

WEST BENGAL TAXATION TRIBUNAL ACT, 1987

GOVERNMENT OF WEST BENGAL LEGISLATIVE DEPARTMENT West Bengal Act VIII of 1987
THE WEST BENGAL TAXATION TRIBUNAL ACT, 1987. I Passed by the West Bengal Legislature.]
IA.ssent of the Governor was first published in the Calcutta Gazette, Extraordinary, of the 8th July, 1987.]
[8th July, 1987.1 An Act 10 provide for the setting up of (1 Taxation Tribunal and for the adjudication or
trial by such Tribunal of any disputes, complaints or offences with respect to the matters relating to
levy, assessment, collection and enforcement of any tax under any specified State Act in pursuance of
article 323B of the Constitution of India and for matters connected therewith or incidental thereto.
WHEREAS it is expedient to provide for the setting up of a Taxation Tribunal and for the adjudication or
trial by such Tribunal of any disputes, complaints or offences with respect to levy, assessment,
collection and enforcement of any tax under any specified State Act and for matters connected therewith
or incidental thereto; IL is hereby enacted in the Thirty-eighth Year of the Republic of India, by the
Legislature of West Bengal, as follows: 1. (1) This Act may be called the West Bengal Taxation Tribunal
(2) It extends to the whole of West Bengal, (3) It shall come into force on such date as the State
Government may, by notification in the Official Gazette, appoint and different dates may be appointed for
different provisions of this Act

2. In this Act, unless there is anything repugnant in the subject or context. (a) "Bench" means a bench of
the Tribunal; (b) "Chairman" means the Chairman of the Tribunal; (c) "Chief Justice" means the Chief
Justice of the High Court at Calcutta; (d) "Governor" means the Governor of the State of West Bengal;
133 Short title, extent and commencement- Definitions. (e) (f) (g) (h) (i) (j) (k) (m) (n) The West Bengal
Taxation Tribunal Act, 1987. [West Ben. Act (Section 3.) "High Court" means the High Court at
Calcutta; "Judicial Member" means a Member of the Tribunal appointed as such under clause (a) of sub-
section (2) of section 3; "Member" means a Member of the Tribunal and includes the Chairman;
"notification" means a notification published in the Official Gazette; "prescribed" means prescribed by
rules made under this Act; "rules" means rules made under this Act; "specified State Act" means a State
Act specified in the Schedule to this Act; "State" means the State of West Bengal; "Technical Member"
means a Member of the Tribunal who is not a Judicial Member; means the West Bengal Taxation
Tribunal "Tribunal" constituted under section 3. Establishment of Tribunal composition and functions 3.
(1) The State Government may, by notification, establish a Tribunal to be called the West Bengal Taxation
Tribunal which shall consist of a Chairman and not less than one Judicial Member and one Technical
Member. (2) (a) The Chairman and the Judicial Members shall be appointed by the Governor in
consultation with the Chief Justice: Provided that, in the event of the occurrence of any vacancy in the
office of the Chairman by reason of his death, resignation or otherwise, or when the Chairman is unable to
discharge his functions owing to absence, illness or any other cause, the State Government may authorise
any other Judicial Member to discharge the functions of the Chairman until the Chairman resumes his
office or a Chairman appointed in accordance with the provisions of this Act enters upon his office. (b) A
Technical Member shall be appointed by the Governor on the recommendation of the Selection Commi-
tee of three members constituted by the Governor, of which the Chairman shall be a sitting senior Judge
of the High Court nominated as such by the Chief Justice and two other Members nominated by the State
Government. (3) No person shall be qualified for appointment (a) as Chairman unless he has been a Judge
of the High Court or has held, for a period of not less than one year, the office as a Judicial Member: (b) as
a Judicial Member unless he has been, or is qualified to be, a Judge of a High Court: 134 The West
Bengal Taxation Tribunal Act, 1987. of 1987.1 45 or 186(). (Section 3.) (c) as a Technical Member unless
he is or has been an officer of the State Government or the Central Government, not below the rank of a
Secretary to that Government, in the Secretariat or elsewhere, and has dealt with revenue or taxation
matters during his service in the Government in the capacity of a Deputy Secretary and above to the State
Government or the Central Government for a period of not less than three years in the aggregate. (4) The
Chairman or a Judicial Member who has been a Judge of the High Court shall hold office for a term of
five years from the date on which he enters upon his office or until he attains the age of 68 years
whichever is earlier. (5) A Judicial Member who is qualified to be a Judge of the High Court and a
Technical Member shall hold office for a term of five years (from the date on which they enter upon their

or until they attain the age of 62 years whichever is later. (6) The Chairman or any other Member shall not be removed by the Governor from his office except on the ground of proved misbehaviour or incapacity, after an inquiry made by the Chief Justice or by a sitting Judge of the High Court as may be nominated by the Chief Justice in which such Chairman or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of the charges: Provided that for the aforesaid inquiry the State Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairman or any other Member. (7) The Chairman or any other Member shall be ineligible— (a) for further employment under the State Government, or under any local authority or under any corporation owned or controlled by the State Government; and (b) to appear, act or plead before the Tribunal: Provided that a Judicial Member shall be eligible to be appointed as Chairman in accordance with the provisions of this Act. (8) The Chairman and all other Members shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. (9) The salaries and allowances payable to, and other terms and conditions of service of, the Chairman and other Members shall be such as may be prescribed. 135 [over D]- the Tribunal to The State which this Act covers and the Tribunal. The West Bengal Taxation Tribunal Act, 1987. [West Ben. Act (Sections 4-6.)] (1) The State Government shall in consultation with the Chairman determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions, and provide the Tribunal with such officers and other employees. The salaries and allowances and conditions of service of the officers and other employees shall be such as may be prescribed. (1)]) The Chairman shall exercise financial and administrative powers for the functioning of the Tribunal or may delegate the same in accordance with rules made under this Act. (12) The Tribunal shall exercise jurisdiction, powers and authority and perform the functions conferred on it by or under this Act by Benches of two or more Members, as determined by the Chairman, consisting of at least one Judicial Member and one Technical Member

4. Subject to the previous sanction of the State Government. the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which the Tribunal or the Benches shall sit) and framing the rules of business, make regulations consistent with the provisions of this Act and the rules made thereunder: Provided that the regulations so made shall be published in the Official Gazette

5. The Tribunal, save as expressly provided under any specified State Act and subject to the other provisions of this Act, shall, with effect from such date as may be appointed by the State Government by notification in this behalf, exercise jurisdiction, powers and authority in relation to all matters of adjudication or trial or any disputes, complaints or offences with respect to levy, assessment, collection and enforcement of any tax under any specified State Act and of matters connected therewith or incidental thereto: and no Court except the Supreme Court of India shall, with effect from such date, exercise any jurisdiction, powers or authority in the matter of adjudication or trial of any disputes, complaints or offences with respect to the aforesaid matters. 6. (1) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, with effect from such date as may be specified by the State Government by notification in this behalf, all the jurisdiction, powers and authority exercisable immediately before that day by all Courts including the High Court but excluding the Supreme Court or India for adjudication or trial of disputes or complaints or offences with respect to all matters of levy, assessment, collection and enforcement of any tax under any specified State Act and matters connected therewith or incidental thereto: 136 The West Bengal Taxation Tribunal Act, 1987. VIII of 1987.] (Sections 7, 8.) Provided that where the matter relates to disposal of question of constitutional validity of any provision of any specified State Act, the matter shall be decided by a Bench constituted of at least three Members of which the Chairman shall be one. (2) Notwithstanding anything contained elsewhere in this Act, all proceedings triable by any Court or Courts in accordance with the provisions of the Code of Criminal Procedure, 1973, shall continue to be tried by such Court, and the Tribunal shall have no jurisdiction to try such proceedings. Explanation.—For the purpose of this sub-section, proceedings shall include proceedings under Chapter XXIX and Chapter XXX of the Code of Criminal Procedure, 1973. (a) on application by any aggrieved person or any authority, made in accordance with the provisions of any specified State Act against an order passed by any other authority, the appropriate authority refers to the Tribunal any question of law arising out of such order, or (b) the application for reference referred to in clause (a) is refused by the appropriate authority under the said specified State Act, and on application

to the Tribunal, the case is referred to it in pursuance of its direction, the Tribunal may call for further information and direct the appropriate authority to make such addition or alteration to the statement made by the said appropriate authority so as to make it sufficient to enable the Tribunal to determine the question raised in the case referred to, and thereafter the Tribunal shall hear such case, decide the question of law raised thereby as expeditiously as possible and deliver its judgment thereon containing the reasons on which such decision is founded.

8. (i) Subject to the other provisions of this Act, a person aggrieved by any order passed or action taken pertaining to any matter within the jurisdiction of the Tribunal may make an application for the redressal of his grievance on any of the grounds referred to in sub-section (3). Explanation.—For the purposes of this sub-section, "order" means an order made by any authority under any specified State Act and "action" means an action taken by any authority under any of the specified State Acts or by the State Government in the matter or, and in relation to, levy, assessment, collection and enforcement of any tax.

(2) Every application under sub-section (1) shall be made within sixty days from the date of such order passed or action taken, as the case may be, or within such further time as may be allowed by the Tribunal for cause shown to its satisfaction, and shall be made in such form and accompanied by such documents or other evidence and by such fee as may be prescribed.

137 Return of jurisdiction. Extra-ordinary jurisdiction. The West Bengal Taxation Tribunal Act, 1987. [West Ben. Act (Section 8.) Provided that an application may be entertained within sixty days from the commencement of clause (a) of section 7 where the applicant proves to the satisfaction of the Tribunal that the order or action by which he is aggrieved was passed or taken, as the case may be, within sixty days prior to the commencement of the aforesaid clause (a) of the said section and that he has not moved the High Court against such order or action passed or taken under the specified State Act.

(3) Save as provided expressly in this Act, the Tribunal shall not ordinarily admit an application referred to in sub-section (1) unless it is satisfied that— (a) the applicant has availed of all remedial measures available to him under the relevant specified State Act; or (b) the remedial measures available under the provisions of the relevant specified State Act are not adequate and shall cause undue hardship to the applicant; or (c) the application referred to in sub-section (1) involves a substantial question of law relating to the interpretation of the Constitution of India or the specified State Act or rules framed thereunder or of jurisdiction of any of the authorities under the said specified State Act.

(4) The Tribunal may, if satisfied after such enquiry as it may deem fit that the requirements under this Act and the rules made thereunder are complied with in relation to the application referred to in sub-section (1) admit such application; but where the Tribunal is not so satisfied, it may reject the application summarily giving short reasons therefor.

(5) Where an application under sub-section (1) has been admitted by, or a case has been transferred to, the Tribunal, it shall decide the subject-matter of the application or the case, as the case may be, as expeditiously as possible, and ordinarily within six months from the date of such admission or from the receipt of records from the High Court in respect of cases transferred to the Tribunal.

(6) While deciding the subject-matter or case under sub-section (5) the Tribunal shall issue such direction or pass such order as it may deem fit.

(7) Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceeding relating to an application made under sub-section (1) unless (a) copies of such application and of all documents in support of the plea for such interim order are duly furnished seven days in advance to the party against whom such application is made or proposed to be made;

138 The West Bengal Tribunal Act, 1987. of 1987.] 45 of 1860. (Sections 9-12.) (b) such amount of tax, if any, involved in the matter or such amount of security as may be deemed adequate by the Tribunal to safeguard the interest of State revenue, is paid or furnished by the applicant; and (c) opportunity of being heard is given to the party against whom such application is made: Provided that the Tribunal may dispense with the requirement of clause (b) and pass an interim order as an exceptional measure if it is satisfied for reasons to be recorded in writing that it is necessary so to do preventing any loss being caused to the applicant which may dislocate, disrupt or lead to closure of his business, or which cannot be adequately compensated in money, but if the application referred to in sub-section (1) is not disposed of within a period of six months from the date when the order was made, the interim order shall, if it is not vacated earlier, stand vacated.

9. The decision of a Bench shall be by a majority, and if the Members are equally divided then the application shall be referred for decision to a Bench of three Members.

10. The Tribunal shall have the power to award costs in any matter decided by it and the amount of such costs awarded against an authority under the relevant specified State Act shall be payable by the appropriate authority under the said Act, or in case the amount of such costs awarded against any other person shall be paid by him to the Tribunal in such manner as may be prescribed

11. All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of section 193, 219 and 228 of the Indian Penal Code

12. The Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971, shall have effect subject to the modifications that— (a) the reference therein to a High Court shall be construed as including a reference to the Tribunal; (b) the reference therein to the Advocate-General in section 15 of the said Act shall be construed as a reference to the Advocate-General of the State: Provided that such jurisdiction, powers and authority shall be exercised by a Bench of which the Chairman is a Member. 139 Decision to nmj0vity. Power 10 award costs. Proceedings to be deemed to be judicial proceedings. Power to punish for contempt of the Tribunal. The West Bengal Taxation Tribunal Act, 1987. [West Ben. Act Payer of the Tribunal to evidence on Exclusion Courts. cases from the High (Sections 13-15.) 13. The Tribunal shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit. in respect of the following matters, namely: (a) summoning and enforcing the attendance of any person and examining him on oath or affirmation; (b) requiring the discovery, inspection and production of books of account and other document', and (c) examining witness or issuing commissions for the examination of witness

14. On and from the date from which jurisdiction, powers and authority becomes exercisable under this Act by the Tribunal, the High Court or any Civil Court except the Supreme Court of India shall not be entitled to entertain any proceeding or to exercise any jurisdiction or shall not have any jurisdiction, powers and authority in relation to the adjudication or trial of disputes, complaints or offences with respect to levy, collection, assessment and enforcement of any tax under any specified State Act and any matter connected therewith or incidental thereto. 15. (1) All matters and proceedings including appeals relating to the levy, assessment, collection and enforcement of tax and matters connected therewith or incidental thereto, pending before the High Court on the date of coming into force of sub-section (1) of section 6, shall stand transferred to the Tribunal for disposal in accordance with the provisions of this Act: Provided that, if any matter or any proceeding has been heard in part or heard but judgment is not delivered on or before the aforesaid date, nothing in this section shall apply to such matter or proceeding. Explanation.—No application or proceeding shall be deemed to have been heard in part only by reason of any interim order having been passed therein. (2) Where any matter or proceeding including appeal stands transferred from the High Court to the Tribunal under sub-section (1) (a) the High Court shall, as soon as may be after such transfer, forward the records of such case or other proceeding arising on the basis of application to the Tribunal; and (h) the Tribunal, on receipt of such records, proceed to deal with such case or application, so far as may be, as in the same manner as provided in section 7 or section 8, as the case may be, from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit: 140 5 of 1908. The West Bengal Taxation Tribunal Act, 1987. VIII of 1987.1 (Sections 16-18.) Provided that interlocutory order granted on an application by the High Court till the disposal of any rule shall continue for a period not exceeding twelve weeks from the commencement of sub-section (1) of section 6 unless the Tribunal by an order varies or modifies the same earlier or extends the same, (c) An appeal transferred from the High Court to the Tribunal shall be decided by a Bench constituted of three Members of which at least two shall be Judicial Members

16. The Tribunal may, upon an application made within sixty days from the date of order or on its own motion at any time within four years from the date of the order, review an order passed by it under this Act with a view to rectifying any mistake apparent from the record and amend its earlier order. 17. (1) A person making an application to the Tribunal may either appear in person or take the assistance of a legal practitioner of his choice to plead his case before the Tribunal. (2) The State Government may appoint one or more persons (whether legal practitioners or not) as its representative to act or plead before the Tribunal. (3) The State Government may appoint and authorise, in addition to the appropriate authority under the specified State Act, an officer to receive processes against the State

Government or an officer of such Government issued by the Tribunal. 18. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for— (a) conditions and limitations subject to which the two members shall be nominated by the Governor for the Selection Committee as referred to in clause (b) of sub-section (2) of section 3; (b) the procedure of investigation referred to in the proviso to sub-section (6) of section 3; (c) salaries and allowances payable to, and other terms and conditions of service of, the Chairman and other Members, as referred to in sub-section (9), determination of the nature and categories of officers and other employees, salaries and Review. Appearance before the Tribunal in any proceeding. Power to make rules. of unvern•nent The West Bengal Taxation Tribunal Act, 1987. [West Ben. Act VIII of 1987.] (Section 19 and Schedule.) allowances payable to them and condition of their service as referred to in sub-section (10), and the financial and administrative powers of, and delegation of such powers by, the Chairman as referred to in sub-section (11) of section 3: (d) procedures and manners for stating the case to the Tribunal under section 7; (e) the form, documents and evidence, and fees, as referred to in sub-section (2) of section 8; (f) manners of payment of cost awarded by the Tribunal as referred to in section 10. (3) All rules made under this Act shall be laid, as soon as may be after they are made, before the State Legislature. 19. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, or take such measures, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the purposes of removing the difficulty: Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act. (2) Any order made by the State Government under sub-section (1) shall be laid, as soon as may be after such order is made, before the State Legislature. Year 1941 1974 1979 Number VI SCHEDULE [See section 2(k),] Short title of the specified State Act. The Bengal Finance (Sales Tax) Act, 1941. The Bengal Raw Jute Taxation Act, 1941 The West Bengal Sales Tax Act, 1954. The West Bengal Motor Spirit Sales Tax Act, 1974. The West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979. 142