

Sikkim Transport Infrastructure Development Fund Act, 2004

SIKKIM

India

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Act 2 of 2004

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Sikkim Transport Infrastructure Development Fund Act, 2004(Act No. 2 of 2004)Last Updated 10th June, 2020[Dated 15.10.2004]An Act to establish a fund and to develop, maintain or improve transport infrastructure in Sikkim and for such purpose to levy and collect cess on sale of motor spirit commonly known as petrol and high speed diesel oil and to provide for matters connected therewith or incidental thereto.Whereas, it is expedient to create a fund arid to develop, maintain or improve transport infrastructure in Sikkim and for such purpose to levy and collect cess on sale of motor spirit commonly known as petrol and high speed diesel oil and to provide for matters connected therewith or incidental thereto:Be it enacted by the Legislature of Sikkim in the Filly-fifth Year of the Republic of India as follows:-Chapter-I Preliminary

1. Short title, extent and commencement.

(1)This act may be called the Sikkim Transport Infrastructure Development Fund Act, 2004,(2)It extends to the whole of Sikkim(3)It shall come into force on the 1st day of August 2004

2. Definition.

- In this Act, unless the context otherwise requires:-(a)"cess" means the cess levied and collected under section 4;(b)"fund" means the Sikkim Transport Infrastructure Development Fund established under sub-section (1) of section 5;(c)"goods" means the goods specified in column (2) of the First Schedule;(d)"notification" means a notification published in the Official Gazette;(e)"prescribed" means prescribed by rules made under this Act;(f)"Schedule" means a Schedule appended to this Act;(g)"State Government" means the Government of Sikkim.Chapter-II Authorities for the purposes of levy and collection of cess

3. Cess Authorities.

(1)The State Government shall, by notification, appoint an authority (hereinafter referred to as the prescribed authority), and shall appoint such other person being the officers of the State Government, to assist the prescribed authority as the State Government may think fit for carrying out the purposes of this Act.(2)the prescribed authority and the persons appointed under sub-section (1) to assist him shall have jurisdiction over the whole of Sikkim.(3)The persons appointed to assist the prescribed authority shall exercise such powers as may be delegated to them by the prescribed authority.(4)The prescribed authority and the persons appointed to assist him under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.(5)No suit, prosecution or other legal proceedings shall lie against the prescribed authority or the persons appointed under sub-section (1) to assist him for anything which is in good faith done or intended to be done under this Act or tho rules made thereunder.[Chapter-IIA [Chapter-IIA with Sections 3A, 3B, 3C and 3D were Inserted by Act No. 5 of 2011.] Registration]

3A.

(1)Any person or authority or corporation, established by or under any statute or any State or Central Government undertaking, who is liable to pay cess under this Act, shall register under the Act within two months from the commencement of business or commercial activities, in the Form and manner as may be prescribed.(2)Any person or authority or corporation, or any undertaking referred to In sub-section (1) whose business or commercial activities like commenced before this section came into force, shall register under this Act within two months from the date of enforcement of this section or enforcement of the rules made thereunder, whichever is later.(3)The prescribed authority may allow registration beyond the time prescribed in sub-section (1) and sub-section (2), for a reasonable span of time if he is satisfied that the applicant was prevented to register himself due to valid reasons:Provided that any person who fails to register in terms of this section shall be liable for penalty not exceeding rupees five hundred per day of default that shall be imposed after providing an opportunity of being heard to such person.

3B. Assessment refund and appeal.

- If the prescribed authorities not satisfied with the accounts of purchases, sales, returns furnished and payments of cess made by the person registered or accounts furnished and payments made by an unregistered person, if any, such prescribed authority may, make summary assessment on such person within three years from the date of returns furnished or payment of cess made, and for this purpose the prescribed authority may cause the person to produce all relevant and necessary books of accounts or may make best judgement assessment if the person fails to produce books of accounts:Provided that any excess payments of cess made by any person under this Act shall after assessment be refunded or appropriated to any outstanding dues or future liability of cess :Provided further that an appeal against any of the order of the sub-ordinate prescribed authority shall lie to the next higher preScribed authority within 45 (forty five) days of passing of the order against which appeal is intended to be preferred:Provided also that any appeal preferred as per second Proviso

shall be disposed off by the Appellate Authority within a period of one year from the date of filing of such appeal or within such extended time as the prescribed authority allows which shall not be more than six months at one instance.

3C. Production of documents inspection of business premises and penalty for non-production of documents

- It shall be lawful for any prescribed authority to demand by notice, any of the documents, from any registered or unregistered persons, pertaining to the purchases and sales of the goods liable for cess under this Act, which are maintained under the Sikkim Sales Tax Act, 1983 or the Sikkim Value Added Tax Act, 2005 or any other law governing the tax on sales and purchases of goods, or to inspect business premises of such persons at any reasonable time but not before sun rise and after sun set: Provided that the prescribed authority may after providing an opportunity of being heard, impose a penalty not exceeding rupees twenty- five thousand on the person who fails to furnish the documents referred to in this section.

3D. Declaration of goods made in the Check posts under other Acts to be deemed as declared under the Act.

- The declaration during transportation of consignments of goods made in the Check Posts set up in Sikkim, in the Forms and manners as prescribed in the Sikkim Sales Tax Act, 1983, or the Sikkim Value Added Tax Act, 2005, or under any other law for the time being in force, shall be deemed to have been declared for the purpose of this Act, too. Chapter-III Incidence and levy of cess, rate of cess and payment of cess.

4. Incidence of cess rate thereof payment of cess and furnishing return.

(1) There shall be levied and collected, for the purposes of this Act, a cess on every sale [or self consumption, or utilization for commercial purpose or consumption in the process of manufacturing of goods, or execution of works contract, or operation of machine, equipment or motor vehicles employed for any commercial activities, by importing from outside the State, by making purchase or otherwise] [Inserted by Act No. 3 of 2006.] in Sikkim by any person [or the State or Central Government including department of other States situated in Sikkim, any local body, any authority or Corporation, established by or under any statute and any State or Central Government undertaking] [Inserted by Act No. 3 of 2006.] of goods, specified in column (2) of the First Schedule, which have not been purchased by such person in Sikkim, at the rate specified in the corresponding entry in Column (3) of the said Schedule. (1A) [The State Government, if satisfied to do so in public interest, may by notification amend, add to or alter the items specified or revise the rate or rates of cess prescribed in the First Schedule to this Act.] [Inserted by Act No. 5 of 2011.] (2) The cess leviable under sub-section (1) shall be payable by the person [or the State or Central Government including department of other States situated in Sikkim, any local body, any authority or Corporation, established by or under any statute and any State or Central Government undertaking] [Inserted by Act No. 3 of 2006.] who sells [or consumes for self or utilizes for commercial purpose or consumes

in the process of manufacturing of goods, or execution of works contract, or operation of machine, equipment or motor vehicles employed for any commercial activities,] [Inserted by Act No. 3 of 2006.] such goods in Sikkim.(3)The person [or the Government or the body or the organisations] [Inserted by Act No. 3 of 2006.] referred to in sub-section(2) shall furnish a return to such authority in such form, in such manner and at such interval, as may be prescribed and such person, in the prescribers manner; pay the full amount of cess before furnishing such return.[Provided that if any person required to furnish returns with proof of payments under this sub-section fails to do so without reasonable cause, he shall be liable for penalty not exceeding rupees fifty per day of default in filing returns and/or making payments that shall be imposed after providing such person an opportunity of being heard.] [Inserted by Act No. 5 of 2011.](4)The cess leviable under sub-section (1) shall be in addition to any tax or duty, by whatever name called, leviable on sale [or self consumption or utilization for commercial purpose or consumption in the process of manufacturing of goods, or execution of works contract, or operation of machine, equipment or motor vehicles employed for any commercial activities] [Inserted by Act No. 3 of 2006.] of the goods under any other law for the time being in force in Sikkim.

Chapter-IV Sikkim Transport Infrastructure Development Fund

5. Establishment of fund.

(1)There shall be established for the purposes of this Act a fund to be called the Sikkim Transport infrastructure Development Fund.(2)The fund shall be under the control of the State Government and there shall be credited to the following:-(a)any sum of money credited under section 6;(b)any sum of money credited under section 7;(c)any sum realized by the State Government in carrying out its functions under this Act or in the administration of this Act;(d)any fund provided by the Central Government for the creation, development, maintenance or improvement of transport infrastructure;(3)The balance to the credit of the fund shall not lapse at the end of the financial year.

6. Crediting of cess to the fund.

- The proceeds of the cess levied under section 4 shall first be credited to the Consolidated Fund of Sikkim and the State Government may, if the State Legislature by appropriation made by law in this behalf so provides, credit such proceeds to the fund from time to time after deducting the expense of collection, for being utilized exclusively for the purpose of this act.

7. Grants and loans by State Government.

- The State Government may, after due appropriation made by the State Legislature by law in this behalf, credit in the fund, by way of grants or. loans such sums of money as the State Government may consider Necessary.

8. Utilisation of Fund.

- The fund shall be utilized for:-(a)the creation, development, maintenance or improvement of

transport infrastructure, including roads, bridges and flyovers;(b)the improvement of traffic operations and road safety;(c)the purposes of such other projects as may be prescribed.Chapter-V Management of the Fund

9. Maintenance of accounts.

- The State Government shall maintain proper accounts and other relevant records in such form and in such manner, as may be prescribed.

10. Administration of fund.

- The State Government shall administer the fund and take such decisions regarding investment in projects of transport infrastructure, traffic operation and road safety as it considers necessary.Chapter-VI Miscellaneous

11. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out the purposes of this Act.(2)in particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters which under any provisions of this Act are required to be prescribed, or to be provided for, by rules.

12. Amendment of Sikkim Sales Tax Act, 1983.

- The Sikkim Sales Tax Act, 1983 shall be amended in the manner specified in the Second Schedule to this Act.[The First Schedule] [Substituted by Act No. 3 of 2006.](See section 4)

S. No	Name of goods	Rates of cess
(1)	(2)	(3)
1.	Motor spirit commonly known as petrol	[Rupees three per litre.] [Substituted by Act No. 5 of 2011.]
2.	High speed diesel oil	[Rupee two and Fifty paisa per Litre] [Substituted by Act No. 5 of 2011.].

The Second Schedule(See section 12.)Amendment in the Sikkim Sales Tax Act, 1983.

1. In the Sikkim Sales Tax Act, 1983 (hereinafter referred to as the said Act), in section 2, in clause (n), after the words "less any sum allowed as cash discount", the words and figures "or any sum charged as cess leviable under the Sikkim Transport Infrastructure Development Fund Act, 2004", shall be inserted.

2. In the said Act, in section 6, for the words, "any goods or class of goods may be taxed", the words, "tax/cess on any goods or class of goods, as applicable, may be realized", shall be substituted.