

## **COPRA CESS ACT, 1979**

**4 of 1979**

**[8th March, 1979]**

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## **COPRA CESS ACT, 1979**

**4 of 1979**

**[8th March, 1979]**

An Act to provide for the imposition of cess on copra, for the development of the coconut industry and for matters connected therewith. Be it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:

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

- (1) This Act may be called the Copra Cess Act, 1979.
- (2) It extends to the whole of India.

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

## **2. Definitions :-**

(1) In this Act, unless the context otherwise requires,-

(a) "Board\*" means the Coconut Development Board established under S.4 of the Coconut Development Board Act, 1979;

(b) "Collector" means the officer appointed by the Central Government to perform in any specified area the duties of a Collector under the provision<sup>^</sup> of this Act and the rules made, thereunder, and includes any office subordinate to that officer whom he may, by order in writing, authorise to perform his duties under those provisions;

(c) "Copra" means the dry kernel of coconut and includes edible copra.and desiccated coconut ;

(d) "mill" means any premises in which or in any part of which, copra is crushed, or is ordinarily crushed, with the aid of power for the extraction of oil or is otherwise processed with the aid of power.

Explanation-"Power" means electrical energy or any other form of energy, which is mechanically transmitted and is not generated by human or animal agency;

(e) "occupier", in relation to any mill, means the person who has the ultimate control over the affairs of the mill or the owner of the mill in case he is not the occupier;

(f) "oil" means oil extracted from copra;

(g) "proscribed" means proscribed by rules made under this Act.

(2) All other words and expressions used in this Act and not defined, but defined in Coconut Development Board Act, 1979, shall have the meanings respectively assigned to them in that Act.

## **3. Imposition of CCKB :-**

(1) There shall be levied and collected as a cess, for the purposes of this Act, on copra consumed in any mill in India with a view to producing or manufacturing any goods therefrom, a duty of excise at such rate, not exceeding five rupees per quintal of copra, as the Central Government may, by notification in the Official Gazette, specify : Provided that until such rate is specified by the Central

Government, the duty of excise shall be levied and collected at the rate of sixty paise per quintal of copra.

(2) The duty of excise leviable under sub-section (1) shall be payable by the occupier of the mill in which the copra is consumed.

**4. Application of proceeds of cess :-**

The proceeds of the duty of excise levied and collected under this Act shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Board, from time to time, from out of such proceeds, after deducting the expenses on collection and the amount, if any, refunded under Section 9, such sums of money as it may think fit for being utilised for the purposes of Coconut Development Board Act, 1979.

**5. Obligation to supply certain particulars to Collector :-**

The occupier of every mill shall,-

(a) if the mill was established before the commencement of this Act, within fourteen days from such commencement, and

(b) if the mill is established after the commencement of this Act, within fourteen days from such establishment, furnish to the Collector a statement containing the following particulars, namely:-

(i) the name and situation of the mill;

(ii) the name and address of the occupier;

(iii) the communications relating to the mill which may be sent; and

(iv) the total capacity of the mill.

**6. Duty of monthly returns :-**

(1) Every occupier of a mill shall furnish to the Collector every month a return stating the total amount of copra consumed in the mill during the preceding month.

(2) The return referred to in sub-section (1) shall be furnished before the seventh day of each month together with such other information as may be prescribed.

(3) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

## **7. Collection of cess :-**

(1) On receiving any return made under Section 6 , the Collector shall assess the duty of excise in respect of the period to which the return relates, and if the amount has not already been paid, shall cause a notice to be served upon the occupier of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice.

(2) If the occupier of any mill fails to furnish in due time the return referred, to in Section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount payable by him in such manner, if any, as may be prescribed, and the provisions of sub-section ( 1 ) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the occupier: Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the duty of excise at an amount higher than that at which it is assessable on the basis of the return without giving to the occupier a reasonable opportunity of proving the correctness or completeness of the return.

(3) A notice under sub-section (1) may be served on the occupier of a mill either by registered post or by delivering or tendering it to the occupier or his agent at the mill.

## **8. Finality of assessment :-**

(1) Any occupier of a mill who is aggrieved by an assessment made under Section 7 may, within three months of service of the notice referred to in sub-section (1) of that section, appeal to such authority as the Central Government may, by notification in the Official Gazette, appoint in this behalf, for the cancellation or modification of the assessment and, on such appeal, the said authority may cancel or modify the assessment and order the refund to such occupier of the whole or part, as the case may be, of the amount paid thereunder : Provided that the authority so appointed shall not be inferior in rank to the Collector by whom the assessment was made.

(2) The appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be

presented within a further period of one month.

(3) Where the appellate authority is of opinion that any duty of excise has been short-levied, no order enhancing the duty of excise shall be made unless the appellant has been given notice to show cause, within one month from the date of service thereof, against the proposed order.

(4) The Central Government may, on the application of any person aggrieved by any order made under sub-section (1) or sub-section (3), cancel or modify such order, if such application is made within six months from the date of the order made under sub-section (1) or sub-section (3), as the case may be.

(5) The Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of six months, allow it to be presented within a further period of one month.

(6) The decision of the Central Government under sub-section (4) and subject to the decision of the Central Government, the decision of the appellate authority under sub-section (1), shall be final.

**9. Refund of cess on oil exported from India :-**

Where any cess on copra is levied and collected under this Act and the oil extracted from the whole or any part of such copra is exported from India, then, the Central Government shall, subject to such conditions as may be prescribed, refund so much amount of cess as is equal to the cess collected in respect of the copra from which the oil so exported was extracted, to the occupier of the mill from whom such cess was collected, whether or not such copra is produced in or imported into India.

**10. Recovery of sums due to Government :-**

Where any duty of excise demanded from any person or any other sum payable by any person under this Act is not paid,-

(a) the Collector may deduct the amount so payable from any money owing to such person which may be under the control of the Collector or any other officer; or

(b) the Collector may recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the Collector or any other officer; or

(c) if the amount cannot be recovered from such person in the

manner provided in clause (a) or clause (b), the Collector may prepare a Certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector shall, on receipt of such certificate, proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue.

**11. Power to inspect mills and take copies of account :-**

(1) The Collector or any officer empowered by a general or special order of the Central Government in this behalf shall have free access at all reasonable times during working hours to any mill or any part of a mill.

(2) The Collector or any other officer may, at any time during working hours, with or without notice to the occupier, examine the purchase, sale and stock records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder: Provided that nothing in this section shall be deemed to authorise the examination of any description or formulae of any trade process.

**12. Information acquired to be confidential :-**

(1) All such copies and extracts and all information acquired by a Collector or any other officer from any inspection of any mill or from any return submitted under this Act shall be treated as confidential.

(2) If the Collector or any such officer discloses to any person, other than a superior officer, any such information as aforesaid, without the previous sanction of the Central Government or such other authority as may be prescribed, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine : Provided that nothing in this section shall apply to the disclosure of any such information for the purpose of a prosecution in respect of the making of a false return under this Act.

**13. Provisions of Central Excises and Salt Act, 1944, etc., to apply :-**

The provisions of Central Excises and Salt Act, 1944, and the rules 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 duty of excise on copra under this Act, as they apply in relation to the levy and collection of duty payable to the Central Government under that Act.

#### **14. Offences :-**

(1) Whoever- (a) evades the payment of any duty of excise payable under this Act, or (b) fails to furnish any return or information which it is his duty to furnish as provided by or under this Act, or furnishes a return or 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 the copra in respect of which it is satisfied that an offence punishable under this Act has been committed, shall be forfeited to Government and may also direct that all packages or coverings in which the copra is contained and every animal, vehicle, vessel or other conveyance used in carrying such copra shall be forfeited to Government.

#### **15. Offences by companies :-**

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be

deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.-For the purposes of this section,-

. (a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to firm, means a partner in the firm.

**16. Limitation of prosecution :-**

No prosecution for any offence punishable under this Act shall be instituted against any person except by, or with the consent of, the Collector.

**17. Composition of offences :-**

Any offence punishable under this Act may, either before or after the institution of the prosecution, be compounded by the Collector or any other officer authorised by him in this behalf on payment to the Central Government, for the purposes of this Act, of such sum as the Collector or such officer, as the case may be, thinks fit.

**18. 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.

**19. Power to make rules :-**

(1) The Central Government may, by notification in the Official Gazette, make rules to carry 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 or any of the following matters namely:-

(a) information to be furnished by an occupier of a mill in the monthly return under sub-section (2) of Section 6 ;

(b) the form of the monthly return which every occupier of a mill shall submit to the Collector and the manner in which such return shall be verified under sub-section (3) of Section 6 ;

(c) the manner in which assessment of duty of excise shall be made where no return has been furnished or the return which has been furnished is believed by the Collector to be incorrect or defective under sub-section (2) of Section 7 ;

(d) the conditions subject to which the refund of amount is made. under Section 9 ;

(e) the authority without the previous sanction of which information may not be disclosed under sub-section (2) of Section 12 ;

(f) any other matter which is required to be, or may be, prescribed.

(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 in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before; the expiry of the session immediately following the session 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.

**20. Amendment of Act 15 of 1966 :-**

In Produce Cess Act, 1966 ,-

(a) in sub-clause (ii) of clause (g) of Section 2 ,-

(i) the words "copra or", in both the places where they occur, shall be omitted;

(ii) the words ", as the may be," shall be omitted;

(b) in Section 6 , the words "or copra", in both the places where they occur, shall be omitted;

(c) in the Second Schedule, serial Number 2 and the entries relating thereto in Columns 2, 3 and 4 shall be omitted.