

LEVY SUGAR PRICE EQUALISATION FUND ACT, 1976

31 of 1976

[16th Febuary, 1976]

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Since the beginning of 1972-73 Sugar Season, the Government of India have, as a matter of policy, been distributing levy sugar through fair price shops to the consumers at a uniform price throughout the country, by pooling Essential Commodities Act, 1955. These prices have been challenged by a number of producers from time to time and pending disposal of the writ petitions, the courts had made interim orders permitting the producers to charge higher to the satisfaction of the Registrar of the Court. cases, while a large number of cases are still pending. The Bill provides that the monies representing the difference between the controlled prices and the higher prices charged by the producers should, in the first

instance, be refunded to the consumers who had paid such higher prices. But, where such consumers do not come forward to claim the refund prices charged by the producers would, by virtue of the principles of bona vacantia (that is to say, the principle under which property vests in the State where there is no apparent rightful claimant to the property), vest in the Central Government throughout India is uniform so that the benefit of the money accruing to the Central Government may be derived by all the consumers. See Gaz. of India; 27-1-1976, Part II, S. 2, Extra., p. 474. Act S4 of 84. The following are important amendments which the Bill seeks to make in the Act: excess realisation includes not only the excess price charged by the producer but also any amount charged by the producer by way of duties of excise in excess of the amount payable by way of such duties [vide clause (b) The definition of "levy sugar" contained in section 2 of the Act incorporates by reference the meaning definition self-contained with retrospective effect [vide clause 2(b) of the Bill.] (c) With a view to securing speedy crediting of excess realisation to the Fund, the existing rate of interest of 12½ prescribed period of sixty days from the date of excess realisation or as the case may be, the final disposal of a case by a court. In cases where the excess realisations are not credited to the Fund within this period, rate of interest of 12½ per cent. per annum would, however, apply for a period of sixty days from the commencement of the proposed legislation in respect of excess realisations made before such Commence- in respect of any period during which any excess realisation is, by reason of any order of court, held by the producer with any other person or a bank or the Government, the producer will be liable to pay by way of of the Bill]. challenging the price fixation order, it shall not be necessary for the producer to credit the difference between the controlled price and the higher price charged to the Fund unless the court which made the advanced on the basis of this provision that even after the disposal of the proceedings, the excess realisation as determined in accordance with the decision of the court need not be credited to the Fund unless a specific (c) of clause 3 of the Bill]. order of court cannot be credited to the Fund directly by such third party as the liability is cast on the producer to credit to the Fund the excess realisations. With a view to securing speedy crediting of such towards interest), provision is being made for crediting of such amounts by such third parties directly to the Fund [vide sub-clause (1) of clause 3 of the Bill]. (f) Section 6 of the Act which provides for refund of excess realisation to buyers of levy sugar is intended

to be available only to such buyers as had not passed on the incidence of excess price to other persons. It is under the section to buyers of levy sugar who are not dealers but who had passed on the incidence of the excess price as part of the price of any product in the manufacture of which the levy sugar purchased by them is also being amended with retrospective effect to provide that refund would be made under the section not only of excess realisation but also of the interest, if any, thereon which has been credited to the Fund [vide (g) Section 11 of the Act which provides for recovery of excess realisation as arrears of land revenue is being recovered in the same manner [vide clause 6 of the Bill]. interest on excess realisation [vide clause 7 of the Bill].

1. Short title, extent and commencement :-

(1) This Act may be called the Levy Sugar Price Equalisation Fund Act, 1976.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definition :-

In this Act unless the context otherwise requires,-

(a) "controlled price" means the price of the relevant grade of levy sugar, determined from 1955, or under Defence and Internal Security of India Rules, 1971, in relation to any year of production;

(b) "excess realisation" in relation to each grade of levy sugar,

(i) means the price realised by any producer, on the sale of the levy sugar of such grade, in excess of

(a) the controlled price, or

(b) where any fair price has been fixed by a court for levy sugar of such grade, such

(ii) includes any realisation representing the difference between the controlled price and the price allowed by the court by an interim order, if such interim order is set

(c) "fair price", in relation to levy sugar means the price fixed by the court in excess of the controlled price, and, where an interim

price, fixed by the court, is superseded by a price which is finally fixed by the court, the price so finally fixed;

(d) "Fund" means the Levy Sugar Price Equalisation Fund, established under section 3 ;

(e) "levy sugar" means the sugar requisitioned by the Central Government under clause (f) of sub-section (2) of section 3 of the Essential Commodities Act, 1955.]

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

(g) "producer" means a person carrying on the business of manufacturing sugar by the vacuum pan process.

3. Levy Sugar Price Equalisation Fund :-

(1) There shall be established a fund, to be called the Levy Sugar Price Equalisation Fund.

(2) Save as otherwise [Provided in sub-section (5)], there shall be credited to the Fund, in such manner as may be prescribed,

(a) the amounts representing all excess realisations made by the producers, irrespective of whether such excess realisations were made before or after the commencement of this

(b) the amounts representing any loans which may be advanced, or grants which may be

(3) Save as otherwise ¹[provided in sub-section (5)], every producer shall,

(a) in the case of an excess realisation made before commencement of this Act, within thirty days from such commencement,

(b) in the case of an excess realisation made after such commencement, within thirty days from the date on which such excess realisation was made, (a)thereon at the rate of twelve and a half per cent per annum, from the date on which such amount was realised by him. ²[Provided that date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984, as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent per annum before the expiry of sixty days from the date of such

(b) the interest due on so much of the amount of any excess realisation made on or after the aforesaid rate of twelve and a half

per cent per annum within sixty days from the date on which such amount was realised by the producer.]

3[(4) X X X X]

(5) Where, in pursuance of an [interim order made by any Court, whether before or after the commencement of this Act] any amount representing the difference between the controlled price and the interim price allowed by the court is,

(a) held by any producer either with himself or with any other person or with any court, Government, bank or other authority, or

(b) collected and kept by the producer under the cover of any guarantee, such producer shall, on the final disposal of the proceedings of the court aforesaid, ⁴[credit to the Fund, within sixty days from the date of such final disposal, such amount, to the effect of twelve and a half per cent per annum from the date on which such amount was realised by him : Provided that

(i) the interest due on so much amount as was realised before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 and is not credited to the Fund together with interest at the aforesaid rate of such commencement, and

(ii) the interest on so much of such amount as was realised before the date of commencement and not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent per annum within sixty days from the date on which such shall be at the rate of fifteen per cent per annum from the date on which such amount was

5[(5A) Notwithstanding anything contained in sub-section (5), the interest payable on the respect of any period during which such amount was by reason of any order of any court held by the producer with any other person or with any court. Government, bank or other authority amount in respect of such period.]

6 (5B) Without prejudice to the provisions of sub-section (5), any amount representing the difference between the controlled price and the interim price allowed by the court which

(a) is held by any producer with any other authority referred to in clause (a) of that sub-section, or

(b) is under the cover of any guarantee referred to in clause (b) of that sub-section, shall as soon as may be after the final disposal of the proceedings of the court aforesaid be any, which has accrued thereon or been guaranteed in respect thereof, to the Fund by such other person, the court, Government, bank or other authority aforesaid or, as the case may be, off against the amount (including interest) required to be credited by the producer under sub-section (5).

(5C) The provisions of sub-section (5B) shall apply in relation to every amount representing the difference between the controlled price and the interim price allowed by the Fund (Amendment) Act, 1984

(a) is held by producer with any other person or with any court authority mentioned in clause (a) of that sub-section, or

(b) is under the cover of any guarantee mentioned in clause (b) of that sub-section, notwithstanding that the final disposal of the proceedings for the court aforesaid took place disposal of the proceedings of the court" shall be construed as a reference to such commencement.

(5D) Where any amount is credited to the Fund under sub-section (5B), such crediting shall,

(a) in a case falling under clause (a) of that sub-section, operate as the discharge of the liability in relation to such amount of the person, court, Government, bank or other

(b) in a case falling under clause (a) of that sub-section, have effect as if it had been made in and for this purpose such guarantee shall be deemed to have provided for such crediting.]

(6) For the amount of doubts, it is hereby declared that the obligation to credit amounts representing excess realisations to the Fund shall be in addition to any penalty which may be

(7) The Fund shall be administered, subject to the provisions of section 8 , by the Central

1. Substituted for "provided in sub-section (4)" by Levy Sugar Price Equalisation Fund (Amendment) Act (54
2. Inserted, Levy Sugar Price Equalisation Fund (Amendment) Act.
3. Sub-section (4) omitted, Levy Sugar Price Equalisation Fund (Amendment) Act.
4. Substituted for the words "or in any court of appeal or revision,

credit such amount, to the extent it represents any excess realisation, to the Fund", Levy Sugar Price Equalisation Fund (Amendment) Act.

5. Inserted and deemed always to have been inserted, Levy Sugar Equalisation Fund (Amendment) Act.

6. Inserted, Levy Sugar Equalisation Fund (Amendment) Act (23-8-84).

4. Determination of questions as to making of excess realisations :-

If any question arises as to whether any producer has realised, on the sale of levy sugar, any amount in excess of the controlled price, or, as the case may be, the fair price, it shall be decided by the Central such inquiry as that Government may deem fit.

5. Discharge of persons of liability in respect of amounts credited to the Fund :-

Where crediting, be discharged from the liability to make repayment of such amounts to the persons entitled thereto and such discharge from liability to make repayment shall be without any made by him.

6. Right of buyer to claim refund :-

(1) Where any amount is credited to the Fund, a refund shall be made from the Fund to the buyer of levy sugar from whom any excess realisation was made by' the producer or dealer: Provided that no buyer shall be entitled to claim a refund under this sub-section if he,

(a) being a wholesale dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the retail dealer by whom the price of such sugar was paid, or

(b) being a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the consumer by whom the price of such sugar was paid ¹[or]

¹ [(c) being a person who is not a wholesale dealer or a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to any other been used or, as the case may be, to the consumer by whom the price of such sugar was paid.]

(2) Every application for refund under sub-section (1) shall be made to the Central Government within six months from the date

on which the excess realisation, in relation to such form as may be prescribed and shall be accompanied by such documentary or other evidence as the applicant may furnish to establish that the excess realisation, in relation to which such refund is claimed, was made from him.

(3) The Central Government shall, if satisfied, on a scrutiny of the claim made under made from the Fund to the claimant to the extent of the [excess realisation made from him together with interest (if any) thereon credited to the Fund]: Provided that if the amount standing to the credit of the Fund is not sufficient to enable the Central Government to make the refund, such refund shall be made from the Central revenues.

1. Inserted and deemed always to have been inserted by Levy Sugar Price Equalisation Fund (Amendment) Act

7. Excess realisation not to be any producer of sugar :-

Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, no amount, representing excess realisations made by a producer or excess realisation producer.

8. Fund to vest in the Central Government :-

(1) Any money paid into the Fund, which remains unclaimed after the expiry of the period of six months from the date on which it is credited to the Fund, shall vest in the Central Government and such amount shall be utilised by consumers of levy sugar as a class and the need to ensure that the retail price of levy sugar throughout India is uniform: Provided that, notwithstanding the vesting of such money in the Central Government, a claim for the refund of money standing to the credit of the Fund may be made [in the manner such claim, and every such claim, if admitted, shall be dealt with as if the money relatable to such claim had not vested in the Central Government.

(2) The Central Government shall not grant any loan or give any financial assistance from the Fund except for the purposes of this Act.

(3) The Central Government shall maintain, or if it thinks fit specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund India.

9. Power to require producers to maintain accounts, etc :-

The Central Government may, if it is satisfied that it is expedient or necessary so to do for carrying out the provisions of this Act, by an order, direct any producer to maintain such books of account and other records records for inspection and may also direct such producer to furnish such information relating to levy sugar as may be specified in the order.

10. Power of entry, search and seizure :-

(1) Any authority specified by the Central Government in this behalf may, if it is satisfied that any provision of this Act has been, or is where any accounts, books, registers and other documents relating to levy sugar and belonging to, or under the control of, a producer or his agent, are maintained or kept for safe custody.

(2) The person so authorised may seize any such accounts, books, registers or other documents if he has any reason to believe that a contravention of this Act has been, or is being, or is about to be, committed. Provided that the accounts, books, registers or other documents seized under this section days: Provided further that where such accounts, books, registers and other documents are required for the purposes of any prosecution, they may be retained in the custody of the Central Government for a farther period, not exceeding ninety days, for the purposes of such prosecution.

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures, shall so far as may be, apply to searches and seizures made under this Act.

11. Power of Central Government to recover excess realisations as arrears of land revenue :-

If any producer makes any default in crediting to the Fund ¹ [any excess realisation or any interest due on such excess realisation or any part of such excess realisation or interest, such excess realisation or such interest or such part], as the case may be revenue.

1. Substituted and deemed to have substituted for the words "any excess realisations made by him, or any part thereof, such excess realisations or such part" by Levy Sugar Price Equalisation Fund (Amendment) Act (54 of 1984), S. 6.

12. Dissolution of the Fund :-

The Central Government may, by notification in the Official Gazette, declare that, with effect from such date as may be specified in the notification, be credited to the Central revenues

and refund, if any, made by the Central Government, after such cesser, to any buyer of levy sugar shall be treated as an order for the refund of revenue.

13. Penalties :-

(1) If any producer

(a) makes any default in crediting to the Fund any excess realisations made by him or any part thereof, ¹ [any excess realisation made by him or any interest due on such excess realisation or any part of such excess realisation or interest], or

(b) having been required by the Central Government so to do, omits or fails to

(i) maintain any books, accounts or other records in relation to levy sugar, or

(ii) produce any books, accounts or other records for inspection, or

(iii) furnish any information or furnishes any information which is incorrect or false in he shall be punishable with imprisonment for a term which may extend to two years, or with

(2) No court shall take cognizance of any offence punishable under this Act except on the authorized, in writing, by that Government in this behalf.

1. Substituted and deemed to have substituted for the words "any excess realisations made by him, or any part thereof, such excess realisations or such part" by Levy Sugar Price Equalisation Fund (Amendment) Act (54 of 1984), S. 6.

14. Removal of difficulties :-

If any difficulty arises in giving effect to any provision of this Act, as may appear to it to be necessary to remove the difficulty.

15. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the Central Government or any person authorised by the Central Government for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

16. Power to make rules :-

(1) The Central Government may make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all any of the following matters, namely :-

(a) the manner in which amounts shall be credited to the Fund under section 3 ;

(b) the form in which an application for refund, referred to in section 6 , shall be made;

(c) the manner in which amounts standing to the credit of the Fund shall be utilised, as required by section 8 ;

(d) the form in which the account and the relevant records, referred to in sub-section (3) of section 8 , shall be maintained;

(e) any other matter in relation to which such rules are required to be, or may be, made.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is session for a total period of thirty days which may be comprised in one session or in two or more successive sessions; and if, aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rules should not be made, the rule shall thereafter have effect only in such modified form or be without prejudice to the validity of anything previously done under that rule.