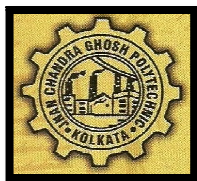


Medicinal and Toilet Preparations **(EXCISE DUTIES) Act 1955**



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➤ **Title:**

- An Act to provide for the levy and collection of duties of excise on medicinal and toilet preparations containing alcohol.
- The Act may be called the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.
- It extends to the whole of India and came into force on 27th April 1955.

➤ **Objectives:**

- To provide for the collection of levy and duties of excise on medicinal and toilet preparations containing alcohol, narcotic drugs or narcotics.
- To provide for uniformity in rules and rates of Excise duties leviable on such preparation throughout the country.

➤ **Some definitions under this Act:**

- **Alcohol:** "alcohol" means ethyl alcohol of any strength and purity having the chemical composition C_2H_5OH .
- **Coca derivatives:** It means:
 - i. crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;
 - ii. ecgonine, that is, laevo-ecgonine having the chemical formula $C_9H_{15}NO_3 \cdot H_2O$, and all the derivatives of laevo-ecgonine from which it can be recovered; and
 - iii. cocaine, that is, methyl-benzoyl-laevo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$, and its salts;
- **Coca Leaf:** It means:
 - i. the leaf and young twigs of any coca plant, that is, of the *Erythroxylon coca* (Lamk.) and the *Erythroxylon novogranatense* (Hiern.) and their varieties, and of any other species of this genus which the Central Government may, by notification in the Official Gazette, declare to be coca plants for the purposes of this Act; and



- ii. any mixture thereof, with or without neutral materials.
- **Opium derivatives:** It means:
 - i. medicinal opium, that is, opium which has under-gone the processes necessary to adapt it for medicinal use;
 - ii. prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;
 - iii. morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$, and its salts, and its derivatives;
- **Dutiable goods:**
 - It means the medicinal and toilet preparations specified in the Schedule as being subject to the duties of excise levied under this Act.
- **Excise Officer:**
 - It means an officer of the Excise Department of any State and includes any person empowered by the collecting Government to exercise all or any of the powers of an excise officer under this Act:
- **Indian hemp:** It means:
 - the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa* L.), including all forms known as bhang, siddhi or ganja;
 - charas, that is, the resin obtained from the Indian hemp plant which has not been submitted to any manipulations other than those necessary for packing and transport;
 - any mixture, with or without neutral materials, of any of the above forms of Indian hemp or any drink prepared therefrom; and
 - any extract or tincture of any of the above forms of Indian hemp.



- **Manufacture:** It includes any process incidental or ancillary to the completion of the manufacture of any dutiable goods.
- **Medicinal preparation:** It includes all drugs which are a remedy or prescription prepared for internal or external use of human beings or animals and all substances intended to be used for or in the treatment, mitigation or prevention of disease in human beings or animals.
- **Narcotic drug:** "narcotic drug" or "narcotic" means a substance which is coca leaf, or coca derivative, or opium, or derivative of opium, or Indian hemp and shall include any other substance, capable of causing or producing in human beings dependence, tolerance and withdrawal syndromes and which the Central Government may, by notification in the Official Gazette, declare to be a narcotic drug or narcotic.
- **Opium:** It means:
 - the capsules of the poppy (*Papaver somniferum* (L)), whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom;
 - the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and
 - any mixture, with or without neutral materials, of any of the above forms of opium, and includes any derivative of opium.
- **Toilet preparation:** means any preparation which is intended for use in the toilet of the human body or in perfuming apparel of any description, or any substance intended to cleanse, improve or alter the complexion, skin, hair or teeth, and includes deodorants and perfumes.



➤ **Licensing:**

- Manufacturing of alcoholic and narcotic preparations can only be undertaken under the authority of a license granted for the purpose and such a license is issued only if the requisite license

for the manufacture of drugs under Drugs and Cosmetics Act and Rules has been first obtained.

- Application for the license or for its renewal is to be made to Licensing authority who is the excise commission in the case of a bonded manufactory or warehouse and in other cases, such officer as the Government may authorize in this behalf.
- The applicant for the license should submitted in the prescribed form accompanied with the prescribed fee, at least two months from the proposed date of commencement of manufacture.
- Name and address of the applicant and place and site on which the manufactory is situated is to be constructed. If the firm, and if it be a company, its registered name and address, and the names and address of its directors, managers and managing agents.
- The amount of the capital proposed to be invested in the venture.
- Approximately date from which the applicant desires to commence the manufactory and statement whether the bonded laboratory will require the services of an whole time or a part time excise officer and whether quarters for the excise staff will be provided within the manufactory or its vicinity.
- The number and full description vats, still and other permanent apparatus and the machine which the applicant wishes to get up together with the maximum quantity of the alcohol at alcohol content in the finished preparation and the maximum quantities by weight of opium, Indian hemp or other narcotic drugs or narcotic and their contents in finished and unfinished preparations.
- The site and elevation plants of the manufactory building and also similar plants for the quantity of the Excise Officer together with relevant records.
- The amount in cash or Government promissory notes which the applicant is prepared furnish for the due performance of the conditions on which the license may be granted.



- The kind and number of each license under the Drug and Cosmetics Act held by the applicant.
- A list of all preparations which the applicant proposes to manufacture and / or those manufacture during the preceding year showing the percentage or proportion of alcohol in alcoholic preparations or opium, Indian hemp or other narcotic drugs in terms of weight in proportion containing those substance, quoting the Pharmacopoeia under which such preparations were proposed to be manufactured.

➤ **Manufacture:**

- The manufacture of alcoholic and other narcotic drugs can be undertaken only under the authority of a license granted for the purpose.
- Such license is issued only when the requisite license for the manufacture of drugs under the Drugs and Cosmetics Act has been obtained.
- The license can't be transferred or sold and has to be exhibited in a conspicuous part of the licensed premises. Manufacture of medicinal and toilet preparations containing alcohol is permitted both 'in bond' and 'outside bond'.

➤ **Manufacture in bonded laboratories:**

- The license is issued from the office of the Excise Commissioner of the state for alcohol. Application should be made two months in advance prior to date of manufacturing along with requisite fee as indicated. The application should include:
- Name, addresses and site of bonded laboratory if it is a firm name and address of every partner of the firm: if it is a company its registered name, address of the managing director and directors.



- Number and description of apparatus, machinery, still and maximum amount of alcohol to remain at one time.
- Approximate date of starting manufacturing; requirement of excise officer, either whole time or part time.
- List of preparations containing alcohol; license number issued by licensing authority DCA.
- Elevation plan, plan of different rooms, details of doors and windows, and quarters for excise staff are to be provided.
- In case of firm, partnership deal and in case companies, list of association and latest balanced sheet of the company.

➤ **Structures of the bonded manufactory:**

- A separate plain spirit store is required to be provided in the bonded premises.
- There should be only one entrance to the laboratory, only one door for each of its compartments, a separate room for manufacturing of medicinal preparations, one or more room for storage, a separate room for manufacturing of toilet preparations and their storage, a room for excise officer in charge near the entrance with furniture.
- The bonded laboratory should be opened and closed in presence of excise officer in charge and secured with excise thick locks.
- Every window in the bonded laboratory should be provided with iron rods not less than 19 mm in thickness set apart at a distance not more than 102mm.
- The iron rods should be embodied in brick construction to a depth of 51mm at each end.
- The windows should be covered from inside with strong wire netting, the aperture of which should not exceed 25mm in diameter.
- Each room in bonded laboratory should be connected to closed drainage ultimately, forming part of general drainage system.



- The gas and electric supply should be arranged in such a way that they are cut off at the end of the day's work from one place.
- All the regulators or switches should be securely locked.
- Permanent vessels in bonded laboratory should bear the serial number and statement of full capacity of the vessel.
- The spirit should be obtained from the spirit warehouse approved by the Excise Commissioner.
- The indent should be sent in duplicate in prescribed form countersigned by the officer in charge of the laboratory.
- Alcohol is issued in duly sealed containers and under intimation to the excise officer concerned.
- No wages during transshipment is permissible and for any loss due to negligence of the manufacturer, excise duty has to be paid.

➤ **Verification and storage of alcohol:**

- On its arrival in bonded laboratory, alcohol is measured in volume and strength.
- Entries are made in register and stored in spirit store room under excise lock with perfect coordination between excise officer in charge and officer of manufacturing unit.
- The alcohol is issued from spirit store from time to time in accordance with the procedure laid down under Rules.

➤ **Issue of Alcohol from store:**

- The manufacturer should calculate requirement of alcohol and hand it over to the excise officer.
- All ingredients should be kept ready and on receipt of alcohol, the solvent should be mixed immediately in presence of excise officer.
- The percolators or other vessels containing alcohol during the process of manufacturing and storage should be labeled with



the name of the product, batch number, description, quantity of alcohol used, date of manufacture and quantity of preparation removed.

- The preparation should be immediately removed to the store, measured and stored in vessels provided, entered in register and given a batch number.

➤ **Issue from Bonded Laboratories:**

- The manufacture makes application to excise officer and pays excise duty or it can be adjusted against any advance duty paid by him. Only on payment of calculated duty, the goods containing alcohol and narcotic drugs are permitted to be taken out of bonded laboratory by the excise officer.

Exemptions:

The preparations supplied to Government hospitals, dispensaries and charitable hospitals, and institutions which supply medicines to poor as certified by the district medical officer are exempted from payment of excise duties.



➤ **Penalties:**

- For contravention of provisions of the Act or evasion of excise duties or failure to supply required information, the punishment is imprisonment for six months with or without fine.
- The court may order seizure of dutiable goods and handing it over to the Government.
- The owner of the land should inform the magistrate, excise officer or police or land revenue officer of any illegal manufacturing taking place in his/her place, otherwise, he/she is liable for imprisonment up to six months with or without fine.

- Any officer without reasonable ground detaining the goods with an intention of harassment or torture may be fined up to rupees two thousand.
- Any officer who refuses to perform duties unless he has obtained permission to withdraw shall be punishable with three months imprisonment with or without fine.
- The Central Government may order that from a specified date no person shall engage in production of dutiable goods or part there of.
- Any officer authorized by the excise commission shall have free access at all reasonable times to any licensed premises for thorough inspection.
- If obstructed to discharge of duties of the officer, there is provision for penalty of rupees five hundred.
- Any authorized excise officer may arrest any person whom he/she has reason to believe that the person has violated provision of the Act and is liable to be punished under the Act.

➤ **Ayurvedic and Homeopathic preparations:**

- Ayurvedic preparations are of two types: 1. Shelf generated alcohol containing preparations like Asavas and 2. Aristas, prepared by distillation or addition of alcohol.
- Self generated preparation containing alcohol were earlier exempted from excise duty. However now all such preparations are chargeable with 4% ad valorem excise duty. Those with more than 2% self generated alcohol and being capable of consumed as a beverage are charged duty of 4% ad valorem. Ayurvedic preparations are exempted for license from excise authorities if the samples are being used for their own patients. However the excise officer should to take the sample , if required.
- For Homeopathic preparations capable of consumption as ordinary alcoholic beverages, the excise duty of 4% ad valorem is required to be paid.



➤ **Manufacturing outside Bond (Non-Bonded Manufactory):**

- The manufacturing and sale operations are restricted only between sunrise and sunset and days and hours as fixed by the Excise Commissioner. Essential requirements of manufactory are:
 - i. Separate laboratory spirit store and finished store.
 - ii. Only one entrance to non-bonded manufactory and one door each to laboratory, spirit store and finished store.
 - iii. The iron bars in windows should be not less than 19mm in thickness, set not more than 102 mm apart and fixed in brick construction to the depth of not less than 51 mm. The aperture of wire netting to the window should not exceed 25 mm in diameter.
 - iv. A separate spirit store for rectified spirit purchased at the specified duty.
 - v. All pipes from wash basins and sinks are connected to closed drainage forming part of general drainage system.
 - vi. All electric and gas connections should be well secured with one cut off switch.
- The State Government may relax conditions of requirements of infrastructure if alcohol consumption is less.
- Alcohol is produced by the manufacturer after payment of excise duty.
- The form for payment of duty is filled up in triplicate, one copy is to be given to spirit warehouse keeper, second to officer in charge and third to be retained by the licensee.
- The duty for alcohol purchased to be paid to Government treasury and challan enclosed.
- Thereafter the treasury officer sends an advice to officer in charge. Sealed containers are required to be used for procurement and storage of alcohol.
- The alcohol purchased can not be resold. Manufacturing, storage and sale of preparations should be carried out only in



licensed premises. Batch number should be given and separate finished store is provided for alcoholic products.

- All necessary entries of operations carried out are maintained in stock register and the same should be made available for inspection by the excise officer and drug control authority. Excise officer may take up to 10% of the preparations for analysis and the same is sent to the chemical examiner. If the chemical examiner of government gives the report that alcohol content is more than what is claimed, the penalty charged is 10 times or maximum of Rs. 2000/- per batch. If this is frequently done by the manufacturer, license may be withdrawn.

