

Bill No. 57 of 2011

THE WAREHOUSING CORPORATIONS (AMENDMENT) BILL, 2011

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BILL

further to amend the Warehousing Corporations Act, 1962.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Warehousing Corporations (Amendment) Act, 2011.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

58 of 1962. 5

2. For section 5 of the Warehousing Corporations Act, 1962 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Substitution of new section for section 5.

"5. Notwithstanding anything contained in the Acts mentioned in this section, the shares of the Central Warehousing Corporation shall be deemed to be included among other securities enumerated in section 20 of the Indian Trusts Act, 1882, and also to be approved securities for the purpose of the Insurance Act, 1938 and the Banking Regulation Act, 1949."

Certain shares to be approved securities.

2 of 1882.

4 of 1938. 10

10 of 1949.

Amendment of section 27. **3.** In section 27 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The bonds and debentures of a State Warehousing Corporation may be guaranteed by the appropriate Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the appropriate Government on the recommendation of the board of directors of the State Warehousing Corporation at the time the bonds or debentures are issued." 5

Amendment of section 30. **4.** In section 30 of the principal Act, in sub-section (2), the proviso shall be omitted.

Amendment of section 31. **5.** In section 31 of the principal Act, in sub-section (8), the proviso shall be omitted.

Amendment of section 39. **6.** In section 39 of the principal Act, for the provisos, the following provisos shall be substituted, namely:— 10

"Provided that, in the case of a State Warehousing Corporation, any sum paid by the State Government under any guarantee given in pursuance of sub-section (4) of section 27 shall not be treated as income, profits and gains of the State Warehousing Corporation, and any interest on the debentures or bonds issued by that Corporation out of such sums shall not be treated as expenditure incurred by it: 15

Provided further that in the case of any debenture-holder, such portion of an interest as has been paid out of any such sum advanced by the State Government shall be deemed to be his income from interest on securities declared to be income-tax free within the meaning of section 86 of that Act or any corresponding provision of law for the time being in force." 20

STATEMENT OF OBJECTS AND REASONS

The Warehousing Corporations Act, 1962 was enacted to provide for the incorporation and regulation of corporation for the purpose of warehousing of agricultural produce and certain other commodities as may be notified by the Central Government and for matters connected therewith. The Central Warehousing Corporation established under the said Act is a profit earning Public Sector Enterprise under the administrative control of the Department of Food and Public Distribution and a Mini-Ratna Public Sector Enterprise as declared by the Department of Public Enterprises. One of the essential criteria for award of Mini-Ratna status to a Central Public Sector Enterprise is that no financial support or contingent liability on the part of the Government should be involved in respect of that enterprise and that it should also not depend upon any budgetary support or Government guarantee.

2. The Central Warehousing Corporation has consistently paid dividend to the Government of India since 1957-58. The net worth of the Corporation has been positive from 2003 onwards. The Corporation has not taken any loan from the Central Government. It is also not dependent upon budgetary support of the Government. Moreover, the Government has so far given no other guarantee to the Corporation except for the payment of minimum guaranteed dividend as required under sub-section (1) of section 5 of the Warehousing Corporations Act, 1962. Hence, the said section 5 of the Act is proposed to be suitably revised with consequential changes in sections 27, 30, 31 and 39 thereof. The guarantee referred to in the said sub-section (1) of section 5 would be withdrawn and the Central Government would be absolved of its responsibility of being guarantor.

3. The Bill seeks to achieve the above objects.

K. V. THOMAS.

NEW DELHI;
The 10th August, 2011.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to substitute a new section for section 5 of the Warehousing Corporations Act, 1962 so as to do away with the existing provision relating to the shares of the Central Warehousing Corporation being guaranteed by the Central Government as to the repayment of the principal and the payment of annual dividend. Hence, the Bill does not involve any financial implication. The new section does not envisage any expenditure from the Consolidated Fund of India, either recurring or non-recurring.

ANNEXURE

EXTRACTS FROM THE WAREHOUSING CORPORATIONS ACT, 1962

(58 OF 1962)

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5. (1) The shares of the Central Warehousing Corporation shall be guaranteed by the Central Government as to the repayment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Central Government, by notification published in the Official Gazette, at the time of the issue of the shares.

Shares to be guaranteed by Central Government and to be trusted or approved securities.

(2) Notwithstanding anything contained in the Acts mentioned in this sub-section, the shares of the Central Warehousing Corporation shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and also to be approved securities for the purpose of the Insurance Act, 1938 and the Banking Companies Act, 1949.

2 of 1882.
4 of 1938.
10 of 1949.

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27. (1)* * * * *

(4) The bonds and debentures of a Warehousing Corporation may be guaranteed by the appropriate Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the appropriate Government on the recommendation of the board of directors of the Corporation at the time the bonds or debentures are issued.

Borrowing powers of Warehousing Corporation.

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30. (1)* * * * *

(2) After making provision for bad and doubtful debts, depreciation on assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956, a Warehousing Corporation may, out of its net annual profits, declare a dividend:

Disposal of profits.

1 of 1956.

Provided that for so long as the reserve fund is less than the paid-up share capital of the Central Warehousing Corporation and until there has been repaid to the Central Government such sum, if any, as that Government may have paid under a guarantee given in pursuance of sub-section (1) of section 5 or sub-section (4) of section 27, the rate of such dividend, in the case of the Central Warehousing Corporations, shall not exceed the rate granted by the Central Government under sub-section (1) of section 5.

31. (1) * * * *

(8) Notwithstanding anything hereinbefore contained in this section, the Comptroller and Auditor-General of India may, either of his own motion or on a request received in this behalf from the appropriate Government, undertake in respect of a Warehousing Corporation such audit and at such time as he may consider necessary:

Accounts and audit of Warehousing Corporation.

Provided that where the Central Government is required to make any payment on account of the guarantee given by it under sub-section (1) of section 5, such audit shall be undertaken by the Comptroller and Auditor-General of India or any person authorised by him in this behalf.

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Provisions relating to income-tax and super-tax.

39. For the purposes of the Income-tax Act, 1961, a Warehousing Corporation shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains:

43 of 1961.

Provided that, in the case of the Central Warehousing Corporation, any sum paid by the Central Government under the guarantee given in pursuance of sub-section (1) of section 5 or, in the case of a Warehousing Corporation, any sum paid by the Central or a State Government under any guarantee given in pursuance of sub-section (4) of section 27 shall not be treated as income, profits and gains of a Warehousing Corporation, and any interest on the debentures or bonds issued by that Corporation out of such sums shall not be treated as expenditure incurred by it:

Provided further that in the case of any shareholder or debenture-holder, such portion of a dividend or interest as has been paid out of any such sum advanced by the Central Government shall be deemed to be his income from interest on securities declared to be income-tax-free within the meaning of section 86 of that Act.

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LOK SABHA

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further to amend the Warehousing Corporations Act, 1962.

(Prof. K.V. Thomas, Minister of State for Consumer Affairs, Food and Public Distribution)