

PARLIAMENT OF CEYLON

5th Session 1951



Customs (Amendment) Act, No. 27 of 1951

Date of Assent : August 13, 1951

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AN ACT TO AMEND THE CUSTOMS ORDINANCE IN ORDER
TO AUTHORISE THE IMPOSITION OF EXPORT DUTIES AT
VARYING RATES.

Chapter 185.
(Volume IV,
Page 491).

[Date of Assent: August 13, 1951.]

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Senate and
the House of Representatives of Ceylon in this present
Parliament assembled, and by the authority of the
same, as follows:—

1. This Act may be cited as the Customs (Amend-
ment) Act, No. 27 of 1951.

Short title.

2. The following new section is hereby inserted in
the Customs Ordinance immediately after section 9 of
that Ordinance and shall have effect as section 9A
thereof:—

Insertion of
new section
9A in Chapter
185.

Provision for
imposition of
export duty at
varying rates.

9A. (1) Any resolution under section
9 imposing export duty—

(a) may impose upon any goods duty
at rates varying in accordance
with fluctuations in the f.o.b.
value of the goods; and

(b) may provide for the estimation
from time to time by the Col-
lector of the amount which
shall be deemed, for the pur-
poses of the application of
the resolution, to be the
f.o.b. value of the goods to
which it applies.

(2) Where in terms of sub-section (1)
of this section export duty on any goods
is imposed by any resolution at rates
differing in accordance with fluctuations
in the f.o.b. value of the goods, the fol-
lowing provisions shall have effect in
relation to contracts for the exportation
of such goods entered into by a seller in

Ceylon (hereinafter referred to as "the exporter") and a buyer overseas:—

(a) the exporter may make application to the Collector for the registration of the contract, specifying in the application—

(i) the total quantity of the goods covered by the contract;

(ii) the period within which the goods are required by the terms of the contract to be exported (hereinafter referred to as the "proposed period of exportation"); and

(iii) such other particulars as the Collector may require;

(b) any such contract may be registered by the Collector subject, however, to the provisions of sub-sections (3) and (4);

(c) where any such contract is registered, then, notwithstanding anything in the resolution imposing export duty upon such goods, export duty shall be charged, levied and paid, on all goods proved to the satisfaction of the Collector to be exported during the proposed period of exportation in fulfilment of the contract, at the rate which would have been applicable if the goods had been exported on the date of the application for the registration of the contract.

(3) No contract shall be registered as provided in sub-section (2), if the proposed period of exportation of the goods to which the contract relates is a period ending later than six months after the date of the application for registration of the contract: Provided that the aforesaid term of six months may, by regulation made under sub-section (12), be increased or reduced whether in relation to contracts generally or to contracts of any specified description.

(4) No contract shall be registered as provided in sub-section (2) unless the exporter under that contract, *either*—

- (a) deposits with the Collector a sum of money equal to one-fourth of the amount which would be payable as export duty upon the total quantity of goods covered by the contract if such total quantity were being exported on the date of the application for the registration of the contract; *or*
- (b) the exporter has furnished to the Collector a bond in such form, and executed by any such bank, as may be approved by the Collector, whereby the bank undertakes to pay to the Collector on demand any sum which may be declared by order of the Collector under sub-section (5) to be payable by the bank in relation to that contract, so however that the maximum sum so undertaken to be paid shall be one-fourth of the amount which would be payable as export duty upon the total quantity of goods covered by the contract, if such total quantity were being exported on the date of the application for the registration of the contract.

(5) In any case where a contract has been registered as provided in sub-section (2) and it is found on the date of the expiration of the proposed period of exportation that the contract remains wholly or partly unfulfilled, then, if the rate of duty prevailing on that date under the resolution passed in terms of sub-section (1) (hereinafter referred to as the "new rate") is lower than the rate which prevailed thereunder on the date of the application for the registration of the contract (hereinafter referred to as the "old rate")—

(a) the Collector shall make an assessment of the amount which would have been payable as export duty at the old rate on the quantity of the goods in respect of which the contract remains unfulfilled, and an assessment of the amount which would be payable as export duty at the new rate on the said quantity; and

(b) the Collector shall make order declaring that a sum representing the difference between the two amounts so assessed shall be made good out of the deposit made by the exporter under sub-section (4) in respect of the contract, or, as the case may be, be paid by the bank by which the bond was executed in terms of that sub-section in respect of the contract:

Provided that the sum ordered to be paid under the preceding provisions of this sub-section in respect of any contract shall not exceed the total sum deposited under sub-section (4) in respect of that contract, or, as the case may be, the total sum specified in the bond executed in terms of that sub-section in respect of the contract.

Upon an order being made by the Collector under this sub-section declaring that any sum shall be paid by a bank, the bank shall be bound forthwith on demand made by the Collector to pay such sum to the Collector.

(6) In any case where the Collector is satisfied that any contract registered under this section remains wholly or partly unfulfilled owing to causes beyond the control of the exporter, then notwithstanding anything in the preceding provisions of this section the Collector may in his discretion—

(a) extend the proposed period of exportation and direct that such extended period shall be deemed for the purposes of paragraph (c) of sub-section (2) and of sub-sections (5) and (10) to be the proposed period of exportation; or

(b) make order directing that the provisions of sub-section (5) shall not apply in relation to the contract; or

(c) make order directing that for the purposes of sub-section (5) the contract shall be deemed to remain unfulfilled only in relation to such part of the total quantity of goods covered by the contract as may be specified in the order.

(7) All sums ordered under sub-section (5) to be made good out of any deposit and all sums paid by any bank in compliance with an order under sub-section (5) shall be paid into the Consolidated Fund.

(8) In any case where a contract has been registered under the preceding provisions of this section, it shall be the duty of the exporter, whenever any goods are being exported in fulfilment of the contract, to make a declaration to that effect in the bill of entry relating to the goods

and in the specification furnished in respect of the shipment of such goods; and—

(a) where no goods have been so declared by the exporter to be goods exported in fulfilment of the contract, the Collector shall, for the purposes of sub-section (5), be entitled to presume, unless the contrary is proved to his satisfaction, that the contract remains wholly unfulfilled; or

(b) where the quantity of goods so declared by the exporter to be goods exported in fulfilment of the contract is less than the total quantity covered by the contract, the Collector shall, for the purposes of sub-section (5), be entitled to presume, unless the contrary is proved to his satisfaction, that the contract remains unfulfilled in respect of the outstanding part of such total quantity.

(9) The Minister may by order provide for the payment of interest on deposits made under this section, at such rate, and in such circumstances, and subject to such conditions, as may be specified in the order.

(10) The amount of any deposit made under sub-section (4) by any exporter in respect of any contract shall, subject to the operation of any order made under sub-section (5), be returned to the exporter as soon as convenient after the exportation in fulfilment of the contract of the total quantity of goods covered thereby or the expiration of the proposed period of exportation, whichever time is the earlier:

Provided, however, that the Collector may in his discretion make order directing the return of any part of any such deposit at any time after the contract has been substantially fulfilled.

(11) No sum constituting or forming part of any deposit made under sub-section (4) by any exporter shall be liable at any time to be seized or sequestered in execution of any decree or order of any court, if the Collector certifies that the exporter is not at that time entitled to the return of that sum under sub-section (10) of this section.

(12) The Minister may make such regulations as he may consider necessary for carrying into effect the preceding provisions of this section.

(13) In each of the preceding sub-sections—

“Collector” means the Principal Collector of Customs and includes any officer of Customs authorised by the Principal Collector to act on his behalf for the purposes of the sub-section; and

“the date of the application for registration of the contract” means the date on which the application for registration is received by the Collector.

(14) The preceding provisions of this section shall have effect notwithstanding anything to the contrary in any other provision of this Ordinance.

(15) It is hereby declared for the avoidance of doubts that an order made under section 2 of the Revenue Protection Ordinance, consequent upon the approval by the Cabinet of the introduction of a resolution in terms of sub-section (1) of this section, may contain provision with respect to the matters mentioned in that sub-section. And where such an order is made, sub-sections (2) to (14) of this section shall, during the period for which the order is in force, apply in all respects as though the order were the resolution; and accordingly any thing done or any liability

incurred under any of those sub-sections during that period shall, if the resolution is passed by the House of Representatives, have thereafter the same force and effect as though the resolution had been in force during that period.