

THE CINE- WORKERS WELFARE CESS ACT, 1981

ACT NO. 30 OF 1981 [11th September, 1981.]

An Act to provide for the levy and collection of a cess on feature films for the financing of activities to promote the welfare of certain cine- workers and for matters connected therewith or incidental thereto.

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

1. Short title, extent and commencement.

(1) This Act may be called the Cine- workers Welfare Cess Act, 1981 .

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. In this Act, unless the context otherwise requires,--

(a) " cinematograph film" has the same meaning as in the Cinematograph Act, 1952 (37 of 1952);

(b) " feature film" means a full length cinematograph film produced wholly or partly in India with a format and a story woven around a number of characters where the plot is revealed mainly through dialogues and not wholly through narration, animation or cartoon depiction and does not include an advertisement film;

(c) " prescribed" means prescribed by rules made under this Act;

(d) " producer", in relation to a feature film, means,--

(i) the producer of such film; or

(ii) where the application for a certificate in respect of such film under section 4 of the Cinematograph Act, 1952 (37 of 1952), is made by any other person, such other person.

3. Levy and collection of cess on feature films.- 1[

(1) There shall be levied and collected as a cess, for the purposes of the Cine- workers Welfare Fund Act, 1981 , a duty of excise at such rate, not being less than one thousand rupees and not exceeding twenty thousand rupees on every feature film, as the Central Government may, by notification in the Official Gazette, specify from time to time.]

(2) The duty of excise levied under sub- section (1) shall be in addition to any cess or duty leviable on cinematograph films under any other law for time being in force.

4. Payment of duty of excise.-

(1) The duty of excise levied under section 3 on any feature film shall be payable to the Central Government by the producer of such film on or before the date on which he makes an application for a certificate in respect of such film under section 4 of the Cinematograph Act, 1952 (37 of 1952): Provided that the producer of such film may apply to the Central Government for the refund of the duty paid by him in respect of such film on the ground,--

(a) that an order refusing to grant any certificate in respect of such film has been made under section 4, read with section 5A, of the Cinematograph Act, 1952 (37 of 1952); and

(b) that he does not intend to appeal against, or seek revision of, such order, or, as the case may be, that the said order has been confirmed on appeal or revision under the said Act: Provided further that in case any certificate is granted under the said Act in respect of any film after the

refund under the preceding proviso of the duty paid in respect thereof, the producer shall be liable to repay, within a period of seven days from the date of grant of such certificate, to the Central Government the duty so refunded.

(2) Simple interest shall be payable at the rate of twelve per cent. per annum,--

(a) by the Central Government on the amount of duty in relation to any film refunded by it under the first proviso to sub- section (1), from the date of the payment of such duty till the date of such refund;

(b) by the producer of a film on any amount of duty refunded to him under the first proviso to sub- section (1) and repaid by him to the Central Government under the second proviso to that subsection, from the date of such refund to the date of such repayment.

5. Crediting proceeds of duty to Consolidated Fund of India.- The proceeds of the duty of excise levied under section 3 shall be credited to the Consolidated Fund of India.

6. Power of Central Government to exempt.- Notwithstanding anything contained in this Act, if the Central Government, having regard to the content of a feature film, its technical quality and other factors, is of opinion that it is necessary so to do, it may, by notification in the Official Gazette and subject to such terms and conditions as may be specified in the said notification, exempt such feature film from all or any of the provisions of this Act.

7. Penalty for non- payment of duty of excise.- If any duty of excise payable by the producer of a feature film to the Central Government under section 4[including any duty of excise which has been refunded but which is required to be repaid to that Government under the second proviso to sub- section

(1) of that section] is not paid to that Government before the date, or, as the case may be, within the period specified therein, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after such inquiry as it deems fit, impose on the producer, a penalty not exceeding fifty rupees for every month during which the duty of excise is in arrears: Provided that before imposing any such penalty, such producer shall be given a reasonable opportunity of being heard and, if after such hearing, the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

8. Recovery of amounts due under the Act.- Any amount due under this Act (including the penalty, if any, payable under section 7) from any producer of a feature film may be recovered by the Central Government in the same manner as an arrear of land revenue.

9. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of the Central Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

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 generality of the foregoing power, such rules may provide for--

(a) the assessment and collection of the duty of excise under section 3;

(b) the authority which may impose any penalty under section 7;

(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.