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MEGHALAYA ACT NO. 4 OF 2015

(As passed by the Meghalaya Legislative Assembly)
Received the assent of the Governor on 29th March, 2015.
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THE MEGHALAYA CLINKER CESS ACT, 2015

An
Act.

to provide for the levy and collection of Cess on Clinker within the State of Meghalaya for promotion of education and for the matters connected therewith.

Be it enacted by the legislature of the State of Meghalaya in the Sixty-sixth Year of the Republic of India as follows:-

- Short title extent and commencement*
1. (1) This Act may be called the Meghalaya Clinker Cess Act, 2015.
- (2) It shall extend to the whole of the State of Meghalaya.
- (3) It shall come into force at once.
- Definitions*
2. In this Act, unless the context otherwise requires -
- (a) 'Act' means the Meghalaya Clinker Cess Act, 2015;
- (b) 'Cess' means a cess leviable or collection of Cess under Section 3;
- (c) 'Clinker' means the manufactured clinker produced by the clinker factories within the State of Meghalaya.
- (d) 'Godown' means any stock - yard or warehouse where clinker is stocked for sale or transfer;
- (e) 'Government' means the Government of the State of Meghalaya.
- (f) 'manufacture' means clinker produced by factories, industrial units or cement companies;
- (g) 'prescribed' means prescribed by rules made under this Act;
- (h) 'section' means a Section of this Act; and
- (i) 'remove' means to transport the Clinker from the dumping place for transfer or trading.
- Imposition of Cess*
3. On and from the coming into force of this Act, there shall be levied and collected a cess on Clinker from any person or factory who manufacture or produce Clinker within the State according to the provisions of this Act.
- Rate of Cess*
4. (1) The rate of cess to be levied and collected from Clinker under Section 3 shall be rupees twenty per metric tonne.
- (2) The rate of cess may be revised by the Government by notification in the official Gazette as and when the Government deems it necessary.

*Application to the
proceeds of the
cess*

5. The proceeds of cess collected under this Act shall first be credited to the Consolidated Fund of the State to be utilized, after due appropriation made by the Legislature by law, for the purpose of:-
- (a) promotion of Education; and
- (b) matters connected for providing additional financial support for the development of Education.

*Manner of
collection and
payment of the
Cess*

6. (1) The Cess under this Act shall be leviable and payable in the manner as may be prescribed.
- (2) Unless the cess due under this Act has been paid, no person shall remove or transport or attempt to remove or transport any manufactured clinker from any factory, stock-yard, warehouse and godown for sale or transfer.

*Penalty for
non-payment
of cess*

7. If any cess payable under this Act is not paid within such period as may be prescribed, it shall be deemed to be in arrear and the authority prescribed in this behalf may impose on the person manufacturing or removing clinker a penalty not exceeding the amount of cess in arrears, in addition to the cess payable;

Provided that before imposing the penalty, such person shall be given an opportunity of being heard and if the said authority is satisfied that the default was for good and sufficient reasons, no penalty shall be imposed under this section.

*Recovery of sum
dues.*

8. Any cess due under this Act, including penalty under Section 7, if not paid within the time prescribed, shall be recoverable by detaining and selling by the authority prescribed in this behalf any clinker belonging to such person or factory and if the sum cannot be so recovered the same shall be recoverable as if it were an arrear of land revenue.

Offences

9. (1) Whoever evades payment of the cess under this Act shall on conviction by a court be punishable with imprisonment for a term which may extend to six months or with fine which may extend to rupees twenty thousand or with both and no court inferior to that of a magistrate of the first class shall try any such offence under this Act.
- (2) No court shall take cognisance of any offence under this Act or under the rules made thereunder except with the previous sanction of the Commissioner of Taxes.

*Offences by
companies*

10. Where an offence under this Act has been committed by a company, every person who at the time the offence committed was incharge of, and was

responsible for the conduct of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be prosecuted against and punished accordingly:

Provided that such person shall not be liable to any punishment under this section if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

Protection of action taken in good faith

11. No suit, prosecution or legal proceedings shall lie against the Government or any of its officers or staff for anything done or intended to be done in good faith under this Act or the rules made thereunder.

Competent Authority to recover, enforce payment of tax, hear appeals and exercise powers under the Act.

12. The authorities competent to recover and enforce payment of cess, hear appeals and exercise powers and functions incidental thereto under the Meghalaya Value Added Tax Act 2003, and rules framed thereunder shall, within the local limits of the jurisdiction, be the authorities competent to exercise the corresponding powers and functions under this Act or the rules so prescribed.

Bill or cash memorandum to be issued at the time of lifting of clinker

13. At the time of removal or lifting or transport of any manufactured clinker from the factory, stock-yard, warehouse and godown for sale or transfer, the factory or the person or the operator responsible for effecting removal or transportation of such manufactured clinker, shall issue to the customer or person lifting such clinker, a bill or cash memorandum serially numbered, signed by him or his employee or manager or agent showing therein such particulars as may be prescribed and shall retain the counterfoil or duplicate copy of such bill or cash memorandum and preserve it for a period not less than eight years and shall also make proper account for the same.

Power to make rules

14. (1) The Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.
(2) 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) the manner of levy and payment of cess;
(b) the time within which cess and penalty (under Section 7) shall be paid;
(c) the authority which may impose penalty under Section 7;
(d) the authority which may detain and sell clinker under Section 8;

- (e) the manner in which the cess shall be applied for the purpose of this Act;
- (f) the form or receipts for payment of the cess, and
- (g) any other matter that may have to be prescribed.

Power to remove difficulties

15. If any difficulty arises in giving effect to any provision of this Act the State Government may, by general or special order, do anything not inconsistent with such provision for the purpose of removing the difficulty:

Provided no order of removal of such difficulty shall be made after the expiry of the period of two years from the date of commencement of this Act.

