

Agricultural Produce Cess Act, 1940.

UNION OF INDIA

India

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Act 27 of 1940

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27.

/1383 Object and Reasons.- Act 40 of 1970.- The Agricultural Produce Cess Act, 1940 provides for imposition of cess at the rate of one-half of one per cent. ad valorem on all articles included in the Schedule to this 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 the 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 the Customs Act, 1962 and the rules and regulations made thereunder should be applicable to the levy and collections of the cess. [15th April, 1940.] An Act to make better financial provision for the Indian Council of Agricultural Research WHEREAS it is expedient to make better financial provision for the carrying out by the Indian Council of Agricultural Research of the objects for which it is established as set forth in the memorandum of Association of that body, and for this purpose to impose on certain articles a cess by way of customs duty on export, the proceeds of which shall be paid to the Council. It is hereby enacted as follows.-

1. Short title and extent:-

(1) This Act may be called the Agricultural produce Cess Act, 1940. (2) It extends to the whole of India [except the state of Jammu and Kashmir.] [Substituted by Act 3 of 1951, s.3 and Sch., for " except Part b states"]

This Act has been extended to the new Provinces and merged States by the Merged States (Laws) Act, 1949 (59 of 1949), Section 3 (1-1-1950); to the Union territories of Manipur, Tripura, (Manipur and Tripura are now States) See Act 81 of 1971, Section 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).

2. Definitions:-

In this Act, unless there is anything repugnant in the subject or context,-- (8 of 1878) (19 of 1924)(a) ["Commissioner" means a Commissioner of Customs as defined in clause (8) of section 2 of the Customs Act, 1962;] [Substituted for original clause " a" by the Finance Act 22 of 1995, Section 84 (26-5-1995)] (b) "Council" means the [Indian Council of Agricultural Research.] [Substituted by Adaptation of Laws Order, 1950 for word " Imperial Council of Agricultural Research"]

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 article included in the Schedule which are exported from [the territories to which this act extends] [Substituted by Act 3 of 1951, s.3 and Sch., for " the territories for the time being comprised within Part A States and Part B States."]; 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] [For such notification see Gazette of India, 1947, Extraordinary, p. 611.] 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.

4. Power to exclude articles from Schedule:-

The Central Government may after previous consultation with the council, by [notification] [For such notification , see Gazette of India, 1940, Pt. I, p.1323.] in the Official Gazette, direct that any article specified in the Schedule shall cease to be subject to the duty imposed by section 3, and thereupon, so long as the notification remains in force, that article shall be deemed not to be included in the schedule.

5. Refund of, and exemption from, cess :-

The Central Board of Revenue may make [rules] [For such rules, see Gazette of India, 1940, Pt. I, p.565.] 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 the articles, which are subsequently be imported into India.

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

(1)The proceeds of the levied under this Act reduced by the cost of collection as determined by the Central Government shall be paid to the council.(2)The amount so due shall be paid by the Central Government to the Council at the intervals of not more than six months.(3)The expenditure of the money so paid to the council shall be subject to such limitation as may be imposed by rules made in this behalf by the Central Government.

7. Standing Finance Committee:-

(1)The Council shall constitute a Standing Finance Committee, of which one member shall be chosen among the representatives of the Central Legislature on the governing body of the council, and one member shall be an officer appointed by the Central Government.(2)Subject to the provisions of the 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)Central Government may, after consultation with the council, by notification in the Official Gazette, make [rules] [For such rules, see Gazette of India, 1940, Pt. I, p.1353.] to carry out the purposes of the Act.(2)In particular and without prejudice to the generality of the foregoing power, the Central Government may make rules regulating the expenditure of money paid to the council under section 6 and providing for the creation, maintenance and management of the reserve fund referred to in section 8.(3)[All rules made under this act shall be laid before each House of Parliament while it is in session of 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 of the rule or both House 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.] [Inserted by the Agricultural Produce Cess (Amendment) Act (40 of 1970), section 6]THE
SCHEDULE(See section 3)

- 1. Bones**
- 2. Bristle**
- 3. Butter**
- 4. Cereals, other than Rice and Wheat.**
- 5. Drugs**
- 6. Fibre for brushes.**
- 7. Fish**
- 8. Fruits**
- 9. Ghee**
- 10. Hides, raw.**
- 11. Manures**
- 12. Oilcakes**
- 13. Pulses**
- 14. Seeds**
- 15. Skins, raw.**
- 16. Spices**
- 17. Tobacco, unmanufactured**
- 18. Vegetables**

19. Wheat

20. Wheat Flour

21. [Sheep's or Lamb's wool and animal hair, whether or not scoured or carded.] [Substituted for the words " wool, raw" by Agricultural Produce Cess (Amendment) Act (40 of 1970), section 7]