Research and Development Cess Act, 1986

Section 1 - RESEARCH AND DEVELOPMENT CESS ACT, 1986

RESEARCH AND DEVELOPMENT CESS ACT, 1986RESEARCH AND DEVELOPMENT CESS ACT, 198632 of 198614th August, 1986STATEMENT OF OBJECTS AND REASONS It was envisaged in the long term fiscal policy announced in December, 1985, that a "Research and Development Cess" would be imposed on all payments made for import of technology. The proceeds of the cess so levied shall be paid to the Industrial Development Bank of India after due appropriation by Parliament by law for being utilised for the purposes of the venture capital fund. The proposed venture capital fund shall be utilised for providing further incentives for the commercial application of indigenously developed technology and to adopt imported technology lo wider domestic applications. 2. The Bill seeks to achieve the above objectives. -Gaz. of Ind., 6-5-86, Pt. II, S. 2, Ext., p. 5 (No. 23). Act 45 of 1995.-The Research and Development Cess Act, 1986 provides for the levy and collection of a cess on all payments made for the import of technology for purposes 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. The aforesaid Act provides that the proceeds of the cess levied and collected under the said Act shall be first credited in the Consolidated Fund of India and thereafter the Central Government shall make payment out of such proceeds to the Venture Capital Fund of the Industrial Development Bank of India. The Industrial Development Bank of India utilises Venture Capital Fund for providing financial assistance to industrial concerns attempting commercial application of indigenous technology or adapting imported technology to wider domestic application. 2. With the increasing pace of industrialisation in the Indian economy, research, design and development work related to application-oriented technology is vital not only to improve upon our industrial productivity but also to develop new technologies appropriate to our needs. Thus there is a growing need to make science and technology an effective instrument of national renewal. To accelerate the development and application of indigenous technology to production processes, it was announced at the time of presenting the Central Government Budget for 1994-95 that it is proposed to place the proceeds of the cess into a new fund for technology development and application and that the proposed fund will be placed at the disposal of a Technology Development Board which is proposed to be set up as a statutory body by a separate legislation. 3. With a view to achieving the above objectives it is proposed to amend the Research and Development Cess Act, 1986 so as to substitute for the Venture Capital Fund by the Technology Development Board which is proposed to be constituted under a separate enactment, namely, the Technology Development Board Bill, 1995. It is also proposed to make some consequential amendments in the said Act. 4. The Bill seeks to achieve the above objects, -Gaz. of India, 2-4-95, Pt. II, S. 2, Ext., p. 15 (No. 13).An Act to provide for the levy and collection of a cess on all payments made for the import of technology for the purposes 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 :-SECTION 01: SHORT TITLE, EXTENT AND COMMENCEMENT(1) This Act may be called the Research and Development Cess Act, 1986.(2) It extends to the whole of India except the State of Jammu and Kashmir.(3) It shall come into force on such date' as the Central Government may, by notification in the Official Gazette, appoint.SECTION 02: DEFINITIONSIn this Act, unless the context otherwise requires,-2[(a) "Board" means the Technology Development Board constituted under the Technology Development Board Act, 1995;(b) "cess" means the cess levied under section 3-;](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, and includes any other person in whose favour a foreign collaboration involving the import of technology 3[is approved or automatically approved in accordance with the Industrial Policy of the Government of India in force from time to time.](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; oi(iii) such other Bank or institution or 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.SECTION 03: LEVY AND COLLECTION OF CESS ON PAYMENTS MADE TOWARDS IMPORT OF TECHNOLOGYThere 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 be 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.SECTION 04: CREDITING PROCEEDS OF CESS TO CONSOLIDATED FUND OF INDIAThe 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 4[Board], 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 4[Board].SECTION 05: VENTURE CAPITAL FUND[Omitted by the Research and Development Cess (Amendment) Act (45 of 1995) S. 4 (1 -9-96).SECTION 06: APPLICATION OF FUND[Omitted by the Research and Development Cess (Amendment) Act (45 of 1995), S. 4 (I-9-96).SECTION 07: POWER OF CENTRAL GOVERNMENT TO EXEMPTNotwithstanding 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.SECTION 08: POWER TO CALL FOR INFORMATIONThe 5[Board] 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.SECTION 09: 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 the6[Board] in such manner as may be prescribed.(2) The 6[Board] 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 "[Board] is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this sub-section.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, or 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 houses 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. Central Bare Acts