

The Elvoc Private Limited (Acquisition And Transfer Of Undertakings) Act, 1985

WEST BENGAL

India

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Act 18 of 1985

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The Elvoc Private Limited (Acquisition And Transfer Of Undertakings) Act, 1985 West Bengal Act 18 of 1985 [5th October, 1985.] Assent of Governor was first published in the Calcutta Gazette, Extraordinary, dated the 5th October, 1985. An Act to provide for the acquisition and transfer, in the public interest, of the undertakings of the Elvoc Private Limited, and for matters connected therewith or incidental thereto. Whereas Elvoc Private Limited had been engaged in the manufacture of precision electrical and electronic products comprising battery chargers, transformers, battery eliminators, voltage stabilizers and rectifiers; And Whereas an order has been made for the winding up of the Company and proceedings for its liquidation are pending in the High Court at Calcutta; And Whereas for the purpose of utilising the production facilities and equipment of the undertakings of the Company with a view to increasing the production of precision electrical and electronic goods and generating employment in the interest of the general public, it is necessary to acquire the undertakings of the Company; It is hereby enacted as follows:-

1. Short title and commencement. -

(1) This Act may be called the Elvoc Private Limited (Acquisition and Transfer of Undertakings) Act, 1985. (2) It shall be deemed to have come into force on the 5th day of August, 1985.

2. Definitions. -

In this Act, unless the context otherwise requires, -(a) "appointed day" means the date on which this Act comes into force; (b) "Company" means the Elvoc Private Limited being a company as defined in the Companies Act, 1956, and having its registered office at 36, Pandit Road, Calcutta-29; (c) "existing Government company" means a Government company which is carrying on business on the appointed day; (d) "notification" means a notification published in the "Calcutta

Gazette";(e)words and expressions used herein and not defined, but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.

3. Transfer to, and vesting in, the State Government of the undertakings of the Company. -

On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, stand transferred to and vest in, the State Government.

4. General effect of vesting. -

(1)The undertakings of the Company shall be deemed to include all assets (but excluding land), rights, powers, authorities and privileges, and all property including factory sheds, office buildings, plant and machinery, equipments, furniture and fixtures, electrical installations, and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, power or control of the Company, whether within or outside India.(2)All property included as aforesaid in the undertakings which have vested in the State Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other encumbrances affecting it, and any attachment, injunction or any decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.(3)If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property or asset which has vested in the State Government under section 3, instituted or preferred by or against the Company, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the State Government or, where the undertakings of the Company are directed under section 5 to vest in an existing Government company, by or against that existing Government company.

5. Power of State Government to direct vesting of the undertakings of the Company in an existing Government company. -

(1)Notwithstanding anything contained in section 3, the State Government may, if it is satisfied that an existing Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings which have vested in the State Government under section 3, shall, instead of continuing to vest in the State Government, vest in that existing Government company either on the date of publication of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.(2)Where the right, title and interest of the Company in relation to its undertakings vest under sub-section (1) in an existing Government company, on and from the date of such vesting, - (a)that existing Government company shall be deemed to have become, and

shall be deemed to be, the owner in relation to such undertakings, and(b)the rights and liabilities of the State Government in relation to such undertakings shall be deemed to have become, and shall be deemed to be, the rights and liabilities, respectively, of that existing Government company.

6. Payment of amount. -

(1)The State Government shall, within sixty days from the appointed day, pay, in cash, to the Official Liquidator of the Company, an amount equal to the sum of rupees two lakhs and twenty-five thousand for payment to the Company for the transfer to, and vesting in, the State Government, under section 3, of the undertakings of the Company.(2)For the avoidance of doubts, it is hereby declared that the liabilities of the Company in relation to the undertakings which have vested in the State Government under section 3, shall be met from the amount referred to in sub-section (1).(3)Every person having a claim to the amount as aforesaid or any part thereof shall prefer such claim before the Official Liquidator within such period as the High Court at Calcutta may specify and the amount may be disbursed in accordance with such order or direction as may be made or issued by the High Court.

7. Management etc. of the undertakings of the Company. -

(1)The general superintendence, direction, control and management of the undertakings of the Company, the right, title and interest in relation to which have vested in the State Government under section 3, shall, when a direction has been given by the State Government under subsection (1) of section 5, vest, on and from the date specified in such direction, in the existing Government company specified therein, and thereupon the existing Government company so specified shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.(2)Notwithstanding anything contained in sub-section (1), the existing Government company as aforesaid may, on such terms and conditions as it may determine and with the prior approval of the State Government, nominate, for management of the undertakings, any co-operative society registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1973, and thereupon such co-operative society shall carry on the management on behalf of the existing Government company in accordance with such regulations as may be made by the State Government in this behalf.

8. Duty to deliver possession of the undertakings. -

(1)Notwithstanding any decree, judgment or order of any court or anything contained in any other law for the time being in force, the Official Liquidator or any other person, in whose possession or custody or under whose control the undertakings of the Company (which have vested in the State Government or in any existing Government company under this Act) or any part thereof may be, shall deliver possession of the undertakings of the Company or such part thereof as may be in his possession, custody or control to the State Government or the existing Government company, as the case may be.(2)The State Government or the existing Government company may take, or cause to be taken, all necessary steps for securing the possession of the undertakings which have vested in the State Government or the existing Government company under this Act.

9. Act to have overriding effect. -

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court, tribunal or other authority.

10. Protection of action taken in good faith. -

No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of that Government or the existing Government company for anything which is in good faith done or intended to be done under this Act.

11. Power to make regulations. -

(1)The State Government may, by notification, make regulations with regard to the matter specified in sub-section (2) of section 7.(2)Every regulation made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, 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, the State Legislature agrees in making any modifications in the regulation or the State Legislature agrees that the regulation should not be made, the regulation 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 of anything previously done under that regulation.

12. Power to remove difficulties. -

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:Provided that no such order shall be made after the expiry of a period of two years from the date of publication of this Act in the Official Gazette.

13. Repeal and saving. -

(1)The Elvoc Private Limited (Acquisition and Transfer of Undertakings) Ordinance, 1985 is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been validly done or taken under this Act.