The Orissa State-Aid to Industries Rules, 1981

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The Orissa State-Aid to Industries Rules, 1981Published vide Notification No. S.R.O. 638/81, dated 1st August, 1981, Orissa Gazette Extraordinary No. 1118/5.9.1981Notification No. S.R.O. 638/81, dated 1st August, 1981. - Whereas the draft of the State-aid to Industries Rules, 1981, was published as required by Subsection (1) of Section 38 of the Orissa State-aid to Industries Act, 1978 (Orissa Act 32 of 1978) in the extraordinary issue of the Orissa Gazette No. 233, dated the 21st February, 1981 under the notification of the Government of Orissa in the Industries Department No. 4550-I, dated the 18th February, 1981 inviting objections and suggestions from all persons likely to be affected thereby before the 23rd March, 1981;And whereas no objection or suggestion has been received on the said draft by the State Government;Now, therefore, in exercise of the powers conferred by Section 38 of the said Act, the State Government do hereby make the following rules, namely:

1. Short title and commencement.

(1) These rules may be called the Orissa State-aid to Industries Rules, 1981.(2) They shall come into force on the date of their publication in the Official Gazette.

2. Repeal and savings.

- On and from the date these rules come into force, the Orissa State-aid to Industries Rules, 1950 shall cease to have effect in the State of Orissa and all transactions made under the said rules shall be deemed to have been made under corresponding provisions of these rules.

3. Definitions.

(1)In these rules unless, the context otherwise requires-(a)"Act" means the Orissa State-aid to Industries Act, 1978;(b)"Chairman" means the Chairman of the Board of Industries;(c)"District Industries Centre" means a common place organised by the State Government to provide necessary

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inputs and assistance to entrepreneurs desirous of establishing industries;(d)"Form" means a form appended to these rules;(e)"General Manager, District Industries Centre" means such officer as may be notified by the State Government from time to time to discharge functions of the General Manager of the District Industries Centre;(f)"Section" means a section of the Act. Words and expressions used but not defined in these rules shall have the same meaning respectively assigned to them in the Act.

4. Manner of election of members of the Board.

(1)The election of members of the Board under Clause (a) of Sub-section (1) of Section 3 by the Orissa Legislative Assembly shall be held according to the Rules for holding election of such members.(2)The election of members of the Board under Clause (b) of Subsection (1) of Section 3 by associations and other bodies selected by the State Government shall be held in accordance with their own election bye-laws or rules, if any. In case where there are no such bye-laws or rules, the election shall be held in such manner as may be determined by such association or bodies.

5. Conduct of the business of the Board.

(1)(a)The Board shall meet at least once in three months and the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than five members, call a special meeting of the Board.(b)At least ten days' notice of the meetings shall be given to every member; provided that an accidental failure of service of notice on any member, shall not invalidate the proceedings of any meeting.(2) The notice shall specify the date and time of the meeting and shall set forth clearly and fully the business to be transacted at the meeting and no business other than that so set forth shall be transacted except with the permission of the Chairman of the meeting. (3) One-third of the total number of members of the Board shall form the quorum and if at any meeting of the Board, there is no quorum, the Chairman of the meeting or in his absence such other member as may be elected to preside, shall adjourn the meeting until such other day or time as he thinks fit. At such adjourned meeting any member or members present not being less than three exclusive of the Chairman of the meeting shall form a quorum. (4) Every meeting shall be presided over by the Chairman and in his absence by one of the members present who may be elected by other members for the purpose. (5) All questions in the meeting shall be decided by majority of votes of the members present, the Chairman of the meeting having the second or casting vote in all cases of equality of votes.(6)Minutes of the proceedings of the meeting shall be recorded in a book to be provided for the purpose and shall be signed as soon as practicable by the Chairman of the meeting. (7) If there is no sufficient business for holding a meeting, the Chairman of the meeting may in his discretion circulate any matter for the opinion of the members. The majority opinion thus ascertained shall be deemed to be the decision of the Board.

6. Delegation of powers under Section 5.

- The delegation of powers to authorities to sanction State-aid under Section 5 shall be notified by the State Government from time to time.

7. Sanction of State-aid.

(1) The Director of Industries or General Managers, District Industries Centres, or any other officer not below the rank of District Industries Officer may be delegated with powers under Section 5 of the Act to sanction any of the forms of subsidy as specified under Clauses (a), (b), (g) and (h) of Section 4 of the Act and such sanction, disbursement and utilisation of subsidy shall be governed by the policies and procedures approved by the Government from time to time under the relevant schemes.(2)(a)No loan for a period longer than ten years shall be granted without the special sanction of the State Government.(b) The rate of interest on guarantee fees shall be fixed in accordance with the instruction of the State Government issued in this regard from time to time. Interest on a loan shall accrue from the date of disbursement of the loan and if the loan is disbursed in instalments interest shall accrue on each instalment from the date of disbursement of such instalment. A borrower may repay a loan on an earlier date or in instalments less than that fixed in the orders granting the loan. A corresponding remission of interest in respect of complete months only shall be granted to the borrowers so repaying the loan.(c)In cases where the instalment to be paid by the grantee for the hire purchase will exceed a period of ten years, the Director or other sanctioning authority shall not grant such aid under Clause (h) of Section 4 without obtaining the sanction of the State Government.(d)An application by an individual or firm shall be made to the authority empowered to give State-aid in Form 'A'.(e)Such authority shall make an enquiry or cause an enquiry to be made into the facts of the application, technical and financial appraisal of the scheme, assets of the applicant and necessity for aid. All enquiries shall ordinarily be completed within forty-five days of the receipt of the application. He shall take the enquiry report into consideration in disposing of an application for aid independently. In other cases the enquiry report shall be placed before the Board for their consideration. (f) The authority empowered to give State-aid may summarily reject an application which he is competent to dispose of independently, if in his opinion the applications are prima facie not fit cases for such grants.(g)No State-aid shall be given to a joint stock company registered under the Companies Act, 1956 unless at least two of the members of its Board of Directors are residents of the State of Orissa and the company is duly registered and has its Head Office situated within the State of Orissa. This application shall be made in Form 'B'.

8. Publication of application in the Official Gazette under Section 7 (2).

(1)Every application for State-aid for an amount or a value exceeding one lakh rupees shall be published in the Official Gazette in one issue together with a notice calling upon persons objecting to giving of such State-aid to submit their objections to the authority empowered to give State-aid by registered post within fifteen days of the publication in the Gazette.(2)Disposal of objections under Section 7 (3) - On receiving any such objection the authority empowered to sanction the State-aid shall consider every such objection and after making such enquiry as deemed necessary cause the same to be placed before the Board for its advice and if notwithstanding such objections the Board recommends the State-aid to be granted, he shall submit the case to the State Government for orders. The orders of the State Government on every such objection shall be notified in the Official Gazette.(3)Rate of interest - Every order granting State-aid under Clauses (a), (b) and (h) of Section 4 shall contain a provision for payment of such interest per annum as may be fixed from time to

time by the State Government on instalments which are in arrears; provided that the State Government may, if they think that the circumstances of any case justify special consideration, decide that interest shall be paid at the rate payable for instalments which are not in arrears.

9. Nature of security to be taken under Sections 8 and 9.

- For the purposes of giving State-aid under the provisions of Clauses (a) and (b) of Section 4, the assets to be offered as security may include-(a)immovable property;(b)machinery of permanent or semi-permanent nature whose life is not less than the period of the loan or guarantee;(c)such bonds or securities issued by the Central Government or State Government or public undertakings, as may be approved by Government from time to time;(d)movable property including stocks, raw films of the picture in case of film producers.

10. Manner of ascertaining the net value of assets taken as security.

- The assets of the industry shall be valued in the following manner for the purpose of grant of State-aid-(a)Land-It shall be valued at the market price on the basis of the report obtained from the local revenue authority.(b)The building-It shall be valued by an officer not below the rank of an Assistant Engineer approved by the Director of industries on the basis of the original cost of construction less depreciation as is admissible under Income-Tax Rules from time to time.(c)Machinery-It shall be valued by an officer not below the rank of an Assistant Engineer at their cost price less such allowance for depreciation as is admissible under Income Tax Rules from time to time.(d)The bonds and other securities of the Central or State Government or other public bodies-These shall be valued on the basis of the issue-value or market price, if any, prevailing on the date of application, whichever is less.(e) The movable assets including stock in trade and films in case of motion picture producers-They shall be valued at cost or realisable value, whichever is less.(f)In the valuation of assets for the purpose of security the value of any land, building or machinery to be purchased with the State-aid applied for, may be included; provided that the applicant execute an agreement to purchase such machinery and acquire such other assets as he may have proposed in his applications on the basis of which the loan is to be sanctioned. The value of such assets may be taken into account at seventy per centum of its cost price; provided that the lay out and specification of the building are approved by the Director and machinery or land has been purchased on his advice.

11. Manner of regulating expenditure under proviso (ii) to Section 8 (i).

(1)Expenditure shall be incurred according to the scheme approved by the State Government.(2)No expenditure shall be incurred on any item without the prior approval of the Director.(3)All disbursements out of the loan shall be made under the signature of the nominee of the State Government and loanee.

12. Collateral security required under Section 9.

- For every loan on guarantee, such collateral security shall be furnished as the State Government or the Director, as the case may be, may deem sufficient together with mortgage upon the whole of the assets of the industry required by Section 9 of the Act fully to secure such loan or guarantee. The mortgage deed and agreement for hire purchase may be in such forms as may be approved by the State Government in this regard :Provided that this rule shall not apply to any loan not exceeding five hundred rupees to any industry owned or managed by an artisan.

13.

Any person who has made an application for State-aid has been given under Sub-causes (a), (b) or (d) of Section 4, shall permit the Director or any person authorised by the Director in this behalf to inspect the premises, buildings, machinery and stock-in-hand of the industry at all reasonable facilities for such inspection. The Director shall arrange the inspection of the business of guarantee at such intervals as may be considered necessary.

14. Submission of returns under Section 10.

- The grantee shall submit to the Director or General Manager of concerned District Industries Centre-(i)progress report of the work for which the grant was given, with a statement showing item-wise, how the Government grant is being spent by him at such time be directed by general or special order of the Director or General Manager; (ii) a final report after the work has been completed and the grant spent; (iii) such additional information as may be required by the Director or General Manager, District Industries Centre.

15. Form of accounts under Section 10.

(1)Every recipient of State-aid under Causes (a) and (b) of Section 4 shall maintain account in such forms as the State Government may approve in such case and in particular, except in case of a company registered under the Companies Act, 1956, shall prepare on the thirty-first day of March of each year, or an such other date as may be approved by the State Government-(a) a balance sheet and (b) a profit and loss account.(2)Such account shall be open to audit for period not longer than six months next after the thirty-first day of March or the date approved by Director, as the case may be, by such persons as the State Government may appoint or approve in this behalf and the recipient of State-aid shall be liable to pay such charges as may be determined by the Director for such audit.

16. Provision of guarantee under Section 12.

- Guarantee of cash credit, over-draft or fixed advance with the Banks under Section 12-(a)Every guarantee under Clause (b) of Section 4 shall be for a fixed period. If at the expiry of such period the cash credit or overdraft is not cleared or fixed advance not repaid or if the Bank to which the guarantee has been made so desires, the amount both of principal and the interest outstanding shall

be immediately recoverable.(b)Such guarantee by the State Government of cash credit, overdraft and fixed advances shall normally be restricted to the transactions with nationalised Banks, Scheduled Banks, State and Central Co-operative Banks and other Banking institutions in the co-operative sector. Government may, however, approve any other banking company other than those specified above for the purpose of issue of guarantees.

17. Termination of State-aid.

(1)Subject to the provisions of Subsection (2) of Section 13 the Director or the General Manager of District Industries Centre, or any other officer appointed by the State Government to discharge function, of the General Manager, may be authorised to terminate State-aid to the extent of thirty thousand rupees in respect of any one industry.(2)Before issuing termination of the State-aid a show-cause notice shall be served on the loanee indicating the circumstances which would warrant termination of the State-aid and call for his explanation within fifteen days from the date of receipt of the show-cause notice as to why State-aid should not be terminated.(3)On receipt of the explanation from the party, the same shall be examined by the authority competent to terminate the State-aid and if no explanation is received within the stipulated period or if the explanation received is not satisfactory, the authority stipulated in Sub-rule (1) above shall issue an order of termination.

18. Appeal against order of termination.

- Any person aggrieved by an order, other than an order passed by the State Government terminating State-aid, may prefer an appeal to the State Government through the Director of Industries within sixty days from the date of receipt of termination notice by him. The State Government may, after causing such enquiry as they consider reasonable and after examining the records of the case and after giving the aggrieved person a reasonable opportunity of being heard, pass such Orders either allowing or rejecting the appeal as they deem fit. The order passed in appeal shall be final and binding on the parties.

19. Discontinuance of the State-aid under Section 17(2).

- Grant of subsidy in any form mentioned under Clause (g) of Section 4 shall be discontinued, if the industry be shown to the satisfaction of the State Government to be earning a net profit in excess of 10% of the total investment and the amount of subsidy provided by the State Government till the date of discontinuance be returned by the unit out of the profits in excess of 10% earned during the subsequent years within eight months from the closure of accounts of each year.

20. Disposal of profit when conditions of State-aid not fulfilled.

- Under Section 18 no recipient of State-aid shall pay any dividend or distribute or take any profits in excess of 8% of the amount of the capital of the industry until the conditions on which State-aid has been granted are fulfilled.

21. Control of industries to which State-aid has been given.

- In the event of the value of the State-aid amounting to or exceeding rupees two lakhs on face value of shares held by the State Government exceeding 25% of the authorised capital of the company, the State Government shall have right to nominate Directors in the Board of Directors of such company in proportion to the paid-up capital held by them. As far as possible the Directors so appointed shall ensure conduct of business of the company on sound commercial lines and suggest remedial measures in case of any irregularity noticed by them and submit special reports once in six months to the Government through the Director, on the state of affairs of the industry of which they are Directors.

22. Fees payable under Section 21.

- The State Government shall have a right to charge the following fees in respect of various stages of sanction of the State-aid and subsequent audit thereof as and when it takes place -(a)Application fee Rs. 50(b)Processing charges Rs. 100(c)Inspection and audit charges shall be fixed by the Director taking into account the volume of transactions of the industry and the time spent by the officers and staff engaged therein subject to a maximum of one thousand rupees.

23. Percentage of cost of machinery to be deposited under Section 22.

- No machinery shall be supplied under hire purchase system unless the applicant deposits with the Director or other sanctioning authority ten per cent of the cost of the said machinery before delivery of the machinery. The party shall, however, be liable to pay interest on the amount advanced by the State Government on the machinery supplied on hire purchase system after deducting therefrom the amount deposited by the hirer.

24. Sanction of machinery on hire purchase.

(1)The hirer after being supplied with an approved list of machine-suppliers by Director or General Manager, District Industries Centre, will obtain quotation and select the machine he requires after being satisfied about the performance of the machinery and such machinery proposed by the hirer will be purchased by the sanctioning authority and supplied on hire purchase system. It is the responsibility of the hirer for selection of machinery and the State Government will not be liable to any loss in case the machinery are found subsequently defective and the hirer shall be liable to pay the cost of machinery by way of rent with interest as may be stipulated in the terms of the sanction.(2)The authority which sanctions the supply of machinery on hire purchase system shall ordinarily require that Government shall be protected against the total or partial loss of such machinery from fire or any other cause by means of insurance.

25. Metal plate referred to in Clause (e) of Section 24.

- All machinery supplied on the hire purchase system shall, until the hiring is terminated in accordance with the Act, bear a metal plate with the following inscription, namely:"Notice: This machine is the property of the Government of Orissa and any person who wilfully removes or defaces this plate is liable to a fine to the extent of five hundred rupees."

26. Seizure of machinery supplied on hire purchase.

- If any machinery supplied on the hire purchase system is seized and taken away under Section 25 of the Act and the hirer exercises his option under Section 26 for purchasing the same, he shall pay, in addition to the unpaid balance of the cost thereof and the cost of expenses incidental to such seizure and removal, such interest on the remaining unpaid instalments as would have fallen due on the payment of the next instalment of rent.

27. Termination of hiring.

- If the hirer wishes at any time to terminate the hiring of any machinery supplied to him on hire purchase system he shall give notice of his intention to the Director or General Manager of the District Industries Centre by registered post. The Director or General Manager, District Industries Centre of his district, as the case may be, within two months of the receipt of such notice shall inspect the machinery or cause it to be inspected and shall remove the same.

28. Manner of deposit of amounts payable under the Act.

- All sums recoverable or payable under the Act or these rules shall be credited into the nearest treasury and a copy of the challan shall be transmitted by registered post to the office of the General Manager, District Industries Centre having jurisdiction over the area.

29. Maintenance of registers by the sanctioning authority.

- The Director or General Managers shall maintain such registers in consultation with the Accountant-General. Orissa, as may be necessary, for watching timely repayment of State-aid granted under the Act.

30. Placement of report on disposal of applications before the Board.

- The Director shall lay before the Board of Industries once in every six months a statement giving a list of applications disposed of by him indicating the manner of disposal. Form 'A'[Rule 7(3) (d)]Form of application for State-aid by an individual or firm not being a company within the meaning of Indian Companies Act, 1956

1. Name, parentage, caste and residence or in the case of a firm, style and principal place of business of the applicant
2. Section of the Act under which State-aid is required
3. Amount of State-aid required
4. Object for which State-aid required
5. Manner in which it is proposed to repay the State-aid (in case of loan)-
(a)The number of instalments which it is proposed to repay(b)The date to which it is proposed that the first instalment should be due(c)The amount of each instalment should be stated
6. Nature of security offered
7. Name, parentage, caste and residence of the sureties, if any
8. Nature of security of the sureties
I declare that the statement made and the particulars given above are true go the best of my knowledge and belief and that there are no encumbrances other than those mentioned above on the land or other property offered as security for the loan applied for. Signature of applicant Signature of suretyDateN.B The fullest information should be given regarding the security for any loan or advance (in case of land, reference should be made to any finally published record-of-rights). Details as to the assets and revenues which will be available as security for it and particulars for any existing charges thereon, as well as any debts owed by the applicant shall be furnished. Balance sheets and profit and loss accounts where maintained, certified by an auditor entitled to audit account of companies under the Companies Act, 1956 should be attached together with a copy of the prospectus and memorandum and the articles of association. The amount of capital actually subscribed and paid up, the number of shares held by each of Directors, their salaries, fees and other requisites should also be stated. Information should also be given as to the collateral security offered. The application should be sent with a covering letter explaining the prospects and facilities available for the development of the industry, the nature of the processes to be utilised, the staff to be employed and a history of the industry from its inception up to the present date. Form 'B'[Rule 7 (3) (g)]Form of application for State-aid by a company

1. Name of company and address of its registered office.....

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2. Names and addresses of Directors, Managers or Managing Agents, Secretary and the Chief Executive Officer
3. Section of the Act under which State-aid is required
4. Amount of State-aid required
5. Object for which State-aid is required
6. Manner in which it is proposed to repay the State-aid (in the case of loan)-
(a)The number of instalments by which it is proposed to repay(b)Date on which it is proposed that the first instalment should be due(c)The amount of each instalment should be stated
7. Nature of security offered

Date......Signature of officer empowered tosign on behalf of the company......of the companyN.B.-The fullest information should be given regarding the security for any loan or advance (e.g., in case of land, reference should be made to any finally published record-of-rights). Details as to the financial resources of the applicant, the assets and revenues which will be available as security for it and particulars for any existing charges thereon, as well as any debts owed by the applicant shall be furnished. Balance sheets and profit and loss accounts where maintained, certified by an auditor entitled to audit account of companies under the Companies Act, 1956 should be attached together with a copy of the prospectus and memorandum and the articles of association. The amount of capital actually subscribed and paid up, the number of shares hold by each of Directors, their salaries, fees and other requisites should also be stated. Information should also be given as to the collateral security offered. The application should be sent with a covering letter explaining the prospects and facilities available for the development of the industry, the nature of the processes to be utilised, the staff to be employed and a history of the industry from its inception up to the present date.