjoy, the benefit of remission of tax in accordance with the provisions of this sub-section and the first proviso thereto as they stood before the coming into force of the West Bengal Finance Act, 1993, shall continue, or shall be entitled, to enjoy such benefit in accordance with the said provisions: Provided also that remission of tax payable by a dealer in respect of goods manufactured by him in any of the prescribed areas may be restricted to sales of such class or classes of goods as may be prescribed: Provided also that the period prescribed under the first proviso may, subject to such conditions and restrictions as may be prescribed, be extended by two years in the cases of such industrial units as may be prescribed where investment in fixed capital assets exceeds one hundred crore rupees."; (b) after sub-section (1), the following sub-section shall be inserted:— "(1a) Subject to such conditions and restrictions as may be prescribed, a dealer who has enjoyed the benefit of remission of tax under this section may, in addition to such benefit as enjoyed by him, be eligible, if he so opts, for further remission of such amount of tax or the aggregate of the amounts of tax as may be equivalent to the capital investment subsidy receivable by him under any scheme approved by the State Government for such period, not exceeding four years from such date, as may be prescribed."; 84 The West Bengal Finance Act, 1993. of 1993.] (Section 3.) (c) in sub-section (4), in clause (ii), the words, figures and brackets beginning with "if the first" and ending with "Act, 1990" shall be omitted; (7) after section IOG, the following sections shall be inserted: IOH. (1) A registered dealer in respect of such "Deferment and industrial unit in West Bengal as the State remission of Government may, by general or special order, tax for closed declare as a closed unit shall, subject to the

other industrial units. provisions of this section, be eligible for deferment of payment of tax according to the provisions of section IOF or remission of tax according to the provisions of section IOG where (a) the ownership of the business relating to such unit is transferred by sale or otherwise, to such dealer for being registered as a transferee according to section 17, and (b) such unit is rehabilitated or revived on or after the 1st day of April, 1993, by such dealer under any scheme approved by the State Government in this behalf on transfer of the ownership of the business relating to such unit. (2) A closed unit after being rehabilitated or revived shall be deemed to be a newly set up industrial unit for the purposes of section IOF or section IOG, and the part of the eligible period, if any, for which the transferor-dealer has availed the benefit of deferment of payment of tax or remission of tax, shall not be reckoned with for computation of the eligible period for the transferee-dealer. (3) The amount of tax or the aggregate of the amounts of tax payable by, or due from, the dealer, upon the transfer of the business under section 17 relating to such unit, shall be such percentage of the gross value of fixed capital assets on the date of first commercial production in such unit following the rehabilitation or revival, as prescribed under section IOF of section IOG, as the case may be. (4) The amount of tax or the aggregate of the amounts of tax that a registered dealer, upon the transfer of the business relating to such unit under section 17, is eligible for deferment under sub-section (3) of section IOF or remission of tax under section IOG, as the case may be, shall be reduced by 85 The West Bengal Finance Act, 1993. [West Ben. Act (Section 3.) the amount of tax in respect of which the transferor-dealer has enjoyed the benefit of deferment of payment of tax under section IOF or remission of tax under section IOG, as the case may be. (5) The provisions of sub-section (4) of section IOF or sub-section (3) of section IOG shall not apply to a closed unit if the transferor-dealer of such unit has enjoyed benefit under section IOF or section IOG before the closure of such unit, but if such registered dealer opts once for deferment of payment of tax after its rehabilitation or revival, he shall not be eligible for ren-hission of tax and vice-versa. Deferment and 101. (1) A registered dealer in respect of such industrial unit in West Bengal as the State remission of tax for sick Government Inay, by general or special order, industrial units. declare as a sick unit shall, subject to the other provisions of this section, be eligible for deferment of payment of tax or remission of tax according to the provisions of section IOF or section IOG, as the case may be, where such unit is rehabilitated or revived by such dealer himself on or after the 1st day of April, 1993, under any scheme approved by the State Government. (2) The benefit of the deferment of payment of tax or remission of tax, as the case may be, referred to in sub- section (1), shall be available to a new owner of the business relating to such unit if the ownership of such business is taken over by, and transferred to, such new owner and registered as transferee-dealer according to section 17, and the unit is rehabilitated or revived by such new owner, being the transferee-dealer, on or after the 1st day of April, 1993, under any scheme approved by the State Government. (3) A sick unit after being rehabilitated or revived shall be deemed to be a newly set up industrial unit in West Bengal, and the part of the eligible period, if any, for which the dealer availed of the benefit before the rehabilitation or revival, shall not be reckoned with for computation of the eligible period for the dealer or transferee-dealer, as the case may be, after such rehabilitation or revival. (4) The amount of tax or the aggregate of the amounts of tax payable by or due from, the dealer upon rehabilitation or revival of such unit by the dealer himself, or upon 86 The West Bengal Finance Act, 1993. V of 1993.] (Section 3.) rehabilitation or revival by the transferee-dealer on transfer of the ownership of business according to section 17 relating to such unit, shall be such percentage of the gross value of fixed capital assets on the date of first commercial production in such unit following the rehabilitation or revival, as prescribed under section • IOF or section IOG, as the case may be. (5) The amount of tax or the aggregate of the amounts of tax that such dealer, upon rehabilitation of such unit by the dealer himself or upon rehabilitation on transfer of the business relating to such unit according to section 17, is entitled to deferment under sub-section (3) of section IOF, or remission of tax under section IOG, shall be reduced by the amount of tax in respect of which the dealer has enjoyed the benefit of deferment of payment of tax under section IOF or remission of tax under section IOG, as the case may be, before rehabilitation or revival of the unit." , (8) in section H, in sub-section (2a),— (i) in clause (a), for the words "four years" in the two places where they occur, the words "two years" shall be substituted; (ii) in clause (b),— (A) in sub-clause (i), for the words "four years" in the two places where they occur, the words "two years" shall be substituted; (B) in sub-clause (ii), for the words "four years" in the two places where they occur, the words "two years" shall be substituted; (iii) in the second proviso, after the words "in pursuance of an order", the words, figures, letter and brackets "under

sub-section (2) of section HE or" shall be inserted; (iv) for the third proviso, the following proviso shall be substituted: "Provided also that if the provisions of sub- section (1) of section I IE do not apply to any assessment in respect of any of the periods ending on or before the 31st day of December, 1992, such assessment shall, notwithstanding the foregoing provisions of this sub- section, be made on or before the 31st day of December, 1994."; 87 The West Bengal Finance Act, 1993. [West Ben. Act (Section 3.) (9) for section 1 IE, the following section shall be substituted:— 1 1 E. (1) Notwithstanding anything "Assessment deemed to contained in sub-section (1) of section 11, returns be made in furnished by a registered dealer in respect of the certain cases. periods commencing on and from the day immediately following the latest period for which assessment under sub-section (1) of section 1 1 has been made and ending on or before the 31st day of December, 1992 (hereinafter referred to as the eligible period) shall be accepted as correct and complete and all assessments in respect of such eligible period shall, subject to the provisions of sub-section (2), be deemed to have been made on the 30th day of June, 1993: Provided that on the failure of any dealer to furnish any return for any period of a year, the provisions for assessment of tax under this sub-section for other period or periods of that year shall, notwithstanding that returns have been furnished by such dealer for such period or periods of that year, not be applicable: Provided further that where any assessment made under sub-section (1) of section 11 in respect of any of the eligible periods has been set aside under section 20 with direction to make fresh assessment, the provisions of this sub-section shall not apply to such fresh assessment. (2) Where the Commissioner is satisfied on information or otherwise that a registered dealer— (a) has concealed any sales or particulars thereof, or (b) has furnished incorrect statement of his turnover or incorrect particulars of his sales in the return submitted under section 10 or otherwise, relating to an assessment made under sub-section (1) which has resulted in reduction of the amount of tax payable by him under this Act in respect of any of the periods, the Commissioner shall, subject to such conditions as may be prescribed, within six years from the date of such assessment, reopen in the prescribed manner the assessment for such period and, after giving such dealer a reasonable opportunity of being heard, make fresh assessment under sub-section (1) of section 11 for such period to the best of his judgement. (3) The Commissioner shall, while making the fresh assessment under sub-section (2) in respect of any registered 88 The West Bengal Finance Act, 1993. of 1993.] (Section 3.) dealer for any period, direct such dealer to pay, in addition to tax assessed afresh and penalty imposed, if any, under sub-section (1) of section 11 a sum not less than twice, but not exceeding thrice, the amount of tax assessed by way of further penalty: Provided that no penalty shall be imposed under this sub- section on a registered dealer in respect of such period where he discovers omission or error or other facts resulting in short payment of tax due from him according to books of accounts and furnishes a declaration in the prescribed form together with a receipted challan showing payment of the balance amount of tax which is found to be payable within the 31st day of December, 1995."; (IO) in section 22,— (a) sub-section (8a) shall be omitted; (b) in sub-section (11), for the figures, word, letter and brackets ' (7) and (8a)", the word, figure and brackets "and (7)" shall be substituted; (11) in section 26, in sub-section (2), (a) after clause (b2), the following clauses shall be inserted:— "(b2a) the manner in which and the authority by whom tax shall be determined and collected and time and interval at which tax shall be paid by a casual trader under sub-section (4), and manner of refund under sub-section (6), of section 4C; (b2b) the manner in which and the authority by whom tax shall be determined and collected and time and interval at which tax shall be paid by a casual trader under sub-section (3) of section (b) in clause (f)], for the words "class or classes", the words "goods to which deferment of tax shall not apply, and class or classes or descriptions of goods in respect of which, class or classes" shall be substituted; (c) in clause (f5), after the words "shall not apply, and", the words "class or classes or descriptions of goods in respect of which," shall be inserted; 89 Amendmem of West Ben. Act IV of 4. The West Bengal Finance Act, 1993. [West Ben. Act (Section 4.) (d) for clause (ii-l), the following clause shall be substituted:— "(ii-l) the manner of reopening of assessment in respect of a period under sub-section (2) and form of declaration under sub-section (3), of section IIE;"; (12) in Schedule 1,— (a) item 53 and the entry relating thereto in column 1 shall be omitted; (b) for item 105 and the enū'y relating thereto in column 1, the following item and entry shall be substituted:— "105. Enamelled utensils, that is to say, enamelled tumblers, dishes and plates and enamelled spittoons, urinals and bedpans." , (13) in Schedule 11, after serial No. 45 and the corresponding entry under the heading "Description of Goods", the follow- ing serial No. and entry under the heading "Description of Goods" shall be added:— "46. Foreign liquor, whether made in India or not, including

brandy, whisky, vodka, gin, rum, liqueur, cordials, bitters and wines or a mixture containing any of these, as also beer, ale, porter, cider, perry and other similar potable fermented liquors." In the West Bengal Sales Tax Act, 1954,— (1) in section 8H, (a) in sub-section (1),— (i) in clause (a), (A) for the words "such area in West Bengal as may be prescribed," the words "West Bengal," shall be substituted; (B) after the words "in respect of notified commodity", the words other than such notified commodity as may be prescribed," shall be inserted; (ii) in clause (b),— (A) for the words "such area in West Bengal as may be prescribed," , the words "West Bengal," shall be substituted; (B) after the words "in respect of notified commodity", the words other than such notified commodity as may be prescribed," shall be inserted; 90 The West Bengal Finance Act, 1993. V of 1993.] (Section 4.) the words "nine (iii) for the words "seven years," , years," shall be substituted; (iv) for the words "in different areas.", the words "in different areas as may be prescribed:" shall be substituted; (v) the following provisos shall be added at the end: "Provided that deferment of payment of tax payable by a dealer in respect of sales of notified commodities manufactured by him in any of the prescribed areas may be restricted to sales of such class or classes of notified commodities as may be prescribed: Provided further that the period prescribed under this sub-section and sub-section (2) may, subject to such restrictions and conditions as may be prescribed, be extended by two years in the cases of such industrial units as may be prescribed, where investment in fixed capital assets exceeds one hundred crore rupees."; (b) in sub-section (2), for the words "seven years", the words "nine years, or eleven years in the case of the industrial units referred to in the second proviso to sub-section (1)," shall be substituted; (c) in sub-section (3),— (i) for the words "ninety per centum", the words "one hundred per centum" shall be substituted; (ii) for the words "thirty-five crore", the words "fifty crore" shall be substituted; (d) after sub-section (3), the following sub-sections shall be inserted:— "(3a) A newly set up industrial unit or an existing industrial unit, (a) where such newly set up industrial unit was established and commissioned by the dealer for manufacture of notified commodity in West Bengal for the first time on or after the 1st day of April, 1989, but not later than the 31st day of March, 1993, or (b) where such existing industrial unit was established before the 1st day of April, 1989, 91 The West Bengal Finance Act, 1993. [West Ben. Act (Section 4.) and has enjoyed, or has been entitled to enjoy, the benefit of deferment of payment of tax in accordance with the provisions of sub-section (2) and sub-section (3) as they stood before the coming into force of the West Bengal Finance Act, 1993, and shall continue to be so eligible in accordance with the said provisions. (3b) Subject to such conditions and restrictions as may be prescribed, a dealer who has enjoyed the benefit of deferment of payment of tax under this section may, in addition to such benefit as enjoyed by him, be eligible, if he so opts, for further deferment of payment of such amount of tax or aggregate of the amounts as may be equivalent of the capital investment subsidy receivable by him under any scheme approved by the State Government for such period, not exceeding four years from such date, as may be prescribed."; (e) in the Explanation,— (i) for the words "For the purposes of this section," the words, figures and letter "For the purposes of this section and section 81," shall be substituted; (ii) in clause (i), for the figures "1989," the figures "1993" shall be substituted; (iii) in clause (iii), after the word "capacity", the words, figures and letters "on or after the 1st day of April, 1993," shall be inserted; (iv) in clause (iv), for the words "fixed assets", the words "fixed capital assets" shall be substituted; (2) in section 81, (a) in sub-section (1),— (i) for the word "new", wherever it occurs, the words "newly set up" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1990; (ii) for the words "in such area in West Bengal as may be prescribed," , the words "in West Bengal," shall be substituted; (iii) for the words "as the State Government may, by notification published in the Official Gazette, specify," , the words "as may be prescribed," shall be substituted; 92 The West Bengal Finance Act, 1993. V of 1993.] (iv) (v) (vi) (vii) (viii) (ix) (x) (Section 4.) for the words "specified in such notification", the word "prescribed" shall be substituted; for the words "ninety per centum", the words "one hundred per centum" shall be substituted; for the words "thirty-five crore", the words "fifty crore" shall be substituted; for the words "specified for", the words "prescribed for" shall be substituted; for the words "in different areas:" , the words "in different areas as may be prescribed:" shall be substituted; in the proviso,— (A) for the words "specified limit", the words "prescribed limit" shall be substituted; (B) for the words "five years", the words "nine years" shall be substituted; (C) for the words "four years", the words "nine years" shall be substituted; (D) for the words "as may be specified in such notification," , the words "as may be prescribed," shall be substituted; (E) for the words "units may be specified", the words "units may be prescribed" shall be substituted; after the

existing proviso the following provisos shall be added:— "Provided further that a newly set up industrial unit or an existing industrial unit,— (a) where such newly set up industrial unit was established and commissioned by the dealer for manufacture of notified commodity in West Bengal for the first time on or after the 1st day of April, 1989, but not later than the 31st day of March, 1993, or (b) where such existing industrial unit was established before the 1st day of April, 1989, and has enjoyed, or has been entitled to enjoy, the benefit Of remission of tax in accordance with the provisions of this sub-section and the first proviso to this sub-section as they stood before the coming into force of the West Bengal Finance Act, 1993, shall continue to enjoy such benefit in accordance with the said provisions: 93 The West Bengal Finance Act, 1993. [West Ben. Act (Section 4.) Provided also that remission of tax payable by a dealer in respect of notified commodities manufactured by him in any of the prescribed areas may be restricted to sales of such class or classes of notified commodities as may. be prescribed: Provided also that the period prescribed under the first proviso may, subject to such conditions and restrictions as may be prescribed, be extended by two years in the cases of such industrial units as may be- prescribed where investment • in fixed capital assets exceeds one hundred crore rupees: Provided also that a dealer, who has enjoyed the benefit of remission of tax under this section, may, in addition to such benefit as enjoyed by him, and subject to such conditions and restrictions as may be prescribed be eligible, if he so opts, for further remission of such amount of tax or the aggregate of the amounts of tax as may be equivalent to the capital investment subsidy receivable by him under any scheme approved by the State Government for such period, not exceeding four years from such date, as may be prescribed." ; (b) in sub-section (4), in clause (b), the words, figures and brackets beginning with "if the first" and ending with "Act, 1990," shall be omitted; (3) after section 81, the following sections shall be inserted:— (1) A registered dealer in respect of "Deferment and remission of tax such industrial unit in West Bengal as the for closed State Government may, by general or special industrial units. order, declare as a closed unit, shall, subject to the other provisions of this sectiÖn, be eligible for deferment of payment of tax according to the provisions of section 8H or remission of tax according to the provisions of section 81 where— (a) the ownership of the business relating to such unit is transferred by sale or otherwise, to such dealer for being registered as a transferee according to section 15, and 94 The West Bengal Finance Act, 1993. V of 1993.] (Section 4.) (b) such unit is rehabilitated or revived on or after the 1st day of April, 1993, by such dealer under any scheme approved by the State Government in this behalf -on transfer of the ownership of the business relating to such unit. (2) A closed unit after being rehabilitated or revived shall be deemed to be a newly. set up industrial unit for the purposes of section 8H or section 81, and the part of the eligible period, if any, for which the transferor-dealer has availed of the benefit of deferment of payment of tax or remission of tax, shall not be reckoned with for computation of the eligible period for the transferee-dealer. (3) The amount of tax or the aggregate of the amounts of tax payable by, or due from, the dealer, upon the transfer of the business under section 15 relating to such unit, shall be such percentage of the gross value of fixed capital assets on the date of first commercial production in such unit following the rehabilitation or revival, as prescribed under section 8H or section 81, as the case may be. (4) The amount of tax or the aggregate of the amounts of tax that a registered dealer, upon the transfer of the business relating to such unit under section 15, is eligible for deferment under sub-section (3) of section 8H or remission of tax under section 81, as the case may be, shall be reduced by the amount of tax in respect of which the transferor-dealer has enjoyed benefit of deferment of payment of tax under section 8H or remission of tax under section 81, as the case may be, before rehabilitation or revival of such unit. (5i The provisions of sub-section (4) of section 8H or sub-section (3) of section 81 shall not apply to a closed unit if the transferor-dealer of such unit has enjoyed benefit under section 8H or section 81 before the closure of such unit, but if such registered dealer opts once for deferment of payment of tax after its rehabilitation or revival, he shall not be eligible for remission of tax and vice versa. "Deferment and 8K. (1) A registered dealer in respect of remission of tax such industrial unit in West Bengal as the for sick industrial units. State Gövernment may, by general or special order, declare as a sick unit, shall, subject to the other provisions of this section, be eligible for deferment of payment of tax or remission of tax according to the 95 The West Bengal Finance Act, 1993. [West Ben. Act (Section 4.) provisions of section 8H or section 81, as the case may be, where such unit is rehabilitated or revived by such dealer himself on or after the 1st day of April, 1993, under any scheme approved by the State Government. (2) The benefit of the deferment of payment of tax or remission of tax, as the case may be, referred to in sub- section (1), shall be available to a new owner of the

business relating to such unit if the ownership of such business is taken over by, and transferred to, such new owner and registered as transferee-dealer according to section 15, and the unit is rehabilitated or revived by such new owner, being the transferee-dealer, on or after the 1st day of April, 1993, under any scheme approved by the State Government. (3) A sick unit after being rehabilitated or revived shall be deemed to be a newly set up industrial unit in West Bengal, and the part of the eligible period, if any, for which the dealer availed of the benefit before the rehabilitation or revival, shall not be reckoned with for computation of the eligible period for the dealer or transferee-dealer, as the case may be, after such rehabilitation or revival. (4) The amount of tax or the aggregate of the amounts of tax payable by, or due from, the dealer, upon rehabilitation or revival of such unit by the dealer himself or upon rehabilitation by the transferee-dealer on transfer of the ownership of business according to section 15 relating to such unit, shall be such percentage of the gross value of fixed capital assets on the date of first commercial production in such unit following the rehabilitation or revival, as prescribed under section 8H or section 81, as the case may be. (5) The amount of tax or the aggregate of the amounts of tax that such dealer, upon rehabilitation or revival of such unit by the dealer himself or upon rehabilitation or revival on transfer of the business relating to such unit under section 15, is entitled to deferment under sub-section (3) of section 8H, or remission of tax under section 81, shall be reduced by the amount of tax in respect of which the dealer has enjoyed the benefit of deferment of payment of tax under section 8H or remission of tax under section 81, as the case may be; before rehabilitation or revival of the unit." , 96 The West Bengal Finance Act, 1993. V of 1993.] (Section 4.) (4) in section 9, in sub-section (3A), (a) in clause (a), for the words "forty-eight months" in the two places where they occur, the words "two years" shall be substituted; (b) in clause (b),— (i) in sub-clause (i), for the words "forty-eight months" in the two places where they occur, the words "two years" shall be substituted; (ii) in sub-clause (ii), for the words "forty-eight months" in the two places where they occur, the words "two years" shall be substituted; (c) in the second proviso, after the words "in pursuance of an order", the words, figures, letter and brackets "under sub-section (2) of section 9A or" shall be inserted; (d) for the third proviso, the following proviso shall be substituted: "Provided also that if any assessment in respect of any of the periods ending on or before the 31st day of December, 1992, does not come under the purview of assessment under sub-section (1) of section 9A, such assessment shall, notwithstanding the foregoing provisions of this sub-section, be made on or before the 31st day of December, 1994."; (5) for section 9A, the following section shall be substituted:— "Assessment deemed to be completed in certain cases. 9A. (1) Notwithstanding anything contained in sub-section (2) of section 9, returns furnished by a registered dealer in respect of the periods commencing on and from the day immediately following the latest period for which assessment under sub-section (3) of section 9 of this Act has been made and ending on or before the 31st day of December, 1992 (hereinafter referred to as the eligible period), shall be accepted as correct and complete, and all assessments in respect of such eligible period shall, subject to the provisions of sub-section (2), be deemed to have been made on the 30th day of June, 1993: Provided that if any dealer fails to furnish any return for any period of a year, the provisions for assessment of tax under this sub-section for other period or periods of that year 97 The West Bengal Finance Act, 1993. [West Ben. Act (Section 4.) shall, notwithstanding that returns have been furnished by such dealer for such period or periods of that year, not be applicable: Provided further that where any assessment made under sub-section (2) or sub-section (3) of section 9 in respect of any of the eligible periods has been set aside under section 12 with direction to make fresh assessment, the provisions of this sub-section shall not apply to such fresh assessment. (2) Where the prescribed authority is satisfied on information or otherwise that a registered dealer (a) has concealed any sales or particulars thereof, or (b) has furnished incorrect statement of his turnover or incorrect particulars of his sales in the return submitted under section 8 or otherwise, relating to an assessment made under sub-section (1) which has resulted in reduction of the amount of tax payable by him under this Act in respect of any of the periods for which assessment has been made under sub-section (1), it shall, subject to such conditions as may be prescribed, reopen within six years from the date of such assessment in the prescribed manner, the assessment for such period and, after giving such dealer a reasonable opportunity of being heard, make fresh assessment for such period to the best of its judgment under sub-section (2) of section 9. (3) The prescribed authority shall, while making the fresh assessment referred to in sub-section (2) in respect any registered dealer for any period, direct such dealer to pay, in addition to tax assessed afresh and penalty imposed, if any, under section 9, a sum not less than twice but not exceeding thrice the amount of tax assessed afresh by way of

further penalty: Provided that no penalty shall be imposed under this sub- section on a registered dealer in respect of such period where he discovers omission or error or other facts resulting in short payment of tax due from him according to books of accounts and furnishes a declaration in the prescribed form together with a receipted challan showing payment of the balance amount of tax which is found to be payable within the 31st day of December, 1995."; 98 The West Bengal Finance Act, 1993. V of 1993.] (Sections 5, 6.) (6) in section 21, in sub-section (2), (a) in clause (bbbb 2), for the words "class or classes", the words "notified commodities to which deferment of tax shall not apply, and class or classes or descriptions of notified commodities in respect of which," shall be substituted; (b) in clause (bbbb 6) after the words "shall not apply, and", the words "class or classes or descriptions of notified commodities in respect of which," shall be inserted; (c) after clause (bbbbbb), the following clause shall be inserted: "(bbbbbb 1) the manner of reopening of assessment and making fresh assessment under sub- section (2) of section 9A;"; (7) in clause (1a) of the proviso to section 23, after the words, figure and letter "or section 6C", the words, figure and letter "or section 6D" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984

5. In the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, after section 9, the following section shall be inserted:—"Exemption for newly set up industrial units. 9A. Subject to such conditions as may be prescribed, no tax shall be levied under this Act for such period, not exceeding three years from the date of first commercial production, as may be prescribed, on the entry of any specified goods brought by a dealer into the Calcutta Metropolitan Area, provided such goods are manufactured by him in a newly set up industrial unit situated in West Bengal outside the Calcutta Metropolitan Area."

6. In the West Bengal Motor Spirit Sales Tax Act, 1974, in sub- section (I) of section 4A, for the words "two per centum", the words "two and a half per centum" shall be substituted.⁹⁹ Amendment of west Ben. Act V of 1972. Amendment of West Ben. Act XI of