

SUGAR CANE CESS (VALIDATION) ACT, 1961

4 of 1961

[11th September, 1961]

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"In the case of Diamond Sugar Mills Ltd. and another v. State of Uttar Pradesh and another. [A. I. R. 1961 SC 652] the Supreme Court by a majority judgment delivered on the 13th December, 1960, held U. P. Sugarcane Cess Act, 1956, ultra vires and beyond the competence of the State Legislature. This decision of the Supreme Court invalidated the levy and collection of cesses on sugarcane by the U. P. Government under that Act. The levies and collections of cesses by U. P. Govt. during the period 26th Jan., 1950 to 3rd Feb., 1961 have been validated by Parliament under U.P.Sugarcane Cess (Validation) Act, 1961 (No. 4 of 1961). The sugarcane cess laws (named in the Bill) in respect of the States of Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh, Madras, Maharashtra and Mysore are also affected by the Judgment of the Supreme Court. Unless the cesses levied and collected under these Acts are validated the State Governments would have to refund the entire amount of cess so levied and collected. As there is no entry in the State List or Concurrent List which authorises the State Government to validate these past levies and collections: it is necessary to validate by an Act of Parliament the cesses imposed assessed or collected by these States under the aforesaid laws. It is also necessary to validate the cesses levied or collected in the State of Uttar Pradesh prior to 26-1-50 and amend Act No 4 of

1961 for this purpose. Hence this Bill."-Gaz. of Ind., 1961, Extra.. Pt. II. S. 2, p. 806.

1. Short title and commencement :-

(1) This Act may be called THE SUGARCANE CESS (VALIDATION) ACT, 1961.

(2) Section 5 shall come into force at once, and the remaining provision of this Act, in so far as they relate to any State, shall come into force in that State on such date as the Central Government may, by notification in the Official Gazette, appoint ¹ and different dates may be appointed for different States.

1. 1st October, 1961, is appointed as the date on which the provisions of this Act except S. 5, in so far as they relate to (1) the State of Mysore (now Karnataka) shall come into force-See G.S.R. 1190 D/- 23-9-1961, Gaz. of Ind., 1961, Pt. II S. 3(i), p. 1420: (2) The State of A. P. on 5-1-1962-See Gaz. of Ind., 5-1-1962, Pt. II, S. 3 (i), Ext., p. 51: (3) State of Bihar, on 31-12-1961-See Gaz. of Ind, 23-12-1961, Pt. II, S. 3 (i), p. 1847; (4) State of Gujarat, on 27-12-1961 -See Gaz., of Ind., 27-12-1961, Pt. II, S. 3 (i), Ext., p. 597: (5) State of Madhya Pradesh on 26-12-1961-See Gaz. of Ind., 23-12-1961, Pt. II, S. 3 (i), p. 1847: (6) State of Maharashtra, on 31-12-1961-See Gaz. of Ind, 30-12-1961, Pt. II, S. 3 (i), Ext., p. 599: (7) Madras (Now Tamil Nadu) on 31-12-1961-See Gaz. of Ind., 1962, 28-2-1962, Pt. II, S. 3 (i), Ext., p. 109:

2. Definitions :-

In this Act-

(a) "cess" means the cess payable under any State Act and includes any sum recoverable under any such Act by way of interest or penalty;

(b) "State Act" means any of the following Acts as in force in any State from time to time, by way of amendment or adaptation namely:-

(i) Andhra Pradesh (Andhra Area) Sugar Factories Control Act, 1949

(ii) Andhra Pradesh (Telangana Area) Sugarcane Cess Act, 1953:

(iii) Bihar Sugar Factories Control Act, 1937

(iv) Bombay Sugarcane Cess Act, 1948

(v) Bombay Sugarcane Cess (Extension) Act, 1958;

(vi) Hyderabad Sugarcane Cess Act, 1953;

(vii) Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958

(viii) Madras Sugar Factories Control Act, 1949

(ix) The Madras Sugar Factories Control (Mysore Amendment and Validation of Levy of Cess) Act, 1959;

(x) Mysore Sugarcane Cess Act, 1958.

3. Validation of imposition and collection of cesses under State Acts :-

(1) Notwithstanding any judgment, decree or order of any court, all cesses imposed, assessed or collected or purporting to have been imposed assessed or collected under any State Act before the commencement of this Act shall be deemed to have been validly imposed, assessed or collected in accordance with law, as if the provisions of the State Acts and of all notifications, orders and rules issued or made thereunder, in so far as such provisions relate to the imposition, assessment and collection of such cess had been included in and formed part of this section and this section had been in force at all material times when such cess was imposed, assessed or collected; and accordingly,___

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any cess paid under any State Act,

(b) no Court shall enforce a decree or order directing the refund of any cess paid under any State Act; and

(c) any cess imposed or assessed under any State Act before the commencement of this Act but not collected before such commencement may be recovered (after assessment of the cess, where necessary) in the manner provided under that Act.

(2) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person-

(a) from questioning in accordance with the provision of any State Act. and rules made thereunder the assessment of any cess for any period; or

(b) from claiming refund of any cess paid by him in excess of the amount due from him under any State Act and the rules made thereunder.

4. Omission of S. 11 of the Bombay Sugarcane Cess Act, 1948 :-

Nothing in this Act shall be construed as validating Section 11 of the Bombay Sugarcane Cess Act, 1948 and accordingly the said section shall be omitted.

5. 5 :-

Amendment of U. P. Sugarcane Cess (Validation) Act, 1961-