

## Chapter - 12

# THE JUTE PACKAGING MATERIALS (COMPULSORY USE IN PACKING COMMODITIES) ACT, 1987

The Jute Packaging Materials (Compulsory Use in Packing Commodities) Act, 1987 (hereinafter referred as the “Act”) has been passed to deal with jute packaging of materials after taking a due note of the recent developments in scientific investigation recommending use of jute packaging in preference to other synthetic materials because of its being biodegradable and environment friendly. The use of synthetic materials for packaging is being universally discouraged because of their containing harmful substances and being non-biodegradable. The Act, besides providing for jute packaging, seeks to protect the interests of the persons engaged in raw jute production and the jute industry. It does not make the packing in jute packaging materials compulsory for all commodities or classes of commodities or their entire production. But, this is an enabling legislation and under it jute material packaging can be made compulsory, in certain commodities, for distribution or supply. Before issuing any such notified order by the central government, the procedure laid down by the Act has to be followed. The Act prescribes certain penalties for any contravention of the said notified orders. Provisions have been made in the Act regarding “search and seizure” of any objectionable articles or things for effective enforcement of its objectives.

The Act, therefor, empowers the central government to order, in the interest of persons engaged in the production of raw jute and jute packaging materials, the compulsory use of jute packaging in the supply and distribution of certain commodities. Thereby the Act also protects the interests of consumers because jute packaging is scientifically safer.

### **I. Specification of the Commodities**

Under the Act “commodity” means any essential commodity and any article manufactured or produced by any scheduled industry.<sup>1</sup> The expression “essential commodity” has the same meaning as in the Essential Commodities Act, 1955.<sup>2</sup> Jute packaging material means jute, jute yarn, jute

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1. The Jute Packaging Materials (Compulsory Use in Packing Commodities) Act, 1987, sec. 2(a); “scheduled industry” means any industry scheduled under the Industries (Development and Regulation) Act 1951.

2. *Id.*, sec. 2(b). See above Chapter 3, p. 37.

twine, jute sacking cloth, hessian cloth, jute bags or any other packaging material containing not less than seventy five percent of jute by weight.<sup>3</sup>

Section 3 of the Act has empowered the central government to specify commodities to be packed in jute packaging material in accordance with the prescribed procedure. In order to make any such specifications, the central government should be satisfied about it after taking into consideration the recommendations made to the central government by the standing advisory committee made for this purpose. Any such commodity or class of commodities or a specified percentage thereof, should from the date of enforcement of the order, be packed for the purposes of its supply or distribution in such jute packaging material as ordered.<sup>4</sup> In the absence of the standing advisory committee, that is, if it has not been constituted, the central government should before making any above mentioned order consider itself the relevant matters which the advisory committee would have otherwise considered for the purpose. Any order so made would cease to operate at the expiration of three months from the date on which the standing advisory committee makes its recommendations.<sup>5</sup>

Section 3 further requires that every such order is to be laid, as soon as it is made, before each House of the Parliament. When both the Houses agree in making any modification in the order or agree that the order should not be made, the order would thereafter have effect only in such modified form or be of no effect, as the case may be. Any such modification or annulment can have only prospective effect.<sup>6</sup>

In *Union of India v. Dalmia Cement (Bharat) Ltd. etc.*,<sup>7</sup> the use of jute packages for goods in cement industry had been challenged and stayed by the high courts of Andhra Pradesh, Bombay, Karnataka, Madras and Rajasthan. The Supreme Court vacated the stay on the use of jute packages observing that this has been done in view of the policy involved in the Act. The Act has been enacted in the national interest and in the interest of the industry as a whole. Furthermore, the Act has not been declared as *ultra vires* nor has any portion of it has been struck down so far because of the inbuilt safeguards in the Act itself.

## II. Constitution and Functions of Standing Advisory Committee

As pointed out above, for the purpose of specification of any commodity or class of commodities or percentages thereof to be packed in jute packaging

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3. *Id.*, sec. 2(c).

4. *Id.*, sec. 3(1).

5. *Id.*, sec. 4(2).

6. *Id.*, sec. 3(2).

7. 1988 (3) JT (SC) 1.

material, the central government is obligated to constitute a standing advisory committee consisting of such persons who are having the necessary expertise to give advice in the matter.<sup>8</sup> As regards its functions, the committee, after its constitution, is required to frame its recommendations for the purposes of the Act only after considering the following matters:<sup>9</sup>

- (i) the existing level of usage of jute material;
- (ii) the quantity of raw jute available;
- (iii) the protection of interests of persons engaged in the jute industry and in the production of raw jute;
- (iv) the need for continued maintenance of jute industry;
- (v) the quantity of commodities which, in its opinion, is likely to be required for packing jute material; and
- (vi) such other matters as the committee may think fit.

### III. Enforcement

The Act specifically provides that, where the central government has ordered that any commodity, class of commodities or any percentage thereof should be packed in jute packaging material for their supply or distribution, such commodities should not be, from the specified date, supplied or distributed unless they are packed in accordance with that order.<sup>10</sup> For practical reasons, the Act has made a provision of non-application of any such order with respect to the supply or distribution of any commodity or commodities for a period of three months from the specified date if immediately before that date such commodity or commodities were being packed in any material other than jute packaging material.<sup>11</sup> The purpose of this provision seems to be the clearance of existing stocks of the commodity already packed.

In order to make the jute packing orders effective, the central government is authorized to call any person, required to use jute packaging material for packing, to furnish necessary information and samples with respect to any commodity in his possession which requires such packing. The central government is also authorized to appoint any officer to receive such information and samples. Moreover, it may ask for samples of jute packaging material for inspection by the concerned officer. The place and time period has also to be fixed by the central government for any such action. Any authorized officer can enter, at any reasonable time, the place, premises or vehicle where any such commodity is stored or kept for supply

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8. *Supra* note 4(2).

9. *Ibid.*

10. *Id.*, sec. 5.

11. *Id.*, proviso to sec. 5.

or distribution.<sup>12</sup> If any commodity has been found packed in contravention of the orders of the central government and is hidden in any place, premises or vehicle, the officer concerned should enter into and search such place, premises or vehicle to find out such commodity.<sup>13</sup> Pursuant to such search, the authorised officer may seize the commodity and any other article which may be useful, or relevant to the proceedings under this Act.<sup>14</sup> Where it is not practicable to seize any such commodity or thing, the authorised officer may serve on the person an order requiring him not to remove that commodity or thing and for any such removal he should seek the previous permission of the such officer.<sup>15</sup>

The provisions of the Cr PC relating to search and seizure apply to the possible extent to every search or seizure made under the Act.<sup>16</sup>

#### IV. Cognizance of Offences and Penalties

Every offence punishable under this Act is cognizable.<sup>17</sup> The central government is authorized to give necessary directions to state governments as to the carrying into execution its provisions effectively.<sup>18</sup> The central government may, if it is necessary or expedient in the public interest exempt any person or class of persons from the operation of an order about jute packaging.<sup>19</sup>

Packing any commodity, class of commodities or any percentage thereof in any material, other than jute packaging, in contravention of the orders of the central government is punishable with fine which may extend to an amount equal to double the cost of the jute packaging material.<sup>20</sup> Also any person who has been required by order to furnish any information or sample for the purposes of the Act, but fails to do so or makes any false statement or furnishes any untrue information can be punished with fine which may extend to five thousand rupees.<sup>21</sup>

As in other various enactments, the present Act also provides for the liability of companies for offences thereunder and makes the company as well as person in charge and responsible to the company at the time of commission of the offence for the conduct of the business of the company liable to be proceeded against and punished accordingly.<sup>22</sup> However, such

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12. *Id.*, sec. 7.

13. *Id.*, sec. 8(1).

14. *Id.*, sec. 8(2).

15. *Id.*, proviso to sec. 8(2).

16. *Id.*, sec. 8(3).

17. *Id.*, sec. 12.

18. *Id.*, sec. 14.

19. *Id.*, sec. 16(1).

20. *Id.*, sec. 9.

21. *Id.*, sec. 10.

22. *Id.*, sec. 11.

a person can escape liability if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.<sup>23</sup> If the offence has been committed with the consent, connivance, or neglect on the part of any director, manager, secretary or other officer of the company, such a person would also be deemed to be guilty and liable to be proceeded against and punished.<sup>24</sup>

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23. *Id.*, proviso to sec. 11(1).

24. *Id.*, sec. 11(2).