

Orissa Sugarcane Cess Act, 1959

24 of 1959

[18 December 1959]

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AN ACT TO IMPOSE CESS ON SUGARCANE INTENDED FOR USE, CONSUMPTION IN OR SALE TO A FACTORY Whereas it is expedient to impose on sugarcane intended for use, consumption in or sale to a factory; It is hereby enacted by the Legislature of the State of Orissa in the Tenth Year of the Republic of India as follows:

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Orissa Sugarcane Cess Act, 1959
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force at once.

2. Definitions :-

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

- (a) "Cane" means sugarcane intended for use in a factory;
- (b) "Cane Commissioner" means the officer appointed to be the

Cane Commissioner under Section 5;

(c) "Factory" means any premises, including the precincts thereof wherein twenty or more workers are working or were working on any day during the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar by means of vacuum pans is being carried on or is ordinarily carried on with the aid of mechanical power;

(d) "occupier of a factory" means the owner and includes any person or authority having the ultimate control over the affairs of the factory and where the said affairs are entrusted to a Manager, a Managing Director or Managing Agent shall be deemed to be the occupier of the factory;

(e) "prescribed" means prescribed by Rules made under this Act.

3. Imposition Of Cess :-

(1) The State Government may by notification impose a cess not exceeding twenty-five naya paise per mound on the entry of the cane whether brought from within or outside the State of Orissa, into the premises of a factory for use, consumption or sale therein; Provided that the State Government may likewise remit in whole or in part such cess in respect of cane used or to be used in factory for any limited purpose specified in the notification:

Provided further that the State Government may, if they are satisfied that the net profit of any factory in any year has been less than ten per centum by notification, exempt the occupier of such factory from payment of cess for the said year: Provided also that the occupier of a factory owned by a Co-operative Society registered under the Orissa Co-operative Societies Act, 1951 (Orissa Act II of 1952), shall not be liable for payment of such cess for a period of three years from the date the said factory goes into production for the first time.

Explanation I-If the State Government, in the case of any factory situate outside the State of Bihar, so declare, any place in the State of Orissa set apart for the purchase of cane intended or required for use, consumption or sale in such factory shall be deemed to be the premises of the factory.

Explanation II -The term "year" used in this Section means the year adopted by the factory concerned for the purpose of accounting the profit and loss of the (2) The cess imposed under Sub-section (1) for any year shall be payable by the occupier of the factory and shall be paid within the first quarter of the succeeding

year on such date and at such place as may be prescribed.

(3) Any arrear or cess not paid on the date prescribed under Sub-section (2) shall carry interest at six per cent per annum from such date to date of payment.

(4) The State Government may, for the purpose of assessment and collection of the cess, appoint officers and authorities and may also prescribe the manner in which the cess shall be assessed and collected.

(5) Where any person is in default in making payment of the cess, the officer or authority empowered to collect the cess may direct that in addition to the amount of the arrears and interest a sum not exceeding ten per cent thereof shall, by way of penalty, be recovered from the person liable to pay the cess.

(6) The officer or authority empowered to collect the cess may forward to the Collector a certificate under his signature specifying the amount of arrears including interest due from any person, and on receipt of such certificate the Collector or the Certificate Officer as the case may be, shall proceed to recover the amount specified from such person as if it were an arrear of land revenue.

(7) Any sum imposed by way of penalty under Sub-section (5) shall be recoverable in the manner provided in Sub-section (6) for the recovery of the arrears of cess.

4. Penalties :-

If any person defaults in the payment of cess imposed under Sub-section (1), of Section 3 or contravenes any provision of any Rule made under this Act. he shall, without prejudice to his liability therefore under Sub section (5) of Section 3 be liable to imprisonment for a period not exceeding six months or to a fine not exceeding five thousand rupees or both and in the case of continuing contravention to a further fine not exceeding one thousand rupees for each day during which the contravention continues.

5. Appointment Of Cane Commissioner And Institution Of Proceedings :-

(1) The State Government may, for the purpose of this Act by notification, appoint a Cane Commissioner to perform the duties and exercise all powers conferred or imposed on him by or under this Act.

(2) No prosecution shall be instituted under this Act except on a

complaint made by or under the authority from the Cane Commissioner or the District Magistrate as the case may be.

(3) On the application of a person accused of an offence under this Act, the Cane Commissioner or with the previous concurrence of the Cane Commissioner the District Magistrate, may at any stage compound such offence by levying a composition fee not exceeding two thousand rupees.

(4) No Court inferior to that of a Magistrate of the First Class shall any offence under this Act or any Rule made thereunder.

6. Section 6 :-

[Deleted]

7. Protection Of Action Taken Under The Act :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any Order or Rule made under this Act.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any Rule made under this Act.

8. Determination Of Occupier For The Purposes Of This Act :-

(1) Where the occupier of a factory is a firm or other association of individuals, anyone or more of the partners or members thereof would be the occupier for the purpose of this Act and may be prosecuted and punished as such for any offence under this Act.

(2) Where the occupier of a factory is a public company anyone or more of the directors thereof, or in the case of a private Company anyone or more of the shareholders thereof may be prosecuted and punished under this Act for any offence for which the occupier of the factory is punishable.

9. Power To Make Rules :-

(1) The State Government may make Rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such Rules may provide for

(a) the manner and the form in which certificate may be forwarded

to the Collector under Sub-section (6) of Section 3;

(b) collecting any information and statistics for the purposes of this Act from the occupier or the sugarcane growers as the case may be;

(c) the form and the manner in which any return shall be prepared and furnished;

(d) the manner in which accounts shall be kept and registers to be maintained by the factory occupiers; returns and statements to be submitted by the factory occupiers: any other matters which are to be and may be prescribed"

(3) All Rules made under this Act shall be laid, as soon as possible, after they are made before the Orissa Legislative Assembly, for a total period of fourteen days which may be comprised in one session or in two or more sessions and shall be subject to such modifications as the said Assembly may make during the said period.