

The Levy Sugar Price Equalisation Fund Act, 1976

UNION OF INDIA

India

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Act 31 of 1976

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The Levy Sugar Price Equalisation Fund Act, 1976 ACT NO. 31 OF 1976 [16th February, 1976.] An Act to provide for the establishment, in the interest of the general public, of a fund to ensure that the price of levy sugar may be uniform throughout India and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement.—

(1) This Act may be called the Levy Sugar Price Equalisation Fund Act, 1976. (2) It extends to the whole of India except the State of Jammu and Kashmir. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—

In this Act, unless the context otherwise requires,—(a) "controlled price" means the price of the relevant grade of levy sugar, determined from time to time under sub-section (3C) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), or under the Defence and Internal Security of India Rules, 1971, in relation to any year of production; (b) "excess realisation", in relation to each grade of levy sugar,—(i) means the price realised by any producer, on the sale of levy sugar of such grade, in excess of—(a) the controlled price, or (b) where any fair price has been fixed by a court for levy sugar of such grade, such fair price, and (ii) includes any realisation representing the difference between the controlled price and the price allowed by the court by an interim order, if such interim order is set aside, whether by the court which made the order or in appeal or revision; Explanation.—For the removal of doubts, it is hereby declared that where in relation to levy sugar of any grade sold by any producer, the producer has realised towards duties of excise with respect to such sugar any amount in excess of the amount payable by way of such duties, such excess shall also be deemed to be excess realisation within, meaning of this clause; (c) "fair price", in relation to levy sugar, means the price

fixed by the court in excess of the controlled price, and, where an interim price, fixed by the court, is superseded by a price which is finally fixed by the court, the price so finally fixed;(d)"Fund" means the Levy Sugar Price Equalisation Fund, established under section 3;(e)"levy sugar" means the sugar requisitioned by the Central Government under clause (f) of sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955);(f)"prescribed" means prescribed by rules made under this Act;(g)"producer" means a person carrying on the business of manufacturing sugar by the vacuum pan process.

3. Levy Sugar Price Equalisation Fund.—

(1)There shall be established a Fund, to be called the Levy Sugar Price Equalisation Fund.(2)Save as otherwise provided in sub-section (5), there shall be credited to the Fund, in such manner as may be prescribed,—(a)the amounts representing all excess realisations made by the producers, irrespective of whether such excess realisations were made before or after the commencement of this Act;(b)the amounts representing any loans which may be advanced, or grants which may be made, by the Central Government for carrying out the objects of the Fund.(3)Save as otherwise provided in sub-section (5), every producer shall,—(a)in the case of an excess realisation made before the commencement of this Act, within thirty days from such commencement,(b)in the case of an excess realisation made after such commencement, within thirty days from the date on which such excess realisation was made,credit to the Fund, the amount representing such excess realisations, together with interest due thereon at the rate of twelve and a half per cent. per annum, from the date on which such amount was realised by him:Provided that—(a)the interest due on so much of any amount of any excess realisation made before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 (54 of 1984), as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent. per annum before the expiry of sixty days from the date of such commencement; and(b)the interest due on so much of the amount of any excess realisation made on or after the date of such commencement as is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent. per annum within sixty days from the date on which such amount was realised,shall be at the rate of fifteen per cent. per annum from the date on which such amount was realised by the producer;*** (5)Where, in pursuance of an interim order made by any court, whether before or after the commencement of this Act, any amount representing the difference between the controlled price and the interim price allowed by the court is,—(a)held by any producer either with himself or with any other person or with any court, Government, bank or other authority, or(b)collected and kept by the producer under the cover of any guarantee,such producer shall, on the final disposal of the proceedings of the court aforesaid, credit to the Fund, within sixty days from the date of such final disposal, such amount, to the extent it represents any excess realisation together with interest due thereon at the rate of twelve and a half per cent. per annum from the date on which such amount was realised by him:Provided that—(i)the interest due on so much of such amount as was realised before the date of commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 (54 of 1984) and is not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent. per annum before the expiry of sixty days from the date of such commencement, and(ii)the interest due on so much of such amount as is realised after such commencement and not credited to the Fund together with interest at the aforesaid rate of twelve and a half per cent. per annum within

sixty days from the date on which such amount was realised, shall be at the rate of fifteen per cent. per annum from the date on which such amount was realised by the producer' (5A) Notwithstanding anything contained in sub-section (5), the interest payable on the amount of any excess realisation required to be credited to the Fund under that sub-section in respect of any period during which such amount was by reason of any order of any court held by the producer with any other person or with any court, Government, bank or other authority referred to in clause (a) of that sub-section, shall be the interest which actually accrued on such amount in respect of such period. (5B) Without prejudice to the provisions of sub-section (5), any amount representing the difference between the controlled price and the interim price allowed by the court which—(a) is held by any producer with any other person or with any court, Government, bank or other authority referred to in clause (a) of that sub-section, or (b) is under the cover of any guarantee referred to in clause (b) of that sub-section, shall, as soon as may be after the final disposal of the proceedings of the Court aforesaid, be credited, to the extent such amount represents excess realisation together with the interest, if any, which has accrued thereon or been guaranteed in respect thereof, to the Fund by such other person, the court, Government, bank or other authority aforesaid or, as the case may be, by the bank or other person furnishing such guarantee and the amount so credited shall be set off against the amount (including interest) required to be credited by the producer under sub-section (5). (5C) The provisions of sub-section (5B) shall apply in relation to every amount representing the difference between the controlled price and the interim price allowed by the court which, immediately before the commencement of the Levy Sugar Price Equalisation Fund (Amendment) Act, 1984 (54 of 1984)—(a) is held by any producer with any other person or with any court, Government, bank or other authority mentioned in clause (a) of that sub-section, or (b) is under the cover of any guarantee mentioned in clause (b) of that sub-section, notwithstanding that the final disposal of the proceedings of the court aforesaid took place before such commencement and for this purpose the reference in that sub-section to “final disposal of the proceedings of the court” shall be construed as a reference to such commencement. (5D) Where any amount is credited to the Fund under sub-section (5B), such crediting shall,—(a) in a case falling under clause (a) of that sub-section, operate as the discharge of the liability in relation to such amount of the person, court, Government, bank or other authority so crediting the amount; (b) in a case falling under clause (b) of that sub-section, have effect as if it had been made in accordance with the guarantee given by the bank or other person crediting the amount and for this purpose such guarantee shall be deemed to have provided for such crediting. (6) For the removal of doubts, it is hereby declared that the obligation to credit amounts representing excess realisations to the Fund shall be in addition to any penalty which may be imposed for the contravention of any provision of this Act. (7) The Fund shall be administered, subject to the provisions of section 8, by the Central Government.

4. Determination of questions as to making of excess realisations.—

If any question arises as to whether any producer has realised, on the sale of levy sugar, any amount in excess of the controlled price, or, as the case may be, the fair price, it shall be decided by the Central Government after giving an opportunity to such producer of being heard and after making such inquiry as that Government may deem fit.

5. Discharge of persons of liability in respect of amounts credited to the Fund.—

Where any amount is credited to the Fund under section 3, the producer concerned shall, upon such crediting, be discharged from the liability to make repayment of such amounts to the persons entitled thereto and such discharge from liability to make repayment shall be without any prejudice to any penalty which may be imposed on such producer for each excess realisation made by him.

6. Right of buyer to claim refund.—

(1)Where any amount is credited to the Fund, a refund shall be made from the Fund to the buyer of levy sugar from whom any excess realisation was made by the producer or dealer:Provided that no buyer shall be entitled to claim a refund under this sub-section if he,—(a)being a wholesale dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the retail dealer by whom the price of such sugar was paid, or(b)being a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the consumer by whom the price of such sugar was paid, or,(c)being a person who is not a wholesale dealer or a retail dealer had passed on the incidence of such excess over the controlled or fair price of levy sugar to any other person as part of the price of any product in the manufacture of which such sugar has been used or, as the case may be, to the consumer by whom the price of such sugar was paid.(2)Every application for refund under sub-section (1) shall be made to the Central Government within six months from the date on which the excess realisation, in relation to which such refund is claimed, is credited to the Fund, and every such application shall be in such form as may be prescribed and shall be accompanied by such documentary or other evidence as the applicant may furnish to establish that the excess realisation, in relation to which such refund is claimed, was made from him.(3)The Central Government shall, if satisfied, on a scrutiny of the claim made under sub-section (1), that an excess realisation was made from the claimant, direct that refund be made from the Fund to the claimant to the extent of the excess realisation made from him together with interest (if any) thereon credited to the Fund:Provided that if the amount standing to the credit of the Fund is not sufficient to enable the Central Government to make the refund, such refund shall be made from the Central revenues.

7. Excess realisation not to be paid to any producer of sugar.—

Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, no amount, representing excess realisations made by a producer or excess realisations made by a producer under the cover of any guarantee given by any person shall be paid to any producer.

8. Fund to vest in the Central Government.—

(1)Any money paid into the Fund, which remains unclaimed after the expiry of the period of six months from the date on which it is credited to the Fund, shall vest in the Central Government and

such amount shall be utilised by that Government in such manner as may be prescribed having regard to the interests of the consumers of levy sugar as a class and the need to ensure that the retail price of levy sugar throughout India is uniform: Provided that, notwithstanding the vesting of such money in the Central Government, a claim for the refund of money standing to the credit of the Fund may be made in the manner specified in sub-section (2) of section 6 at any time by a buyer who is lawfully entitled to make such claim, and every such claim, if admitted, shall be dealt with as if the money relatable to such claim had not vested in the Central Government. (2) The Central Government shall not grant any loan or give any financial assistance from the Fund except for the purposes of this Act. (3) The Central Government shall maintain, or if it thinks fit specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor General of India.

9. Power to require producers to maintain accounts, etc.—

The Central Government may, if it is satisfied that it is expedient or necessary so to do for carrying out the provisions of this Act, by an order, direct any producer to maintain such books of account and other records in relation to levy sugar as it may think fit and to produce such books of account and other records for inspection and may also direct such producer to furnish such information relating to levy sugar as may be specified in the order.

10. Power of entry, search and seizure.—

(1) Any authority specified by the Central Government in this behalf may, if it is satisfied that any provision of this Act has been, or is being, or is about to be, contravened, authorise any person to enter and search any premises where any accounts, books, registers and other documents relating to levy sugar and belonging to, or under the control of, a producer or his agent, are maintained or kept for safe custody. (2) The person so authorised may seize any such accounts, books, registers or other documents if he has any reason to believe that a contravention of this Act has been, or is being, or is about to be, committed: Provided that the accounts, books, registers or other documents seized under this section shall not be retained in custody of the Central Government for a period exceeding ninety days: Provided further that where such accounts, books, registers and other documents are required for the purposes of any prosecution, they may be retained in the custody of the Central Government for a further period, not exceeding ninety days, for the purposes of such prosecution. (3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizures, shall, so far as may be, apply to searches and seizures made under this Act.

11. Power of Central Government to recover excess realisations as arrears of land revenue.—

If any producer makes any default in crediting to the Fund any excess realisation made by him, or any interest due on such excess realisation or any part of such excess realisation or interest, such excess realisation or such interest or such part, as the case may be, shall be recoverable by the

Central Government from such producer as an arrear of land revenue.

12. Dissolution of the Fund.—

The Central Government may, by notification in the Official Gazette, declare that, with effect from such date as may be specified in the notification, the Fund shall cease to exist and thereupon all the amounts lying to the credit of the Fund shall be credited to the Central revenues and refund, if any, made, by the Central Government, after such cesser, to any buyer of levy sugar shall be treated as an order for the refund of revenue.

13. Penalties.—

(1) If any producer—(a) makes any default in crediting to the Fund any excess realisations made by him or any part thereof any excess realisation made by him or any interest due on such excess realisation or any part of such excess realisation or interest, or (b) having been required by the Central Government so to do, omits or fails to—(i) maintain any books, accounts or other records in relation to levy sugar, or (ii) produce any books, accounts or other records for inspection, or (iii) furnish any information or furnishes any information which is incorrect or false in material particulars, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both. (2) No court shall take cognizance of any offence punishable under this Act except on the complaint in writing made by the Central Government or by any officer or authority authorized, in writing, by that Government in this behalf.

14. Removal of difficulties.—

If any difficulty arises in giving effect to any provision of this Act, the Central Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary to remove the difficulty.

15. 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.

16. Power to make rules.—

(1) The Central Government may make rules for carrying 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) the manner in which amounts shall be credited to the Fund under section 3; (b) the form in which an application for refund, referred to in section 6, shall be made; (c) the manner in which amounts standing to the credit of the Fund shall be utilised, as required by section 8; (d) the form in which the account and the relevant records, referred to in

sub-section (3) of section 8, shall be maintained;(e)any other matter in relation to which such rules are required to be, or may be, made.(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.