

The Research And Development Cess Act, 1986

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[Act No. 32 of 1986]

[14th August, 1986.]

An Act to provide for the levy and collection of a cess on all payments made for the import of technology for the purpose of encouraging the commercial application of indigenously developed technology and for adapting imported technology to wider domestic application and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:-

2. Definitions.

In this act, unless the context otherwise requires,-

- (a) "Cess" means the cess levied under section 3;
- (b) "Development Bank" means the Industrial Development Bank of India established under section 3 of the Industrial Development Bank of India Act, 1964 (18 of 1964);
- (c) "Fund" means the Venture Capital Fund formed under section 5;
- (d) "Import", in relation to any technology, means the bringing into India of, such technology from a place outside India;
- (e) "Industrial concern" has the meaning assigned to it in clause (c) of section 2 of the Industrial Development Bank of India Act, 1964 (18 of 1964), and includes any other person in whose favour a foreign collaboration involving the import of technology is approved by the Central Government;
- (f) "Prescribed" means prescribed by rules made under this Act;
- (g) "Specified agency" means-
 - (i) The Reserve Bank of India constituted under the Reserve Bank of India Act, 1934; or
 - (ii) The State Bank of India constituted under the State Bank of India Act, 1955; or
 - (iii) Such other bank or institution as may be specified in this behalf by the Central Government;

(h) "Technology" means any special or technical knowledge or any special service required for any purpose whatsoever by an industrial concern under any foreign collaboration, and includes designs, drawings, publications and technical personnel.

3. Levy and collection of cess on payments made towards import of technology.

(1) There shall be levied and collected, for the purposes of this Act, a cess at such rate not exceeding five per cent. on all payments made towards the import of technology, as the Central Government may, from time to time, specify, by notification, in the Official Gazette.

(2) The cess shall payable to the Central Government by an industrial concern which imports technology on or before making any payments towards such import and shall be paid by the industrial concern to any specified agency.

4. Crediting proceeds of cess to consolidated fund of India .

The proceeds of the cess levied and collected under section 3 shall first be credited to the Consolidated fund of India and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, pay to the Development Bank, from time to time, from out of such proceeds (after deducting the cost of collection), such sums of money as it may think fit for being utilised for the purposes of the Fund.

5. Venture Capital Fund.

(1) There shall be formed for the purposes of this Act a Fund to be called the Venture Capital Fund and such Fund shall form part of the Development Assistance Fund established by the Development Bank under section 14 of the Industrial Development Bank of India Act, 1964 (18 of 1964), and the provisions of Chapter V of that Act shall, save as otherwise expressly provided in this Act, apply to such Fund,

(2) There shall be credited to the Fund-

- (a) All amounts paid under section 4;
- (b) Any amount given as grants by the Central Government for the purposes of this Act;
- (c) Any amount given to the Fund from any other source; and
- (d) Any income from investment of the amount in the Fund.

6. Application of Fund.

The Fund shall be applied by the Development Bank to meet the expenditure incurred in connection with the measures and facilities which, in the opinion of the Development Bank, are necessary or expedient to provided equity capital or any other from of financial assistance to industrial concerns attempting commercial applications of indigenous technology or adapting imported technology to wider domestic applications.

7. Power of Central Government to exempt.

Notwithstanding anything contained in this Act, if the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette and subject to such conditions, if any, as may be specified therein, exempt any industrial concern from the payment of the cess payable under this Act for the import of such technology as may be specified in such notification.

8. Power to call for information.

The Development Bank may require an industrial concern to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

9. Penalty for non-payment of cess.

(1) If any cess payable by an industrial concern is not paid on or before making payments towards the import of technology, it shall be deemed to be in arrears and the same shall be recovered by the Development Bank in such manner as may be prescribed.

(2) The Development Bank may, after such inquiry as it deems fit, impose on the industrial concern, which is in arrears under sub-section (1), a penalty not exceeding ten times the amount in arrears:

Provided that before imposing such penalty, such industrial concern shall be given a reasonable opportunity of being heard, and if, after such hearing, the Development Bank is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this sub-section.

10. Power to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the foregoing power, such rules may provide for the following matters, namely:-

(a) The form in which and the period within which the information under section 8 may be furnished;

(b) The manner in which the arrears of cess may be recovered under sub-section (1) of section 9;

(c) Any other matter which is required to be, may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, 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, both House agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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 rule.