
West Bengal Rural Employment And Production Act, 1976

14 of 1976

[01 April 1976]

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PREAMBLE

An Act to provide for additional resources for promotion of employment in rural areas and for implementing rural production programme.

Whereas it is expedient to provide for additional resources for promotion of employment in rural areas and for implementing rural production programme;

It is hereby enacted in the Twenty-seventy Year of the Republic of India, by the Legislature of West Bengal, as follows:-

1. For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Part IV, of the 9th March, 1976, page 1223; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held in 1976.

1. Short title :-

This Act may be called the West Bengal Rural Employment and Production Act, 1976.

2. Definitions :-

In this Act, unless the context otherwise requires,-

1(1) "annual value of coal-bearing land", in relation to a financial year, means one-half of the value of coal, produced from such coal-bearing land during the two years immediately preceding that financial year, the value of coal being that as could have been fetched by the entire production of coal during the said two immediately preceding years, had the owner of such coal-bearing land sold such coal at the price or prices excluding the amount of tax, cess, fee, duty, royalty, crushing charge, washing charge, transport charge or any other amount as may be prescribed, that prevailed on the date immediately preceding the first day of that financial year.

Explanation.-Where different prices are prevailing on the date immediately preceding the first date of that financial year for different grades or qualities of coal, the value of coal of each grade or quality produced during the two years immediately preceding that financial year shall be determined accordingly;

1(1a) "coal-bearing land" means holding or holdings of land having one or more seams of coal comprising the area of a coal mine;

1(1b) "despatched", for a financial year, shall, in relation to a mineral-bearing land (other than coal-bearing land) or a quarry, mean one-half the quantity of minerals, or materials, despatched during two years immediately preceding that financial year from such mineral-bearing land or quarry;

1(1c) "development value" means a sum equivalent to five times the annual value of land as assessed under the Cess Act, 1880(Ben. Act IX of 1880.);

(2) "prescribed" means prescribed by rules made under this Act;

(3) "proceeds of tax" means-

(a) the proceeds of "surcharge on land revenue" levied under section 3, and

(b) the proceeds of "rural employment cess" levied under section 4;

2(4) "year" means a financial year as defined in clause (15) of section 3 of the Bengal General Clauses Act, 1899(Ben. Act I of 1899.).

1. Clauses (1), (1a), (1b) and (1c) were substituted for the original

clause (1) by section 3(1)(a) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

2. Clause (4) was added by section 3(1)(b), *ibid*.

3. Surcharge on land revenue :-

(1) On and from the commencement of this Act, a surcharge on land revenue shall be levied and collected annually at the rate of thirty per cent. of the revenue payable under section 23B of the West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956.) in respect of the holding or holdings situated in an irrigated area and fifteen per cent. of such revenue payable in respect of the holding or holdings situated in a non-irrigated area.

(2) The provisions of the West Bengal Land Reforms Act, 1955, shall, as far as possible, apply to the assessment, levy and collection of the surcharge.

4. Rural employment cess :-

(1) On and from the commencement of this Act, all immovable properties on which road and public work cesses ¹[are assessed or liable to be assessed] according to the provisions of the Cess Act, 1880 (Ben. Act IX of 1880.), shall be liable to the payment of rural employment cess:

Provided that no raiyat who is exempted from paying revenue in respect of his holding under clause (a) of sub-section (1) of section 23B of the West Bengal Land Reforms Act, 1955, shall be liable to pay rural employment cess.

²(2) The rural employment cess shall be levied annually-

(a) in respect of land, except when a cess is leviable and payable under clause (b) or clause (c) or sub-section (2A), at the rate of six paise on each rupee of development value thereof;

(b) in respect of a coal-bearing land, at the rate of ³[twenty per centum] of the annual value of coal-bearing land as defined in clause (1) of section 2;

(c) in respect of a mineral-bearing land (other than coal-bearing land) or quarry, at the rate of fifty paise on each tonne of minerals (other than coal) or materials despatched therefrom:

Provided that when in the coal-bearing land referred to in clause (b), there is no production of coal for more than two consecutive years, such land shall be liable for levy of cess in respect of any year immediately succeeding the said two consecutive years in

accordance with clause (a):

Provided further that where no despatch of minerals or materials is made during a period of more than two consecutive years from the mineral-bearing land or quarry as referred to in clause (c), such land or quarry shall be liable for levy of cess in respect of any year immediately succeeding the said two consecutive years in accordance with clause (a).

⁴(2A) The rural employment cess shall be levied annually on a tea estate at the rate of ⁵[eight paise] for each kilogram of green tea leaves produced in such estate.

Explanation.-For the purposes of this sub-section, sub-section (3) and section 4B,-

(i) "green tea leaves" shall mean the plucked and unprocessed green leaves of the plant *Camelia Sinensis* (L) O. Kuntze;

(ii) "tea estate" shall mean any land used or intended to be used for growing plant *Camelia Sinensis* (L) O. Kuntze and producing green tea leaves from such plant, and shall include land comprised in a factory or workshop for producing any variety of the product known commercially as "tea" made from the leaves of such plant and for housing the persons employed in the tea estate and other lands for purposes ancillary to the growing of such plant and producing green tea leaves from such plant.

⁶(3) Notwithstanding anything contained in the Cess Act, 1880(Ben. Act IX of 1880.),-

⁷(a) the rural employment cess payable under sub-section (2A) shall be paid by the owner of a tea estate in such manner, for such period and by such date as may be prescribed;

(b) every owner of a tea estate shall get himself registered with the prescribed authority in the manner prescribed;

(c) every owner of a tea estate shall file ⁸[a return showing the amount of rural employment cess payable by him in such form, for such period and by such date] as may be prescribed;

⁹(cc) every owner of a tea estate shall be liable to pay, by way of penalty in default of payment of the rural employment cess payable by him under clause (a) or filing without any reasonable cause the return under clause (c) for any period

by the prescribed date, an amount, not exceeding the amount of such cess payable for such period as may be levied by the prescribed authority at the time of assessment of such cess under clause (d), in such manner as may be prescribed:

Provided that the prescribed authority shall give the owner of the

tea estate an opportunity of being heard before imposition of such penalty:

10 Provided further that if interest is payable by the owner of a tea estate under clause (g1) or clause (g2) for failure to make full payment of rural employment cess in respect of any period,-

(i) no penalty under this clause for default of payment of the rural employment cess under clause (a) shall be imposed upon him, and

(ii) the penalty under this clause for default in filing without reasonable cause the return under clause (c) for such period by the prescribed date shall not exceed five lakh rupees for each such return or ten per centum of the amount of rural employment cess assessed (not excluding any amount paid) under clause (d) by the prescribed authority for such period, whichever is less;

(d) the rural employment cess **11**[payable under sub-section (2A)] shall be assessed by the prescribed authority in the manner prescribed and, if the return furnished under clause (c) **12**[is not accepted,] the owner of a tea estate shall be given a reasonable opportunity of being heard before making such assessment;

(e) appeal, revision and review, as the case may be, from an order of assessment or other orders relating to rural employment cess **13**[payable under sub-section (2A)] shall lie to such authority and in such manner as may be prescribed;

(f) recovery of cess assessed under clause (d) or refund of any amount of such cess found to have been paid in excess after assessment shall be made in the manner prescribed:

14 Provided that the prescribed authority may proceed to recover any unpaid amount of rural employment cess assessed as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

(g) every owner of a tea estate shall be liable to pay by way of penalty an amount, not exceeding the amount of cess **15**[assessed under clause (d) and remaining unpaid,] for default in payment of such cess **16**[without reasonable cause.] The penalty shall be imposed by the prescribed authority in the manner prescribed:

17 Provided that no penalty under this clause shall be imposed in respect of an assessment of rural employment cess for which interest is payable under clause (g3) and clause (g6);

18(g1) where an owner of a tea estate files a return referred to in clause (c) in respect of any period by the prescribed date or thereafter, but fails to make full payment of rural employment cess

payable in respect of such period by such prescribed date, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such cess or up to the month prior to the month of assessment under clause (d) in respect such period, whichever is earlier, upon so much of the amount of rural employment cess payable by him according to such return as remains unpaid at the end of each such month of default:

Provided that where after an assessment is made under clause (d) in respect of any period, it is found that the amount of rural employment cess assessed (not excluding any amount paid) for such period exceeds the amount paid by such owner under clause (a) for such period by more than ten per centum of such amount of rural employment cess paid, the owner of the tea estate shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month next following the date prescribed for filing of the return for such period up to the month prior to the month of such assessment, upon the amount of rural employment cess assessed as due;

18(g2) where an owner of a tea estate fails to furnish a return referred to in clause (c) in respect of any period by the prescribed date or thereafter before the assessment under clause (d) in respect of such period and, on such assessment, full amount of rural employment cess payable for such period is found not to have been paid by him by such prescribed date, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of rural employment cess for such period or up to the month prior to the month of assessment under clause (d) in respect of such period, whichever is earlier, upon so much of the rural employment cess payable by him according to such assessment as remains unpaid at the end of each such month of default;

18(g3) where an owner of a tea estate fails to make payment of any rural employment cess payable after assessment under clause (d) by the date specified in the notice of demand issued in this behalf, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month next following the last date for payment specified in such notice up to the month preceding the month of full payment of such cess or of forwarding of the certificate to the prescribed

authority for recovery of the rural employment cess under clause (f), whichever is earlier, upon so much of the amount of rural employment cess payable by him according to such notice as remains unpaid at the end of each such month of default;

18(g4) where as a result of an order passed on an appeal, revision or review under clause (e), the amount of rural employment cess payable is modified, the interest payable under clause (g3) shall be determined or redetermined on the basis of such modified amount and the excess interest paid, if any, shall be refunded;

18(g5) the prescribed authority shall, in the prescribed manner, pay a simple interest at the rate of two per centum for each English calendar month of delay in making refund to an owner of tea estate of the amount of rural employment cess paid in excess, when such excess payment arises out of an order passed on an appeal, revision or review under clause (e) after the date of coming into force of section 9 of the West Bengal Taxation Laws (Second Amendment) Act, 1990, from the first day of the month next following the expiry of three months from the date of such order up to the month preceding the month in which the refund is made under clause (f), upon the amount of rural employment cess refundable to him according to such order;

18(g6) interest under clause (g1) or clause (g2) shall be payable in respect of returns, the prescribed dates for furnishing of which under clause (c) are the dates subsequent to, and interest under clause (g3) shall be payable in respect of assessments for which the notices of demand of rural employment cess assessed under clause (d) are issued after, the date of coming into force of section 9 of the West Bengal Taxation Laws (Second Amendment) Act, 1990;

18(g7) in calculating the interest payable under clause (g1), clause (g2), clause (g3) or clause (g5), the amount of rural employment cess in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and, for this purpose, where such amount contains a part of one hundred rupees, if such part is fifty rupees or more, it shall be increased to one hundred rupees and, if such part is less than fifty rupees, it shall be ignored;

18(g8) where an owner of a tea estate is liable to pay interest under clause (g1), clause (g2) or clause (g3), he shall pay such interest in such manner and by such date or dates as may be prescribed;

18(g9) where the prescribed authority is satisfied that an owner of

a tea estate is liable to pay interest under clause (g1), clause (g2) or clause (g3), he shall, in such manner as may be prescribed, determine the amount of interest payable by such owner; and if, on such determination, any amount or additional amount becomes payable by such owner or any excess amount becomes refundable to such owner, the prescribed authority shall issue a notice, in the prescribed manner, to such owner directing him to pay such amount or additional amount or informing him of the amount of excess payment, as the case may be;

18(g10) where there is an apparent mistake in the determination of interest under clause (g9), the prescribed authority may, on his own motion within four years, or upon application made by an owner of a tea estate within six months, from the date of such determination, rectify the amount of interest payable by such owner and issue a fresh notice in the prescribed manner;

18(g11) recovery of any amount of interest determined or redetermined under clause (g4), clause (g9) or clause (g10) or refund of any amount of interest found to have been paid in excess under any such clause shall be made in the manner prescribed:

Provided that the prescribed authority may proceed to recover any unpaid amount of interest determined or redetermined as if it were in arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

18(g12) the State Government may by rules prescribe that no interest shall be payable or interest shall be payable at such rate, lower than that specified under clause (g1), clause (g2) or clause (g3), in respect of such period or in such cases or under such circumstances and subject to such conditions, if any, as may be provided therein;

19(g13) where an owner of a tea estate, who is liable to pay interest under clause (g3), makes-

(i) full payment of cess assessed under clause (d) in respect of the years commencing on the first day of April, 1981 and ending on the thirty-first day of March, 1995 or part thereof, as the case may be, and

(ii) full payment of interest payable in accordance with the direction of the Supreme Court of India contained in its judgment delivered on the twenty-fifth day of November, 1994 in the case of Goodbrick Group Limited and Others versus State of West Bengal and Others, and also in the matter of similar other cases,

within the 31st day of March, 1999, the interest payable under clause (g3) for the period as aforesaid by such owner, accrued up to the thirty-first day of March, 1999 or the date of actual payment of such dues, whichever is earlier, shall, notwithstanding anything to the contrary contained in this section or elsewhere in this Act, be waived to the extent of fifty per centum of the total amount of such interest payable by such owner for such period:

Provided that there shall be no waiver of such interest payable for such period under clause (g3), if such owner of a tea estate fails to make payment of any part of cess referred to in sub-clause (i), and any part of interest referred to in sub-clause (ii), within the date so specified;

20(gg) if the owner of a tea estate fails without reasonable cause to get himself registered under clause (b), he shall be punishable with simple imprisonment for a term which may extend to one year or with fine of one thousand rupees or with both, and in the case of a continuing offence, with a further fine which may extend to one hundred rupees for every day during which such offence continues after first conviction:

Provided that no Court shall take cognizance of any offence punishable under this clause except with the previous sanction of the prescribed authority, and no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence;

(h) the State Government or the prescribed authority may appoint persons to assist the prescribed authority;

21(hh) every owner of a tea estate shall keep a true and up to date accounts of green tea leaves produced in a tea estate and maintain such other documents, records or registers as may be prescribed;

(i) any powers, duties or functions of the prescribed authority may be delegated to any person appointed under clause (h) in such manner as may be prescribed.

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23Explanation II.-For the purposes of this section and section 4B, "owner" shall, with reference to a tea estate, the possession of which has been transferred by lease, mortgage or otherwise, mean the transferee so long as his right to possession subsists.

24(4) The State Government may, if it considers necessary so to do, by notification in the Official Gazette, exempt from payment of the rural employment cess such categories of tea estates producing green tea leaves not exceeding 250000 kilograms and located in

such area as may be specified in such notification.

1. The words within the square brackets were substituted for the words "are assessed" by section 7(a) of the West Bengal Taxation Laws (Amendment) Act, 1981 (West Ben. Act IX of 1981).

2. Sub-section (2) was substituted for the original sub-section by section 3(2) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992). Prior to this substitution there occurred following changes in original sub-section (2), namely:-

(I) in clause (a)-

the words "in respect of lands, other than a tea estate," were substituted for the words "in respect of lands," by section 7(b)(i) of the West Bengal Taxation Laws (Amendment) Act, 1981 (West Ben. Act IX of 1981);

(II) clause (aa) was inserted by section 7(b)(ii), *ibid*. Thereafter, the first proviso to this clause (aa) was omitted by section 7(1)(a) (i) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982). Finally, clause (aa) was omitted, w.e.f. the 1st April, 1981, by section 3(a) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989);

(III) in clause (b)-

(i) firstly, the words "rupees two and fifty paise" were substituted for the words "fifty paise" by section 5 of the West Bengal Taxation Laws (Amendment) Act, 1978 (West Ben. Act XIV of 1978). Secondly, the words "rupees five" were substituted for the words "rupees two and fifty paise" by section 7(b)(iii) of the West Bengal Taxation Laws (Amendment) Act, 1981 (West Ben. Act IX of 1981). Thirdly, the words "rupees seven and fifty paise" were substituted for the words "rupees five" by section 7(1)(a)(ii)(A) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982). Fourthly, the words "rupees fifteen" were substituted for the words "rupees seven and fifty paise" by section 8 of the West Bengal Taxation Laws (Amendment) and Repealing Act, 1983 (West Ben. Act VIII of 1983).

Fifthly, the words "fifteen per centum of the value of coal" were substituted for the words "rupees fifteen on each tonne of coal" by section 7(i) of the West Bengal Taxation Laws (Second Amendment) Act, 1983 (West Ben. Act XV of 1983). Sixthly, the words "seventeen per centum" were substituted for the words "fifteen per centum" by section 7 of the West Bengal Taxation Laws (Second Amendment) Act, 1984 (West Ben. Act IV of 1984). Seventhly, the words "at such rate, not exceeding twenty-five per centum of the value of coal, as the State Government may, by notification in the Official Gazette, determine in this behalf," were substituted for the words "at the rate of seventeen per centum of the value of coal" by section 8(1) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986). Finally, the words "thirty-five per centum" were substituted for the words "twenty-five per centum" by section 6 of the West Bengal Taxation

Laws (Amendment) Act, 1988 (West Ben. Act III of 1988), and
(ii) the word "annual" was omitted by section 7(l)(a)(ii)(B) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982); and

(IV) in clause (c)-

(i) the words "at the rate of fifty paise on each tonne of materials or minerals other than coal on the annual despatches therefrom." were substituted for the words "at the rate of six paise on each rupee of annual net profits thereof." by section 6 of the West Bengal Taxation Laws (Amendment) Act, 1987 (West Ben. Act V of 1987), and

(ii) after clause (c) an Explanation was added by section 7(ii) of the West Bengal Taxation Laws (Second Amendment) Act, 1983 (West Ben. Act XV of 1983).

3. The words within the square brackets were substituted for the words "thirty-eight per centum" by section 3 of the West Bengal Taxation Laws (Second Amendment) and Repealing Act, 1998 (West Ben. Act VIII of 1998). Prior to this substitution the words "thirty-eight per centum" were substituted for the words "thirty-five per centum" by section 6 of the West Bengal Finance Act, 1996 (West Ben. Act X of 1996).

4. Sub-section (2A) was inserted, w.e.f. the 1st April, 1981, by section 3(b) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989).

5. The words within the square brackets were substituted for the words "twelve paise" by section 6 of the West Bengal Finance Act, 1994 (West Ben. Act XVI of 1994).

6. Sub-sections (3) and (4) were inserted by section 7(c) of the West Bengal Taxation Laws (Amendment) Act, 1981 (West Ben. Act IX of 1981).

7. Clause (a) was substituted, w.e.f. 1.4.81, by section 3(c)(i) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989). Prior to this substitution the words, letters, figures and brackets "the rural employment cess payable under sub-section (1) in respect of a tea estate referred to in clause (aa) of sub-section (2) shall be paid" were substituted, in original clause (a), for the words, letters, figure and brackets "the rural employment cess under clause (aa) of sub-section (2) shall be payable" by section 7(l)(b)(i) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982).

8. The words within the square brackets were substituted for the words "such return" by section 7(l)(b)(ii), *ibid*.

9. Clause (cc) was inserted by section 7(1)(b)(iii), *ibid*.

10. This proviso was added by section 9(1)(a) of the West Bengal Taxation Laws (Second Amendment) Act, 1990 (West Ben. Act VIII of 1990).
11. The words, figure, letter and brackets within the square brackets were substituted, w.e.f. the 1st April, 1981, for the words, letters, figure and brackets "under clause (aa) of sub-section (2)" by section 3(c)(ii) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989).
12. The words within the square brackets were substituted for the words "are not accepted," by section 7(l)(b)(iv) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982).
13. The words, figure, letter and brackets within the square brackets were substituted, w.e.f. the 1st day of April, 1981, for the words, letters, figure and brackets "under clause (aa) of sub-section (2)" by section 3(c)(iii) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989).
14. This proviso was added by section 9(1)(b) of the West Bengal Taxation Laws (Second Amendment) Act, 1990 (West Ben. Act VIII of 1990).
15. The words, letter and brackets within the square brackets were substituted for the words, letters, figure and brackets "leviable under clause (aa) of sub-section (2) for any period," by section 7(1)(b)(v)(A) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982).
16. The words within the square brackets were substituted for the words "for such period without reasonable cause by such date as may be prescribed." by section 7(1)(b)(v)(B), *ibid*.
17. This proviso was added by section 9(1)(c) of the West Bengal Taxation Laws (Second Amendment) Act, 1990 (West Ben. Act VIII of 1990).
18. Clauses (g1), (g2), (g3), (g4), (g5), (g6), (g7), (g8), (g9), (g10), (g11) and (g12) were inserted by section 9(1)(d), *ibid*.
19. Clause (g13) was inserted by section 6 of the West Bengal Taxation Laws (Amendment) Act, 1998 (West Ben. Act IV of 1998).
20. Clause (gg) was inserted by section 7(1)(b)(vi) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982).
21. Clause (hh) was inserted by section 3(c)(iv) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989).

22. Explanation I was omitted, w.e.f. the 1st day of April, 1981, by section 3(c)(v) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989).

23. Explanation II was substituted, w.e.f. the 1st day of April, 1981, by section 3(c)(vi), *ibid.*

24. This sub-section was substituted for the original sub-section (4) by section 3(d), *ibid.* Prior to this substitution this sub-section was inserted by section 7(c) of the West Bengal Taxation Laws (Amendment) Act, 1981 (West Ben. Act IX of 1981).

4A. Levy, recovery, etc., of cess in respect of coal mines :-

¹[Notwithstanding anything contained in the Cess Act, 1880(Ben. Act IX of 1880),-

²(a) the rural employment cess payable for a year under sub-section (1) of section 4 in respect of a coal-bearing land referred to in clause (b) of sub-section (2) of that section shall be paid by the owner of such coal-bearing land in such manner, at such intervals and by such dates as may be prescribed;

³(b) every owner of a coal-bearing land shall furnish a declaration relating to a year showing the amount of rural employment cess payable by him under clause (a) in such form and by such date as may be prescribed and to such authority as may be notified by the State Government in this behalf in the Official Gazette (hereinafter referred to as the notified authority);

(c) every owner of a ⁴[coal-bearing land] shall be liable to pay, by way of penalty in default of payment of the rural employment cess payable by him under clause (a) or filing without any reasonable cause the ⁵[declaration] under clause (b) for any ⁶[year] by the prescribed date, an amount, not exceeding the amount of such cess payable for such ⁶[year] as may be levied by the notified authority at the time of assessment of such cess under clause (d), in such manner as may be prescribed:

Provided that the notified authority shall give the owner of a ⁴[coal-bearing land] an opportunity of being heard before imposition of such penalty:

⁷Provided further that if interest is payable by the owner of a ⁴[coal-bearing land] under clause (ga) or clause (gb) for failure to make full payment of rural employment cess in respect of any ⁶[year],-

(i) no penalty under this clause for default of payment of the rural

employment cess under clause (a) shall be imposed upon him, and (ii) the penalty under this clause for default in filing without reasonable cause the ⁵[declaration] under clause (b) for such ⁶[year] by the prescribed date shall not exceed five lakh rupees for each such ⁵[declaration] or ten per centum of the amount of rural employment cess assessed (not excluding any amount paid) under clause (d) by the notified authority for such ⁶[year], whichever is less;

⁸(d) the rural employment cess under clause (b) of sub-section (2) of section 4 shall be assessed by the notified authority in the manner prescribed, and if the declaration under clause (b) is not accepted, the owner of the coal-bearing land shall be given a reasonable opportunity of being heard before making such assessment;

(e) an appeal, revision or review, as the case may be, from an order of assessment or any other order passed under this section shall lie to such authority, on such conditions and in such manner as may be prescribed;

(f) recovery of the rural employment cess assessed under clause (d) or refund of any amount of such cess found to have been paid in excess after assessment shall be made in the manner prescribed:

⁹Provided that the notified authority may proceed to recover any unpaid amount of rural employment cess assessed as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

(g) every owner of a ¹⁰[coal-bearing land] shall be liable to pay, by way of penalty in default, without reasonable cause, of payment of the rural employment cess assessed under clause (d) by the date specified in the notice of demand issued in this behalf, an amount not exceeding the amount of such cess so remaining unpaid, and such penalty may be imposed by the notified authority in the manner prescribed:

Provided that the notified authority shall give the owner of a ¹⁰[coal-bearing land] an opportunity of being heard before imposition of such penalty:

¹¹Provided further that no penalty under this clause shall be imposed in respect of an assessment of rural employment cess for which interest is payable under clause (gc) and clause (gf);

¹²(g a) where an owner of a coal-bearing land furnishes a declaration referred to in clause (b) in respect of any year by the

prescribed date or thereafter, but fails to make full payment of rural employment cess payable in respect of such period by such date as may be prescribed under clause (a), he shall pay a simple interest at the rate two per centum for each English calendar month of default in payment under clause (a) from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such cess or up to the month prior to the month of assessment under clause (d) in respect of such period, whichever is earlier, upon so much of the amount of rural employment cess payable by him according to clause (a) as remains unpaid at the end of each such month of default;

13(gb) where an owner of a coal-bearing land fails to furnish a declaration referred to in clause (b) in respect of any year by the prescribed date or thereafter before the assessment under clause (d) in respect of such year and, on such assessment, full amount of rural employment cess payable for such year is found not to have been paid in the manner and by the date prescribed under clause (a), he shall pay a simple interest at the rate of two per centum for each English calendar month of default in payment under clause (a) from the first day of the month next following the prescribed date for such payment up to the month preceding the month of full payment of rural employment cess under clause (a) or up to the month prior to the month of such assessment under clause (d), whichever is earlier, upon so much of the amount of rural employment cess payable by him according to clause (a) as remains unpaid at the end of each such month of default:

Provided that where the rural employment cess payable under clause (a) is not paid in the manner prescribed under that clause by the owner of a coal-bearing land, the notified authority shall, while making the assessment under clause (d) in respect of a year, apportion on the basis of such assessment the rural employment cess payable in accordance with clause (a);

14(gc) where an owner of a **15**[coal-bearing land] fails to make payment of any rural employment cess payable after assessment under clause (d) by the date specified in the notice of demand issued in this behalf, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of the month next following the last date for payment specified in such notice up to the month preceding the month of full payment of such cess or of forwarding of the certificate to the prescribed authority for recovery of the rural employment cess under the proviso to clause (f), whichever is earlier, upon so much

of the amount of rural employment cess payable by him according to such notice as remains unpaid at the commencement of each such month;

14(gd) where as a result of an order passed on an appeal, revision or review under clause (e), the amount of rural employment cess payable is reduced, the interest payable under clause (gc) shall be determined or redetermined on the basis of such reduced amount and the excess interest paid, if any, shall be refunded;

14(ge) the notified authority shall, in the prescribed manner, pay a simple interest at the rate of two per centum for each English calendar month of delay in making refund to an owner of a **16**[coal-bearing land] of the amount of rural employment cess paid in excess, when such excess payment arises out of an order passed, on an appeal, revision or review under clause (e), after the date of coming into force of section 8 of the West Bengal Taxation Laws (Amendment) Act, 1986, from the first day of the month next following the expiry of three months from the date of such order up to the month preceding the month in which the refund is made under clause (f), upon the amount of rural employment cess refundable to him according to such order;

17(gf) interest under clause (ga) or clause (gb) shall be payable in respect of payment of rural employment cess which falls due on any day after the 30th day of April, 1992, and interest under clause (gc) shall be payable in respect of assessments for which notices of demand of rural employment cess under clause (d) are issued on or after the date of commencement of the West Bengal Taxation Laws (Amendment) Act, 1992:

Provided that interest under clause (ga) or clause (gb) in respect of any period ended on or before the 31st day of March, 1992, or interest under clause (gc) in respect of assessments for which notices of demand of rural employment cess under clause (d) are issued before the date of commencement of the West Bengal Taxation Laws (Amendment) Act, 1992, shall continue to be payable in accordance with the provisions of this Act as they stood before the coming into force of the said Act as if the said Act had not come into force;

18(gg) in calculating the interest payable under clause (ga), clause (gb) or clause (gc), the amount of rural employment cess in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and, for this purpose, where such amount contains a part of one hundred rupees, then, if

such part is fifty rupees or more, it shall be increased to one hundred rupees and if such part is less than fifty rupees, it shall be ignored;

18(gh) where an owner of a **19**[coal-bearing land] is liable to pay interest under clause (ga), clause (gb) or clause (gc), he shall pay such interest in such manner and by such date or dates as may be prescribed;

18(gi) where the notified authority is satisfied that an owner of a **20**[coal-bearing land] is liable to pay interest under clause (ga), clause (gb) or clause (gc), he shall, in such manner as may be prescribed, determine the amount of interest payable by such owner; and if, on such determination, any additional amount becomes payable by such owner or any excess amount becomes refundable to such owner, the notified authority shall issue a notice, in the prescribed manner to such owner directing him to pay such additional amount or informing him of the amount of excess payment, as the case may be;

21(gj) where there is an apparent mistake in the determination of interest under clause (gi), the notified authority may, on his own motion within four years, or upon application made by an owner of a **22**[coal-bearing land] within six months, from the date of such determination, rectify the amount of interest payable by such owner and issue a fresh notice in the prescribed manner;

21(gk) recovery of any amount of interest determined or redetermined under clause (gd), clause (gi) or clause (gj) or refund of any amount of interest found to have been paid in excess under any such clause shall be made in the manner prescribed:

Provided that the notified authority may proceed to recover any unpaid amount of interest determined or redetermined as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

21(gl) the State Government may by rules prescribe that no interest shall be payable, or interest shall be payable at such rate, lower than that specified under clause (ga), clause (gb), or clause (gc), in respect of such period or in such cases or under such circumstances and subject to such conditions, if any, as may be provided therein;

(h) the State Government or the notified authority may appoint persons to assist the notified authority;

(i) any powers, duties or functions of the notified authority may be

delegated to any person appointed under clause (h) in such manner as may be prescribed.

1. Section 4A was inserted by section 7(2) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982).

2. Clause (a) was substituted for the original clause by section 3(3) (a) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

3. Clause (b) was substituted for the original clause by section 3(3) (b), *ibid.* Prior to this substitution a proviso was added to original clause (b) by section 8(2)(i) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

4. The words within the square brackets were substituted for the words "coal mine" by section 3(3)(c)(i) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

5. The word within the square brackets was substituted for the word "return" by section 3(3)(c)(ii), *ibid.*

6. The word within the square brackets was substituted for the word "period" by section 3(3)(c)(iii), *ibid.*

7. This proviso was added by section 8(2)(ii) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

8. Clause (d) was substituted for the original clause by section 3(3) (d) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

9. This proviso was added by section 8(2)(iii) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

10. The words within the square brackets were substituted for the words "coal mine" by section 3(3)(e) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

11. This proviso was added by section 8(2)(iv) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

12. Clauses (ga) to (gl) were inserted by section 8(2)(v), *ibid.* Thereafter, the present clause (ga) was substituted for the original one by section 3(3)(f) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

13. Clauses (ga) to (gl) were inserted by section 8(2)(v) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986). Thereafter, the present clause (gb) was substituted for the original one by section 3(3)(g) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

14. Clauses (ga) to (g1) were inserted by section 8(2)(v) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

15. The words within the square brackets were substituted for the words "coal mine" by section 3(3)(h) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

16. The words within the square brackets were substituted for the words "coal mine" by section 3(3)(i), *ibid*.

17. Clause (gf) was substituted for the original one by section 3(3)(j) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992). Prior to this substitution clause (gf) was inserted by section 8(2)(v) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

18. Clauses (ga) to (gl) were inserted by section 8(2)(v), *ibid*.

19. The words within the square brackets were substituted for the words "coal mine" by section 3(3)(k) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

20. The words within the square brackets were substituted for the words "coal mine" by section 3(3)(l), *ibid*.

21. See foot-note 2 on page 367, *ante*.

22. The words within the square brackets were substituted for the words "coal mine" by section 3(3)(m) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

4AA. Special mode of recovery :-

¹[(1) Notwithstanding the issue of a requisition under the proviso to clause (f) of sub-section (3) of section 4 or under the proviso to clause (f) of section 4A for realisation of cess, penalty or interest as arrears of land revenue, the prescribed authority or the notified authority, as the case may be, may, at any time or from time to time by notice in the prescribed form, require any person from whom money is due or may become due to the owner referred to in sub-section (3) of section 4 or section 4A, as the case may be, or any person who holds or may subsequently hold money for or on account of such owner, to deposit into a Government Treasury or the Reserve Bank of India under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the

money becomes due or is held), so much of the money as is sufficient to pay the amount due by such owner in respect of the arrears or the whole of the money when it is equal to or less than the amount due.

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for or on account of the owner jointly with any other person and, for the purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the owner at his last address known to the prescribed authority or the notified authority, as the case may be, and, in the case of a joint account, to all the joint-holders at their last addresses known to the said authority.

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post-office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim with respect to any property in relation to which a notice under this section has been issued, arising after the date of the notice, shall be void as against any demand contained in the notice.

(6) Where a person to whom a notice under this section is sent proves to the satisfaction of the prescribed authority or the notified authority, as the case may be, that the sum demanded or part thereof is not due to the owner or that he does not hold any money for or on account of the owner or that the money demanded or any part thereof is not likely to be due to the owner or be held for or on account of the owner, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be.

(7) The prescribed authority or the notified authority, as the case may be, may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

(8) The Treasury or the Bank shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying shall be fully discharged from his liability to the owner to the extent of the amount so paid.

(9) Any person discharging any liability to the owner after receipt of a notice under this section shall be personally liable to the prescribed authority or the notified authority, as the case may be, to the extent of his own liability to the owner so discharged or to the extent of the owners liability for any sum due under this Act, whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be an owner in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him and the notice shall have the same effect as attachment of a debt.

(11) The prescribed authority or the notified authority, as the case may be, may apply to the Court in whose custody there is money belonging to the owner for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax:

Provided that any dues or property exempt from attachment in execution of a decree of a Civil Court under section 60 of the Code of Civil Procedure, 1908(5 of 1908.), shall be exempt from any requisition made under this section.

1. Section 4AA was inserted by section 9(1) of the West Bengal Taxation Laws (Amendment) Act, 1993 (West Ben. Act IV of 1993).

4B. Validation and exemption :-

¹[(1) Where any sum has been paid by, or collected from, any owner of a tea estate during the period commencing on the 1st day of April, 1981 and ending on the day immediately preceding the date of coming into force of the West Bengal Taxation Laws (Second Amendment) Act, 1989 as rural employment cess in respect of any period prior to the coming into force of the said Act, such portion of the said sum as may become payable in accordance with the provisions of this Act after the coming into force of the said Act shall, notwithstanding any judgement, decree or order of any court, be deemed to have been validly levied, paid or collected under this Act, and where after assessment or fresh assessment any portion of such sum is found to have been levied, paid or collected in excess of the rural employment cess payable for the said period shall be refunded to such owner in accordance with the provisions of this Act and the rules made thereunder.

(2) Where any assessment is purported to have been made, or any

order is purported to have been passed on appeal, revision or review, by any authority, or any appeal or application for revision or review has been made before such authority under this Act, or any order has been passed by a court or where any sum has been paid or collected as rural employment cess, before the coming into force of the West Bengal Taxation Laws (Second Amendment) Act, 1989, in respect of any period prior to the coming into force of the said Act, assessment or fresh assessment shall, notwithstanding such order on appeal, revision or review, or the pendency of such appeal or application for revision or review, or any order passed by a court, be made in accordance with the provisions of this Act within four years from the date of coming into force of the said Act.

(3) Notwithstanding anything contained in this Act, any default by an owner of a tea estate to make payment of the rural employment cess or to apply for registration or to file return in accordance with the provisions of this Act after the coming into force of the West Bengal Taxation Laws (Second Amendment) Act, 1989 in respect of any period prior to the coming into force of the said Act shall not be deemed to be a contravention of such provisions if such owner makes payment of such rural employment cess within one month or files return within six months, as the case may be, from date of coming into force of the said Act.

(4) The amount of the rural employment cess payable by any owner of a tea estate under sub-section (2A) of section 4 of this Act in respect of any period prior to the coming into force of the West Bengal Taxation Laws (Second Amendment) Act, 1989, shall, notwithstanding anything contained in this Act, be reduced by such amount of rural employment cess payable in respect of such tea estate or such quantity of green tea leaves produced therein during the said period as may be equivalent to the quantity of any tea despatched for which such owner has purported to have enjoyed or would have enjoyed exemption from payment of the rural employment cess during such period, and it is hereby declared that for determining the amount of the rural employment cess to be reduced, each kilogram of tea despatched during such period shall be equivalent to four and a half kilograms of green tea leaves produced in such tea estate.

1. Section 4B was added by section 3(e) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989).

5. West Bengal Rural Employment and Production Fund :-

(1) There shall be established a fund to be called the West Bengal Rural Employment and Production Fund which shall be administered in such manner as may be prescribed.

(2) The fund shall consist of-

- (a) all proceeds of tax,
- (b) any sum granted by the State Government, and
- (c) any other sum received from any source whatsoever.

6. Application of the West Bengal Rural Employment and Production Fund :-

The West Bengal Rural Employment and Production Fund shall be utilised by the State Government for the implementation of such rural production programme and for promotion of such employment in the rural areas as may be prescribed.

6A. Offences and penalties :-

¹[(1) Whoever-

- (a) fails to pay the full amount of rural employment cess payable under sub-section (1) of section 4 in respect of a tea estate referred to in sub-section (2A) of that section for any period in accordance with clause (a) of sub-section (3) of that section, or
- (b) submits a false return, or fails without reasonable cause to furnish a return, under clause (c) of sub-section (3) of section 4, or
- (c) fails to make payment of interest payable under clause (g1), clause (g2) or clause (g3) of sub-section (3) of section 4, or
- (d) fails to pay the full amount of rural employment cess payable under sub-section (1) of section 4 in respect of a coal-bearing land referred to in clause (b) of sub-section (2) of that section for any period in accordance with clause (a) of section 4A, or
- (e) submits a false declaration, or fails without reasonable cause to furnish a declaration, under clause (b) of section 4A, or
- (f) fails to make payment of interest payable under clause (ga), clause (gb) or clause (gc) of section 4A,

shall be punishable with simple imprisonment which may extend to six months or with fine or with both and, when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence:

Provided that no prosecution for an offence enumerated in this sub-section shall be instituted in respect of the same facts in respect of which a penalty has been imposed under clause (cc) or clause (g)

of sub-section (3), as the case may be, of section 4.

(2) No Court shall take cognizance of any offence-

(a) under clause (a), clause (b) or clause (c) of sub-section (1), except with the previous sanction of the prescribed authority referred to in sub-section (3) of section 4, or

(b) under clause (d), clause (e) or clause (f) of sub-section (1), except with the previous sanction of the notified authority referred to in clause (b) of section 4A,

and no Court inferior to the Court of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.

(3) The offences punishable under sub-section (1) shall be cognizable and bailable.

1. Sections 6A and 6B were inserted by section 9(2) of the West Bengal Taxation Laws (Amendment) Act, 1993 (West Ben. Act IV of 1993).

6B. Liability to prosecution :-

¹[(1) When an offence under clause (a), clause (b) or clause (c) of sub-section (1) of section 6A has been committed by an owner of a tea estate or an offence under clause (d), clause (e) or clause (f) of sub-section (1) of that section has been committed by an owner of a coal-bearing land, as the case may be, every person who, at the time the offence was committed, was in-charge of such tea estate or coal-bearing land, as the case may be, and was responsible to such owner for the conduct of the business of such tea estate or coal-bearing land, as the case may be, as well as the owner, shall be deemed to be guilty of the offence and shall be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under section 6A, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 6A has been committed by an owner of a tea estate or coal-bearing land, as the case may be, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

1. See foot-note 1 on page 372, ante.

7. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power such rules may provide for all or any of the matters which may be or are required to be prescribed.

¹(3) Notwithstanding the provisions contained in sub-section (2), in particular, and without prejudice to the generality of the foregoing power, such rules may also provide for the manner of payment, determination and recovery of interest ²[under sub-section (3) of section 4 or under section 4A, as the case may be,] and all other matters which may be or are required to be prescribed ³[under those sections].

1. Sub-section (3) was inserted by section 8(3) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

2. The words, figures, letter and brackets within the square brackets were substituted for the words, figure and letter "under section 4A" by section 9(2)(a) of the West Bengal Taxation Laws (Second Amendment) Act, 1990 (West Ben. Act VIII of 1990).

3. The words within the square brackets were substituted for the words "under that section" by section 9(2)(b), *ibid*.