

IRON ORE MINES AND MANGANESE ORE MINES AND CHROME ORE MINES LABOUR WELFARE CESS RULES, 1978

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IRON ORE MINES AND MANGANESE ORE MINES AND CHROME ORE MINES LABOUR WELFARE CESS RULES, 1978

G.S.R. 1044.-Whereas the draft of certain rules proposed to be made under Sec. 14 of the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976 (55 of 1976) was published as required by sub-section (1) of Section 14 of that Act, at pages 1577 to 1582 of the Gazette of India, Part II, Section 3, sub-section (i), dated the 7th May. 1977, with the notification of the Government of India, the Ministry of Labour No. G.S.R. 600, dated the 29th April, 1977, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of forty-five days from the date of publication of the said notification in the Official Gazette: And whereas, the said Gazette was made available to the public on the 7th May. 1977: And whereas the objections and suggestions received from the public on the said draft have

been considered by the Central Government: Now, therefore, in exercise of the powers conferred by Section 14 of the said Act: the Central Government hereby makes the following rules, namely :

CHAPTER 1

General

1. Short title and commencement :-

(i) These rules may be called the Iron Ore Mines and ¹ Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Rules. 1978.

(ii) They shall come into force on the 1st day of September. 1978.

1. Subs. by G.S.R. 531 (E), dated 28th June, 1983.

2. Definitions :-

In these rules, unless the context otherwise requires.-

(a) "Act" means the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976 (55 of 1976):

¹(b) "Cess Commissioner" means the Iron Ore Mines and Manganese Ore Mines Cess Commissioner specified under rule 3, in whose jurisdiction a metallurgical factory or an iron ore mine or a manganese ore mine is located]:

(c) "Form" means a form appended to these rules:

(d) "Fund" means the Iron Ore Mines and ² Manganese Ore Mines and Chrome Ore Mines] Labour Welfare Fund:

(e) "Month" means a month reckoned according to the British calendar:

(f) "Section" means a section of the Act;

1. Subs. by G.S.R. 1010, dated 8th December. 1982.

2. Subs. by G.S.R. 531 (E), dated 28th June, 1983.

3. Assessing and collecting authority for duty of excise :-

(1) The Central Government may, by notification in the Official Gazette, specify such officers as it thinks fit, including a Welfare Commissioner, appointed under ¹ S. 8 of the Iron Ore Mines and [Manganese Ore Mines and Chrome Ore Mines] Labour Welfare Fund Act, 1976 to be Iron Ore Mines and Manganese Ore Mines Cess Commissioners and may assign to them such local limits as it may think fit.

(2) Each Cess Commissioner shall be responsible for the assessment and collection of the duty of excise, levied under the Act, within the local limits assigned to him.

1. Subs. by G.S.R. 531 (E), dated 28th June, 1983.

4. Manner of assessment and collection :-

The duty of excise levied under Section 3 of the Iron Ore¹ [manganese ore and chrome ore] produced in any mine shall be assessed and collected in the manner specified in these rules.

1. Subs. by G.S.R. 1010, dated 8th December. 1982.

5. Maintenance of registers :-

(1)

(a) Every owner of an iron ore mine or¹[or chrome ore mine] shall maintain a register in regard to the production and disposal of iron ore,²[or manganese ore as the case may be, chrome ore] in Form A and shall record therein date-wise the production and disposal (including use by such owner in any metallurgical factory) of such ore and at the close of each month the entries made against each date in the register shall be totalled and the total production and disposal of iron ore,²[or manganese ore as the case may be, chrome ore] during the month shall be entered therein.

(b) At the close of each month the duty of excise, levied under Section 3 , payable by the owner of the mine to the Central Government on the iron ore,²[or manganese ore as the case may be, Chrome ore] used by such owner during the month, in any metallurgical factory shall be calculated and recorded in the register maintained under Cl. (a).

Explanation.-In calculating the duty of excise payable, a fraction of less than half a tonne in the total of iron ore or manganese ore used during any month in any metallurgical factory shall be ignored and a fraction of half or more than half of a tonne shall be reckoned as one tonne.

(2)

(a) Every person by whom iron ore or manganese ore¹[or chrome ore] is sold or otherwise disposed of to the occupier of a metallurgical factory shall maintain a register of the receipt and disposal of Iron ore,²[or manganese ore as the case may be,

chrome ore] in Form B and shall record therein date-wise the receipt and disposal of such ore and at the close of each month the entries made against each date shall be totalled and the total receipt and disposal of Iron ore. ²[or manganese ore as the case may be, chrome ore] during the month shall be entered therein.

(b) At the close of each month the duty of excise as levied under Section 3 and payable by such person under Section 4 In relation to such ore to the occupier of any metallurgical factory on the iron ore. ²or manganese ore as the case may be, chrome ore] shall be calculated and recorded in the register itself along with the amount of duty actually paid.

Explanation.-In calculating the duty of excise payable, a fraction of less than half a tonne in the total of Iron ore or manganese ore sold or otherwise disposed of to the occupier of any metallurgical factory during the month shall be ignored and a fraction of half or more than half a tonne shall be reckoned as one tonne.

(3) Every occupier of a metallurgical factory shall maintain a register in Form C regarding the receipt of iron ore, ²[or manganese ore as the case may be, chrome ore] and the amount of the duty of excise payable to him in relation to such ore under Section 4 and shall record therein date-wise the quantity of Iron ore, ²[or manganese ore as the case may be, chrome ore] sold or otherwise disposed of to him and the amount of the duty of excise payable in relation to such ore and received by him and at the close of each month, the entries, made against each date in the register shall be totalled and the total quantity of iron ore, ² [or manganese ore as the case may be. chrome ore] sold or otherwise disposed of to him and the total amount of the duty of excise payable and received during the month shall be entered therein.

1. Ins. by G.S.R. 531 (E). dated 28th June, 1983.

2. Subs. by G.S.R. 531 (E), dated 28th June. 1983.

6. Submission of returns :-

(1) Every occupier of a metallurgical factory shall submit to the Cess Commissioner in duplicate, a return for each month in Form D separately for each person who sold or otherwise disposed of to such occupier iron ore or manganese ore ¹[or chrome ore] during the month, in relation to the iron ore '{or manganese ore as the case may be. chrome ore] so sold or otherwise disposed of to him,

and the duty of excise payable and received by him, duly signed by him or any other person authorised by him In this behalf, so as to reach rule 10.

²[(1-A) Every owner of an iron ore mine or a manganese ore mine besides maintaining a register in Form A as provided in rule 5. shall submit return In the same form to the Cess Commissioner every month, not later than the last day of the month following the month to which the return relates.

(1-B) Every person by whom iron ore or manganese ore is sold or otherwise disposed of to the occupier of a metallurgical factory, besides maintaining a register in Form B, as provided in rule 5, shall submit to the Cess Commissioner having jurisdiction over the area in which the metallurgical factory is located, a return in the same form, every month, not later than the last day of the month to which the return relates.

(1-C)

(i) Where the metallurgical factory or the mine of the iron ore or the manganese ore to which a return in Form D relates are located within the Jurisdiction of the same Cess Commissioner, he shall on receipt of the return in Form D verily- Its contents with those of returns to Forms A and B received by him.

(ii) Where the metallurgical factory or the mine of the iron ore or manganese ore to which a return In Form D relates are located within the jurisdiction of different Cess Commissioner, the Cess Commissioner on receipt of the return in Form D shall.-

(a) verily its contents with those of the return in Form B received by him under Sub-rule (1-B), relating to the sale or disposal of the Iron ore or manganese ore: and

(b) send a copy of the return to the Cess Commissioner In whose Jurisdiction the Iron ore mine the manganese ore mine to which the return mines is located, for verification.

(1-D) The Cess Commissioner on receiving the copy of the return shall verily Its contents with those of the returns in Form A received by him and shall return the copy of said return duly verified to the Cess Commissioner from whom he received it.

(1-F) Where a Cess Commissioner receives any return which according to these rules relates to the jurisdiction of any other Cess

Commissioner he shall keep a copy of the return on his record and send the return to the Cess Commissioner having jurisdiction.]

(2) Where during any month no iron ore or manganese ore or manganese ore ³(or chrome ore) was sold or otherwise disposed of to the occupier of a metallurgical factory, and for that reason no duty of excise received, such occupier shall submit to the Cess Commissioner, in duplicate, a nil return for that month, in the manner provided in sub-rule (1), accompanied by a declaration stating that no iron ore or manganese ore ³(or chrome ore] was sold or otherwise disposed of to him and no excise duty received by him, duly signed by him in this behalf, so as to reach the Cess Commissioner not later than the last day of the month following the month to which the return pertains.

(3)

(a) Notwithstanding anything contained in sub-rule (1) or in sub-rule (2), If the Cess Commissioner Is satisfied with respect to the occupier of any metallurgical factory that no Iron ore, ⁵ [or manganese ore as the case may be. chrome ore] or duty of excise was received by such occupier during the preceding twelve months he may, by order in writing, allow such occupier to submit for any succeeding periods, in the place of the monthly return, a consolidated return in

(b) Where the occupier of a metallurgical factory is allowed to submit a consolidated return, such return shall be submitted so as to reach the Cess Commissioner not later than the last day of the month immediately following the expiry of the period In relation to which it is being submitted.

(4) Every return under this rule shall be sent by registered post with acknowledgement due.

1. Ins. by G.S.R. 531 (E). dated 28th June, 1983.

2. Subs. by G.S.R. 1010. dated 8th December. 1982.

3. Ins. by G.S.R. 531 (E), dated 28th June, 1983.

5. Subs. by G.S.R. 531 (E), dated 28th June, 1983.

7. Submiwion of annual accounts and verification of returns and accounts :-

(1) Every occupier of a metallurgical factory shall submit to the Cess Commissioner a copy of the annual account of the factory along with a copy each of the profit and loss account and balance

sheet duly authenticated by their auditors as soon as may be after the annual accounts are closed and audited every year.

(2) The Cess Commissioner may depute an officer for the purpose of the verification of the correctness and completeness of the monthly return or annual accounts with reference to the books of account, and other books and records maintained by the occupier of the metallurgical factory and the officer so deputed shall be afforded by the occupier and the manager and other employees of the metallurgical factory all facilities in connection with the verification of the correctness and completeness of such return or accounts.

(3) In particular, and without prejudice to the generality of the provisions contained in sub-rule (2), the officer deputed under that sub-rule may request the occupier or manager of the metallurgical factory to produce before him such books of accounts and other books and records as he deems necessary for the verification of the monthly return or annual accounts and such occupier or manager shall produce, within the time specified by such officer, such accounts, returns and records.

8. Late returns and revision of returns :-

If the occupier of any metallurgical factory has not furnished the return under rule 6 before the expiry of the date specified in that rule or having furnished it before the expiry of the date discovers any omission or wrong statement therein, he may furnish the return or a revised return, as the case may be. at any time before the order of final assessment is made under rule 11.

9. Period for payment of duty of excise :-

(1)

(a) The amount of excise duty payable by a person who sells or otherwise disposes of iron ore or manganese ore ¹[or chrome ore] to the occupier of any metallurgical factory under C1. (a) of sub-section (2) of Section 4 shall be paid by him to the occupier concerned Immediately after the despatch of the ore or shall be allowed to be deducted from his bill of payment.

(b) Any person who sells or otherwise disposes of to the occupier of a metallurgical factory and without reasonable excuse fails to pay the duty of excise within the period specified in Cl. (a) in that behalf shall be punishable with fine which may extend to five

hundred rupees.

(2) The amount of excise duty payable by the owner of a mine, where the iron ore or the manganese ore ¹or chrome ore] is used by such owner in any metallurgical factory under Cl. (b) of sub-section (2) of Section 4 of the Act shall be paid by him by sending crossed cheque/crossed demand draft to the Cess Commissioner concerned drawn in his favour and payable at the station at which the Cess Commissioner is stationed, not later than the last day of the month following the month In which the iron ore or the manganese ore ¹ [or chrome ore] was used in the metallurgical factory.

(3) The amount of excise duty payable by the occupier of any metallurgical factory under sub-section (3) of Section 4 shall be paid by him by sending crossed cheque/crossed demand draft to the Cess Commissioner drawn In his favour and

1. Ins. by G.S.K. 531 (E). dated 28th June. 198.3.

10. Manner of payment of duty :-

The payment of duty of excise by the owner of a mine under sub-rule (2) of rule 9 or the amount collected by the occupier of metallurgical factory under sub-rule (3) of that rule shall be made by sending a crossed cheque/crossed demand draft along with a challan duly filled In Indicating the head of Account as "038-Union Excise Duties-D-Cesses on Commodities-Iron Ore/Manganese Ore" creditable to the account of P.A.O. (Main Sectt.) Ministry of Labour, New Delhi, to the Cess Commissioner drawn In his favour and payable at the station at which he is stationed.

11. Final assessment of the amount payable by occupier of metallurgical factory :-

(1) If on the basis of the information available from the return In Form D or any other information which has come into his possession, the Cess Commissioner has reason to believe that any amount of the duty of excise payable by the occupier of a metallurgical factory has not been paid by him In the manner provided in those rules, he shall, after giving such occupier a reasonable opportunity of being heard by the issue of notice in Form E assess the amount of duty of excise remaining unpaid and shall Issue to him a Demand Notice In Form F requiring the payment of such duty of excise within the time specified therein.

(2) The manner of payment of the amount payable under sub-rule (1) shall be same as laid down in rule 10 and the crossed cheque/crossed demand draft sent to the Commissioner shall be accompanied by a covering letter quoting reference to the Demand Notice.

12. Review :-

(1) The occupier of a metallurgical factory to whom a Demand Notice has been issued under sub-rule (1) of rule 11 may, within thirty days from the date of the service of such notice on him, apply to the Cess Commissioner for a review of the assessment in pursuance of which the Demand Notice has been issued to him: Provided that no such application for review shall lie unless the amount shown in the Demand Notice has been deposited in the manner referred to in sub- rule (2) of rule 11.

(2) Every application for review shall be accompanied by a memorandum setting forth clearly the principle grounds of objections against the assessment made quoting the number and date of crossed cheque/demand draft and number and date of letter with which it was forwarded to the Commissioner, showing that the amount assessed has been paid.

(3) The Cess Commissioner, on a perusal of the application and memorandum submitted by the applicant and the records of the case, shall,-

(a) if he is satisfied that the assessment should not have been made or should have been made only for a lesser amount, annul the assessment or, as the case may be, reduce the amount of the duty of excise assessed:

(b) if he is not so satisfied, confirm the assessment provided that no order confirming the assessment shall be made unless the applicant has been given an opportunity of being heard.

(4) The Cess Commissioner shall record his reasons for his decision in the order under sub-rule (3) and the applicant shall be supplied with a copy of the order, as soon as may be after it is made, free of cost.

(5) Where the Cess Commissioner annuls the order of assessment or reduces the amount of the duty of excise assessed, the duty of excise or, as the case may be, the excess of the duty of excise,

paid by the occupier shall be either refunded to such occupier or adjusted towards any amount payable by him under the Act. as the Cess Commissioner may direct.

(6) Any refund under sub-rule (5) shall be made by the Cess Commissioner by crossed cheque or demand draft by drawing the amount from the Pay and Accounts Office on an ordinary contingent bill on which shall be specified the review case number and date of review order and the amount and date of challan with which the deposit was made by him in the branch of State Bank of India or its subsidiary.

13. Refund and recovery of duty of customs :-

Refund of the duty of customs erroneously levied or paid and recovery of duty of customs short levied or erroneously refunded shall so far as may be, made in accordance with the Provisions of the Customs Act, 1962. and the rules made thereunder, relating to refund, remission and recovery of customs duties under that Act.

14. Refunds, Remissions :-

(1) If any occupier of a metallurgical factory has reason to believe that he has by any mistake paid any amount in excess of the duty of excise payable by him, he may submit a claim to the Cess Commissioner for the refund of such excess duly supported by relevant documents.

(2) Claims for refund under sub-rule (1) shall be submitted within two years from the date of sending the crossed cheque/crossed demand draft to the Cess Commissioner in respect of the refundable amount.

(3) Where it is proved to the satisfaction of the Cess Commissioner that the duty of excise has been paid in excess by mistake, he may order refund to the occupier of the metallurgical factory an amount equal to the amount found to have been paid in excess.

15. Authority for imposition of penalty for non-payment duty of excise :-

Penalty under sfec. 8 shall be imposed by the Cess Commissioner.

16. Records of collection :-

(1) For the proper accounting of the duty of excise collected under these rules, the Cess Commissioner shall maintain records to show the following particulars along with any other particulars required :

(a) assessment and collection of the duty of excise:

(b) particulars of petitions and orders thereon:

(c) refunds.

(2) All the papers relating to the assessment of the duty of excise in respect of the owner of any metallurgical factory shall be kept together and shall form an assessment case record.