

Sikkim Ecology Fund and Environment Cess Act, 2005

SIKKIM

India

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Act 1 of 2005

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Sikkim Ecology Fund and Environment Cess Act, 2005(Act No. 1 of 2005)Last Updated 10th June, 2020[Dated 9.3.2005.]An Act to provide for the protection and improvement of environment and for matters connected therewith or incidental thereto.Be it enacted by the Legislature of Sikkim in the Fifty-sixth 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 Ecology Fund and Environment Cess Act,2005.(2)It extends to the whole of Sikkim(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context:-(a)" biodegradable materials" means materials, articles and goods that are degraded as a result of microbial activity in natural environment under normal course;Explanation. - Materials articles and goods deemed to be "biodegradable" are prescribed in the Schedule I for the purpose of this Act:Provided that the State Government may amend or modify the Schedule I by notification if deemed necessary;(b)"business" includes any trade, commerce or manufacture or any manufacture or any adventure or concern in the nature of trade, commerce or manufacture(c)"Cess " means cess or fee payable under this Act;(d)" dealer" means any person who carries on business of buying and selling of goods specified in the Schedules or services for commission, remuneration or otherwise and includes any individual, firm, Hindu Undivided family, company, corporation, a department of State or Central Government,

Public Sector Undertaking, Autonomous body, society, club or association (or the incorporation of such society, club or association

Explanation 1. - A broker, commission agent who carries the business of procuring goods or services from outside the State of Sikkim for the purpose of buying and selling of goods or services having impact on environment and who has authority to procure and sell such goods or services belonging to their owner shall be deemed to be dealer for the purpose of this Act

Explanation 2.- The manager or agent of a dealer residing inside or outside the State, and who procures goods or services from outside the State of Sikkim and sells goods or services within the State shall in respect to such business, be deemed to be a dealer for the purpose of this Act;

Explanation 3. - The proprietor, manager or agent of a hotel, resort, lodge or motel who carries out the business of providing services like lodging boarding or ready to eat food facilities to customers on payment o cash or by credit card or by deferred payment be deemed to be a dealer for the purpose of this Act.

Explanation 4. - Head of a Department or an officer specifically designated for the purpose from various State Government Departments, Central Government Departments, Public Sector Undertakings, Semi autonomous bodies or Autonomous bodies procuring materials from outside the State and liable to pay cess impose d under the provisions of this Act shall be deemed to be dealer for the purpose of this Act.(e)"Department" means the Department of State Government dealing with Environment and or Department of the State Government entrusted with responsibility of collection of cess under this Act;(f)"hotel" "resort" "lodge" and "motel" means any premises that is used for providing services like lodging or boarding or ready to eat food facilities to customers on payment in consideration thereof;(g)"manufacture" with all its grammatical variations and cognate expressions, means producing, making, extracting altering, repairing, ornamenting, finishing, packing, fabricating, or otherwise processing or adapting any goods specified in the Schedules but does not include such manufacture or manufacturing process as may be prescribed;(h)" non biodegradable materials" means materials, articles and goods that are not degraded by microbial activity and shall include all kind of goods in solid, liquid or gaseous form that are not degraded in natural environment under normal course;

Explanation. - Materials, articles and goods deemed to be "non-bio degradable " are included in the [Schedule II] [Substituted by Act No. 5 of 2008, dated 10.04.2008.] for the purpose of this act; Provided that the Schedule II can be modified by the State Government by notification if deemed necessary (i) "notification" means a notification published in the Official Gazette;(hh)["person" means and includes any individual, firm, proprietor, Hindu Undivided Family, company or corporation including manufacturing company and corporation, Department of Central and State Governments and of other State Governments, Public Sector Undertaking, Autonomous Body, any authority established under any statute, society, club, association or incorporation of such society, club and association, and contractors engaged in the business of works contract whether under the Central or any of the State Governments or not;] [Inserted by Act No. 5 of 2008, dated 10.04.2008.](j)"Prescribed means prescribed by rules made under this Act or as prescribed by notification under this Act by the State Government(k)"Prescribed authority" means authority appointed by the State government by notification under sub-section (1) of Section 4.(kk)["purchase invoice" means an invoice or cash memorandum or a bill showing total cost of the price of the goods specified in Schedule II, inclusive of all the charges, paid by a person to the selling dealer of any State other than Sikkim, whether registered under any Act of that State or not;] [Inserted by Act No. 5 of 2008, dated 10.04.2008.](l)"Registered dealer" means a dealer registered under [section 8] [Substituted by Act No. 5 of 2008, dated 10.04.2008.].(m)"sales" with its grammatical variations and cognate

expressions means any transfer of property in goods or services by one to another for cash or for deferred payment [and includes the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract] [Inserted by Act No. 5 of 2008, dated 10.04.2008.];(n)"sale price" means the amount payable to a dealer as consideration for the sale of goods or services less any sum allowed as cash discount;Explanation 1. - In respect of goods or services delivered on hire purchase or any system of payment by installments, the total sale price (including the amount payable and interest thereupon) on the date of such delivery of goods or services shall be taken as the sale price for the purpose of this Act;Explanation 2. - The sale price shall include the excise duty, [* * *] [Omitted by by Act No. 5 of 2008, dated 10.04.2008.] or any other levies on the goods, under any Central or State law for the time being in force made at the time of or before the delivery of the goods or services to the buyer whether such duty, fee or other levy is paid by the purchaser of the goods to the seller alongwith the consideration for the sale or directly to the Government;[Provided that value added tax and local sales tax payable under any other Acts of the State Government shall not be included in the sale price;Provided further that the above Proviso shall come into force from the date of publication of this Act in the Official Gazette.] [Inserted by Act No. 5 of 2008, dated 10.04.2008.](o)" Sikkim " means the territory comprised in the State of Sikkim;(p)"State government" means the Government of Sikkim;(q)"turnover" used in relation to a establishment over any period means the aggregate of sale or services price or part of sale or services price receivable;(r)"year" means the financial year commencing on the first day of April and ending on the 31st day of March next following.

Chapter II

General Powers of The State Government

3. General powers of the State Government to Protect and improve Environment.

(1)Subject to the provisions of this Act, the State Government shall have powers to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment pollution and take measures for restoration of ecological balance of the State.(2)In particular and without prejudice to generality of the provision of the sub section (1), such measures may include measures with respect to all or any of the following matters, namely:-(a)Coordination of actions of different Departments of the State Government officers, and other authorities under this Act or rules made thereunder or under any law for the time being in force for the purpose of achieving objectives of environmental conservation and improvement;(b)Laying sown procedure for implementation of this Act;(c)Impose levy of environment cess or fee wherever the abuse of environment can not be prevented.(d>Create a separate non laps able 'Sikkim Ecological Fund' for depositing such fee or cess as imposed by clause (c) and ensuring utilization of such fee or cess for environmental amelioration measures;(e)Impose restrictions of areas in which any industry, operations or process or class of industries or operations shall not be carried out or shall be carried out with certain safeguards on payment of cess or fee as may be prescribed by the State Government by Notification;(f)Impose restrictions on entry of vehicles of any kind or by persons in any area as specified and regulate the entry on payment of environmental fee as may be prescribed by the State

Government by notification;(g)such matters as the State Government considers necessary or expedients the purpose of protecting and improving the quality and for the purpose of securing effective implementation of this Act.(2)The State Government may if it considers it necessary or expedient to do so for the purpose of this Act, by order published in the Official Gazette, constitute an authority or authorities or a body by such name or names as may be specified in the order for the purpose of exercising and performing such of powers and functions of the State Government under this Act for taking measures with respect to such of the matters referred to in this Act and may be mentioned in the order and subject to supervision and control of the Government and the provision of such order, such authority or the authorities or body may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities or body had been empowered by this Act to exercise those powers or perform those functions or to take such measures as deemed necessary.

Chapter III

Cess Collecting Authority

4. Environment Cess collecting Authorities.

(1)For carrying out the purpose of this Act, the State Government may appoint a person to be the prescribed authority under the Act and also such other persons with such designations to assist him as may be necessary and as may be specified in this behalf by the State Government by notification.(2)The prescribe ed authority and other persons under sub-section(1) shall exercise such powers as may be prescribed and perform such duties as are imposed upon them by this Act or rules made thereunder and as may be specified in this behalf by the State Government by notification.(3)All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Panel Code, 1860.

Chapter IV

Incidence of Cess

5. Incidence of Cess, Rate of cess, Cess free goods.

- [(1) (a) Every dealer or person including the person engaged in the business of works contract, whoever brings non-bio degradable materials as specified in Schedule II for sale, in Sikkim from outside Sikkim, on the sales turnover of such non-biodegradable materials or goods, from the date of commencement of the said Act:Provided that in the case of persons engaged in the business of works contract, the paying authority of the contractee shall deduct the cess at source on total works bill value or amount at the rate specified in section 6 of this Act, in the manner as prescribed or may be prescribed.(b)Every person or dealer, whoever brings non-bio degradable materials as specified in Schedule II in Sikkim from outside Sikkim for own use and consumption or for whatsoever purpose other than making sales in Sikkim, on the purchase invoice value, from the date of commencement of this Act:Provided that the person or dealer whoever is engaged in the business of

manufacturing of goods, shall pay the cess at such rate as specified in section 6 of this Act: Provided further that when any person or dealer has paid cess in accordance with the provisions laid down in first Proviso, no such person or dealer shall be liable for cess under this Act for sales of manufactured goods within Sikkim. (c) Every hotel, resort, lodge or motel operating or carrying on business within Sikkim, on the sales turnover. (2) The State Government may by notification, allow payment of composite cess to such dealer or class of dealers having turnover below a specified limit, and in such manner, as prescribed or may be prescribed in the notification: Provided that the prescribed authority shall verify the veracity of the turnover of the dealer and satisfy himself that the dealer exercising option for composite cess is eligible as such. (3) On entry in Sikkim of such categories of vehicles, at such rates, and on such terms and conditions as may be specified by notification by the State Government. (4) On any such other item having impact on environment directly or indirectly, at such rate or rates and on such conditions as may be prescribed by the State Government by notification.] [Substituted by Act No. 5 of 2008, dated 10.04.2008.]

6.

[(1) The cess payable under the said Act shall be levied at the following rates, namely:-(i) in respect of the sale of goods specified in Schedule II, by the persons specified in clause (a) of sub-section (1) of section 5, other than the persons engaged in the business of works contract, at the rate of one percent on total turnover of sales; (ii) in respect of the goods or materials transferred in execution of works contract, at the rate of 0.50% on the gross value of the works bill: Provided that this clause shall come into force from the date of publication of this Act in the Official Gazette; (iii) in respect of the goods specified in Schedule II, by the persons and for the purpose specified in clause (b) of subsection (1) of section 5, other than the persons engaged in the business of manufacturing, at the rate of one percent of the purchase price shown in the valid purchase invoice or on the local market price value if no valid purchase invoice is produced before the prescribed authority: Provided that the prescribed authority may determine the market price at the relevant point of time after such verifications as he deems necessary; (iv) in respect of the persons engaged in the business of manufacturing of goods specified in clause (b) of sub-section (1) of section 5, at the rate of 0.50% on the total purchase invoice value: Provided that this clause shall come into force from the date of publication of this Act in the Official Gazette; (v) In respect of hotel, resort, lodge or motel, at the rate of one percent on the gross sales turnover. (2) The State Government may revise the rate of cess under clause (i), (ii), (iii), (iv) and (v) of sub-section (1) of section 6 from time to time by notification. (3) The State Government may by notification, add to or omit from, or otherwise amend Schedule II and thereupon the said Schedule shall be deemed to be amended accordingly.] [Substituted by Act No. 5 of 2008, dated 10.04.2008.]

6A. [Point of levy, and remittance of cess in certain cases. [Inserted by Act No. 5 of 2008, dated 10.04.2008.]

(1) The cess payable on sales of goods specified in Schedule II by a registered dealer shall be levied only once at the first stage or point of sales occurred in Sikkim after such goods are brought or imported from outside Sikkim. (2) The persons referred to in clause (b) of subsection (1) of section 5, but excluding individuals, whoever brings or imports into Sikkim from outside Sikkim goods

specified in Schedule II to the Act, for own use and consumption or for whatsoever purpose other than sales, shall remit the cess to the appropriate Head of Revenue at such stage, within such time and in such manner as prescribed or as may be prescribed.]

7.

(1) No cess shall be payable under this Act on the sale of goods and services specified in Schedule I subject to the conditions and exceptions, if any, set out therein (2) The State Government, may add to or to omit from, or otherwise amend Schedule I and thereupon the said Schedule shall be deemed to be amended accordingly.

Chapter V

Registration of Dealers

8. Registration of dealers.

(1) Every dealer liable to pay cess under this act shall apply, within 45 (forty five) days of his becoming so liable to the prescribed authority for registration under this Act. (2) No dealer liable to pay cess under this Act, shall sale or procure and purchase goods unless he is in possession of a valid registration certificate granted to him by or on behalf of the prescribed authority or has applied for such registration within the time specified in sub section (1) and his application has not been finally disposed off by the said authority. (3) The prescribed authority may, on receipt of application in the prescribed form from a dealer for registration, and on being satisfied that the application is in order, grant registration from such date as may be specified, to such dealer: Provided that the said authority may demand such security as may prescribed from the dealer before registration is given to him: Provided further that no application for registration may be refused unless he has been given reasonable opportunity of being heard (4) If the prescribed authority is satisfied that a dealer liable to pay cess under the Act has failed to apply for and get himself registered, it may, by a notice in writing, direct the dealer to apply for and get himself registered within 30 (thirty) days of the service of the notice, failing which the dealer shall be liable to pay a penalty of 500 /- for each days delay after the expiry of the said period of the 30 days: Provided that the said authority may on an application of the dealer and for reasons to be recorded in writing, reduce or waived the penalty, if it is satisfied that the delay has been caused by reasons beyond the control of the dealer.

Chapter VI

Return, Assessment And Recovery of Cess

9. Returns and payment of Cess.

(1) Every registered dealers shall furnish such returns, for such period, in such form, to such authority and within such time as may be prescribed. Explanation. - A dealer who gets the registration from a particular date is also liable to furnish return for the period prior to such date

during which he was otherwise liable to pay cess under this Act in such manner as may be prescribed.(2)The dealer shall before submitting any return pay to the government in such manner and within such time as may be prescribed the amount of cess due under this Act according to the return and furnish alongwith return proof of payment of cess due as may be prescribed an such return if not accompanied by any such proof of payment shall be deemed invalid and treated as if it has not been furnished.(3)If registered fails without reasonable cause to furnish any valid return within the prescribed time or within such further time as may be allowed on application, by the prescribed authority, a penalty at the rate not exceeding Rs. 1000/- for each day of delay shall be imposed without prejudice to any action that is or may be taken under any of the provisions of this Acts.

10. Assessment and reassessment Procedure.

(1)If the prescribed authority is satisfied that the return of turn- over furnished by a dealer is correct and complete, it may, without requiring presence of dealer or requiring any evidence from him, determine the cess due from the dealer and the dealer shall deposits such assessed amount of cess in appropriate head of account in government revenue-(2)(a)If the prescribed authority is not satisfied as aforesaid but requires the presence of dealer or production of evidence from the him, it may serve on such dealer on notice in the prescribed form requiring him/ his representative to attend and produce on a date to be specified, any evidence that the dealer may rely on in support of his return..(b)On the date specified in the notice or any other date as may be fixed by the prescribed authority under intimation to dealer and after having heard and examining such evidence as the dealer may produce an such evidence as the said authority may require on specified points, it shall, by an order in writing assesses and Determine the cess payable by the dealer.(3)If a registered dealer fails to -(a)furnish any valid return of turnover as required under sub section (1) of [section 9] [Substituted by Act No.5 of 2008, dated 10.4.2008.]; or(b)comply with the notice issued under sub section (2) of this Section; or(c)satisfy the assessing authority about the correctness of the returns furnished; or(d)appear or produce or cause to be produced evidence on the date specified under sub section (2), the prescribed authority shall, after giving reasonable opportunity to the dealer of being heard, determine the turn over of the dealer on which cess is to be imposed and assess on basis of such determination and may in addition imposed penalty of an amount not exceeding twice the amount of cess so assessed;Provided that the penalty under this section shall be imposed only if the prescribed authority is satisfied that the failure of the dealer wilful, deliberate or unjustified and a reasonable opportunity of being heard has been given to the dealer.(4)If upon information received, the prescribed authority is satisfied that a dealer liable to pay cess under this Act in respect of any period wilfully failed to furnished any particulars or information required for the purpose of registration or having been registered fails to furnish returns within the period prescribed under sub section (1) of Section 9, the said authority shall, after giving the dealer a reasonable opportunity of being heard, assess, according to its best judgment the amount of cess due from the dealer for such period or any subsequent periods and in addition, may impose a penalty of an amount not exceeding 5 times the amount of cess so assessed;Provided that no penalty under this sub section shall be imposed unless the prescribed authority is satisfied that the failure of the dealer was wilful, deliberate or unjustified and unless a reasonable opportunity of being heard is given to the dealer.Explanation. - For the purpose of sub section (4) as the case may be, the proceedings shall be

deemed to have been initiated when a notice is served or deemed to have been served on the dealer.

11. Procedure of payment of cess or penalty.

(1) the cess admissible from a dealer as shown in any return or revised return furnished by him under Section 9 and penalty as due under Section 10 shall be paid in the manner prescribed by or under sub Section (2) of Section 9. (2) The amount of the cess and penalty assessed as due from the dealer under sub section (2) & (3) of Section 9 or under sub section (3) & (4) of Section 10 after deducting any amount paid by him along with the return under sub section (2) of Section 9 shall be paid by him in such manner and within such time as may be specified in the notice of demand in the prescribed form issued by the prescribed authority; the date so specified being not less than 30 (thirty) days from the date of service of the said notice; Provided that the said authority may in its discretion and for reasons to be recorded on application of the dealer extend the date for such payment or allow the payment to be made in instalments as may be determined by it. (3) If a dealer has failed, without any reasonable cause, to deposit the amount of cess together with the penalty, if any, by the date specified in the notice issued under sub section (2) or by the date extended by the proviso thereto, interest at 18% per annum compounded on a quarterly basis, shall accrue and be charge on such amount from such date and such interest shall be treated as if it were cess due under this Act and shall be paid by the dealer in the prescribed manner. Provided that interest are not accrue or be charged on any amount the recovery of which is stayed under sub section (5) & (6) during the period the stay operates. (4) Any amount of cess, penalty or interest due from a dealer which remains unpaid may be recovered on application by the prescribed authority to the Judicial Magistrate of the first class who shall realize it as if it were a fine imposed by him; Provided that where during the proceedings under this sub section the amount of cess, penalty or interest due from a dealer is reduced as result of appeal or otherwise, the prescribed authority shall inform the dealer accordingly and the authority before whom proceedings are pending and the amount reduced shall be deemed to be substituted for the amount originally intimated to the authority. (5) If any dealer is aggrieved by the imposition of cess, penalty or interest under sub section (3) & (4) of Section 10, he may prefer an appeal in writing to the next higher authority to the prescribed authority as notified by the State Government as per procedure laid down in Section 18. (6) Where an appeal against or an application for revision of the assessment of cess or levy of penalty or interest is entertained, the appellate or the revisional authority as the case may be, may on application stay recovery of the cess, penalty or interest in whole or in part subject to such conditions as it may impose till such date as it may direct; Provided that the stay of recovery so granted shall stand vacant, the date the appeal or the application for revision is finally decided or another date as the appellate or the revisional authority may direct. (7) In case of individuals who bring such items that attract cess under this Act from outside the State, cess admissible shall be levied at the check-post by the department authorized to collect the same as notified by the government.

12. Person authorized to Collect cess from Customers.

(1) No person other than a registered dealer shall collect or recover from any person any amount towards cess or purporting to be cess under this Act on the sale of goods or services. (2) No registered dealers shall collect from any person any such amount except in a case in which, and to the extent to

which, such dealer is liable to pay cess under this Act.(3)Nothing contained in sub section (1) or sub section (2) shall relieve a registered dealer from his liability for the cess under this Act.

Chapter VII

Sikkim Ecology Fund

13. Establishment of fund.

(1)there shall be established for the purpose of this Act, a fund to be called the Sikkim Ecology Fund.(2)The fund shall be under the control of State Government and there shall be credited to the fund the followings:-(a)any sum of money credited under Section 14 ;(b)any sum collected by the State Government in carrying out its functions under this Act;(c)any fund provided by the Central Government or the State Government by way of grant or otherwise for the purposes of amelioration of the environment of the ecology.(3)[* * *] [Omitted by Act No. 1 of 2009, dated 7.3.2009].

14. Crediting of cess in The fund.

- The proceeds of the cess levied under Section 9, Section 10 & Section 11 shall be first be credited to the consolidated fund o Sikkim and the State Legislature may by appropriation made by law in this behalf credit the proceeds of this collections to this fund from time to time, for being utilized exclusively for the purpose of this Act.

15. Utilization of the fund.

(1)The fund shall be utilized for -(a)the creation and development of facilities helping in amelioration of environment and maintenance and improvement of environmental services a ecology security of the State;(b)Such other purposes and projects leading directly or indirectly to restoration of ecological balance of the various areas in the State as may be specified by the Government.

16. Management of the fund.

(1)For the purposes of ensuring proper utilization of the fund, the State Government may appoint a government servant to be prescribed authority under the Act and also such other persons with such designations to assist him as may specified in this behalf by the State Government by notification.(2)The prescribed authority under sub section (1) maintained proper account and other relevant records in such forms and in such manner as may be prescribed.

Chapter VIII

Suits, Appeal Revision And Review

17. Bar to certain proceedings.

(1)No assessment made, proceedings taken or order passed under this Act shall be called into question in any Court save as otherwise provided in this Act.(2)No suit, prosecution or other legal proceedings shall lie against any public servant or any person appointed under Section 4 or Section 16 for anything done in good faith under this Act or the rules made or notification issued there under save with the previous sanction of the State Government.

18. Appeal, revision & Review.

(1)subject to such rules as may be made, any dealer may, in the prescribed manner appealed to such authority as may be prescribed against any order passed under sub section (3) of Section 9, sub section (3) & (4) of Section 10 and sub section (3) of Section 11 of the Act.(2)No such appeal shall be entertained unless-It is accompanied by proof of payment in such manner as may be prescribed, of the amount of the cess admitted by the dealer to be due from him and 25 % of the difference between such amount of cess including penalty and interest assessed.(3)The aforesaid appellate or revising authority may-(a)confirm, reduce, annual, enhance or otherwise modify the assessment of cess penalty or interest;(b)set aside any order and direct the authority which made the order, to pass a fresh order after further enquiry on specified points ;Or(c)pass such other orders as it may deem fit and proper.(4)no order prejudicial to any dealer shall be passed under this Section without a reasonable opportunity of being heard/ being given to him.

19. Payment of fee.

- The amount of fees payable for by appeal or application made under this Act shall be such as may be prescribed:Provided that no fee shall be payable for any appeal or application file by or on behalf of the State Government.

Chapter IX Prosecution And Penalties

20. Offences.

(1)without prejudice to any action taken or that may be taken or any order passed or may be passed under any of the provision of this Act, whoever,(a)being dealer, sales or purchases goods in contravention of sub section (2) of Section 8 or fails or neglects to comply with the provision of the Sub Section (1) thereof : or(b)fails without sufficient cause, to submit any return required under Section 9 or wilfully submits a falls return : or(c)not being a registered dealer falsely represents that he is such a dealer ; or(d)prevents or obstruct any authority this Act in the performance of it duties and functions under this Act; or(e)fails to pay the cess, penalty or interest due in accordance with sub section (2) of Section 9, sub section (3) & (4) of Section 10 or Section 11 or(f)contravenes the provisions of Section 12 or(g)contravenes Section 21 or(h)abets any person in the commission of any

of the offences specified in clauses (a) to (h); shall be punishable with imprisonment of either description which may extend to one year or with fine which may extend to fifty thousand Rupees Or with both and if the offence is a continuing one, with a delay fine not exceeding Rupees one thousand during the period offence continues.(2)no Court shall take cognizance of any offence under this Act or the rules made there under except with the previous sanction of the authority.(3)All offences punishable under this Act shall be cognizable and bailable.(4)notwithstanding anything contained in sub section (1), the prescribed authority may compound any offence under this Act or the rules made there under before or after the institution of proceedings under that sub section by accepting from the person charged with the offence a sum not exceeding Rupees fifty thousand as may be determined by the said authority, in addition to the tax, penalty or interest that may be leviable under the Act, and on payment of the sum so determine together with the amount of tax penalty or interest due, the proceedings before any Court or prescribed authority under this Section shall abate.

21. Check Post.

- The State Government may, by notification, set up an erect in such manner as it may deem fit check-post and barriers at any place in the State at which all persons, vehicles or other means of transporting goods intended for carrying such materials liable to cess under this Act may be detained intercepted or searched to prevent evasion of cess under this Act.

22. Power to make Rules.

(1)The State Government may make rules in respect of any or all matters referred to in this Act, for carrying out the purposes of this Act.(2)In making any rules, the State Government may direct that a reach thereof shall be punishable with a fine not exceeding rupees fifty thousand and when the offence is a continuing one with a daily fine not exceeding rupees one thousand during the continuance of the offence.(3)in particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters namely:- (a)For all or any of the matters refer to in Section 3 ;(b)the prescribed authority under sub section (1) of Section 4 and sub section (1) of Section 16 ;(c)the authority to which the application for registration under Section 8 shall be made ;(d)the procedure for an other matters incidental to, the registration of dealers and the granting of the certificates of registration and the forms of such certificates under Section 8,(e)the intervals at which, and the manner in which, the [cess] [Substituted for the words 'tax' by Act No.5 of 2008, dated 10.4.2008.] under this Act shall be payable under Section 9;(f)the return to be furnished under Section 9 and dates by which and the authority to which, such return shall be furnished;(g)the dates by which returns for any period are to be furnished and the procedure to be followed for assessment under Section 10 ;(h)the manner in which, and the authority to which appeals or revisions again by order passed under this Act may be preferred under Section 18;(i)the procedure for, the disposal of appeals and applications for revisions and review under Section 18;(j)the conditions under which, and the authority by which the offences may compounded under Section 20(k)the manner in which, and the time within which, application shall be made information furnished and notices served under this Act and(l)any other matter which may be, or is required to be prescribed.

23. Repeal and saving.

(1) On and from date of commencement this Act, all laws, notifications and orders issued by the Government relating to collection of environment cess, environment fee, in force in the State, shall be repealed. (2) notwithstanding such repeal, all collections of environment cess or environment fee penalty and interest and all proceedings or assessment made, action taken or orders passed by any authority under any law referred to in sub section (1) shall be deemed to have been made, done or taken under the corresponding provisions of this Act.

I

Bio-Degradable Materials Exempted From Cess(See Section 7)

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|---|--|
| 1. All cereals and pulses including broken particles and husk and bran thereof when brought in jute bags or brought for Public Distribution System (PDS) Scheme | Except when sold in plastic packaging |
| 2. Wheat flour including Atta and Sabji when brought in open or in jute bags | Except when sold in plastic packaging or container |
| 3. Bread, | Except when sold in plastic or polythene packaging |
| 4. Meat which has not been cured or frozen | Except when sold as tinned or plastic packaging |
| 5. Fresh fish | |
| 6. Vegetables, green or dried, commonly Known as sabji, tarkari or saak | Except when sold in plastic packaging |
| 7. Gur and molasses | |
| 8. Salt | |
| 9. Milk | |
| 10. Fresh livestock, including poultry | |
| 11. Cotton yarn | |
| 12. Text books and exercise books for education purpose and such other sacred books as may be prescribed | |
| 13. Water, but not accelerated or mineral water when sold in bottles or sealed containers | |
| 14. Raw jute and jute materials | |
| 15. Plain paper and articles made there from | |
| 16. Eggs | |

17. Saag and tapioca globules
18. cotton unstitched cotton cloths
19. Handloom woven, Gamchas, khaddar or khadi made of khaddar and khadi
20. Handicraft goods not made from items in scheduled II
21. Mustard oil, Rep. oil and mixture of mustard & rep oil
22. Newspapers
23. Mustard seeds and rep seeds
24. flowers and plants vegetables seeds
25. Hosiery goods
26. Any other biodegradable materials defined in clause (a) of section 2 which is not specified by name in this Schedule.
[Inserted by Act No. 5 of 2008, dated 10.04.2008.]

Except when sold in plastic package or sealed container

II

Non -Bio Degradable Materials(See Sections 5 & 6)

- 1. Cement including grey and white cement including all varieties thereof**
- 2. Iron and steel, furniture made wholly or principally of iron or steel like safes, almirahs, grill, gates, furniture and other similar items made thereof.**
- 3. New motor vehicles, including chassis of motor vehicles,**
- 4. Motor tyres and tubes and spare parts accessories and component parts of motor vehicle**
- 5. motor cycle and cycle combinations, motor scooters, motorettes and tyres and tubes and spare parts accessories and component parts of motor cycles, motor scooters, motorettes**
- 6. Bricks and marbles chips, mosaic floor and wall tiles and articles made of marbles mosaic, granite, tiles of all kinds,**
- 7. All electrical goods of general nature including all types of wires, cables and switches of all kinds, polypipe for concealed caving, bulbs, tube lights, fancy lights, heaters of all varieties and descriptions and other electrical goods and goods including geysers, mixers, grinders, washing machine,**

refrigerator, air cooler, air conditioning plants, and spare parts and accessories and component parts thereof

8. Electronic goods of all kinds and description including television sets, microwave ovens, music systems and all descriptions, transistors, radios, accumulators, amplifiers, and loud speakers and spare parts accessories and component parts thereof.

9. Hard-wares goods of all kinds made from plastic and or iron, GI pipes, GCI sheets

10. All kinds of paints including acrylic and plastic emulsions paints, lacquerers, distempers, cement colours, of paints, enamels, liquid paints, steep paste paints, whether ready for use or not,

11. varnishes, vegetable paint, remover and strainer of all kinds

12. Bitumen, hard coke, soft coke and other allotropic forms thereof

13. rubber items of all kinds, and goods made there from

14. wines, liquors spirit and beer

15. glass and glassware of all kinds

16. ready food of all kinds, tinned or packaged poly-packs or tetra packs

17. cold drinks, aerated drinks and mineral water when bottled in non bio degradable materials

18. aluminum frame and aluminum goods of all kinds, furniture made wholly or principally of aluminum

19. plastic goods and plastic sheets and all other items made of plastics

20. Brass copper, and brassware's and copper wares including all items made therefrom.

- 21. All machinery and equipments used for generation of electricity in all kinds of hydel power station, thermal power stations and other power generating equipments and power transmission lines.**
- 22. wireless reception instruments and apparatus, radios and radio gramophones**
- 23. cinematographic equipment including cameras, projectors and sound recording and reproducing equipment, spare part accessories and component parts thereof lenses, films and parts and accessories required for use therewith,**
- 24. Photographic and other cameras, and enlarger and spare parts accessories and component parts thereof, lenses, films, and plates, paper and cloth and other part and accessories required for use therewith.**
- 25. All clocks, time pieces and watches and parts thereof**
- 26. all arms including rifles, revolvers and pistols and ammunition for the same detonators and crackers**
- 27. cigarette cases and lighters**
- 28. Dictaphone and other similar apparatus for recording sound parts thereof and electro magnetic recording, tapes including cassettes, tapes whether pre-recorded or not, sale of kinds and descriptions**
- 29. some transmitting equipment including telephones, mobile phones of all makes, loud speakers, and spare parts thereof,**
- 30. computers, printers, scanners, hardware connected therewith, CDs, Floppy. Printers' refill, typewriters, tabulating machine, calculating machine, duplicating, photocopying machine and printing machines and parts and accessories thereof**
- 31. binoculars, telescope and opera glasses,**

- 32. gramophones and component parts thereof and records**
- 33. cushions, mattresses, pillows, and other articles made wholly or partly of artificial foam**
- 34. cushions, mattresses, pillows, and other articles made wholly or partly of artificial or synthetic raisin and plastic foam**
- 35. vacuum flask of all kinds and descriptions including for all such flask**
- 36. utensils made wholly or principally of stainless steel or aluminum or copper**
- 37. upholstered wooden furniture's**
- 38. perambulators including push chairs babies and spare parts and accessories and component thereof**
- 39. Carpets of all varieties, and description except locally produced**
- 40. Linoleum**
- 41. Lifts, whether operated by electricity or steam, and spare parts, accessories and component parts thereof**
- 42. Exhaust fans and air circulators and spare parts, accessories and component parts thereof**
- 43. Diamonds, precious and synthetic stones other than diamond real or artificial**
- 44. Pearls, real, artificial or cultured**
- 45. Gold, or silver jewelry and filigree**
- 46. Laminated sheet, like Formica, sun mica etc.**

47. Ornaments set with diamonds or stones (real and artificial) or with pearls (real & artificial cultured)

48. Perfumes

49. Cosmetics of all varieties

50. [Any other non-biodegradable materials defined in clause (a) of section 2 which is not specified by name in this Schedule.] [Inserted by Act No. 5 of 2008, dated 10.04.2008.]