TEA (TAX AND CONTROL OF EXPORT) ACT

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14 of 1975,
16 of 1959,
4 of 1967,
10 of 1983,
51 of 1985.

AN ACT to impose a Tax on Tea sold at a Colombo Tea Auction or exported from Sri Lanka, to control the export of tea, to suspend certain provisions of the Tea Control Act, and to provide for matters connected with or incidental to the aforesaid matters.

[Date of Commencement: *1st June, 1959*]

1. Short title.

This Act may be cited as the Tea (Tax and Control of Export) Act.

2. Tax on tea which is sold at a Colombo tea auction and on tea exported from Sri Lanka and sold at a foreign tea auction.

(1) Where any tea—

(*a*) is sold at a Colombo tea auction; or

(*b*) is exported from Sri Lanka and sold at a foreign tea auction,

at a price which is or which when expressed in terms of Sri Lanka currency and after the deductions specified in subsection (3) are made therefrom, is in excess of a price to be determined by the Minister, by Order published in the *Gazette*1, having regard to the current prices at which tea is sold at Colombo tea auctions there shall be charged, levied and paid in respect of each kilogram of the tea so sold a tax at such rate as shall be determined by the Minister by Order published in the *Gazette*:

Provided that where the tax which, but for this proviso, would be payable under the preceding, provisions of this subjection on any tea in respect of its first resale at a Colombo tea auction is in excess of the tax under those provisions on that tea in respect of its sale at such an auctions before such first resale where shall in lieu of the tax tinder those provisions be charged, levied and paid on that tea in respect of such first resale a tax equal to the amount of such excess.

[S 2(1) subs by sch of Act 10 of 1983.]

(2) For the purposes of expressing in terms of Sri Lanka currency the price at which a kilogram of tea exported from Sri Lanka for sale at a foreign tea auction was sold on any day at such an auction, the rate of exchange shall be the rate of exchange specified under section 17 of the Customs Ordinance and in force on that day.

[S 2(2) subs by sch of Act 10 of 1983.]

(3) The deductions which, for the purpose of subsection (1), shall be made from the price at which a kilogram of tea exported from Sri Lanka for sale at a foreign tea auction, is sold at such an auction shall be—

(*a*) the export duty and any excess paid in Sri Lanka on that kilogram of tea; and

(*b*) the amount fixed by the Minister by Order published in the *Gazette* in respect of a kilogram of tea exported from Sri Lanka for sale at such a foreign tea auction, to cover the cost of freight, insurance and "handling".

[S 2(3) subs by sch of Act 10 of 1983.]

(4) In the exercise of his powers under paragraph (b) of subsection (3), the Minister may fix different amounts in respect of different foreign tea auctions:

Provided that any amount or amounts which may be determined by the Minister acting under subsection (3) shall be published in the *Gazette* and tabled in Parliament as soon as possible thereafter and unless Parliament by resolution within two months resolves against it, the amount or amounts shall continue to be levied and provided further that nothing in this subsection shall be deemed to prevent the Minister from levying as a lawful tax the amount or amounts he may determine until the expiration of such period or Parliament by resolution revokes his Order, whichever event occurs earlier.

3. Person liable to pay the tax on tea sold at a Colombo tea auction.

Where any tea is sold at a Colombo tea auction, the person who is the owner of the tea at the time of the sale shall pay to the Commissioner, not later than ten working days after the date of the sale, the tax payable in respect of such tea under section 2.

4. Person liable to pay the tax on tea sold at a foreign tea auction and manner of payment.

(1) The owner of tea which is authorised by a permit issued under this Act to be exported from Sri Lanka for sale at a Foreign tea auction shall pay to the Commissioner the tax payable on such tea under section 2 in accordance with the following provisions—

(*a*) an advance payment in respect of such tax shall be made to the Commissioner before the issue of such permit.

(*b*) the amount of the advance payment referred to in paragraph (*a*) of this subsection shall be determined by the Commissioner according to such rates of advance payment as shall be fixed by the Minister by Order published in the *Gazette*. The Minister may in any Order under this paragraph fix different rates of advance payment for different qualities of tea.

(*c*) not later than three months after the date of the sale of the tea at a foreign tea auction, the amount of the difference, if any, between the tax payable on the tea under section 2 and the advance payment made under paragraph (*a*) of this subsection shall be paid to the Commissioner.

(2) Where the advance payment made under paragraph (*a*) of subsection (1) in respect of any tea exceeds the amount of the tax payable on that tea under section 2, the Commissioner shall either credit the excess to the account of the owner of that tea in the books maintained by the Commissioner for the purposes of this Act or refund the excess to such owner.

[S 4 am by s 3 of Act 4 of 1967.]

5. Tax on tea produced in Sri Lanka and exported from Sri Lanka by the English and Scottish Joint Co-operative Wholesale Society Ltd and on any other tea so exported except tea to which section 2 applies.

(1) The Commissioner shall, on the basis of the current prices at which tea sold at a Colombo tea auction, determine, for the purposes of subsection (2), the price, hereafter in this section referred to as the "assessed price", which a kilogram of—

(*a*) any tea produced in Sri Lanka by the English and Scottish Joint Co-operative Wholesale Society Ltd, or

(*b*) any tea which is not tea referred to in paragraph (*a*) of this subsection or in subsection (1) of section 2 and which is authorised by a permit issued under this Act to be exported from Sri Lanka,

would reasonably be expected to fetch on any day if such tea were sold on that day at a Colombo tea auction.

(2) Before the issue of the permit under this Act authorizing the export from Sri Lanka of any tea to which subsection (1) applies, there shall be charged, levied and paid in respect of each kilogram of such tea a tax at such rate as may be determined by the Minister by Order published in the *Gazette*. Such rate shall be determined in relation to the assessed price referred to in subsection (1).

(3) The person for the time being holding the office of Manager in Sri Lanka of the English and Scottish Joint Co-operative Wholesale Society Ltd. shall pay the tax under subsection (2) in respect of tea produced by that Society.

(4) The owner of any tea referred to in paragraph (*a*) of subsection (1) shall pay the tax under sub section (2) in respect of that tea.

6. Power to vary the rate of tax imposed under this Act and its method of calculation or to abolish such tax.

(1) The Commissioner shall, on the basis of the current prices at which tea is sold at a Colombo tea auction, determine for the purposes of subsection (2), the price, hereafter in this section referred to as the "assessed price". which a kilogram of—

(*a*) any tea produced in Sri Lanka by the English and Scottish Joint Co-operative Wholesale Society Ltd.; or

(*b*) any tea which is not tea referred to in paragraph (*a*) of this subsection or in sub-section (1) of section 2 and which is authorised by a permit issued under this Act to be exported from Sri Lanka,

would reasonably be expected to fetch on any day if such tea was sold on that day at a Colombo tea auction.

[S 6(1) subs by sch of Act 10 of 1983.]

(2) Before the issue of a permit under this Act authorising the export of any tea form Sri Lanka to which subsection (1) applies there shall be charged, levied and paid in respect of each kilogram of such tea a tax at such rate as may be determined by the Minister by Order published in the *Gazette*. Such rate shall be determined in relation to the assessed price referred to in subsection (1) .

[S 6(2) subs by sch of Act 10 of 1983.]

(3) Any Order under subsection (1) which the House of Representatives refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such Order is deemed to be revoked shall be published in the *Gazette*.

7. Export of tea under the authority of a permit.

(1) No person shall export tea except under the authority of a permit issued by the Commissioner:

Provided that no permit shall be required for the export of—

(*a*) any tea, not. exceeding six kilogrammes in weight, despatched as a gift by parcel post or takes as part of the personal luggage of a passenger on any vessel or aircraft, or

[S 7 (1) am by sch of Act 10 of 1983.]

(*b*) any tea sent as commercial samples.

(2) Where such payments in respect of the tax under this Act on any tea as are required by this Act to be made before the export of that tea from Sri Lanka are made, the Commissioner shall issue to the holder of the permit under this section authorising the export of that tea from Sri Lanka a certificate stating that those payments have been made.

(3) No tea shall be received or accepted for export or shipment from Sri Lanka by any Customs or other officer unless the export thereof is authorised by a permit issued under this section and there is in respect of such tea a certificate issued by the Commissioner under subsection (2).

8. Conditions to be fulfilled before the issue of permits, the grounds for suspension or revocation of permits.

(1) Every application for a permit for the export of tea shall be in the prescribed form.

(2) No permit for the export of tea shall be issued to any person under this section unless the Commissioner is satisfied that—

(*a*) such person has been registered as an exporter of tea for the purposes of this Act;

(*b*) such tea—

(i) has been sold at a Colombo tea auction; or

(ii) has been produced in an approved estate and

(*aa*) is of an approved quantity and intended for sale at a Foreign tea auction, or

(*ab*) is of an approved quantity and is tea other than that described in the preceding provisions of this subsection;

(*c*) such tea is of a quality suitable for export, and

(*d*) such person has not contravened any provision of this Act.

[S 8(2) subs by s 2(1) of Act 51 of 1985.]

(2A) Where an application for the export of tea under this section is refused, the Commissioner shall communicate or cause to be communicated in writing to the applicant, the decision of the Commissioner to refuse to issue the permit, together with the reasons therefor.

[S 8(2A) ins by s 2(2) of Act 51 of 1985.]

(3) Where any tea is to be exported from Sri Lanka for sale at a Foreign tea auction, the Commissioner shall state that fact in the permit under this section authorising the export of that tea.

[S 8(3) subs by s 2(3) of Act 51 of 1985.]

(4) Where the Commissioner has reason to believe that a person to whom a permit has been issued under this section has acted in contravention of any provision of this Act or any regulation made thereunder, the Commissioner may suspend that permit pending the determination by him as to whether there has been such a contravention or not.

[S 8(4) subs by s 2(4) of Act 51 of 1985.]

(4A) The Commissioner shall communicate or cause to be communicated in writing to the holder of the permit the decision of the Commissioner to suspend the permit.

[S 8(4A) ins by s 2 (4)of Act 51 of 1985.]

(5) If the Commissioner is satisfied after an inquiry to be held by him or by any other officer authorised by him in that behalf that there has been a contravention of any provision of this Act or any regulation made thereunder, he may revoke that permit.

[S 8(5) subs by s 2(5) of Act 51 of 1985.]

(5A) the Commissioner shall communicate or cause to be communicated in writing to the holder of the permit the decision of the Commissioner to revoke the permit together with the reasons therefor.

[S 8(5A) ins by s 2 (6)of Act 51 of 1985.]

(6) No person shall be registered as an exporter of tea by the Commissioner for the purposes of this Act—

(*a*) unless the Commissioner is satisfied that such person—

(i) has an adequate organisation, sufficient financial resources and suitable premises for engaging in the business of an exporter of tea; and

(ii) has not contravened any provision of this Act; and (*b*) except upon an application made in that behalf by such person to the Commissioner in the prescribed form.

(7) The Commissioner may cancel the registration of any person as an exporter of tea if he is satisfied that such person—

(*a*) has ceased to have an adequate organisation, sufficient financial resources or suitable premises for carrying on the business of an exporter of tea, or

(*b*) has contravened any provision of this Act.

(8) The Commissioner shall communicate or cause to be communicated in writing to the person concerned the decision of the Commissioner to refuse registration as an exporter of tea or to cancel such registration.

(9) The Commissioner shall, in respect of each approved estate, determine and notify in writing to the owner of that estate the maximum quantity of tea from that estate which may be exported from Sri Lanka during any period specified by the Commissioner in the notification.

(10) Any quantity of tea which forms part of the maximum quantity of tea determined for any period under subsection (9) in respect of an approved estate shall, for the purposes of subsection (1), be an approved quantity of tea in respect of that estate for that period.

9. Appeal from decision, declaration or determination of the Commissioner.

(1) Any person aggrieved by any decision, declaration or determination of the Commissioner under this Act may, within fourteen days after the communication of such decision or determination to such person or, in the case of a declaration, within fourteen days after the declaration is published in the *Gazette*, appeal in writing from such decision, declaration or determination to the Sri Lanka Tea Board.

(2) The Sri Lanka Tea Board shall, before deciding any appeal made under subsection (1), give the person making the appeal the opportunity of placing his case before such Board either in person or by his representative.

(3) The decision of the Sri Lanka Tea Board on any appeal made under this section shall be final and shall not be called in question in any court.

[S 9 subs by s 19 of Law 14 of 1975.]

10. Time within which tea sold at a Colombo tea auction shall be exported.

Every person to whom a permit is issued under this Act for the export from Sri Lanka of any tea which is sold on any day at a Colombo tea auction shall export such tea within a period of three months after such day:

Provided that, where the Commissioner is satisfied that such person is unable by reason of circumstances beyond his control to export such tea within such period, the Commissioner shall extend such period, and such person shall export such tea within such extended period.

11. Prohibition on export or attempt to export tea of a quality different from that described in the permit.

No person to whom a permit is issued under this section shall, under the authority of that permit export or attempt to export any quantity of tea of a quality different from that described in that permit.

[S 11 subs by s 3 of Act 51 of 1985.]

12. Information to be given to the Commissioner by-owners of tea sold at a Colombo tea auction or a foreign tea auction and by exporters of tea.

(1) Where any tea is sold at a Colombo tea auction, the person who is the owner of the tea at the time of the sale shall, not later than three working days after the date of the sale, state in writing to the Commissioner, the description, quantity and sale price per kilogram of such tea and the name and address of the purchaser.

[S 12 (1) subs by sch of Act 10 of 1983.]

(2) Where any tea exported from Sri Lanka for sale at a foreign tea auction is sold at such an auction, the person who is the owner of the tea at the time of the sale shall, not later than fourteen days after the date of the sale, state in writing to the Commissioner, the description, quantity and sale price per kilogrammes of such tea, and the name and address of the purchaser.

[S 12 (2) subs by sch of Act 10 of 1983.]

(3) Every person to whom a permit is issued under this Act shall, not later than ten working days after the date of the export of the tea referred to in the permit, state in writing to the Commissioner the description and quantity of the tea exported by him under the authority of the permit.

13. .

[S 13 rep by s 19 of Law 14 of 1975.]

14. Power of Commissioner and other officers to inspect premises.

For the purpose of carrying out the provisions of this Act, the Commissioner or any officer authorised in that behalf by the Commissioner in writing may—

(*a*) give such directions in writing as he may think fit to any person in respect of the conduct of any Colombo tea auction;

(*b*) enter and inspect at all reasonable hours by day or night any premises where he has reasonable cause to believe that any books or records containing any entries relating to sales of tea at a Colombo tea auction are kept, or tea intended for sale or sold at a Colombo tea auction-or intended for export is kept;

(*c*) take copies of any such entries;

(*d*) interrogate any person whom he has reasonable cause to believe is the owner of tea sold at a Colombo tea auction or an exporter of tea or the employee of such owner or exporter;

(*e*) interrogate any employee in Sri Lanka of the English and Scottish Joint Co-operative Wholesale Society Ltd;

(*f*) give a direction in writing to any person to furnish before a date specified in the direction such information as he may require;

(*g*) give a direction in writing to any person to produce before a date specified in the direction such documentary or other evidence as he may require for the purpose of verifying any information furnished by such person; and

(*h*) remove from any premises where tea intended for sale or sold at a Colombo tea auction or intended for export is kept, a sample of tea for the purpose of testing the quality of such tea.

14A. Foreign tea auction to be prescribed.

The Minister may, by regulation made under this Act, prescribe any tea auction held outside Sri Lanka as a foreign tea auction for the purposes of this Act.

[S 14A am by s 4 of Act 4 of 1967.]

15. Regulations.

(1) The Sri Lanka Tea Board may make regulations in respect of the following matters—

(*a*) all matters which are required by this Act to be prescribed;

(*b*) the payment of allowances to persons employed in carrying out the provisions of this Act;

(*c*) the procedure to be observed in the hearing of appeals made under section 9; and

(*d*) all matters necessary for carrying out the provisions of this Act.

[S 15(1) subs by s 19 of Law 14 of 1975.]

(2) Every regulation made under this section shall be published in the *Gazette* and shall come into operation upon such publication.

(3) Every regulation made under this section shall be brought before the Senate and the House of Representatives, as soon as may be practicable after the publication of the regulation under subsection (2), by a motion that such regulation shall be approved.

(4) Any regulation made under this section which the Senate or the House of Representatives refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which such regulation shall so be deemed to be rescinded shall be the date on which the Senate or the House of Representatives refuses to approve the regulation.

(5) Notification of the date on which any regulation made under this section is deemed under subsection (4) to be rescinded shall be published in the *Gazette*.

16. Offences.

(1) Any person who—

(*a*) contravenes any provision of this Act,

(*b*) furnishes, for the purposes of this Act, any information which is, or any document the contents of which are, or any part of the contents of which is, to his knowledge untrue or incorrect, or

(*c*) does not comply with any direction given by the Commissioner or any other officer in the exercise of his powers under section 14,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and such imprisonment.

(2) On conviction of any person for failure to pay any tax under this Act, the Magistrate may, in addition to any other punishment which he may impose, order such person to pay such tax, and such tax may be recovered as though it were a fine imposed by the Magistrate.

17. Offences by bodies of persons.

Where an offence under this Act is committed by a body of persons, then—

(*a*) if that body of persons is a body corporate, every Director and officer of that body corporate,

(*b*) if that body of persons is a firm, every partner of that firm, and

(*c*) if that body of persons is the English and Scottish Joint Co-operative Wholesale Society Ltd., the person for the time being holding the office of Manager in Sri Lanka of that Society,

shall be guilty of such offence:

Provided that a Director or an officer of such body corporate, or a partner of such firm, or the person for the time being holding the office of Manager in Sri Lanka of that Society shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the Commission of such offence.

18. No prosecution without the sanction of the Commissioner.
No prosecution for an offence under this Act shall be instituted except by, or with the written sanction, of the Commissioner.

19. Compounding of offences.
The Commissioner may compounding any offence under this Act by accepting from the offender such sum as the Commissioner may deem adequate. All sums received by the Commissioner under this section shall be credited to the Capital Fund.

[S 19 subs by s 19 of Law 14 of 1975.]

20. Delegation of powers and duties of the Commissioner.
The Commissioner may delegate any of his powers and duties under this Act to any officer appointed for the purposes of this Act.

21. Suspension of certain provisions of the Tea Control Act.
During the operation of this Act, the Tea Control Act, No. 51 of 1957, shall have effect as though—

(*a*) sections 25, 26 and 27 of that Act were repealed;

(*b*) in section 37 of that Act—

(i) there were omitted from paragraph (*a*) of subsection (1) of that section the expression "for a licence under section 26 or" and the expression "a licence issued under section 26 or"; and

(ii) there were omitted from subsection (2) of that section the expression "for a licence under section 26 or" and the expression "licence or".

22. Interpretation.
In this Act, unless the context otherwise requires—

"approved estate" means an estate the tea produced in which has hitherto been exported from Sri Lanka;

"Capital Fund" means the Capital Fund established under the Sri Lanka Tea Board Law;

[Ins by s 19 of Law 14 of 1975.]

"Colombo tea auction" means a tea auction held by the Colombo Tea Traders' Association;

"Commissioner" means the person for the time being holding the office of Tea Commissioner;

[Subs by s 19 of Law 14 of 1975.]

"Foreign tea auction" means a tea auction held by the Tea Brokers' Association of Foreign;

"owner" includes his accredited agent;

"tea" means tea manufactured from the leaves, leaf buds or immature stalk of the tea plant grown in Sri Lanka, but does not include refuse tea; and

"working days" means days other than Sundays, Bank Holidays or Public Holidays.

1 *Gazette* No. 11,759 of 27th May, 1959