

Andhra Pradesh (Agricultural Produce And Live Stocks) Markets (Amendment), 1987

4 of 1987

[04 February 1987]

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An Act further to amend the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966. BE it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-eighth Year of the Republic of India as follows:- * Received the assent of the Governor on the 4th February, 1987. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Part IV-A; Extraordinary, dated the 9th January, 1987 at pages 17 and 18.

1. Short Title :-

This Act may be called the Andhra Pradesh (Agricultural Produce and Livestock) Markets (Amendment) Act, 1987.

2. Amendment Of Section 2 :-

(1) In the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (Act 16 of 1966) (hereinafter referred to as the principal Act), section 2,-

(a) after clause (i), the following clause shall be inserted namely:-

(ia) assessing authority shall mean the Secretary of the Market Committee as specified in its bye-laws.";

(b) to clause (ii), the words "and Includes the Commissioner for Development of Marketing" shall be added at the end;

(c) after clause (xv), the following clause shall be inserted namely:-
"(XV) trader" means the person licensed under sub-section (1) of section 7 and includes the person in whose management the collection of fees is placed whether he is called a commission agent, ginner, presser, warehouseman, importer, exporter, stockist or by whatever local name he is called."

3. Insertion Of New Section 5A :-

After section 5 of the principal Act, the following sections shall be inserted, namely:-

5A. power of Government to suspend the chairman of the Market committee.--If the Government are of the opinion that the Chairman of the Market Committee wilfully omitted or refused to carry out the orders of the Government for the proper working of the Market committee or abused his position or the powers vested with him, and that the further continuance of such person in office would be detrimental to the interests of the Market Committee or the inhabitants of the market, the Government may, by order, suspend the Chairman of the Market Committee from office for a period not exceeding three months, pending investigation into the said charges and action thereto under the foregoing provisions of this section:

Provided that it shall be competent for the Government to extend, from time to time the period of suspension for such further period not exceeding three months, so however, that the total period of suspension shall not exceed six months.

5B. power of Government to withdraw the power of chairman.--

Notwithstanding anything in this Act or the rules made thereunder, where in the opinion of the Government, the Chairman of the Market Committee wilfully omits or refuses to carry out the orders of the Government for the proper working of the market committee

or abuses his position or the powers vested in him, they may by order, withdraw all or any of the powers vested in him by or under this Act pending investigation into such omission, refusal or abuse of position or power, and cause all or any of the powers and functions of the Chairman to be exercised and performed by such person or authority as the Government may appoint in that behalf "

4. Amendment Of Section 7 :-

In section 7 of the principal Act, in sub-section (1), after the second proviso and before the explanation, the following proviso shall be inserted, namely:-

Provided also that the market committee shall not renew the license granted under this section, unless the license pays all the arrears of amounts due to it under provisions of this Act."

5. Amendment Of Section 9 :-

In section 9 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

"(3) It shall be the duty of the Chairman to convene the meetings of the Market Committee in accordance with the provisions of sub-section (1) and where a Chairman of the Market Committee fails to convene three consecutive meetings of the market committee from the date of the commencement of office or the last meeting of the Committee, he shall cease to be the Chairman unless such cessation has otherwise occurred before that date and for a period of one year from such date he shall not be eligible to be appointed as Chairman."

6. Amendment Of Section 12 :-

In section 12 of the principal Act, in sub-section (1), for the words "not exceeding one rupee" the words "not exceeding two rupees" shall be substituted.

7. Insertion Of New Sections 12A To 12G :-

After section 12 of the principal Act, the following sections shall be inserted, namely:--

12A Submission of return of turnover by trader.--Every trader in the notified area, who is liable to pay fees under section 12, shall submit such return or returns relating to his turnover in such manner, within such period and to such authority, as may be

specified by the market committee in its bye-laws.

Explanation:-for the purposes of sections 12 A to 12 G (both inclusive) the terms.--

(i) "market fees" shall mean the fees levied under sub-section (1) of section 12;

(ii) "turnover shall mean the aggregate amount for which the notified agricultural produce, livestock or products of livestock, are purchased or sold, whether for cash or deferred payment or other valuable consideration.

12B. Assessment of market fees.--(1) If the assessing authority is satisfied that any return submitted under section 12 A is correct and complete, it shall assess the amount of market fees payable by the trader on the basis thereof; but if the return appears to it to be incorrect or incomplete, it shall, after giving the trader an opportunity of proving the correctness and completeness of the returns submitted by him and after making such inquiry as it considers necessary, assess to the best of its judgement the amount of market fees due from the trader. An assessment under this section shall however, be made only within a period of three years from the expiry of the year to which the assessment relates.

(2) where the return submitted by a trader includes the turnover or any of the particulars thereof which would not have been disclosed but for an inspection of accounts, registers or other documents of the trader made by an officer authorised under this Act before the submission of such returns, the assessing authority may, after giving an opportunity to the trader for making a representation in this behalf, treat such return to be an incorrect or incomplete return within the meaning of sub-section (1) and proceed to take action on that basis.

(3) While making an assessment to the best of Judgement under sub-section (1) the assessing authority may also direct the trader to pay, in addition to the market fees assessed a penalty equal to two times the market fees due on the turnover that was not disclosed by the trader in his return.

(4) Where any trader liable to pay market fees under this Act,-

(i) fails to submit return before the date specified in that behalf, or

(ii) produce the accounts, registers and other documents after inspection, or

(iii) submits a return subsequent to the date of inspection, the assessing authority may, at any time within a period of three years from the expiry of the year to which the assessment relates, after issuing a notice to the trader, and after making such inquiry as it

considers necessary, assess to the best of its judgement, the amount of market fees due from the trader, on his turnover for that year and may direct him to pay in addition to the market fees so assessed, a penalty equal to two times the market fees due.

(5) Where, for any reason, the whole or any part of the turnover of a trader has escaped assessment to market fees or has been under assessed or assessed at a rate lower than the correct rate, the assessing authority may, at any time within a period of three years from the date on which any order of assessment was served on the trader,-

(a) determine to the best of its judgement the turnover that has escaped assessment and assess the turnover so determined;

(b) assess the correct amount of market fees payable on the turnover that has been under assessed;

(c) assess at the correct rate the turnover that has been assessed at a lower rate, after issuing a notice to the trader and after making such inquiry as it considers necessary. The assessing authority, in addition to the market fees so assessed, also direct the trader to pay a penalty equal to two times the market fees.

12C payment of market fees and other dues payable under the Act.--(1) The market fees assessed under this Act and the penalty levied under sub-section (3), (4) and (5) of section 12 B shall be paid by the trader in such manner and within such time not being less than fifteen days from the date of service of the notice of assessment or of the levy of penalty, as may be specified in such notice.

(2) The Director of Marketing may by general or special order permit the payment of any market fees or penalty or both assessed or levied under this Act in two or more instalments within such intervals as may be specified in the said order.

(3) If the market fees assessed under this Act or any instalment thereof is not paid by any trader within the time specified therefore in the notice of assessment or in the order permitting payment in instalments the trader shall pay in addition to the amount of such market fees or instalment, interest at the rate of twelve percent per annum of such amount from the date when the market fees become due.

(4) If the market fees assessed or the penalty levied under this Act or any instalment thereof is not paid by any trader within the time specified therefor, the whole of the amount then remaining unpaid, may be recovered from him as if it were an arrear of land revenue.

(5) The penalty payable under this Act shall be without prejudice to

the institution of any proceedings for an offence under this Act, of for the recovery of fee entire amount remaining unpaid under sub-section (4).

12D. Recovery of market fees where business of trader is transferred.--Where the ownership of the business of a trader liable to pay market fees is transferred, any market fees or other amount payable under this Act in respect of such business and remaining unpaid at the time of transfer, may, without prejudice to any action, that may be taken for its recovery from the transferor, be recoverable from the transferee as if he were the trader liable to pay such market fees or other amount.

12E Appeal.--(1) Any trader objecting to an order of assessment passed, or proceeding recorded by the assessing authority, under the provisions of this Act may, within, thirty days from the date on which the order or proceeding was served on him, appeal to the Regional Joint Director of Marketing having jurisdiction over the notified area concerned (here in after referred to as the Appellate Authority):

Provided that the Appellate Authority may admit an appeal preferred after the period of thirty days aforesaid, if it is satisfied that the trader has sufficient cause for not preferring the appeal within that period:

(2) Before preferring an appeal under this section, market fee shall be paid in accordance with the assessment made in the case and no appeal shall be entertained until the said market fee is paid.

(3) The appeal shall be in such form and shall be accompanied by such fee as may be specified by the market committee concerned in its bye-laws.

(4) The Appellate Authority may, after giving the appellant an opportunity of being heard and subject to such rules of procedure as may be prescribed,-

(a) confirm, reduce, enhance or annul the assessment or the penalty or both; or

(b) set aside the assessment or penalty or both and direct the assessing authority to pass a fresh order after such further inquiry as may be directed, or

(c) pass such other orders as it may think fit.

(5) Before passing an order under sub-section (4), the Appellate Authority may make such inquiry as it deems fit or remand the case to the Deputy Director of Marketing having jurisdiction over the notified area concerned for an inquiry and report on any specified point or points.

(6) every order passed in appeal under this section shall be subject to the provision of sections 12-F and 12-G be final.

12F. Revision by the Director of Marketing.--(1) The Director of Marketing may suo motu, or on an application made to him call for and examine the record of any order passed or proceeding recorded by any authority or officer subordinate to him or by any market committee or any authority or person authorised by it, under the provisions of this Act for the purpose of satisfying himself as to the legality or propriety of such order or as to the regularity of such proceeding and may pass such order in reference thereto as he thinks fit :

Provided that every application for the exercise of the powers under this section shall be preferred within thirty days from the date on which the order or proceedings was communicated to the applicant.

(2) In relation to an order of assessment passed under this Act, the powers conferred by sub-section (1) shall be exercisable only within such period not exceeding three years from the date on which the order was served on the trader, as may be prescribed.

(3) No order shall be passed under sub-section (1) enhancing any assessment unless an opportunity has been given to the assessee to show cause against the proposed enhancement.

12G. Appeal to High Court.--(1) Any trader objecting to an order relating to assessment passed by the Director of Marketing under sub-section (1) of section 12 F, may appeal to the High Court within sixty days from the date on which the order was served on him:

Provided that the High Court may admit an appeal preferred after the period of sixty days mentioned in sub-section (1), if it is satisfied that the trader has sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in such form, shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

(3) The High Court after giving both parties to the appeal, an opportunity of being heard pass such order thereon as it thinks fit.

(4) Before preferring to appeal under this section, market fee shall be paid in accordance with the assessment made in the case and no appeal shall be entertained until the said market fees is paid:

Provided that if as a result of the appeal, any change becomes necessary in such assessment, the High Court may authorise the assessing authority to amend the assessment and on such amendment being made, the excess amount paid by the trader

shall be refunded to Mm without interest or the further amount of market fees due from him shall be collected in accordance with the provisions of the Act as the case may be.

(5) In respect of every appeal preferred under sub-section (1), the cost shall be in the discretion of the High Court".

8. Insertion Of New Sections 17B And 17C :-

After section 17-A of the principal Act, the following section shall be inserted, namely:-

17-B maintenance of true and correct account and traders, etc.-- Every trader shall keep and maintain true and correct accounts and records relating to his business promptly showing such particulars as may be prescribed.

17-C power to order production of accounts and power of entry, inspection and seizure.--(1) The assessing authority or any officer of the department of Marketing not below the rank of an Assistant Director of Marketing authorised by the Director of Marketing in this behalf, may, for the purposes of this Act, require any trader to produce before it or him the account, registers and other documents and to furnish any other information relating to his business or the levy of fees.

(2) All accounts, registers and other documents maintained by a trader in the course of his business the notified agricultural produce, livestock or products of livestock in his possession, and his offices, shop or establishments, godowns, vessels or vehicles shall be open to inspection by such authority or officers at any time during the business hours specified under the relevant law for the time being in force or where no such hours are specified, at all reasonable times.

(3) If any such authority or officer has reasons to suspect that any trader is attempting to evade the payment of any fees or other amount due from him under this Act, or that any offence has been or is being or about to be committed by contravening any of the provisions of this Act, or the rules made there-under or the bye-laws made by a Market Committee, such authority or Officer may, for reasons to be recorded in writing, seize, any of the accounts, registers or other documents of such trader and shall give the trader a receipt for the same. The accounts, registers and documents so seized shall be retained by such authority or officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

(4) For the purposes of sub-section (2) or sub-section (3), the assessing authority or the other officers so authorised shall have power to enter and search at any time during the business hours specified under the relevant law for the time being in force or where no such hours are specified at all reasonable times, any office, shop, godown, vessel, vehicle or any other place of business or any building or place, where such authority or officer has reason to believe that the trader keeps or is for the time being keeping any notified agricultural produce, livestock or products of livestock, accounts registers or other documents of his business.

(5) All searches under this section shall, so far as may be, made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(6) When so required by the assessing authority or the officer so authorised, the driver or any other person in charge of the vehicle, vessel or other conveyance, which is taken or proposed to be taken out of the notified market area, shall stop the vehicle, vessel or other conveyance as the case may be, and keep it stationary as long as may reasonably be necessary, and allow the said authority or officer to examine the contents in the vehicle, vessel or other conveyance and inspect all records relating to the notified agricultural produce, livestock or products of livestock which are in the possession of such driver, or other person in charge for the purpose of ascertaining whether there has been any sale or purchase of the notified agricultural produce, livestock or products of livestock carries whether the notified Agricultural produce, livestock or products of livestock so carried is liable to fees under this Act and whether such fees has been paid or properly accounted for.

(7) The assessing authority or the officer so authorised shall have power to seize any notified agricultural produce, livestock or products of livestock taken or proposed to be taken out of the notified market area either by human labour or in any vehicle, vessel or other conveyance, if such officer has reason to believe that any fees or other amount due under this Act, in respect of such produce has not been paid. Such seizure shall forthwith be reported by the authority or officer aforesaid to a Magistrate having jurisdiction to try the offences under this Act and the provisions of section 457, 458 and 459 of the Code of Criminal Procedure, 1973 (central Act 2 of 1974) shall, so far as may be, apply in relation to such notified agricultural produce, livestock or products of livestock so seized as they apply in relation to any property seized by a

police officer.

(8) Any person aggrieved by such seizure may appeal to the Director of Marketing, who shall, after giving the said officer and the owner of the seized property, an opportunity of being heard, give his decision thereon; and every decision of the Director of Marketing shall be complied with.

9. Amendment Of Section 22 :-

In section 22 of the principal Act, in sub-section (1) for the words "not exceeding one year" the words "not exceeding six months" and for the words "not exceeding two years" the words "not exceeding one year" shall respectively be substituted.

10. Amendment Of Section 23 :-

In section 23 of the principal Act,-

(a) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) who-ever contravenes the provisions of section 7. or fails to pay the fees levied under sub-section (1) of section 12 shall, on conviction be punished with imprisonment for a term, which shall not be less than six months but which may extend to one year and with fine, which may extend to five thousand rupees, and in the case of a continuing contravention with further fine which may extend to five hundred rupees for every day during which the contravention is continued after conviction thereof:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term of less than six months."

(b) after sub-section (3), the following sub-sections shall be inserted, namely:-

"(4) Any person, who wilfully acts in contravention of the provisions of section 17 or section 17A, shall, on conviction, be punished with imprisonment for a term, which shall not be less than three months but which may extend to six months and with fine, which may extend to one thousand rupees;

Provided that the court may for adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term of less than three months.

(5) Any person who-

(i) prevents or obstructs inspection, entry, search or seizure by the assessing authority or an officer authorised under section 17C, in

contravention of the terms thereof; or

(ii) Prevents or obstructs inspection of any notified agriculture produce, livestock or products of livestock or of any vehicle, vessel or other conveyance carrying such produce, by the officer aforesaid, shall on conviction, be punished with imprisonment which shall not be less than three months but which may extend to six months:

Provided that the court may, for adequate and special reason to be mentioned in the judgement, impose a sentence of imprisonment for a term of less than three months."

11. Insertion Of New Section 23-A :-

After section 23 of the principal Act, the following section shall be inserted namely:-

23 A. compounding of offences.--(1) The market Committee may accept from any person, who has committed or is reasonably suspected of having committed an offence against this Act or the Rules or bye-laws made thereunder, other than such offences as may be prescribed, or by way of compounding of such offences.

(a) Where the offence consists of the failure to pay, or the evasion of any fee, or other amount recoverable under this Act, or the rules or bye-laws made thereunder, in addition to the fees or other amount so recoverable, a sum of money not less than the amount of the fee or other amount subject to a minimum amount of rupees two hundred and fifty; and

(b) In other case, a sum of money not exceeding rupees five hundred.

(2) on payment of the amount by way of compounding, no further proceedings shall be taken or continued against the defaulter in regard to the offence or suspected offences so compounded."

12. Amendment Of Section 25 :-

In section 25 of the principal Act, in sub section (2) for the words "under this Act", the words "for the contravention of the provisions of this Act or any rule, bye-laws made thereunder" shall be substituted.

13. Amendment Of Section 27 :-

In Section 27 of the principal Act, in sub-section (1) after the words in respect of any proceeding" the expression "other than a proceeding relating to assessment and recovery of market fees

under section 12 A to 12 F (both inclusive) shall be inserted.

14. Insertion Of New Section 27-A :-

After section 27 of the principal Act, the following section shall be inserted, namely-

27. A power to remove difficulties.--If any difficulty arises in giving effect to the provisions of this Act, the Government, as occasion may require, may by order do anything which appears to them to be necessary for the purpose of removing the difficulty"

15. Amendment Of Section 33 :-

In section 33 of the principal Act, in sub-section (3), for the words "shall be punishable with fine which may extend to five hundred rupees" the words "shall on conviction be punished with imprisonment for a term which shall not be less than six months but which may extend to one year or with fine which may extend to five thousand rupees or with both", shall be substituted.