

Additional Duties of Excise (Goods of Special Importance) Act, 1957

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Act 58 of 1957

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Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957)Last Updated 7th September, 2021Objects and Reasons. - The object of the Bill is to impose additional duties of excise in replacement of the sales taxes levied by the Union and States on sugar, tobacco and mill made textiles and to distribute the net proceeds of these taxes, except the proceeds attributable to Union territories, to the States. The distribution of the proceeds of the additional duties broadly follows the pattern recommended by the Second Finance Commission. Provision has been made that the States which levy a tax on the sale or purchase of these commodities after the 1st April, 1958 do not participate in the distribution of the net proceeds. Provision is also being made in the Bill for including these three goods in the category of goods declared to be of special importance in inter-State trade or commerce so that, following the imposition of uniform duties of excise on them, the rates of sales tax if levied by any State are subject from 1st April, 1958 to the restrictions in Section 15 of the Central Sales Tax Act, 1956: - Gaz. of Ind., 13-12-1957, Part II - Section 2, Extra p. 963.II(Act 13 of 1979). - The net proceeds of the Additional Duties of Excise, levied under the Additional Duties of Excise (Goods of Special Importance) Act, 1957, on sugar, tobacco, cotton fabrics, woollen fabrics Mill man-made fabrics, in replacement of the States' sales taxes on these commodities, are distributed in accordance with the provisions of that Act.2. At present the distribution among the States is made on the basis of population, State domestic product, and production of these commodities in the ratio 70:20:10, as has been recommended by the Sixth Finance Commission. The Seventh Finance Commission has determined the shares attributable to Union territories and each of the States on the basis of :(a) in the case of sugar, average despatches of sugar to the Union territories and to each State during the three years ending 1976-77; and(b) in the case of textiles and tobacco, population according to 1971 census and the average per capita State domestic product, and has indicated the percentage shares attributable to Union territories and payable to each State in respect of each commodity.3. This Bill seeks to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957, for giving effect to the above recommendations of the Commission. - Gazette of India, 12-4-1979, Pt. II, Section 2, Ext., p. 399.III(Act No. 6. of 1980). - Central Excise duty was levelled for the first time on cotton fabrics in 1949, on man-made fabrics

(rayon or artificial silk fabrics) in 1954 and on woollen fabrics in 1955. From the very early stages of the textile tariff, with a view to achieving progression in the rate structure and to aligning excise control with the demands of different producing sectors, duties have been levied not only on grey fabrics but also at the stage of processing such as bleaching, dyeing and printing.² In its judgment dated 24th January, 1979 in the *Real Honest Textiles and others v. Union of India* (Special Civil Applications Nos. 1552 etc. of 1978), the Gujarat High Court has held that the term "fabric" as used in the tariff description "cotton fabric" would refer to something that is woven; hence it can relate only to cloth in the grey stage; processing of the grey cloth either by bleaching, dyeing or printing does not amount to manufacturing and both before and after processing it remains a fabric falling within the same item of Central Excise Tariff (item 19 - cotton fabric, of the First Schedule to the Central Excises and Salt Act). The Court arrived at a similar conclusion with respect to man-made fabrics falling under item No. 22 of the same Schedule. The Court observed that processing was an excisable activity covered by the residual tariff Item No. 68 of the said Schedule.³ After the pronouncement of the above judgment, a number of writ petitions by other parties agitating similar points have been filed in different High Courts. If these High Courts deliver similar judgments, a considerable amount of revenue running into several crores of rupees may become refundable. An appeal against the judgment of the Gujarat High Court is pending in the Supreme Court.⁴ The judgment of the Gujarat High Court completely upsets the arrangement regarding levy of excise duties on textile fabrics which has been followed for several years and it will have the effect of disturbing the balance evolved between different sectors of the textile industry besides putting large amounts of revenue at stake. In so far as past assessments are concerned, refunds of duties whose incidence would, in the normal course of business, have been passed on to consumers, would only mean fortuitous gains to the excise assessee.⁵ The same problem which has arisen in the case of cotton fabrics and man-made fabrics as a result of the judgment of the Gujarat High Court may arise in the case of woollen fabrics as well.⁶ It is, therefore, proposed to amend the Central Excises and Salt Act, 1944 and the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (which also provides for duties of excise on the aforementioned fabrics) to overcome the difficulty which has arisen as a result of the judgment of the Gujarat High Court. It is also proposed to validate the levies which have been made in the past in respect of these fabrics.

7. The Bill seeks to achieve the above objects. - Gazette of India, 18-5-1979, Pt. II - Section 2, Ext., p. 593 (No. 36).

IV(Act 29 of 1984). - The net proceeds of the additional duties of excise levied under the Additional Duties of Excise (Goods of Special Importance) Act, 1957, on sugar, tobacco, cotton fabrics, woollen fabrics and man-made fabrics in replacement of the States sales tax on these commodities are distributed in accordance with the provisions of that Act.² The Seventh Finance Commission had determined the shares attributable to Union territories and each of the States on the basis of : (a) in the case of sugar, average despatches of sugar to the Union territories and to each State during the three years ending 1976-77; (b) in the case of textiles and tobacco, population according to the 1971 census and the average per capita State domestic product, and had indicated percentage shares attributable to Union territories and payable to each State in respect of each commodity. The present distribution among the States is governed by those recommendations of the Seventh Finance Commission.³ The Eighth Finance Commission in its interim report have recommended

that in respect of the distribution between the Union and the States of the net proceeds of additional duties of excise in lieu of sales tax, the existing arrangements may continue provisionally during the financial year commencing on the 1st day of April, 1984. The Commission have further recommended that the State of Sikkim should also receive a share from the proceeds of additional duties of excise on textiles in lieu of sales tax as the levy of sales tax thereon has been withdrawn by that State and that the percentage shares of all States, including Sikkim in this levy which have been worked out for the Seventh Finance Commission should be applied for inter se distribution in the financial year 1984-85.⁴ This Bill seeks to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957 for giving effect to the above recommendations of the Commission. - Gazette of India, 30-4-1984; Pt. II, Section 2, Ext. p. 11 (No. 26).V (Act No. 27 of 1985). - The net proceeds of the additional duties of excise, levied under the Additional Duties of Excise (Goods of Special Importance) Act, 1957, on sugar, tobacco, cotton fabrics, silk fabrics, man-made fabrics and Woollen fabrics, in replacement of the States sales tax on these commodities are distributed in accordance with the provisions of that Act.² The Eighth Finance Commission in its interim report, dated the 14th November, 1983, had recommended that in respect of the distribution between the Union and the States of the net proceeds of additional duties of excise in lieu of sales tax, the existing arrangements as per the recommendations of the Seventh Finance Commission may continue provisionally during the financial year commencing on the 1st day of April, 1984. The Commission had further recommended that the proceeds of additional duties of excise on textiles in lieu of sales tax as the levy of sales tax thereon has been withdrawn by that State and that the percentage shares of all States, including Sikkim in this levy which have been worked out by the Seventh Finance Commission should be applied for inter se distribution in the financial year 1984-85.³ The Seventh Finance Commission had determined the shares attributable to Union territories and each of the States on the basis of : (a) in the case of sugar, average despatches of sugar to the Union territories and to each State during the three years ending 1976-77; (b) in the case of textiles and tobacco, population according to the 1971 Census and the average per capita State domestic product, and had indicated percentage share attributable to Union territories and payable to each State in respect of each commodity.⁴ The Eighth Finance Commission in its final report, dated the 30th April, 1984, had recommended that the shares of the States in the Additional duties of excise for all the three commodities, viz., sugar, tobacco and textiles be distributed by giving equal weightage to State domestic production and population. The average State domestic production of the States for the years 1976-77 to 1978-79 and the population as in 1971 Census have been adopted by the Commission in arriving at the percentage shares of the States.⁵ The Government has decided to continue with the recommendations of the Eighth Finance Commission contained in its interim report for the financial year commencing on the 1st day of April, 1984, and to implement the recommendations contained in its final report for the period of four years commencing from the 1st day of April, 1985.⁶ This Bill seeks to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957, for giving effect to the above recommendations of the Commission. - Gazette of India, 22-3-1985, Pt. II Section 2, Ext., p. 9 (No. 13).VI (Act 7 of 1986). - Additional excise duties in lieu of sales tax are presently being levied on sugar, tobacco, silk fabrics, woollen fabrics, cotton fabrics and man-made fabrics, as per the rates specified in the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957. The tariff entries in this Schedule are adopted from the First Schedule to the Central Excises and Salt Act, 1944.² It is proposed to specify the central excise tariff by a separate Central Excise Tariff Act which will replace the existing tariff as

containing in the First Schedule to the Central Excises and Salt Act, 1944. The new tariff proposed will be more detailed and comprehensive. It is, therefore, necessary to make the requisite consequential changes in the first Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, so as to conform to the entries in the new central excise tariff. As regards the rates of duty, by and large, the existing duty structure has been preserved.³ The Bill seeks to give effect to the above object. - Gazette of India, 13-12-1985, Pt. II Section 2, Ext., p. 264 (No. 67).VII(Act No. 12 of 1990). - The net proceeds of the additional duties of excise levied under the Additional Duties of Excise (Goods of Special Importance) Act, 1957, on sugar, tobacco, cotton fabrics, man-made fabrics and woollen fabrics in replacement of the States' sales tax on these goods are distributed in accordance with the provisions of that Act.² The Ninth Finance Commission in its first report dated the 29th July, 1988 had recommended that the shares of the States in the additional duties of excise for the said goods be distributed by giving equal weightage to State domestic product and population. The average State domestic product of the States for the years 1982-83 to 1984-85 and the population as in 1971 census had been adopted by the said Commission in arriving at the percentage shares of the States. To give effect to the above recommendation of the Commission the principal Act was amended by the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1989.³ The Ninth Finance Commission in its second report dated the 18th December, 1989 for the period 1990-95 has recommended that the shares of the States in the Additional Duties of Excise for the said goods be distributed by giving equal weightage to State domestic product and population. They have used the new series of comparable estimates of State domestic product averaged for three years 1982-83 to 1984-85 and the population as in 1981 census in determining the shares of the States inter se in the net proceeds of additional duties of excise.⁴ This Bill seeks to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957, for giving effect to the above recommendations of the Ninth Finance Commission in its second report. - Gazette of India, 11-5-1990, Pt. II - Section 2, Ext., P. 4 (No. 19)[24th December, 1957]An Act to provide for the levy and collection of additional duties of excise on certain goods and for the distribution of a part of the net proceeds thereof among the States in pursuance of the principles of distribution formulated and the recommendations made by the Finance Commission in its report dated the 30th day of September, 1957, and to declare those goods to be of special importance in inter-State trade or commerce.BE it enacted by Parliament in the Eighth Year of the Republic of India as follows :-

The Act is extended to the Union Territories of Goa, Daman and Diu by Regn. 12 of 1962; to Dadra and Nagar Haveli by Regn. 6 of 1963 (1-7-1965); and to Pondicherry by Regn. 7 of 1963 (18-7-63); Goa is now a State.

1. Short title.

(1)This Act may be called the Additional Duties of Excise (Goods of Special Importance) Act, 1957.(2)It extends to the whole of India.

2. Definitions.

- In this Act, -(a)"additional duties" means the duties of excise duties levied and collected under sub-section (1) of section 3 ;(b)"State" does not include a Union territory;(c)[* * *] [Clause (c) omitted by Act 7 of 1986, Section 2]

3. Levy and collection of additional duties.

(1) There shall be levied and collected [in respect of the goods described in column (3) of the First Schedule] [Substituted by Act 7 of 1986, Section 3, for words "in respect of the following goods, namely, sugar, tobacco, cotton fabrics, silk fabrics, man-made fabrics and woollen fabrics"] produced or manufactured in India and on all such goods lying in stock within the precincts of any factory, warehouse or other premises where the said goods were manufactured, stored or produced, or in any premises appurtenant thereto, duties of excise at the rate or rates [specified in the column (4) of the said Schedule]. [Substituted by Act 7 of 1986, Section 3, for words "specified in the First Schedule to this Act"] (2) The duties of excise referred to in sub-section (1) in respect of the goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excises and Salt Act, 1944 (1 of 1944), or any other law for the time being in force. (3) [The provisions of the Central Excises and Salt Act, 1944, and the rules made thereunder, including those relating to refunds and exemptions from duty, shall, so far as may be, apply in relation to the levy and collection of the additional duties as they apply in relation to the levy and collection of the duties of excise on the goods specified in sub-section (1).] [Substituted by the Finance Act 32 of 1994, Section 63(a)]

4. Distribution of additional duties among States.

- During each financial year, there shall be paid out of the Consolidated Fund of India to the States in accordance with the provisions of the Second Schedule such sums, representing a part of the net proceeds of the additional duties levied and collected during that financial year, as are specified in that Schedule.

5. Expenditure to be charged on the Consolidated Fund of India.

- Any expenditure under the provisions of this Act shall be expenditure charged on the Consolidated Fund of India.

6. Power to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules providing for the time at which, and the manner in which, any payments under the provisions of this Act are to be made, for the making of adjustments between one financial year and another and for any other incidental or ancillary matters. (2) [Every rule made under this section 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] [Substituted by Act 10 of 1962, Section 3] 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 done under that rule.]

7. Declaration of certain goods to be of special importance in inter-State trade or commerce.

- [Repealed by section 12 of the Central Sales Tax (Second Amendment) Act, 1958 (31 of 1958) (1-10-1958)]