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OVERRIDING EFFECTS AND RULES : SECTION 24-26

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13.1 *Section 24: Effect of other laws.*

Section 24 deals with the effect of other laws.

13.2 *Section 25 and 26: Amendments suggested.*

Section 25 and 26 deal with rules. Some points may be made regarding a few clauses of section 25(2). Thus, section 25(c) requires minor verbal improvement—the words "to whom", should be replaced by the words "to which". Again, in section 25(2)(d), section 25(2)(f) and section 25(2)(g), the portion relating to samples should be re-worded.¹

Section 26 deals with the laying of rules before Parliament .

13.3 *Environmental Audit Report*

The Government has recently introduced a rule regarding Environmental Audit vide Ministry of Environment notification No 329E, dated 13th March, 1992. The Environment (Protection) Second Amendment Rules, 1992 introduce rule 14, which reads as under:—

"14. *Submission of Environmental Audit Report* :—

Every person carrying on an industry, operation or process requiring consent under section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) or under section 21 of the Air (Prevention and Control Pollution) Act, 1981 (14 of 1981) or both or authorisation under the Hazardous Wastes (Management and Handling) Rules, 1989 issued under the Environment (Protection) Act, 1986 (29 of 1986) shall submit an environmental Audit Report for the financial year ending 31st

1 See discussion relating to Section 11.

March in Form V to concerned State Pollution Control Board on or before the 15th day of May every year, beginning 1993."

Form V has been prescribed for the purpose.

13.4 *Validity doubtful*

It would however, appear, that the rule may not be strictly covered by the rule making section (section 25) in the main Act. While there is a general power to make rules to "carry out the purposes of the Act" and to deal with specific matters as per the provisions of section 25, it is not very certain, if these provisions can authorise the making of rules on such an important matter. It is to be noted that under section 15 of the Act, the penalty for a violation of the rules is severe - imprisonment upto 5 years and fine upto 1 lakh rupees. In the circumstances, it seems desirable that the rule-making section should be amended, so as to insert a specific clause in section 25(2), in the following terms to expressly authorise such a rule.

- "(ii) "The submission of environmental audit report by persons who carry on any industry, operation or process, for the prescribed period, in the prescribed form to the prescribed authority."