

AGRICULTURAL PRODUCE CESS ACT, 1940

27 of 1940

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SCHEDULE 1 :- 1

AGRICULTURAL PRODUCE CESS ACT, 1940

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Act 40 of 1970.- The Agricultural Produce Cess Act, 1940 provides for imposition of cess at the rate of one-half of one percent, ad valorem on all articles included in the Schedule to this Act which are exported from India. There is no specific provision in this Act for the levy of penalty in cases where the exporters attempt to evade payment of the cess. 2. In the recent past with a view to achieve simplification in the matter of collection of the cess, it has been decided that in cases where the cess payable is only up to Rs. 100 in each case the exporters may be permitted to affix customs revenue stamps equivalent to the cess payable on the basis of their self-assessments of the value of the cargo. The correctness of the stamps affixed will be verified with reference to the Customs House record afterwards and short recovery, if any, claimed. 3. Further, the Agricultural Produce Cess is in the nature of a customs duty which is collected by the customs collectors. These customs collectors have been exercising various powers vested in them

under Customs Act, 1962 in the collection of the cess also. In order to discourage evasion of tax and misdeclaration of value of the cargo and short payment of cess, it is proposed that the provisions of Customs Act, 1962 and the rules and regulations made thereunder should be applicable to the levy and collections of the cess. 4. Opportunity has also been taken to carry out certain other amendments of clarificatory or consequential nature. -S.O.R.-Gaz. of Ind., 6-8-1970, Pt. U.S. 2, Ext., p. 645.

1. Short title and extent :-

(1) This Act may be called The Agricultural Produce Cess Act, 1940.

(2) It extends to ¹[the whole of India, ² [* * *]].

1. Substituted for the words "the whole of British India" successively by A.C.A.O., 1948, A.L.O., 1950 and the Pan B States (Laws) Act, 1951 (3 of 1951), Section 3 and Sch. (1-4-1951).

2. The words "except the State of Jammu and Kashmir" were omitted by the Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956), S. 3 and Sch. This Act has been extended to the new Provinces and merged States by the Merged States (Laws) Act, 1949 (59 of 1949), S. 3 (1-1-1950); to the Union territories of Manipur, Tripura, (Manipur and Tripura are now States) See Act 81 of 1971, S. 3 (21-1-1972). Vindhya Pradesh by the Union Territories (Laws) Act, 1950 (30 of 1950), Section 3 (16-4-1950), and to the Union Territory of Pondicherry by the Pondicherry (Laws) Regulation, 1963 (7 of 1963), Section 3 and First Sch. (1-10-1963). Vindhya Pradesh now forms part of State of Madhya Pradesh. See States Reorganisation Act, 1956 (37 of 1956), Section 9(1)(e) (1-11-1956). It is also extended to merged States in Punjab: see Punjab Act 5 of 1950. -Act extended to Union Territories of Goa, Daman and Dili by G.S.R. 504(E) of 1985- See Gaz. of Ind., 21-6-1985, Pt. II, S. 3(i), Ext., p. 2 (No. 253). Goa is now a State -See Act 18 of 1987, S. 3 (30-5-1987).

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context:-

¹[(a) "Collector" means a Collector of Customs as defined in clause (8) of Section 2 of the Customs Act, 1962 ; and]

(b) "Council" means the ² [Indian Council of Agricultural Research.]

1. Substituted for original clause '(a)' by the Agricultural Produce Cess (Amendment) Act (40 of 1970), S. 2 (1-12-1970).

2. Substituted for "Imperial Council of Agricultural Research" by A.L.O., 1950

3. Imposition of cess :-

(1) A customs duty at the rate of one-half of one per cent ad valorem shall be levied on all articles included in the Schedule which are exported from ¹ [India]: Provided that the said duty shall not be levied on articles proved to the satisfaction of the Collector not to have been produced in India.

(2) The Central Government may by notification" in the Official Gazette, fix for the purposes of levying the said duty tariff values of any articles included in the Schedule, and may alter any tariff values for the time being in force

1. Substituted for the words "British India" and "the territories to which this Act extends" successively by A.L.O..1950, the Part B States (Laws) Act, 1951 (3 of 1951), Section 3 and Sch. and the Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956), S. 3 and Sch.

5. Refund of and exemption from, cess :-

¹ [The Central Board of Excise and Customs constituted under Central Boards of Revenue Act, 1963] may make rules" providing, on such conditions as may be specified in the rules, for:-

(a) the refund of duty levied where articles are exported by land and subsequently imported into India, and

(b) the export by land, without payment of the duty, of articles which are subsequently to be imported into India.

1. Substituted for the words "The Central Board of Revenue" by the Agricultural Produce Cess (Amendment) Act (40 of 1970), S. 3, (1-12-1970).

5A. Certain provisions of the Customs Act, 1962 to apply :-

The provisions of Customs Act, 1962 , and the rules and regulations made thereunder, including those relating to refunds and exemptions from duty, shall so far as may be, apply in relation to the levy and collection of customs duty on all articles included in the Schedule as they apply in relation to the levy and collection of duty payable to the Central Government under that Act.

5B. Penalties :-

(1) Whoever-

(a) evades the payment of any customs duty under this Act, or

(b) fails to furnish any information which it is his duty to furnish or furnishes information which is false in material particulars or which he does not believe to be true, or

(c) obstructs the Collector or any other officer in the performance of his duties under this Act or any rules made thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(2) Any Court trying an offence under this Act may direct that any article specified in the Schedule in respect of which it is satisfied that an offence punishable under this Act has been committed shall be forfeited to the Central Government and may also direct that all packages, coverings or receptacles in which such article is contained and every vessel or other conveyance used in carrying such article shall be forfeited to the Central Government]

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6. Payment of cess to Council and expenditure of cess by Council :-

(1) The proceeds of the duty levied under this Act reduced by the cost of collection as determined by the Central Government shall be paid to the Council

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(2) The amount so due shall be paid by the Central Government to the Council at intervals of not more than six months.

(3) The expenditure of the money so paid to the Council shall be subject to such limitations as may be imposed by rules made in this behalf by the Central Government

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7. Standing Finance Committee :-

(1) The Council shall constitute a Standing Finance Committee, of which one member shall be chosen from among '[the members of Parliament]' on the governing body of the Council, and one member shall be an officer appointed by the Central Government

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(2) Subject to the provisions of sub-section (1) the constitution,

functions and procedure of the Standing Finance Committee shall be regulated in such manner as the Council may with the previous approval of the Central Government determine

8. Reserve fund :-

The Council shall in accordance with the rules made in this behalf by the Central Government create and maintain a reserve fund.

9. Power of Central Government to make rules :-

(1) The Central Government may, after consultation with the Council, by notification in the Official Gazette, make rules¹ to carry out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Central Government may make rules regulating the expenditure of the money paid to the Council under Section 6 and providing for the creation, maintenance and management of the reserve fund referred to in S. 8.

² [(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. For rules, see Gaz., Ind., 1940, Pt. I, p. 1353.

2. Inserted by the Agricultural Produce Cess (Amendment) Act (40 of 1970), S. 6 (1-12-1970)

SCHEDULE 1

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[See Section 3] 1. Bones. \ \ \ 12. Oil-cakes. 2. Bristles. \ \ \ 13. Pulses. 3. Butter. 14. Seeds. 4. Cereals, other than Rice and Wheat. 15. skins raw. 5. Drugs- 16. Spices. 6. Fibre for brushes. 17. Tobacco, unmanufactured. 7. Fish. 18. Vegetables. 8. Fruits. 19. Wheat. 9. Ghee. 20. Wheat Flour. 10. Hides, raw. [21. Sheep's or Lamb's wool and animal hair, \ whether or not scoured or carded.] 11. Manures,
