



Analysis of the essential commodities act, 1955

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Abstract

Essential commodities are those that the Central Government may notify and declare to be an essential commodity for the purpose of this Act. The Act extends to the whole of India including the State of Jammu & Kashmir. It came into force on 1.4.1955. The main purpose of the Essential Commodities Act is to ensure that the common man gets the essential commodities without hindrance on the part of the trade. Essential commodities are divided into two categories, viz., the items of industrial consumption and the items of general consumption. The first type consists of coal, textile, iron and steel etc. and the second type consists of food-stuffs, cattle feed and others.

Keywords: essential commodities act, 1955, nature, scope, salient features

Introduction

Essential commodities are those that the Central Government may notify and declare to be an essential commodity for the purpose of this Act. The Act extends to the whole of India including the State of Jammu & Kashmir. It came into force on 1.4.1955.

Nature and Scope

The main purpose of the Essential Commodities Act is to ensure that the common man gets the essential commodities without hindrance on the part of the trade. The Act seeks to achieve the following objectives:

1. To control production, supply and distribution of essential commodities.
2. To check the inflationary trends in prices.
3. To ensure equitable distribution of essential commodities

Salient Features

Essential commodities are divided into two categories, viz., the items of industrial consumption and the items of general consumption. The first type consists of coal, textile, iron and steel etc. and the second type consists of food-stuffs, cattle feed and others.

The definition of the term 'essential commodity' as given in the Act is inclusive. It includes certain items of commodities as mentioned in Section 2(a). Exercising the powers delegated under the Act, the State Government/UT Administration have issued a number of Control Orders to regulate various aspects of trading in essential commodities such as food grains, edible pulses, kerosene, sugar etc.

The list of commodities declared as "essential" under the Essential Commodities Act, 1955 is reviewed from time to time in the light of changes in the economic situation and particularly with regard to their production and supply. Keeping in view production and demand of some of the commodities, it was felt that these could be removed from the list of essential commodities. With effect from 1.5.2002,

Government removed 11 classes of commodities in full and one in part from the list of commodities declared as essential under the Essential Commodities Act, 1955. Number of such commodities, which stood at 70 in the year 1989, reduced to 18 through periodic reviews till the year 2002. However, special efforts initiated by this Department during 2003- 2004 has reduced the items further to 16 after deletion of two items viz. 'Exercise books' and 'Insecticides, fungicides, weedicides and the like' by notification dated 31.3.2004. Efforts are underway to reduce the number of essential commodities further to facilitate free trade and commerce.

Powers of central government

As stated earlier, the object of the Essential Commodities Act, is to control the production, supply and distribution of essential commodities. The central government is responsible for achieving the objectives of the Act. For this purpose, the Central Government is given wide powers. These powers are mentioned here briefly.

Power of making order

Section 3(1) of the Act empowers the Central Government to issue orders providing for regulating or prohibiting the production, supply and distribution of any essential commodity and trade and commerce therein under one or more of the following circumstances:

1. Where the Central Government is of the opinion that it is necessary or expedient to do so for maintaining or increasing supplies of any essential commodity,
2. For securing their equitable distribution and availability at fair prices, and
3. For securing any essential commodity for the defence of India or for the efficient conduct of military operation.

This is a comprehensive provision and various orders have been issued by the Central Government from time to time, as also by the State Government under authority delegated to it

under Section 5 of the Act. The powers conferred upon in this Section are only to regulate or prohibit the production, supply and distribution of the essential commodities in the interest of the general public. The interest of the general public necessarily means the interest of the consuming public and not the interest of the dealers.

The Government under Section 3(1) can fix the quantity which one can keep, sell or store without a licence or fix the commission on the quantity of stock bought and sold.”

Power to fix prices

The various modes of fixing prices to be paid for essential commodities which have been prescribed deal with the following matters:

The broad principles as to the payment of prices for the sale of commodities directly to be sold to the Central Government or a, State Government have been embodied in Section 3(3) of the Act, where the Government orders the sale of essential commodities to Central or State Government or its agent or any person, the price to be paid by the seller will be decided on the following basis:

- a. **Agreed Price** - Where the price can be agreed upon by the government and seller, consistently with the controlled price, if any fixed under this Section, the agreed price is to be paid.
- b. **Controlled Price** - Where no agreement as to the price is reached, the price calculated with reference to the controlled price, is to be paid.
- c. **Market Price** - Where there is neither an agreed price nor a controlled price, the price calculated at the prevailing market rate is to be paid.

Power to appoint authorized controller [Section 3(4)]

The Central Government is empowered to authorize any person to exercise with respect to any undertaking engaged in the production and supply of essential commodities, such functions of control as may be provided by the order and which are necessary for maintaining or increasing the production and supply of the commodity, Such a person shall be called the authorized controller. The authorized controller shall exercise his function in accordance with any instruction given to him by the Central Government.

Power to recover certain amounts as arrears of land revenue (Section 7-A)

Section 7 -A inserted by the Amendment Act, I 984 empowers the Central Government to recover certain amounts as arrears of land revenue. It provides that a person is liable to:

1. Pay any amount in pursuance of any order made under Section 3, or
2. Deposit any amount to the credit of any Account or Fund constituted by or in pursuance of any order made under that section,

Imposition of duties on state government (Section 4)

Section 3 of the Essential Commodities Act, I 955 confers upon the Central Government the power of issuing orders which may provide for regulation or prohibition in the manner of production, supply and distribution of any essential commodity. Section 4 lays down that an order made under

Section 3 may confer powers and impose duties upon the Central or State “Government or officers and authorities of the Central or State Government and may contain directions to any State Government or officers and authorities thereof, as to the exercise of any such power or the discharge of such duties.”

Delegation of powers (Section 5)

Section 5 of the Act empowers the Central Government to delegate powers to State Government or any officer etc, to make orders or issue notifications in respect of the matters provided under Section 3. The Central Government can make such a delegation by a notified order giving necessary directions and specifying matters and also subject to certain conditions.

Supremacy of the order of the central government (Section 6)

Section 16 provides that any order made under Section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act. In other words, any order issued by the Central

Government in exercise of its powers under Section 3 of the Essential Commodities Act shall override any other law contrary to the Essential Commodities Act.

Appeal against confiscation order (Section 6-C)

Any person aggrieved by an order of confiscation under Section 6- A may within one month from the date of communication to him of such order, appeal to any judicial authority appointed by the State Government concerned. The judicial authority shall after giving an opportunity to the appellant to be heard, pass such order as it may think fit confirming, modifying or annulling the order appealed against.

Penalties

Section 7 provides for the imposition of penalties where any provisions of the Act or orders passed under Section 3 are violated. These penalties are as follows.

Imprisonment and Fine

Section 7 lays down that if any person contravenes any order under Section 3(2) (h) and Section 3(2) (i), he shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

Forfeiture of property

If any person contravenes any order made under Section 3 any property in respect of which the order has been contravened shall be forfeited to the Government.

Non-compliance with the direction

Where any person to whom a direction is given under Section 3(4) (b) fails to comply with the directions, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine provided that the Court may for any adequate or special reasons impose a sentence of

imprisonment for a term less than three months.

Repetition of offence

If any person convicted of an offence under this Act, is again convicted of an offence under the same provision, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than six months but which may extend to seven years, and shall also be liable to fine.

Reference

1. Peter Drucker, Management: Tasks, Responsibilities Practices (New York: Harper and Row,), 1973, 64-65.
2. The New Encyclopaedia Britannica Macropaedia, 11, 511.
3. Dictionary of Economics by Harold. S Slounand, Arnold, J Cuschan Third edition revised. Published by Barnus and Noble INC, New York. 202.
4. Philip Kotler–Marketing Management–Analysis, planning, implementation and control- 9th Ed Prentice Hall Inc. New Delhi, 110020, 1990, 9.
5. Peter Drucker. Partin Memorial Lecture given before the American Marketing Association, Philadelphia, 1957.
6. David S. Dunbar – The politics of the economics of advertising Journal of advertising research, 8.78-March, copy right by the Advertising Research foundation.1968.
7. Saxena N. Ever Expending Definition of Consumer, Central Chronicle, February 2, 2007.
8. Sivaprakasham P, Rajmohan S, Consumer Protection Legislative Measures", Yojana, December, 1999.