

WEST BENGAL FINANCE ACT, 2003

Registered No. WB/SC-247 No. Gaiette CAITRA 10] Extraordinary Published by Authority MONDAY, MARCH 31, 2003 PART III—Acts of the West Bengal Legislature. GOVERNMENT OF WEST BENGAL LAW DEPARTMENT . Legislative NOTIFICATION [SAKA 1925 No. 572-L.—31st March, 2003.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:— West Bengal Act 111 of 2003 THE WEST BENGAL FINANCE ACT, 2003. [Passed by the West Bengal Legislature.] [Assent of the Governor was first published in the Kolkata Gazette, Extraordinary, of the 31st March, 2003.] An Act to amend the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Duty on Inter-State River Valley Authority Electricity Act, 1973, the West Bengal Taxation Tribunal Act, 1987, the West Bengal Sales Tax Act, 1994, and the West Bengal State Tax on Consumption or Use of Goods Act, 2001. 2 Short title and commencement L Amendment of Ben. Act V of 1922. THE KOLKATA GAZETTE, EXTRAORDINARY, MARCH 31, 2003 The West Bengal Finance Act, 2003. (Sections 1, 2.) WHEREAS it is expedient to amend the Bengal Amusements Tax Act, 1922, the Bengal Electricity Duty Act, 1935, the Bengal Agricultural Income-tax Act, 1944, the West Bengal Duty on Inter-State River Valley Authority Electricity Act, 1973, the West Bengal Taxation Tribunal Act, 1987, the West Bengal Sales Tax Act, 1994, and the West Bengal State Tax on Consumption or Use of Goods Act, 2001, for the purposes and in the manner hereinafter appearing, It is hereby enacted in the Fifty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows: (1) This Act may be called the West Bengal Finance Act, 2003. 1. (2) Save as otherwise provided, it 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. In the Bengal Amusements Tax Act, 1922,—(1) in section 2, after clause (5), the following clause shall be inserted: '(5a) "multiplex theatre complex" means an entertainment-cum-cultural centre which provides, (i) in case such entertainment-cum-cultural centre is situated within the areas to which the Kolkata Improvement Act, 1911, or the Howrah Improvement Act, 1956, extends, not less than four theatres in a complex with minimum total seating capacity of 1250, or (ii) in case such entertainment-cum-cultural centre is situated in any area other than the places referred to in sub-clause (i), not less than three theatres in a complex with minimum total seating capacity of 1000, and such multi-entertainment activities and facilities and such other incidental and connected matters and facilities. as the State Government may, by notification in the Official Gazette, specify;' ; (2) in section 3, after sub-section (3a), the following sub-section shall be inserted: "(3aa) The amount of entertainment tax upon the value of each ticket for admission to any multiplex theatre complex shall be such as the State Government may, by notification in the Official Gazette, specify." • (3) after section 8B, the following section shall be inserted: 8C. Notwithstanding anything contained elsewhere in "Special provision for multiplex this Act, but subject to such rules as may be prescribed, theatre complex. (a) the proprietor of a new multiplex theatre complex, or the proprietor of an existing cinema hall which has been converted into a multiplex theatre complex, shall be entitled to retain, by way of subsidy, the amount of entertainments tax as collected against the value of ticket for admission to such multiplex theatre complex for a period not exceeding— (i) four years, in the case of a new multiplex theatre complex: (ii) four years, in the case of an existing cinema hall which has been converted into a multiplex theatre complex and where such existing hall has not enjoyed benefit as referred to in sub-section (2) of section 8B; (iii) two years, in the case of an existing cinema hall which has been converted to a multiplex theatre complex and where such existing cinema hall has enjoyed the benefit as referred to in sub-section (2) of section 8B; [PART 111 Ben. Act V of 1922. Ben. Act X of 1944. Amendment of west Ben. Act of 1973. THE KOLKATA GAZETTE, EXTRAORDINARY, MARCH 31, 2003 The West Bengal Finance Act, 2003. (Sections 3-5.) (b) the proprietor of any multiplex theatre complex referred to in clause (a), shall not be entitled to realise the service charge referred to in sub-section (3c) of section 3 during the

PART 111] Amendment of Ben. Act X of 1944. Amendment of west Ben. Act of 1973. THE KOLKATA GAZETTE, EXTRAORDINARY, MARCH 31, 2003 The West Bengal Finance Act, 2003. (Sections 3-5.) (b) the proprietor of any multiplex theatre complex referred to in clause (a), shall not be entitled to realise the service charge referred to in sub-section (3c) of section 3 during the

period when such proprietor of multiplex theatre conviex is allowed to enjoy the benefit of retention of entertainments tax i collected by way of subsidy, under clause (a).' In the Bengal Electricity Duty Act, 1935,— (1) in section 5A,— (a) in sub-section (1), for the words "two per centunt", the words "one per centunt" shall be substituted, (b) in sub-section (2), for the words "two per centunz", the words "one per centunt" shall be substituted; (2) in section 5B, for the words "two per centum", the words "one per centunz" shall be substituted; (3) after section 7D, the following section shall be inserted:— "Refund. 7E. The authority as may be prescribed shall make refund, in such manner as may prescribed, the excess amount of electricity duty, paid by a person, other than a licensee, who generates electricity from a diesel generating plant, or coal-based generating plant, or waste-gas-based generating plant, as referred to under sub- section (I) of section 3, and registered under section 7B.' In the Bengal Agricultural Income-tax Act, 1944, in the Schedule, for 3 3. 4. paragraph B, the following paragraph shall be substituted: "B. In the case of every domesric company, firm or other association of persons— on the whole of the total agricultural l ncome. Rate of tax 30 paise in the rupee". 5. in the West Bengal Duty •on Inter-State River Valley Authority Electricity Act, (1) after section 6, the following section shall be inserted:— "Interest for non-payment, or dcloyed paymentl, of cicetricity duty. 6A. Where the interstate river valley authority or the licensee or the person, liable to pay electricity duty under section 4, fails to make payment of any sum due on account ofelctricity duty within lhe prescribed date, such authority or licensee or person shall be liable to pay a simple interest at the rate of one per centunz fk)l' each calendar month of default from the first day of such month immediately following the prescribed date up to the month preceding the month of full payment of such duty upon so much of the amount of the duty payable by such authority or licensee or person as remains unpaid at the end of each such month of default.' (2) in section 9, for the words "on account of electricity duty", the words 'on account of electricity duty or interest" shall be substituted: (3) in the Second Schedule, (a) after exemption (8), the following exelntption shall be deemed to have been insened with effect from the 1st day of April, 1995. •— "(9) an expanded poltion of an existing industrial unit established in a premises by way of expansion, save in respect of premises used for the residential purposes, for a period of five years from the date of first comnmercial production in the expanded portion of such 4 Alnendnnment of WCSI Ben. Act vt]l of 1987. Annendmenl of West Ben. Act XLIX of 1994. THE KOLKATA GAZETTE, EXTRAORDINARY, MARCH 31, 2003 The west Bengal Finance Act, 2003. (Sections 6, 7.) (b) in the Explanation, after clause (3), the following clause shall be deemed to have been inserted with effect from the 1st day of April, 1995: '(4) For the pulposes of exemption (9),— (a) the expression "existing industrial unit" shall lnean an industrial unit which exists in West Bengal immediately before it starts comruercial production for the first time in its expanded portion on or after the 1st day of April, 1995; (b) the expression "expanded portion", in relation to an existing industrial unit, shall mean the portion expanded with additional capacity on or after the 1st day of April, 1995, either in the existing premises or in any other premises in West Bengal.' 6. In the West Bengal Taxation Tribunal Act,' 1987, in section 6, in sub- section (1), for the words and figure "referred to in section 6", the words and figure "referred to in section 5" shall be deemed to have been substituted with effect from the 1st day of May, 1995

7. In the West Bengal sales Tax Act, 1994,—(1) in section 39, after sub-section (3), the following sub-section shall be inserted:— "(4) Notwithstanding the provisions contained in sub-section (1), but subject to the provisions of sub-section (3), every dealer who has been enjoying, or has been entitled to enjoy, the benefit of exemption from payment of tax under sub-section (1), shali cease to enjoy such benefit of exemption on expiry of (a) five years from the date of his first sale of the goods manufactured in his newly set up small-scale industrial unit if such unit is situated within the area of the Kolkata Metropolitan Planning Area as described in the First Schedule to the West Bengal Town and Country (Planning and Development) Act, 1979; or (b) seven years from the date of his first S'ale of the goods lnanufactured in his newly set up small-scale industrial unit if such unit is situated in any area other than the areas referred to in clause (a): Provided that the dealer shaki not be entitled to enjoy the benefit of exemption for the full period as refel•red to in clause (a), or clause (b), as the case may be, and he shall cease to enjoy such exemption from the day immediately following the day on which the aggregate of the benefit of exemption from payment of tax enjoyed by the dealer under this section, computed from the day of coming into force of this sub-section, exceeds two hundred per centunz of the gross value of fixed assets. Explanation.—For the pmposes of this sub-section.— (a) the expression "gross value of fixed assets", in relation to a newly

set up small-scale industrial unit, shall mean the aggregate of actual price or premium paid by the dealer for the land, whether freehold or leasehold, expenditure incurred by the dealer for construction of the factory shed, the cost of plant and machinery including those obtained on hire, lease rent or loan and cost of pollution control equipment, on or before the date on which the tax becomes payable by such dealer for any return period; [PART 111 West Ben. Act of 1979]

PART 111] THE KOLKATA GAZETTE, EXTRAORDINARY, MARCH 31, 2003 The West Bengal Finance Act, 2003. (Section 7.) (b) the aggregate of the benefit of exemption enjoyed by the dealer under this section shall, notwithstanding that the sale is exempt from tax, be determined in such manner, and within such time, as may be prescribed, on the basis of the appropriate rate specified in sub-section (1), or sub-section (2), of section 17 at which the sale would have been otherwise subjected to tax, if the dealer had not been enjoying the benefit of exemption under this section."; (2) in section 73, (a) in sub-section (1), in clause (a), for the words "a way bill in the prescribed form containing such particulars as may be prescribed," the words "a way bill in the prescribed form, or such document, containing description, quantity or weight and value of the goods and such other particulars as may be prescribed," shall be substituted; (b) after sub-section (2), the following sub-section shall be inserted: "(2A) Where it appears to the Commissioner that— (a) due to failure of any person, dealer or casual trader, no way bill in the prescribed form or such document as mentioned in clause (a) of sub-section (1), as the case may be, could be produced by the transporter before him, or (b) the way bill in the prescribed form or such document as mentioned in clause (a) of sub-section (1), produced is fake, false or incorrect in respect of the description, quantity or weight and the value of the goods transported, or (c) the consignor of the goods does not exist at the address declared in the way bill in the prescribed form or such document as mentioned in clause (a) of sub-section (1), as the case may be, he shall, for reasons to be recorded in writing, seize such goods under section 70 at any checkpost, or at any place, referred to in sub-section (2)."; (3) in section 88, in sub-section (1), after clause (e), the following clause shall be inserted:— "(ee) fails to make full amount of penalty imposed under section 71B; or" (4) after section 94, the following sections shall be inserted:— 5 "Penalty for exhibition-cum-sale of goods, shall obtain a permit from the prescribed authority in such form, and in such manner, as may be prescribed. Penalty for organising exhibition-cum-sale in contravention of section 94 A. 94B. (1) Where any person contravenes the provision of section 94A by organising an exhibition-cum-sale without obtaining permit, the Commissioner, the Special Commissioner or the Additional Commissioner may, after giving such person an opportunity of being heard, impose upon him a penalty not exceeding fifty thousand rupees. (2) A penalty imposed under sub-section (1), shall be paid by the person upon whom it is imposed into a Government Treasury or the Reserve Bank of India by such date as may be specified by the authority referred to in sub-section (1), in a notice to be issued for this purpose, and the date so specified shall not be earlier than fifteen days from the date of issue of such notice: 6 Amendment of West Ben. Act XV of 2001. THE KOLKATA GAZETTE, EXTRAORDINARY, MARCH 31, 2003 The West Bengal Finance Act, 2003. (Section 8.) 8. Provided that the authority may, for reasons to be recorded in writing, extend the date of payment of the penalty for such period, as he may think fit." , (5) in Schedule I, after serial No. 14A in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and entry relating thereto in column (2) shall be inserted: "14B. Gram flour or any other flour, commonly known as besan, when sold during the period from 1.5.1995 to 31.3.2003."; (6) in Schedule I V, in Part A,— (a) in the entries in column (2) against serial No. 14A in column (1), for item (i), the following item shall be deemed to have been substituted with effect from the 1st day of July, 1999: "(i) Textile fabrics of all varieties, other than those specified elsewhere in this Schedule OT in any other Schedule."; (b) after serial No. 204 in column (1) and the entry relating thereto in column (2), the following serial No. in column (1) and entry relating thereto in column (2) shall be inserted:— "204A. Gram flour or any other flour, commonly known as besan, other than those specified elsewhere in this Schedule or in any other Schedule." In the West Bengal State Tax on Consumption or Use of Goods Act, 2001,— (1) in section 4, for the words "a tax at such rate, not exceeding fifteen per centum of the value of goods, as the State Government may, by notification, fix and different rates may be so fixed in respect of different items of goods." , the words, letters, figures and brackets "a tax at the rate specified in sub-column (b) of column (3). against the corresponding entry of goods in column (2), of Schedule VIIIA, or at the rate fixed under sub-section (1) of section 18, of the West Bengal Sales Tax Act,

1994." shall be substituted; (2) in section 5, the words ", or that such goods have been purchased, or procured. from any other local area of the State" shall be omitted; (3) in the Schedule, after item No. 24 and the entry relating thereto, the following items and entries relating thereto shall be added: [PART III West Ben. Act XLIX of 1994. ' •25. 26. 27

28. Automated Teller Machine (A.T.M.). Compact disk. Generator and generating set. Lift, whether operated by electricity or steam, and accessories and components thereof." By order of the Governor. A. K. BHATTACHARYA, Principal Secy. to the Govt. of West Bengal & Secy., Law Department. Published by the Controller of Printing and Stationery, West Bengal and printed at Saraswati Press Ltd. (Government of West Bengal Enterprise), Kolkata 700 056.

