

commencement may be recovered (after assessment of the cess, where necessary) in the manner provided under that Act.

(2) For the removal of doubts It is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

- (a) from questioning in accordance with the provisions of any State Act and rules made thereunder the assessment of any cess for any period, or
- (b) from claiming refund of any cess paid by him in excess of the amount due from him under any State Act and the rules made thereunder.

4. Omission of Section 11 of the Bombay Sugarcane Cess Act, 1948.—Nothing in this Act shall be construed as validating Section 11 of the Bombay Sugarcane Cess Act, 1948 and accordingly the said section shall be omitted.

5. Amendment of U.P. Sugarcane Cess (Validation) Act, 1961.—In sub-section (1) of Section 3 of the U.P. Sugarcane Cess (Validation) Act, 1961, for the words, figures and letters "during the period beginning with the 26th day of January, 1950 and ending on the 3rd day of February, 1961" the words figures and letters "before the 3rd day of February, 1961" shall be substituted and shall be deemed always to have been substituted.

THE U.P. SUGARCANE (PURCHASE TAX) ACT, 1961

[U.P. Act No. IX of 1961 as amended by U.P. Act VII of 1962, U.P. Act No. V of 1964, U.P. Act No. III of 1965, U.P. Act I of 1971, U.P. Act II of 1972, U.P. Act No. VII of 1974, U.P. Act No. XXIV of 1974 and U.P. No. XL of 1975 No. 34 of 1976 and No. 13 of 1989, No. 6 of 1990]

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(As passed by U.P. Vidhan Mandal)

An Act to impose a tax on the purchase of sugarcane by factories and certain Gur, Rab or Khandsari Sugar Manufacturing Units and to regulate the manufacture of Gur or Rab by such Units.

Whereas the U.P. Sugarcane (Purchase Tax) Ordinance, 1961, was promulgated by the Governor, under Article 213 of the Constitution of India :

And whereas it is necessary and expedient that the said Ordinance be replaced by an Act of the Legislature;

It is hereby enacted in the Twelfth Year of the Republic of India as follows :

1. Short title, extent and commencement.—(1) This Act may be called the U.P. Sugarcane (Purchase Tax) Act, 1961.

(2) It extends to the whole of Uttar Pradesh.

Comments

The Act received the assent of the President on March 18, 1961 and the English translation of the Act was published in U.P. Gazette, Extra, dated March 18, 1961.

2. Definition.—In this Act, unless there is anything repugnant in the subject or context, the words and expressions—

(a) "assessment year" means the period beginning on the first day of October in any year and ending on the thirtieth day of September in the year next following;

(b) "owner of a factory" or "owner of a Unit" means the person who or the authority which owns or has the ultimate control over the affairs of the factory, or the unit, as the case may be, and shall, where the said affairs are entrusted to a Manager, Managing Director, or a Managing Agent, include such Manager, Managing Director or Managing Agent;

¹(c) 'unit' or 'gur, rab or Khandsari sugar manufacturing unit' means a unit engaged or ordinarily engaged in the manufacture or production of gur, rab or Khandsari sugar and which is capable of handling sugarcane juice produced with the aid of a crusher driven by any mechanical power;

(d) words and expressions used in this Act but not herein defined shall have the meanings assigned to them in the U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1953.

3. Imposition of Tax.—(1) There shall be levied, and collected in such manner as may be prescribed a tax on the purchase of sugarcane by the owner of—

²[(a) a factory at such rate not exceeding ten per cent of the per quintal price of sugarcane, as the State Government may notify in this behalf, and]

1. Subs. by U.P. Act II of 1972 (w.e.f. 30-12-1971).

2. Subs. by U.P. Act 13 of 1989 (w.e.f. 15-4-1989) vide No.U. No. 1774-S/Ch-4-1-1989-1618-75 dt. 15-4-1989.

¹[(b) a unit, at the rate of one rupee and fifty paise per quintal price of sugarcane as the State Government may notify in this behalf].

²[Provided that in the case of a unit, the tax shall be payable on the quantity of sugarcane actually purchased or, at the option of owner of the unit, on the quantity of sugarcane assumed, in accordance with the provisions of sub-section (1-a) to have been purchased by him].

³[(1-A) The State Government may prescribe the quantity of sugarcane which shall be assumed for the purposes of the proviso to sub-section (1), to have been purchased by the owners of different categories of units having regard to the crushing capacity of the units and other relevant factors.

(1-b) The option referred to in the proviso to sub-section (1) shall be exercised by the owner of a unit by such date and in such form as may be prescribed and shall relate to the whole of an assessment year. The option once exercised shall be irrevocable for that year].

(2) The tax levied under sub-section (1) shall be payable by the owner of the factory or the owner of the unit, as the case may be, and shall be paid on such date, at such place and in such instalments as may be prescribed.

(3) Any tax payable under this Act, if not paid by the date prescribed for payment thereof, shall carry interest at the rate of ⁴[twelve per cent] from such date till the date of payment.

⁵[Explanation.—Interest falling due under this sub-section shall be recoverable notwithstanding that no order or notice of assessment, imposition or demand of such interest is passed or issued by any authority].

(4) Where any tax payable under this Act, or interest thereon, or both, as the case may be, remains unpaid for a period exceeding fifteen days beyond the date prescribed for payment thereof, the person liable to pay the same shall, in addition to the amount of arrears of tax and interest thereon, be also liable to pay, by way of penalty, a further sum, not exceeding ten per centum of the total sum payable, calculated at such rates as may be prescribed.

⁶[(5) ⁷[Any person aggrieved by an order of assessment made under this Act or by an order imposing penalty under sub-section (4) may, within thirty days of the intimation to him of the order] prefer an appeal, in the case of a factory, to the Cane Commissioner and in the case of a unit, to the Sugar Commissioner or to such other officer, not below the rank of ⁸Assistant Sugar Commissioner], as the State Government may, by notification in the *Gazette*, appoint in this behalf :

1. Subs. by U.P. Act 6 of 1990 (w.e.f. 7-10-1989).
2. Subs. by U.P. Act 6 of 1990 (w.e.f. 7-10-1989).
3. Added by U.P. Act V of 1964.
4. Subs. by U.P. Act I of 1971. This amendment has been enforced w.e.f. 11-8-1970.
5. Subs. by U.P. Act I of 1971 and shall deemed always to have been inserted.
6. Subs. by U.P. Act No. V of 1964.
7. Subs. by U.P. Act No. 1 of 1971 and it shall be deemed always to have been substituted.
8. Subs. by U.P. Act II of 1972.

Provided that ¹[except in the case of tax recoverable in accordance with Section 3-A] no appeal shall be entertained unless it is accompanied by satisfactory proof of payment of the amount admitted by the appellant to be due from him].

²[Provided further that in the case of an appeal by the owner of a unit, the Sugar Commissioner, may transfer any appeal pending before him to any other appellate authority, and may also withdraw any such appeal and either dispose of the same himself or transfer it to any other appellate authority].

³[(5-a) The appellate authority may, after giving reasonable opportunity of being heard, pass such order in appeal as it thinks fit and shall send a copy of such order to the appellant, the assessing authority and such other authority as may be prescribed].

(6) Without prejudice to the right to effect recovery of the tax payable under this Act by any other method, the tax, interest or penalty, as the case may be, may be realised by adjustment out of any sum payable by the State Government to the person by whom the tax, interest or penalty is payable.

(7) The State Government may appoint officers and authorities for the purposes of assessment and collection of tax payable under this Act.

(8) The officer or authority empowered to collect the tax may forward to the Collector of the district where the factory or the unit, as the case may be, is situated, a certificate under his signature specifying the amount of arrears of tax and interest, if any, due from any person, and on receipt of such certificate the Collector shall proceed to recover the amount specified from such person as if it were an arrear of land revenue.

(9) Any sum imposed by way of penalty under [sub-section (4)]⁴ may also be recovered in the manner provided in sub-section (8).

⁵[(10) At the beginning of each financial year, after due appropriation has been made by law, the State Government shall withdraw from and out of the Consolidated Fund of the State an amount equivalent to fifty per cent of the proceeds of the tax levied under Clause (a) of sub-section (1) recovered by it during the preceding financial year and place the amount so withdrawn to the credit of the four separate funds named below in the following proportions, namely—

- (a) thirty-six per cent to the Uttar Pradesh Sugarcane Research and Development Fund;
- (b) twenty-four per cent to the Uttar Pradesh Sugar Factories Rehabilitation, Modernisation and Establishment Fund;
- (c) thirty per cent to the Uttar Pradesh Loan Assistance for payment of Sugarcane Price Fund;

Provided that the aggregate amount to be placed at the credit of this fund shall not exceed rupees fifteen crores and any amount beyond that

1. Added by U.P. Act II of 1972.
2. Added by U.P. Act II of 1972.
3. Added by U.P. Act V of 1964.
4. Subs. by U.P. Act of 1964.
5. Subs. by U.P. Ordinance No. 20 of 1995 dated 21st April, 1995.

available shall instead be credited to the funds mentioned in clause (a) and (b) in the proportion of sixty per cent and forty per cent respectively:

(d) ten per cent to the Kalyan Nidhi.

¹[(10-A) At the beginning of each financial year, after due appropriation has been made by Law, the State Government shall withdraw from and out of the Consolidated Fund of the State an amount equivalent to one-half of the proceeds of the tax levied under Clause (b) of sub-section (1), to the extent that the rate of tax exceeds fifty paise per quintal of Sugarcane, recovered by it during the preceding financial year, and place it to the credit of the Fund mentioned in Clause (a) of sub-section (10); and]

²[(11) The Credit of the proceeds referred to ³[in sub-section (10) and (10-A) to the ⁴[three separate funds] referred to in ⁵[sub-section (10)] shall be an expenditure charged on the Consolidated Fund of the State.

⁶[(12) The maintenance and the operation of the said four Funds shall be vested in a Committee, to be called the Uttar Pradesh Sugar Special Funds Committee, consisting of the following persons, namely,—

- (a) the Secretary to the State Government in the Sugar Industry Department, who shall be the Chairman and Convenor of the Committee;
- (b) the Cane Commissioner, Uttar Pradesh;
- (c) the Secretary to the State Government in the Finance Department or his nominee not below the rank of Joint Secretary;

⁷[(13) The Committee referred to in sub-section (12) shall be a body corporate and shall have the power to,—

- (i) invest moneys belonging to the funds in such manner as it deems fit and to spend them on the objects indicated in the respective names of the funds; and
- (ii) transfer moneys from one fund to another with the conditions that such fund shall be replenished by retransferring the moneys from the fund it was transferred to."

⁸[3-A. Payment of tax before removal of sugar from factory.—

(1) No owner of a factory shall remove, or cause to be removed any sugar produced in the factory on or after the first day of October, 1941, hereinafter referred to as the said date, either for consumption, or for sale, or for manufacture of any other commodity in or outside the factory, until he has paid towards the tax levied under Section 3 a sum

1. Ins. by U.P. Act 28 of 1974.
2. Ins. by U.P. Act 24 of 1974.
3. Ins. by U.P. Act No. 28 of 1974.
4. Ins. by U.P. Act No. 25 of 1974.
5. Ins. by U.P. Act No. 28 of 1974.
6. Subs. by U.P. Ordinance No. 20 of 1995 dated 21st April 1995.
7. Subs. by U.P. Ordinance No. 20 of 1995 dated 21st April 1995.
8. Original Section 3-A has been renumbered as Section 3-AA and new Section 3-A has been inserted by U.P. Act No. 11 of 1972 (w.e.f. 30-12-1971).

specified under sub-section (2), sub-section (3) or sub-section (4), as the case may be :

Provided that such sugar may be deposited without payment of any such sum in a godown or other place of storage approved by the assessing authority and where it is so deposited it shall not be removed therefrom until the sum as aforesaid has been paid :

Provided further that nothing in this sub-section shall be construed to affect the liability of such sugar to sale at the instance of any bank in exercise of its rights as pawnee in respect of any advance made to the owner of the factory on the security of sugar produced or to be produced in the factory.

(2) Before the beginning of each crushing season or so soon thereafter as may be, and in the case of crushing season beginning on the said date (so soon as may be after the commencement of this Section), the assessing authority shall work out and specify the provisional rate of payment to be made per bag of sugar under sub-section (1) by correlating the quantity of sugarcane purchased for the factory to the sugar produced in the factory during the last preceding crushing season in which the factory was under production.

Explanation I.—If the factory was under production during only a part of any such previous crushing season, it shall be sufficient to take into consideration that part of the crushing season during which the factory was actually under production.

Explanation II.—If the factory had not commenced production before the crushing season for which the provisional assessment is made, then the assessing authority may specify the provisional rate of payment per bag of sugar on the basis of comparable data relating to other factories, if any, in the same region or of any other relevant factor.

(3) At the end of the crushing season ¹[or as the case may be, immediately after the closure of the factory for the crushing season] the assessing authority shall work out and specify a revised rate of payment per bag of sugar by taking into account the quantity of sugarcane purchased for the factory and the sugar produced in the factory during the current crushing season, and where the rate is reduced or increased on such revision, the excess paid or the shortfall, as the case may be, shall be spread over the remaining stock of the said sugar, and the amount to be paid before removal of each such remaining bag of sugar be fixed accordingly, and if no such sugar remains in stock then the owner shall be entitled to a refund or pay the balance, as the case may be.

(4) If at any time it appears to the assessing authority that a part of the stocks of the said sugar has been removed, or is for any other reason no longer available, and the payment towards tax due against such part under this section has not been made, the assessing authority may direct the short fall to be recovered by spreading it over the sugar in stock at that time.

1. Ins. by Section 9 of U.P. Act 7 of 1974.

(5) In relation to the tax levied under Section 3, in respect of purchase of sugarcane on or after the said date,—

- (a) Sub-sections (2) and (3) of Section 3, shall not apply and the tax shall be deemed due on the date of purchase of sugarcane or the date of commencement of this section, whichever is later.
- (b) Sub-section (4) of that section shall apply with the modification that where the assessing authority is satisfied that the owner of a factory has removed or caused to be removed any sugar in contravention of the provisions of this section or has failed to account fully for the sugar produced in the factory or deposited by him under the first proviso to sub-section (1), the persons liable to pay the tax shall in addition to the amount payable under sub-section (1) in respect of the quantity of sugar so removed or caused to be removed or unaccounted for, be also liable to pay by way of penalty a further sum not exceeding one hundred per cent of the sum so payable;
- (c) the provisions of this section shall be in addition to and not in derogation of the provisions of sub-section (4) (modified as aforesaid) and sub-sections (6), (7), (8) and (9) of that section, so, however, that a certificate under sub-section (8) of that section shall not, save for exceptional and adequate reasons to be recorded, be issued, unless the officer or authority referred to in that sub-section is of opinion that any circumstance referred to in Cl. (b) exists;
- (d) the provisions of Section 7 shall apply with the substitution of references therein to the Sugar Commissioner by reference to the assessing authority.]

¹[3-AA. Rectification of mistakes.—Any assessing authority or appellate authority may, on its own motion or on application of the assessee or the State Government, to be made within one year from the date of the order which is sought to be corrected, rectify any mistake apparent on the face of the record of the proceedings of the assessment or the appeal, as the case may be :

Provided that no such rectification shall be made without giving reasonable opportunity of being heard to the parties concerned.]

²[3-B. Revision.—The Cane Commissioner, in the case of a factory, and the Sugar Commissioner or any other officer, not below the rank of ³[Assistant Sugar Commissioner], authorised by the Sugar Commissioner in this behalf, in the case of a unit, may, in order to satisfy himself as to the legality or propriety of any order passed by an assessing authority under this Act, call for and examine either on his own motion or on the application of the assessee or the State Government, to be made within six months of the date of the order, the record of any proceedings of assessment and pass such orders as he may think fit:

1. Added by U.P. Act No. V of 1964.
2. Added by U.P. Act No. V of 1964.
3. Subs. by U.P. Act II of 1972.

Provided that no such application shall be entertained at the instance of a party which has a right of appeal but does not avail of it :

Provided further that no enhancement shall be made under this action unless the assessee has been afforded a reasonable opportunity of being heard against the enhancement].

4. Grant of licence for manufacturing gur or rab.—(1) [No unit other than a unit, which has obtained a licence under the U.P. Khandsar Sugar Manufactures Licensing Order, 1967]¹ shall without obtaining a licence from the Sugar Commissioner, carry on or undertake any process connected with the manufacture or production of gur or rab.

²[* * * * *].

³[(2) An application for grant or renewal of a licence under sub-section (1) shall be made to the Sugar Commissioner by such date, in such form and accompanied by such proof of payment of such fee, including late fee, if any as may be prescribed].

⁴[(3) An application for grant or renewal of a licence shall be disposed of by the Sugar Commissioner expeditiously and shall not be rejected except where an application has not been made by the prescribed date, or in the prescribed form, or is incomplete in any respect or is not accompanied by proof of payment of the requisite fee including late fee, if any, or the Sugar Commissioner is of opinion that it is necessary or expedient so to do in public interest with a view—

- (i) in the case of an application for grant of a licence—
 - (a) to regulating the manufacture of gur or rab by units; or
 - (b) to avoiding uneconomic concentration or units in any area; or
 - (c) to ensuring, in reserved areas, adequate supplies of sugarcane to a factory;
- (ii) in the case of an application for renewal of a licence, to regulating the manufacture of gur or rab by units :

Provided that while disposing of the applications for grant or renewal of licence, the Sugar Commissioner may also take into consideration—

- (a) the conduct of the applicant in working the unit, if any, prior to the date of application including previous conviction, if any, for the contravention of the provisions of the Act, the rules made thereunder and the conditions of the licence;
- (b) the default, if any, made by the applicant in payment of the dues under this Act; and
- (c) the total continuous period for which the applicant held a licence under this Act prior to the date of application :

1. Subs. by Sec. 10 of U.P. Act 7 of 1974.
2. Proviso deleted by U.P. Act 5 of 1964.
3. Subs. by U.P. Act 5 of 1964.
4. Subs. by U.P. Act 5 of 1964.

Provided further that no application for renewal of a licence shall be rejected unless the applicant has been given a reasonable opportunity of being heard :

Provided also that where an application for grant or renewal of a licence is not disposed by the commencement of the assessment year or—

- (i) in the case of an application for grant of a licence, within three months; and
- (ii) in the case of an application for renewal of a licence, within two months,

of the date on which the application is made, whichever is later, the licence shall be deemed to have been granted or renewed, as the case may be].

¹[(3-A) The Sugar Commissioner may delegate all or any of the powers conferred on him under sub-section (3) to any officer subordinate to him, not below the rank of ²[Assistant Sugar Commissioner].

(3-b) The State Government may, where it is satisfied that it is necessary or expedient so to do in any area in public interest with a view to ensuring adequate supply of sugarcane to factories, by notification in the *Gazette*, direct that no licence shall be granted to any unit in respect of such area, and where such direction has been issued, no application for grant of a licence in respect of that area shall be entertained].

(4) Any person aggrieved by an order of the Sugar Commissioner under sub-section (3) may, within thirty days from the date of intimation of the said order to him, prefer an appeal to the State Government, whose decision thereon shall be final.

(5) An applicant for grant of a licence shall be entitled to a refund of the fee paid—

- (i) on the rejection of his application, and
- (ii) where an appeal has been preferred under sub-section (4), on the rejection of the appeal.

³[(6) Where a licensee surrenders the licence granted to him within a month of its receipt by him and satisfies the licensing authority that he has not availed of it in any manner he shall be entitled to a refund of three-fourth of the licence fee deposited by him].

⁴[5. **Renewal of licence.**—A licence granted or renewed under this Act shall be subject to such conditions as may be prescribed and be valid for the assessment year for which it is granted or renewed :

Provided that the licence granted or renewed at any time after the commencement of an assessment year shall be effective from the date of the order granting or renewing the licence, as the case may be].

1. Added by U.P. Act 5 of 1964.
2. Subs. by U.P. Act No. 11 of 1972.
3. Subs. by U.P. Act 5 of 1964.
4. Subs. by U.P. Act 5 of 1964.

6. Conditions for suspension or cancellation of a licence.—¹(1) The Sugar Commissioner may, without prejudice to any other action that he may be authorised to take under the Act, cancel or suspend any licence if the licensee—

- (a) is found to have furnished incorrect information or concealed material facts in the matter of grant or renewal of a licence;
- (b) is found to have practised any fraud or made any misrepresentation in the matter of such grant or renewal; or
- (c) has contravened any condition of his licence or any provision of the Act or rules made thereunder :

Provided that the Sugar Commissioner shall give to the licensee a reasonable opportunity of being heard before he passes any order for cancellation or suspension of the licence].

(2) Any person aggrieved by an order of the Sugar Commissioner made under sub-section (1) may, within thirty days of the intimation of that order, prefer an appeal to the State Government, whose decision shall be final.

(3) The cancellation or suspension of a licence under sub-section (1) shall not entitle the licensee to any compensation or to the refund of any fee paid in respect of such licence.

7. Powers of the Sugar Commissioner.—²[(1) The Sugar Commissioner may, for the purposes of this Act :

- (a) require the owner of a factory or a unit to maintain, furnish or produce such records, data or information as may be prescribed; and
- (b) if he is of the opinion that any person has contravened or is likely to contravene any provisions of this Act, or the rules made thereunder or any conditions of the licence—
 - (i) enter and search the premises of a factory or a unit;
 - (ii) seize and take into custody any of the implements or records connected with the manufacture or production of sugarcane juice, gur or rab, or the product thereof, in case such seizure appears to him to be necessary for the preservation of evidence of contravention of any provisions of the Act or the rules made thereunder or any condition of the licence; and
 - (iii) put a seal, in the prescribed manner on the unit or any implements used in any process of manufacture of gur or rab, in case the unit is being worked without a licence, and the unit or the implements so sealed shall not be used by any person until seal has been lawfully removed].

³[(1-A) Without prejudice to any other remedy provided by this Act, the power conferred on the Sugar Commissioner by sub-clause (iii) of

1. Subs. by U.P. Act 5 of 1964.
2. Subs. by U.P. Act 5 of 1964.
3. Ins. by Section 2 of U.P. Act No. 44 of 1976.

clause (b) of sub-section (1) may also be exercised in case the unit is being worked without the tax due under this Act being paid].

(2) The Sugar Commissioner may delegate all or any of the powers conferred on him under sub-section (1) to any officer subordinate to him.

8. Fines and punishments.—¹[If any person contravenes any provision of this Act or the rules made thereunder or any conditions of the licence or wilfully makes any false statement or submits any false return regarding any matter in respect of which he is required under this Act or the rules made thereunder or under conditions of his licence to give information, he shall on conviction, be punishable with imprisonment of either description which may extend to one year or with fine which may extend to five thousand rupees or with both and, in the case of continuing contravention, with an additional fine which may extend to one thousand rupees for every day during which the contravention continues after conviction :

Provided that a Court convicting a person under this section ²[for removing or causing to be removed any sugar in contravention of the provisions of Section 3-A, or] for working a unit without obtaining a licence, shall, in the absence of special and adequate reasons, to be mentioned in the judgment, award the punishment of imprisonment with or without fine].

9. Institution of proceedings.—³[(1) No Court shall take cognizance of an offence punishable under this Act except on a report in writing of facts constituting such offence made in the case of a factory, by or under the authority of the Cane Commissioner or the District Magistrate in whose jurisdiction the factory is situated, and in the case of a unit, by the Sugar Commissioner or the District Magistrate in whose jurisdiction the unit lies.

(2) No Court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

(3) An offence punishable under this Act shall be cognizable and bailable under the Code of Criminal Procedure, 1898.

(4) On the application of a person accused of an offence punishable under this Act, the Cane Commissioner or the District Magistrate concerned, with the concurrence of the Cane Commissioner, in the case of a factory, and the Sugar Commissioner or the District Magistrate concerned, with the concurrence of the Sugar Commissioner, in the case of a unit, may at any stage, compound such offence by levying the composition fee not exceeding five thousand rupees].

10. Special powers of Magistrate.—Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Magistrate of the First Class, specially empowered by the State Government in this behalf, trying any case under this Act, to pass a

1. Subs. by U.P. Act No. 5 of 1964.

2. Ins. by U.P. Act No. 2 of 1972.

3. Ins. by U.P. Act No. 2 of 1972.

sentence of fine, not exceeding five thousand rupees, on any person convicted of an offence under this Act.

11. Protection of action taken under this Act.—(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is, in good faith, done, or purported to have been done, or intended to be done, under this Act, or in pursuance of any order or rule made thereunder, or under the U.P. Sugarcane Cess Act, 1956, or in pursuance of any order or rule made, or purported to have been made, under that Act.

(2) No suit or other legal proceedings shall lie against the State Government for any damage caused or likely to be caused by anything which is, in good faith, done, or purported to have been done, under this Act, or in pursuance of any order or rule made thereunder, or under the U.P. Sugarcane Cess Act, 1956, or in pursuance of any order or rule made, or purported to have been made, under this Act.

12. Determination of owner for the purposes of this Act.—(1) Where the owner of a factory, or the owner of a unit is a firm, or other unincorporated association of individuals, any one or more of the partners or members thereof shall be deemed to be the owners thereof for the purposes of this Act, and may as such be prosecuted and punished for any offence under this Act.

(2) Where the owner of a factory or of a unit is a company, as defined under the Indian Companies Act, 1956, any one or more of its directors shall be deemed to be the owners thereof for the purposes of this Act, and may as such be prosecuted and punished under this Act for any offence for which the owner of the factory or the unit is punishable.

13. No sale or purchase tax under any other Uttar Pradesh Act shall be payable in respect of any transaction of sale or purchase of sugarcane in respect of which a tax is payable under this Act, anything contained in the U.P. Sales Tax Act, 1948, to the contrary notwithstanding.

14. Powers of the State Government to grant remission.—(1) The State Government, on being satisfied that it is necessary so to do in the public interest, with a view to—

- (a) encourage or regulate the supply of sugarcane to, or its purchase by factories; or
- (b) encourage the establishment of new factories; or
- (c) assist factories establishment after the crushing season 1957-58 and purchasing sugarcane yielding low sugar recovery :

may, by notification in the *Gazette*, remit, in whole or in part, the tax payable under this Act, in any assessment year, by every such factory falling under Cl.(a), or Cl.(b) or Cl.(c).

(2) The State Government may likewise, with a view to regulate the supply of sugarcane to factories from a reserved areas, remit, in whole or in part, the tax payable under this Act, in any assessment year, by every such unit as may be situate beyond a radius of ten miles from the premises of any factory.

¹[14-A. Power of the State Government to grant remissions to units.—The State Government, on being satisfied that it is necessary so to do in the public interest, with a view to encourage or regulate the supply of sugarcane surplus to the requirements of factories, to, or its purchase by, units, may, by notification in the *Gazette*, remit, in whole or in part, the tax payable under this Act, in any assessment year, by every unit whether situate within or beyond a radius of 10 miles from the premises of any factory].

15. Power to make rules.—(1) The State Government may make rules for carrying out provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the manner and the form in which the certificate mentioned in sub-section (8) of Section 3 may be forwarded to the Collector;
- (b) collecting any information or statistics for the purposes of this Act;
- (c) the form and the manner in which any return shall be prepared and furnished;
- (d) the form of an application for a licence, and the terms and conditions of licence granted under this Act and the fee, or the additional fee, to be charged for the grant or renewal of a licence;
- (e) the manner in which the tax shall be assessed and collected;
- ²(f) the storage of sugar bags in the factory or any other place of storage and the removal of such bags therefrom;
- (g) the manner of calculating the amount per bag of sugar payable towards tax under Section 3-A and of adjusting the amounts so paid towards the tax due;
- (h) any other matter for which insufficient provision exists in Section 3-A and provision is considered necessary for carrying out the purposes of that section; and

³(i) the matters which are to be and may be prescribed.

(3) All rules made under this Act shall, as soon as may be, after they are made, be laid before each Houses of the State Legislature, while it is in session, for a total period of fourteen days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the *Gazette*, subject to such modifications or annulments as the two Houses of the Legislature may agree to make; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

1. Added by U.P. Act VII of 1962.

2. The existing Cl. (f) re-numbered as Cl.(f) and new Cls. (f) to (h) inserted by U.P. Act No. 2 of 1972.

3. The existing Cl. (f) re-numbered as Cl.(f) and new Cls. (f) to (h) inserted by U.P. Act No. 2 of 1972.

16. Repeal of U.P. Ordinance No. 11 of 1961.—The Uttar Pradesh Sugarcane (Purchase Tax) Adhyadesh, 1961, is hereby *repealed* and the provisions of Sections 6 and 24 of the U.P. General Clauses Act, 1904, shall apply as if it were an enactment repealed and re-enacted by an Uttar Pradesh Act].

English Translation of Chini Udyog Anubhag-1, Noti. No. 3954(i) S/Chi.U.Anu.—1-89, dated October 7, 1989, published in the U.P. Gazette, Extra., Part-1, Section (ka), dated 7th October, 1989, p.2

Whereas sub-section (1) of Section 3 of Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961 provides for imposition of tax on the purchase of sugarcane by the owner of a factory at such rate not exceeding 10 per cent of the per quintal price of sugar cane as the State Government may notify in this behalf;

And whereas, for the sake of convenience of calculation it has been considered expedient to fix the rate or such tax in terms of specific amount of money instead of percentage of the per quintal price of sugarcane :

And whereas, the statutory minimum per quintal price of sugarcane fixed by the Central Government under Clause 3 of the Sugar Cane (Control) Order, 1966 is Rs. 19.50 for the financial year 1988-89 and Rs. 20 for the financial year 1989-90 :

And whereas one rupee and fifty paise is less than 10 per cent of the aforesaid statutory minimum per quintal price of sugarcane.

Now, therefore, in exercise of the powers under Clause (a) of sub-section (1) of Section 3 of the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961 (U.P. Act No. 9 of 1961), the Governor is pleased to fix the rate of tax on the purchase of sugarcane by the owner of a factory at one rupee and seventy-five paise per quintal and also under Clause (b) of sub-section (1) of Section 3 of the said Act fix the rate of tax on purchase of sugarcane by *khandsari* units at the rate of one rupee and fifty paise per quintal with effect from October 7, 1989.

NOTIFICATION

Noti. No. 203-S/Chi, U. Annu-1—97-1623-96, dated January 21, 1997, published in the U.P. Gazette, Extra, Part II, Section (Ka), dated 21st January, 1997.

Whereas, the State Government is satisfied that it is necessary so to do in the public interest with a view to encouraging and regulating the supply of sugarcane to, or its purchase by factories.

Now, therefore, in exercise of the powers under Section 14 of the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961 (U.P. Act No. 9 of 1961), the Governor is pleased to remit the sugarcane purchase tax payable for the assessment year 1995-96 which was deferred for two years by Notification No. 1996-S/Chi-U-Annu-I—96-1623-96, dated August 27, 1996 and to direct that half of the sugarcane purchase tax payable for assessment year 1996-97 shall be deferred for two years and will be payable in instalments in the following assessment years without interest.

Noti. No. 606 AS/Chi-U.-Anu-1—98-1623-96, dated March 17, 1998, published in the U.P. Gazette, Extra., Part I, Section (Ka), dated 17th March, 1998.

Whereas, the State Government is satisfied that it is necessary so to do in the public interest with a view to encouraging and regulating the supply of sugarcane to, or its purchase by factories.

Now, therefore, in exercise of the powers under Section 14 of the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961 (U.P. Act No. 9 of 1961), the Governor is pleased to remit, for the assessment year 1997-98, at the rate of one rupee per quintal, the sugarcane purchase tax payable by those factories which make the payment of cane price to the farmers within the time schedule prescribed under Government orders.

Noti. No. 1002 AS/Chi-U.-Anu-1-98-1623-96, dated May 29, 1998, published in the U.P. Gazette, Extra., Part I, Section (Ka), dated 29th May, 1998.

Whereas, the State Government is satisfied that it is necessary so to do in the public interest with a view to encouraging and regulating the supply of sugarcane to, or its purchase by factories.

Now, therefore, in exercise of the powers under sub-section (1) of Section 14 of the U.P. Sugarcane (Purchase Tax) Act, 1961 (U.P. Act No. 9 of 1961), read with Section 21 of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act No. 1 of 1904), the Governor is pleased to make the following amendment in Government Notification No. 606 As/Chi-U.-Anu-1—98--1623-96, dated March 17, 1998.

AMENDMENT

In the aforesaid notification for the words the payment of cane price to the farmers within the time schedule prescribed under Government orders' the words and figures 'Eighty per cent payment of cane price to the farmers by May 31, 1998' shall be substituted.

THE UTTAR PRADESH SUGARCANE (PURCHASE TAX) RULES, 1961

Miscellaneous Notification No. 2537-S/XVIII-C—1509(1)-61, dated June 30, 1961

In exercise of the powers conferred by Section 15 of the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961 (U.P. Act No. IX of 1961), the Governor of Uttar Pradesh is pleased to make the following rules relating to assessment and collection of Purchase Tax and other matters.

CHAPTER I

1. Short title and commencement.—(i) These rules may be called the Uttar Pradesh Sugarcane (Purchase Tax) Rules, 1961.

(ii) These rules shall come into force at once.

2. Definitions.—In these rules unless there is anything repugnant in the subject or context :

(a) 'Act' means the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961;

- (b) 'Assessing Officer' means an officer so appointed or designated by the State Government under sub-section (7) of Section 3 of the Act for the purposes of assessment of tax and performing other functions assigned to him under the Act;
- (c) 'Collecting Authority' means an authority so appointed or designated by the State Government under sub-section (7) of Section 3 of the Act for the purposes of collection, of tax;
- (d) 'Form' means a form appended to these rule;
- (e) 'Licence' means a licence granted under the provisions of the Act;
- (f) the term 'Khandsari Officer' shall have the same meaning as assigned to it under the U.P. Khandsari Sugar Manufacturers' Licensing Order, 1960, and includes an Additional Khandsari Officer;
- ¹(g) "Khandsari Inspector" means a person appointed as Khandsari Inspector by the Sugar Commissioner;
- (h) "Meerut type bel" means a set of open pans comprising up to three pans commonly used for boiling juice of sugarcane and capable of handling of juice from sixty quintals or less of sugarcane per day; and
- (i) "Rohilkhand type bel" means a set of open pans comprising up to five pans commonly used for boiling of juice sugarcane and capable of handling juice from hundred and twenty quintals or less of sugarcane per day.]

CHAPTER II

²[Rules relating to factories for payment of purchase tax up to the crushing season 1971-72]

3. Maintenance of accounts.—The owner of a factory shall maintain in Form I a correct day-to-day account of the cane purchased by the factory.

4. Payment of purchase tax.—Within a fortnight of the close of each months up to the 31st of March in an assessment year, the owner of a factory shall pay into the Government treasury 50 per cent of the amount due as purchase tax under the Act on the quantity of sugarcane purchased during such month. The balance 50 per cent of the purchase tax amount outstanding for payment shall be paid in equal monthly instalments beginning from the 15th of May and ending on the 15th of September the same year. The full amount of tax due on the purchase of sugarcane made during the month of April and onwards in any assessment year shall, in addition to the instalments hereinbefore mentioned, also be paid by the 15th day of the month next following such purchase.

5. Return of cane and tax.—(1) The owner of factory shall submit to the Assessing Officer before the eighteenth day of each calendar

1. Added by Noti. No. 6327-S/XVIII-C-1600-63, dated 6-9-1965.

2. Subs. by Noti. No. 362—S/18/5—1500-72, dated January 17, 1972.