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PART IV

Regulations, Orders, Notifications and Rules, of the Government of India, of the Government of Bihar, and of the High Court. Papers extracted from the *Gazette of India* and Provincial Gazettes. Orders of Commandants of Volunteers Corps

PUBLISHED UNDER THE AUTHORITY OF THE HIGH COURT OF JUDICATURE AT PATNA

NOTIFICATION

The 18th May 1943

No. 10-S.—In exercise of the power vested in it by section 15 of Act XII of 1887, the High Court is pleased to declare Friday, the 21st May 1943, as a closed holiday for all subordinate Civil Courts in Orissa for the observance of Tunisia Victory Day.

By order of the High Court
H. WHITTAKER
Registrar

COMMERCE AND LABOUR DEPARTMENT NOTIFICATIONS

The 19th May 1943

No. 10396-Com.(C).—The following notifications, issued by the Government of India, Department of Commerce, are republished for general information.

By order of the Governor
W. W. DALZIEL
Secretary to Government

IMPORT TRADE CONTROL

New Delhi, 3rd April 1943

No. 11-I.T.C./43—In exercise of the powers conferred by rule 84 of the Defence of India Rules, the Central Government is pleased to direct—

(1) that the following further amendment shall be made in the notification of the Government of India in the Department of Commerce, No. 25-I.T.C./40, dated the 31st December 1940 (hereinafter referred to as the said notification), namely:—

In the Schedule annexed to the said notification, the following shall be substituted for the existing sub-item (ii) of item (zq), namely:—

“(ii) Insulations falling under items Nos. 73 and 87 of the Tariff Schedule, and ‘Presspahn paper’ falling under item 45 of the Tariff Schedule.”

(2) that the prohibition contained in the said notification shall not apply to ‘Presspahn paper’ covered by a special licence issued under exception (v) or (vi) to the notification of the Government of India in the Department of Commerce, No. 56-I.T.C./41, dated the 23rd August 1941, at any time before this notification comes into effect.

New Delhi, 10th April 1943

No. 12-I.T.C./43—In exercise of the powers conferred by rule 84 of the Defence of India Rules, the Central Government is pleased to direct that the following further amendment shall be made in the notification of the Government of India in the Department of Commerce, No. 25-I.T.C./40, dated the 31st December 1940 (hereinafter referred to as the said notification), namely:—

After the words ‘Emery Grain’ occurring in item (zzj) of the Schedule annexed to the said notification, the following shall be inserted, namely:—

‘Emery cloth, Emery paper’.

2. The prohibition contained in the said notification shall not apply to goods of the above descriptions covered by a special licence issued under exception (v) or (vi) to the notification of the Government of India in the Department of Commerce No. 56-I.T.C./41, dated the 23rd August 1941, at any time before this notification comes into effect.

New Delhi, 24th April 1943

No. 13-I.T.C./43—In exercise of the powers conferred by rule 84 of the Defence of India Rules, the Central Government is pleased to direct—

(1) that with effect from the 1st May 1943, the following further amendment shall be made in the notification of the Government of India in the Department of Commerce, No. 56-I.T.C./41, dated the 23rd August 1941, namely:—

For clause (iii) of the said notification, the following clause shall be substituted, namely:—

"(iii) any goods imported by an individual, either as passenger's baggage or through the post, for the private and personal use of the importer;"

(2) that notwithstanding the above amendment, any goods despatched on through consignment to India as passengers' baggage or by post before the 1st May 1943 may be brought into India provided they are for *bona fide* private use and not for sale.

N. R. PILLAI

Secy. to the Govt. of India

The 22nd May 1943

No. 10576-Com. (C).—The following notification, issued by the Government of India, Department of Commerce, is republished for general information.

By order of the Governor
W. W. DALZIEL

Secretary to Government

(COMPANY LAW)

New Delhi, 8th May 1943

No. 23(47)-Tr.(C.L.)/42—In exercise of the powers conferred by sub-section (3) of section 2 of the Registration of Transferred Companies Ordinance, 1942 (Ordinance No. LIV of 1942), the Central Government is pleased to direct that the following amendments shall be made in the Registration of Transferred Companies Rules, 1943, namely:—

In rule 4 of the said Rules, after clause (iii), the following clauses shall be inserted, namely:—

(ix) a list of all persons who are members of the company with their names, addresses and occupations and the number of shares held by each member;

(x) if the company is to be registered as a limited company, a statement specifying:—

(a) the authorised share capital of the company and the number of shares into which it is divided or the amount of stock of which it consists;

(b) the number of shares taken and the amount paid on each share;

(xi) a statement showing the total amount outstanding in respect of all charges affecting the property of the company;

The 20th May 1943

No. 762—IS-9/42-Com.—The following notification, issued by the Government of India, Department of Commerce, is republished for general information.

By order of the Governor
W. W. DALZIEL

Secretary to Government

M. S. (WAR)

Simla, 25th September 1940

No. 160-MI-W(3)/40—The notification of the Government of India in the Department of Commerce No. 160-MI-W(3)/40, dated the 19th September 1940, is hereby cancelled.

H. C. PRIOR

Secretary to Govt. of India

HOME DEPARTMENT NOTIFICATIONS.

The 19th May 1943

No. 10405-A.(C).—The following notification, issued by the Government of India in the Legislative Department, is republished for general information.

By order of the Governor
J. BOWSTEAD

Chief Secretary to Government

New Delhi, 14th April 1943

No. F.42/43-C. and G.—The following notification by His Excellency the Viceroy and Governor-General, dated the 13th April 1943, is published for general information:—

"In exercise of the powers conferred by sub-section (2) of section 63-D of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, I, Victor Alexander John, Marquess of Linlithgow, hereby prorogue the session of the Council of State.

LINLITHGOW

Viceroy and Governor-General

The 13th April 1943

G. H. SPENCE

Secretary to Govt. of India

The 24th May 1943

No. 1586-C.—The following notification by the Government of Bombay is republished for general information.

By order of the Governor
J. BOWSTEAD

Chief Secretary to Government

HOME DEPARTMENT (POLITICAL)

Bombay Castle, 4th May 1943

Section 99-A, Criminal Procedure Code, V of 1898.

No. 825-Poll.—In exercise of the powers conferred by section 99-A of the Code of Criminal Procedure, 1898, read with section 4 of the Indian States (Protection Against Disaffection) Act, 1922, the Government of Bombay is pleased to declare all copies, wherever found, of the book in English entitled 'Progressive Jodhpur Under British Prime Minister Sir Donald Field', written and published by Mr. Kanhaiyalal D. Vaidya, Member, Standing Committee, All-India States' Peoples' Conference, 138, Meadows Street, Fort, Bombay, and printed by Mr. Rampratap Shukla at the Vidyalaya Press, 23, Hamam Street, Fort Bombay, and all other documents containing copies, reprints, translations of or extracts from the said book, to be forfeited to His Majesty, on the ground that the said book contains matter the publication of which is punishable under section 3 of the Indian States (Protection Against Disaffection) Act, 1922.

By order of the Governor of Bombay

D. SYMINGTON

Secretary

LAW DEPARTMENT
NOTIFICATION*The 27th May 1943*

No. 10931—Misc. (C.)-25/42-L. (C).—The following Ordinances, promulgated by the Governor General, are re-published for general information.

By order of the Governor
W. W. DALZIEL
Secretary to Government

New Delhi, 17th May 1943

ORDINANCE No. XVI of 1943

AN
ORDINANCE

to make certain provisions in connection with the tax on excess profits

WHEREAS an emergency has arisen which renders it necessary to make certain provisions in connection with the tax on excess profits;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement*—(1) This Ordinance may be called the Excess Profits Tax Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Deposits in connection with payments of excess profits tax*—(1) When excess profits tax charged under the provisions of the Excess Profits Tax Act, 1940 (XV of 1940), in respect of any chargeable accounting period ending after the 31st day of December, 1942, becomes payable under that Act after assessment made under section 14 of that Act, the person liable to pay such excess profits tax shall deposit with the Central Government, before such date as may be specified in a notice in this behalf in such form as may be prescribed by rules made under sub-section (5) issued to him by the Excess Profits Tax Officer, a further sum equal to one-fifth of the amount of the said excess profits tax; and the provisions of section 10 of the Indian Finance Act, 1942 (XII of 1942), shall, save in so far as they are inconsistent with this section, apply in respect of such deposits as they apply in respect of the voluntary deposits for which provision is made in the said section 10.

(2) The provisions of sub-section (1) of section 10 of the Indian Finance Act, 1942 (XII of 1942), in so far as they enable the making of voluntary deposits, shall cease to have effect except in relation to excess profits tax charged in respect of a chargeable accounting period ending on the 31st day of December, 1942, or earlier.

(3) Any further sum such as is referred to in sub-section (1) deposited in accordance with that sub-section shall be repaid by the Central Government within twelve

months of the date of termination of the present hostilities or within twenty-four months of the date on which the deposit was made, whichever is later.

(4) The provisions of law applicable to the payment and recovery of excess profits tax contained in sections 45 and 46 [except sub-sections (1) and (1A) thereof] of the Indian Income-tax Act, 1922 (XI of 1922), as applied by section 21 of the Excess Profits Tax Act, 1940 (XV of 1940), shall apply to the payment and recovery of the deposits required by sub-section (1) of this section as if the notice referred to in sub-section (1) of this section were a notice of demand under section 29 of the Indian Income-tax Act, 1922 (XI of 1922), and as if a default in making payment of such deposit were a default in making payment of excess profits tax.

(5) The power to make rules for carrying out the purposes of section 10 of the Indian Finance Act, 1942 (XII of 1942), conferred by sub-section (3) of that section shall include a power to make rules for carrying out the purposes of this section.

3. *Insertion of new section 14A in Act XV of 1940*—After section 14 of the Excess Profits Tax Act, 1940 (XV of 1940), the following section shall be inserted, namely:—

“14A. *Power to make provisional assessments*—(1) The Excess Profits Tax Officer, before proceeding to make an assessment (in this section referred to as the regular assessment) under section 14, may, at any time after the expiry of the period specified in the notice issued under sub-section (1) of section 13 as that within which the return therein referred to is to be furnished, and whether the return has or has not been furnished, proceed to make in summary manner a provisional assessment of the amount by which the profits of the chargeable accounting period exceed the standard profits, and the amount of excess profits tax payable thereon.

(2) Before making such provisional assessment the Excess Profits Tax Officer shall give notice in the prescribed form to the person on whom assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Excess Profits Tax Officer at any time within fourteen days of receipt of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of one month from the date of service of the notice referred to in sub-section (2), or earlier if the assessee agrees to the proposed assessment, the Excess Profits Tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of assessment to the assessee:

Provided that assent to the amount of the assessment, or failure to make objection to it, shall, in no way, prejudice the assessee in relation to the regular assessment.

(4) In making any such provisional assessment the Excess Profits Tax Officer shall make allowances for any deficiencies of profits for previous chargeable accounting periods which are under the provisions of section 7 to be set off against the excess profits of the chargeable accounting period in respect of which the assessment is being made :

Provided that where such deficiencies of profits have not been determined under sub-section (7) of section 14 the Excess Profits Tax Officer shall estimate the amount thereof to the best of his judgment.

(5) There shall be no right of appeal against a provisional assessment made under this section, and it shall, until a regular assessment is made in due course under section 14, determine the amount of excess profits tax due from the assessee.

(6) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to exceed that determined as payable by the provisional assessment, it shall be reduced by the amount determined as payable by the provisional assessment.

(7) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to be less than that determined as payable by the provisional assessment, any excess of tax paid as a result of the provisional assessment shall be refunded to the assessee together with interest at 5 per cent per annum calculated from the date of payment of such excess tax to the date of the order of refund, both days inclusive."

4. *Amendment of rule 12, Schedule I, Act XV of 1940*—In the First Schedule to the Excess Profits Tax Act, 1940 (XV of 1940), to rule 12 the following sub-rule shall be added, namely :—

"(3) In relation to chargeable accounting periods ending after the 31st day of December, 1942, the Central Government may make rules for determining the extent to which deductions shall be allowed in respect of bonuses or commissions paid."

5. *Amendment of rule 3, Schedule II, Act XV of 1940*—In the Second Schedule to the Excess Profits Tax Act, 1940 (XV of 1940), rule 3 shall be re-numbered as sub-rule (1) of rule 3 and—

(a) in the rule as so re-numbered after the words "any moneys" the words "or as regards any chargeable

accounting period ending after the 31st day of December, 1942, any trading stock or stock of raw materials" shall be inserted ;

(b) the following shall be added as sub-rule (2), namely :—

"(2) The Central Government may make rules defining for the purposes of this rule the principles to be followed in leaving out of account trading stock and stocks of raw materials."

LINLITHGOW

Viceroy and Governor General

New Delhi, 20th May 1943

ORDINANCE No. XVII of 1943

AN

ORDINANCE

to provide for the exercise of powers of command over forces of the Royal Indian Navy by Viceroy's commissioned officers when seconded or posted thereto.

WHEREAS an emergency has arisen which makes necessary to provide for the exercise of powers of command over forces of the Royal Indian Navy by Viceroy's commissioned officers when seconded or posted thereto ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement*—(1) This Ordinance may be called the Royal Indian Navy (Powers of Command) Ordinance, 1943.

(2) It shall come into force at once.

2. *Powers of Viceroy's commissioned officers when seconded or posted to forces of the Royal Indian Navy*—Where a Viceroy's commissioned officer subject to the Indian Army Act, 1911 (VIII of 1911), is seconded or posted to the Landing Craft Wing of His Majesty's Royal Indian Navy, then for the purposes of command and discipline and for the purposes of the provisions of the Navy Discipline Act, as set out in the Schedule to the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934), relating to superior officers, he shall, in relation to forces forming part of the Landing Craft Wing, be treated, and may exercise all such powers (other than powers of punishment) as if he were a naval officer of the rank of Midshipman.

LINLITHGOW

Viceroy and Governor General