

**U. P. SUGARCANE CESS (VALIDATION) ACT, 1961**

**38 of 1961**

[ ]

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<sup>a</sup>[a] For Statement of Objects and Reasons, see Gaz. of Ind., 1961, Extra., Pt. II, section 2, page 35.

STATEMENT OF OBJECTS AND REASONS "In the case of Diamond Sugar Mills Limited and another v. State of Ullar Pra desh and another. (AIR 1961 SC 652). the Supreme Court by a majority judgment delivered on the 13th December, 1960, has held the U. P. Sugar Cane Cess Act. 1956, ultra vires and beyond the competence of the State Legislature. This decision of the Supreme Court invalidates the levy and collection of cesses on sugarcane by the U. P. Government under that Act. The total cess collected by the U. P. Government on sugar- cane since 19.50 runs to about forty-five crores of rupees. Unless the cess levied and collected under the impugned Act is validaed, the U. P. Government would have to re- fund 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 became necessary to promulgate the U. P. Sugarcane Cess (Vali- dation) Ordinance of 1961 (I of 1961) on the 31st of January, 1961. The Ordinance vali- dates the cesses imposed, assessed or collected by the Government of Uttar Pradesh dur- ing the period from the 26th January, 1950 to the date of the

commencement of the Ordinance. The Ordinance was brought into force with effect from the 3rd February, 1961. by notification in the Official Gazette. 2. This Bill merely seeks to replace the Ordinance by an Act of Parliament.-Gaz. of Ind.. 1961, Extra., Pt. II, S. 2, p. 35.

### **1. Short title and commencement :-**

(1) This Act may be called THE U. P. SUGARCANECESS (VALIDATION) ACT, 1961.

(2) It shall be deemed to have come into force on the 3rd day of February, 1961.

### **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, namely:-

(i) United Provinces Sugar Factories Control Act, 1938;

(ii) The U. P. Sugarcane (Regulation of Supply and Purchase) Act, 1953 and

(iii) The U- P. Sugarcane Cess Act, 1956.

### **3. Validation of Imposition and collection of cesses under State Acts during a certain period :-**

(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 <sup>1</sup>[before the 3rd day of February, 1961] shall be deemed to have been validly imposed, assessed or collected in accordance with law, as if the provisions of the State Act 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 <sup>1</sup> 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 3rd day of February, 1961 but not collected before that day, 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 provisions 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.

1. Substituted and shall be deemed always to have been substituted for the words, figures and letters "during the period beginning with the 26th day of January, 1950 and ending on the 3rd day of February, 1961" by the Sugar- cane Cess (Validation) Act, 1961 (38 of 1961), S. 5.

#### **4. Bepeal :-**

The U. P. Sugarcane Cess (Validation) Ordinance, 1961, is hereby repealed.