

THE CONSTITUTION (EIGHTIETH AMENDMENT) ACT, 2000

India

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Statement of Objects and Reasons appended to the Constitution (Eighty-Ninth Amendment) Bill, 2000 which was enacted as the Constitution (Eightieth Amendment) Act, 2000. STATEMENT OF OBJECTS AND REASONS The Tenth Finance Commission had submitted its report on the 26th November, 1994 for the period of five years, i.e., from 1995-96 to 1999-2000. The said report was laid on the table of both the Houses of Parliament on the 14th March, 1995. One of the recommendations of the Commission that has been under consideration of the Government is an alternative scheme of sharing of the proceeds of certain Union taxes and duties between the Union and the States.

2. The alternative scheme envisages that twenty-six per cent out of the gross proceeds of Union taxes and duties (excluding stamp duty, excise duty on medicinal toilet preparations, Central Sales Tax, Consignment tax, cesses levied for specific purposes under any law made by Parliament and Surcharge) is to be assigned to the States in lieu of their existing share in income-tax, basic excise duties, special excise duties and grants in lieu of tax on railway passenger fares.

3. In addition, three per cent share in the gross proceeds of all Central taxes and duties (excluding stamp duty, excise duty on medicinal/toilet preparations, Central Sales Tax, Consignment tax, cesses levied for specific purpose under any law made by Parliament and Surcharge) is to be assigned to the States in lieu of their existing share in Additional Excise Duties in lieu of Sales Tax on tobacco, cotton and sugar. The commission had proposed that tobacco, cotton and sugar may continue to be exempt from Sales Tax and the Additional Excise Duties in lieu of Sales Tax on these items may be

merged with the Basic Excise Duties.

4. Whether the alternative scheme would be more gainful to the Centre or to the States vis--vis existing arrangements would entirely depend on the relative growth in the Collection of various Central taxes and duties to be pooled.

5. The benefits of the scheme have been listed by the Commission in para 13.2. and 13.3 and 13.18 of their reports. These areas follows:-

(i)with a given share being allotted to the States in the aggregate revenues from Central taxes, the States will be able to share the aggregate buoyancy of Central taxes;(ii)the Central Government can pursue tax reforms without the need to consider whether a tax is sharable in the states or not;(iii)the impact of fluctuations in Central tax revenues would be felt alike by the Central and the State Governments;(iv)Should the taxes mentioned in articles 268 and/or 269 from part of this arrangement, there will be greater likelihood of their being tapped; and(v)the progress of reforms will be greatly facilitated if the ambit of tax sharing arrangement is enlarged so as to give greater certainty of resource flows to, and increased flexibility in tax reform.

6. The above scheme recommended by the Commission is in national interest as it helps to remove a perceived inter-tax in the tax mobilisation effort of the Government of India while leaving sufficient flexibility for meeting Centres exclusive needs by keeping Cesses and Surcharges outside the pooling arrangement.

7. A Discussion Paper bringing out various aspects of the scheme was laid on the table of both the Houses of Parliament on the 20th December, 1996 with a view to generate an informed debate.

8. On the basis of a consensus reached in the Third Meeting of the inter-State Council held on the 17th July, 1997, the then Government had agreed in principle to accept the scheme recommended by the Tenth Finance Commission subject to certain modifications.

9. The Government had decided to ratify the decision taken by the previous Government according in principle approval for the scheme recommended by the Tenth Finance Commission with some modifications.

10. Firstly, the percentage share of State is to be reviewed by the successive Finance Commissions instead of freezing it for fifteen years as suggested by the Tenth Finance Commission.

11. Secondly, Government had decided to change the sharing of gross proceeds as recommended by the Tenth Finance Commission to the sharing of net proceeds in order to maintain consistency between articles 270, 279 and 280 of the Constitution. However, this will not result in any consequent loss to the States because the Government has also simultaneously decided to compensate the States by suitably enhancing the percentage share beyond 29%.

12. Thirdly, as intended by the Commission, no amendment is sought to be done in article 271, which authorize the Central Government to levy surcharge on Central taxes and duties for the purpose of the Union.

13. The scheme will be effective from 1st April, 1996. The percentage share of net proceeds during 1996-97 to 1999-2000 will be such that the States share is 29% of the gross proceeds. The recommendations of the 11th Finance Commission, which has been mandated to give its final report by 30th June, 2000, will cover the 5 years period w.e.f. 1st April, 2000.

14. In order to implement this decision, this Bill seeks to amend article 269, 270 and 272 of the Constitution so as to bring several Central taxes and duties like Corporation tax and Customs duties at par with personal income-tax as far as their constitutionally mandated sharing with the States is concerned.

An Act further to amend the Constitution of India. BE it enacted by Parliament in the Fifty-First Year of the Republic of India as follows:-

1. Short title: This Act may be called the Constitution (Eightieth Amendment) Act, 2000.

2. Amendment of article 269:

In article 269 of the Constitution, for clauses (1) and (2), the following clauses shall be substituted, namely:-(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have

been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2). Explanation.-For the purposes of this clause; -(a)the expression taxes on the sale or purchase of goods shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;(b)the expression taxes on the consignment of goods shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce;(2)The net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the State within which that tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

3. Substitution of new article for article 270:

For article 270 of the Constitution, the following article shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996, namely:-Taxes levied and distributed between the Union and the States:

270.

(1)All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268 and 269, respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).(2)Such percentage, as may be prescribed, of the net proceeds of any such tax or duty in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax or duty is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).(3)In this article, "Prescribed" means -(i)until a Finance Commission has been constituted, prescribed by the President by order, and(ii)after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.'

4.

(1)Omission of article 272 : Article 272 of the Constitution shall be omitted.(2)Notwithstanding anything contained in sub-section (1), where any sum equivalent to the whole or any part of the net proceeds of the Union duties of excise including additional duties of excise which are levied and collected by the Government of India and which has been distributed as grants-in-aid to the States after the 1st day of April, 1996, but before the commencement of this Act, such sum shall be deemed to have been distributed in accordance with the provisions of article 270, as if article 272 had been omitted with effect from the 1st day of April, 1996.(3)Any sum equivalent to the whole or any part of the net proceeds of any other tax or duty that has been distributed as grants-in-aid to the States after the 1st day of April, 1996 but before the commencement of this Act shall be deemed to have been

distributed in accordance with the provisions of article 270.[The Constitution (Eightieth Amendment) Act, 2000, aims to implement the Tenth Finance Commission's recommendation to streamline the tax systems by collecting and distributing all taxes among the states and the federal government. Under the new scheme for devolution of revenue between the states and the Union, the states will receive grants instead of income taxes on railway passenger fares and twenty-six percent of the gross proceeds of Union taxes and duties instead of their current share of income tax, excise duties, and special excise duties.Also Refer]