

Essential Commodities (Amendment and Validation), Act 2009

Section 2 - Amendment of Section 3

In section 3 of the Essential Commodities Act, 1955(10 of 1955) (hereinafter referred to as the principal Act)--

(a) in sub-section (3C), the existing Explanation shall be numbered as Explanation I, and after Explanation I as so numbered, the following Explanation shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of October, 1974, namely:--

'Explanation II--For the removal of doubts, it is hereby declared that the expressions "minimum price" referred to in clause (a), "manufacturing cost of sugar" referred to in clause (b) and "reasonable return on the capital employed" referred to in clause (d) exclude the additional price of sugarcane paid or payable under clause 5A of the Sugarcane (Control) Order, 1966 and any price paid or payable under any order or enactment of any State Government and any price agreed to between the producer and the grower of sugarcane or a sugarcane growers' co-operative society.';

(b) for sub-section (3C) and the Explanations thereunder, the following shall be substituted, and shall be deemed to have been substituted, on and from the 1st day of October, 2009, namely:--

'(3C) Where any producer is required by an order made with reference to clause (f) of sub-section (2) to sell any kind of sugar (whether to the Central Government or to a State Government or to an officer or agent of such Government or to any other person or class of persons) whether a notification was issued under sub-section (3A) or otherwise, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer only such amount as the Central Government may, by order, determine, having regard to--

(a) the fair and remunerative price, if any, determined by the Central Government as the price of sugarcane to be taken into account under this section;

(b) the manufacturing cost of sugar;

(c) the duty or tax, if any, paid or payable thereon; and

(d) a reasonable return on the capital employed in the business of manufacturing of sugar:

Provided that the Central Government may determine different prices, from time to time, for different areas or factories or varieties of sugar:

Provided further that where any provisional determination of price of levy sugar has been done in respect of sugar produced up to the sugar season 2008-2009, the final determination of price may be undertaken in accordance with the provisions of this sub-section as it stood immediately before the 1st day of October, 2009.

Explanation.-- For the purposes of this sub-section,--

- (a) "fair and remunerative price" means the price of sugarcane determined by the Central Government under this section;
- (b) "manufacturing cost of sugar" means the net cost incurred on conversion of sugarcane into sugar including net cost of transportation of sugarcane from the purchase centre to the factory gate, to the extent it is borne by the producer;
- (c) "producer" means a person carrying on the business of manufacturing sugar;
- (d) "reasonable return on the capital employed" means the return on net fixed assets plus working capital of a producer in relation to manufacturing of sugar including procurement of sugarcane at a fair and remunerative price determined under this section.'