



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

The Goa (Prohibition of Further Payments and Recovery of Rebate Benefits) Bill, 2002

(Bill No. 11 of 2002)

^{AS}
~~To~~ be introduced in the Legislative Assembly of the State of Goa)

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM - GOA
JANUARY, 2002

**The Goa (Prohibition of Further Payments
and Recovery of Rebate Benefits)
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BILL

to provide for the prohibition of further payments to and recovery of benefits availed, by certain consumers as 25% rebate under the Indian Electricity Act, 1910 (Central Act 9 of 1910).

Whereas the Government had vide a Notification No. 3/24/90-IND-Part (I) dated 30/9/1991, published in the Official Gazette, Series I No. 27 dated 3/10/1991, issued under Section 23 read with Section 51 -A of the Indian Electricity Act, 1910 (Central Act 9 of 1910), directed that all industrial Units who apply for availing High Tension or Low Tension power supply on or after the 1st October, 1991, for bonafide industrial activities and certified by the Industries Department, Government of Goa as eligible for concessional tariffs, shall be entitled for a rebate of 25% in the tariffs chargeable under the Government Notification No. 2/20/1986-PS L&D dated 27/6/1988, published in the Official Gazette, Series I , No. 12, dated 28/6/1988 ,for a period of five years from the date on which the supply of electricity is made available to such units;

And whereas subsequently, the Government vide Notification No. 2/23/93-Power dated 15/5/1996 and No. 2/23/1993/Power, dated 1/8/1996,

published in the Official Gazette, Series I No. II dated 13/6/1996 and the Official Gazette, Series I No. 18 dated 2/8/1996 respectively, first amended and then superceded the aforesaid Notification dated 30/9/1991 thereby enlarging the scope of the said Notification dated 30/9/1991, even though the said Notification dated 30/9/1991 was already rescinded vide Notification No. 2/23/93-Power, dated 31/3/1995, published in the Official Gazette, Series I, No. 62, dated 31/3/1995.

And whereas the legality, validity and the propriety of the said two Government Notifications dated 15/5/1996 and dated 1/8/1996, issued in respect of 25% rebate to be granted to the Low Tension, High Tension and Extra High Tension industrial consumers, was brought in question in Writ Petition No. 316 of 1998 filed in the Hon'ble High Court of Bombay at Goa ;

And whereas the Hon' High Court Bombay at Goa vide its Oral Judgement dated April, 19, 23 and 24, 2001, delivered in the said Writ Petition No. 316 of 1998, held that the said Notifications dated 15/5/1996 and 1/8/1996 cannot be termed as Government decisions on account of non - compliance of the Rules of Business framed under Article 166(3) of the Constitution of India and, that therefore, these decisions are non est and void ab initio and that the consequential actions based on these Notifications are null and void;

And whereas certain consumers had availed of the benefits of rebate under the said Notifications dated 15/5/1996 and 1/8/1996;

And whereas it is deemed expedient to prohibit any further payments under the said Notifications dated 15/5/1996 and 1/8/1996 and to recover the benefits already availed of by certain consumers as 25% rebate in terms of the said Notifications.

BE it enacted by the Legislative Assembly of Goa in the Fifty-second Year of the Republic of India as follows:—

1. *Short title and commencement*:— (1) This Act may be called the Goa (Prohibition of Further Payments and Recovery of Rebate Benefits) Act, 2002.

(2) It shall come into force at once.

2. *Prohibition of further payments*.— Notwithstanding anything contained in the Indian Electricity Act, 1910 (Central Act 9 of 1910) or in any law for the time being in force or in any order, Notification, instrument, electricity tariff bill or in any Decree, order or Judgement of any Court, no industrial consumers or any person in the State of Goa, including low tension, high tension or extra high tension, shall be entitled to receive, claim, demand or sue for the payment of any amount towards 25% rebate in the Electricity Tariff in terms of the Government Notification No 2/23/93-Power dated 15/5/1996, published in the Official Gazette, Series I No. II dated 13/6/98 and the Government Notification No. 2/23/93-Power dated 1/8/1996, published in the Official Gazette, Series I No. 18 dated 2/8/96.

3. *Recovery of rebate benefits*.— Any person or any industrial consumer in the State of Goa

who has already availed of the benefits of 25% rebate in pursuance of the Government Notifications dated 15/5/1996 and 1/8/1996 referred to in section 27 shall be liable to refund to the Chief Electrical Engineer, Govt. of Goa in such manner and within such time as may be notified by the Govt. the amount equivalent to the benefit of 25% rebate accrued to it:

4. *Liabilities and Payments.*— On and from the date of coming into force of this Act, liabilities, if any accruing to the State Government or payment, if any, to be made by the State Government, on account of the Government Notification dated 15/5/1996 and 1/8/1996 referred to in section, 2, shall cease to exist and to be deemed to have been extinguished.

5. *Consequences on non-refund;*— All industrial consumers specified in section 2 and who fail to comply with the provisions of said section 2 within the stipulated period, shall be liable to pay interest on the sum due @ 18% per annum from the date of expiry of the period specified in section 2, till full refund is effected.

6. *Recovery of rebate amount and interest:*— On failure of any industrial unit to refund the amount under the provision of section 2 and or to pay the interest specified in section 3, the same shall be recovered as arrears of Land Revenue under the Law for the time being in force.

7. *Power to make Rules:*— The Government may, by Notification in the Official Gazette, make

rules for carrying to effect the provisions of this Act.

8. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of 2 years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

9. *Power to exempt :*— Notwithstanding anything contained in this Act, the Government may, for reasons to be recorded in writing and in public interest, exempt such class of consumers as it thinks fit, from refunding to the Government the amount referred to in section 2.

Statements of Objects and Reasons

The Hon' High Court Bombay at Goa vide its Oral Judgement dated April, 19, 23 and 24, 2001, delivered in the said Writ Petition No.316 of 1998, held that the said Notifications dated 15/5/1996 and 1/8/1996 cannot be termed as Government decisions on account of non-compliance of the Rules of Business framed under Article 166(3) of the Constitution of India and, that therefore, these decisions are non est and void ab initio and that the consequential actions based on these Notifications are null and void. The Government has therefore deemed it expedient to prohibit any further payments under the said Notification dated 15/5/1996 and 1/8/1996 and to recover the benefits already availed of by certain consumers as 25% rebate in terms of the said Notifications. This Bill seeks to prohibit further payments under the said Notification i. e. no industrial consumer or any person in the State of Goa, including low tension, high tension or extra high tension, shall be entitled to receive, claim, demand or sue for the payment if any amount towards 25% rebate in the Electricity Tariff in terms of the said Notification. Further any person or any industrial consumer in the State of Goa who has already availed of the benefits of 25% rebate in pursuance of the said Notifications, shall be liable to refund to the Chief Electrical Engineer the amount equivalent to the benefit of 25% rebate accrued to it, except in such cases where the Government may for reasons to be recorded in writing and in public interest, exempt such class of consumers as it thinks fit, from refunding to the Government such amount.

This Bill seeks to achieve the above objects.

Panaji-Goa
14 January, 2002

DIGAMBAR KAMAT
Minister for Power

Financial Memorandum

The Government expects to recover around Rupees thirteen to fourteen crores of rebate already paid, and further to stop payments of around Rupees thirty six to thirty seven crores of rebate by this Bill.

Memorandum Regarding Delegated Legislation

The provisions of this Bill empower the Government to prohibit further payments of rebate to industrial consumers in terms of Notifications dated 15/5/1996 and 1/8/1996, as well as to recover such amounts paid to industrial consumers in terms of those Notifications.

This delegation is of normal character.

Assembly Hall
Porvorim - Goa
14 January, 2002

R. KOTHANDARAMAN
Secretary (Legislature)

Governors recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, Mohd. Fazal, Governor of Goa hereby recommend to the Legislative Assembly of Goa the introduction and consideration of the Goa (Prohibition of Further Payments and Recovery of Rebate Benefits) Bill, 2002