

THE CENTRAL EXCISE LAWS (AMENDMENT AND
VALIDATION) ACT, 1982

No. 58 OF 1982

[25th October, 1982.]

An Act to provide for the amendment of laws relating to central excise and to validate duties of excise collected under such laws.

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

1. (1) This Act may be called the Central Excise Laws (Amendment and Validation) Act, 1982.

Short title and commencement.

1 of 1944. (2) It shall be deemed to have come into force on the date of commencement of the Central Excises and Salt Act, 1944.

2. (1) In this section,—

1 of 1944. (a) "Central Excises Act" means the Central Excises and Salt Act, 1944;

16 of 1931. (b) "Central law" means a Central Act other than the Central Excises Act and includes a declared provision within the meaning of section 2 of the Provisional Collection of Taxes Act, 1931;

(c) "exemption", in relation to any duty of excise, means exemption from the whole or any part of such duty;

(d) "preamble", in relation to any notification or order, means that part of the notification or order which refers to the powers in exercise or in pursuance of which such notification or order is issued or made.

Provisions as to exemption from duty of excise or fixing rate of such duty under certain Central laws and validation.

(2) Every Central law providing for the levy and collection of any duty of excise which makes the provisions of the Central Excises Act and the rules made thereunder applicable by reference to the levy and collection of the duty of excise under such Central law shall have, and shall be deemed always to have had, effect with respect to the matters dealt with in sub-section (3) in the manner provided in that sub-section and this Act shall be construed as one with such Central law.

(3) Where any Central law providing for the levy and collection of any duty of excise makes the provisions of the Central Excises Act and the rules made thereunder applicable by reference to the levy and collection of the duty of excise under such Central law, then,—

(a) it shall be necessary for the purpose of granting, by any notification or order, any exemption from any duty of excise, or fixing, by any notification or order, any rate of duty, leviable under such Central law to expressly refer to the provisions of the said Central law in the preamble to such notification or order, or to state by express words in such notification or order that the exemption provided for, or the rate of duty fixed, by such notification or order is an exemption from, or the rate of duty under, such Central law;

(b) no notification or order issued or made under the Central Excises Act or the said rules (whether issued or made before, on or after the 24th day of September, 1982 and whether or not in force on such date) granting any exemption from any duty of excise or fixing any rate of such duty shall have the effect of, or be construed as, providing for exemption from the duty of excise leviable, or, as the case may be, fixing the rate of duty, under the said Central law, unless such notification or order—

(i) expressly refers to the provisions of the said Central law in the preamble; or

(ii) by express words, provides for an exemption from the duty of excise leviable, or, as the case may be, fixes the rate of duty, under the said Central law; and

(c) every notification or order of the nature referred to in clause (b) which expressly refers to the provisions of any Central law or Central laws in the preamble, shall have the effect of, and be construed as, providing for exemption from the duty of excise leviable, or, as the case may be, fixing a rate of duty, only under such Central law or Central laws, unless such notification or order also, by express words, provides for an exemption from the duty of excise leviable, or, as the case may be, fixes the rate of duty, under the Central Excises Act.

(4) Every notification or order granting any exemption or fixing a rate of duty issued or made under the Central Excises Act or the rules made thereunder at any time whatsoever before the 24th day of September, 1982 shall have, and shall be deemed always to have had, effect for all purposes as if the foregoing provisions of this section had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action or thing taken or done, or purporting to have been taken or done, under the Central Excises Act or the said rules or any Central law in any case by virtue of such notification or order shall be deemed to be, and to have always been, for all purposes as validly and effectively taken or done as if the foregoing provisions of this section had been in force at all material times, and, notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing,—

(a) all duties of excise levied, assessed or collected with respect to any goods under the Central Excises Act or the said rules or any Central law shall be deemed to be, and shall be deemed always to have been, validly levied, assessed or collected as if the foregoing provisions of this section had been in force at all material times;

(b) no suit or other proceeding shall be maintained or continued in any court for the refund of, and no enforcement shall be made by any court of, any decree or order directing the refund of, any such duties of excise which have been collected and which would have been validly collected if the foregoing provisions of this section had been in force at all material times;

(c) refunds shall be made of all such duties of excise which have been collected but which would not have been collected if the foregoing provisions of this section had been in force at all material times; and

(d) recoveries shall be made of all such duties of excise which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded if the foregoing provisions of this section had been in force at all material times.

(5) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this Act had not come into force.

1 of 1982. 3. (1) The Central Excise Laws (Amendment and Validation) Ordinance, 1982, is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.