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THE ANDHRA PRADESH GAZETTE
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No. 19] AMARAVATI, THURSDAY, 14th NOVEMBER, 2024.

ANDHRA PRADESH BILLS
ANDHRA PRADESH LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Andhra Pradesh Legislative Assembly on 14th November, 2024.

L. A. Bill No. 19 of 2024

A BILL FURTHER TO AMEND THE ANDHRA PRADESH ELECTRICITY DUTY ACT, 1939.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Seventy-Fifth Year of the Republic of India as follows:-

1. (1) This Act may be called the Andhra Pradesh Electricity Duty Short title and commencement,
(Second Amendment) Act, 2024.

(2) It shall be deemed to have come into force with effect on and from the 26th August, 2021.
2. In the Andhra Pradesh Electricity Duty Act, 1939 (hereinafter Amendment of Section 3.
referred to as the principal Act), in section 3, in sub-section (1),-

(i) after the words "consumer categories" and before the words Act No.5 of 1939.
"on and in respect of;" the following words shall be inserted, namely, -

“which shall not be less than 6 paise (₹0.06) per unit of energy and not be more than 100 paise (₹1.00 rupees) per unit of energy”.

(ii) after the existing proviso, the following shall be added, namely,-

“Provided further that in the absence of any rate of duty notified by the State Government for different consumer categories at any given time, a minimum duty of 6 paise (₹0.06) per unit of energy shall be levied.”

Amendment of
Section 7.

3. In the Principal Act, In Section 7,-

(i) for sub-section (1), the following shall be substituted, namely-

“(1) Any licensee may, with the sanction of the State Government—whether granted prior or post facto—and subject to such conditions as may be imposed at any time, recover from any person or class of persons to whom energy is sold at a price of more than [twelve paise] per unit, the duty which falls to be paid by the licensee in respect of the energy so sold or any part of it, as may be determined by the State Government”

(ii) before the existing ‘Explanation’ to sub-section (1), the following proviso shall be inserted, namely,-

Provided that the duty recovered or to be recovered by the licensee from any person or class of persons, for the full amount of duty paid/falls to be paid by the licensee to the State Government, shall always be deemed to have been recovered with the sanction of the state government, which sanction can be granted either before or after any action for recovery.

STATEMENT OF OBJECTS AND REASONS

The Sub-Section (1) of Section 3 of the Andhra Pradesh Electricity Duty Act, 1939 (Act No. 5 of 1939) provided for the levy of electricity duty at the rate of six paise per unit on all sales of electrical energy by the licensee to consumers, other than Railways and the Central Government. The duty at the rate of 6 paise per unit sale had been levied with effect from 01-12-1993 by way of the Andhra Pradesh Electricity Duty (Amendment) Act, 1994 (Act No. 1 of 1994). Since then, the same rate of duty has continued for about 28 years. The Government, considering the substantial gap of 28 years in electricity duty revision, and after duly studying the current rates of levy of duty across other States like Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Himachal Pradesh, Kerala, Manipur, Punjab, West Bengal, and Jammu & Kashmir where the rate of duty varies from 14 paise to 180 paise per unit sale of energy on different categories of consumers, felt it necessary to enhance the duty rates under the Andhra Pradesh Electricity Duty Act, 1939. Further, the term "Licensee" under Sub-Section (b) of Section 2 of the Andhra Pradesh Electricity Duty Act, 1939 was defined in terms of the licensee referable to the Indian Electricity Act, 1910. However, as the said Indian Electricity Act, 1910 stands repealed and replaced by the Electricity Act, 2003, the term "Licensee" required to be redefined in terms of Section 2(39) of the Electricity Act, 2003 (Act No. 36 of 2003) dated 26th May, 2003, which has been in force since 2003.

To achieve the above objectives, the State Legislature has passed the Act No. 10 of 2021 i.e., Andhra Pradesh Electricity Duty (Amendment) Act, 2020. As the said Act was published, pursuant to securing all the mandatory assents, by way of Gazette Notification on 26th August 2021, the same date was intended for the purposes of bringing the Act No. 10 of 2021 into force. However, the terms "appoint" / "appointed date" could not be defined under Section 1 (2) of the said Amendment Act, which provides that "It shall come into force on such date as the State Government may, by notification, appoint," and a separate "notification" could not be issued due to an inadvertent omission. To avoid potential legal complications, the State Legislature passed Act No. 10 of 2024 i.e., Andhra Pradesh Electricity Duty (Amendment) Act, 2024 on March 6th, 2024, which amended the A.P.E.D.

Amendment Act of 2020. This 2024 amendment brought the A.P.E.D. Amendment Act of 2020 into force from the date of its publication in the A.P. Gazette on August 26, 2021.

Further, due to the imminent need to 1) protect all duty recovery actions of the licensees from various persons or classes of persons for the entire extent of the electricity duty collected by the State Government from the licensees, 2) to protect the collection of electricity duty during the period between the date of A.P.E.D. Amendment Act 2020 coming into force, i.e., 26-08-2021, and the duty rates notified vide G.O.Ms.No.7 dated 08-04-2022, and 3) to provide appropriate legislative guidance on the range of duty by way of validating amendments and substitutions to the fiscal statute with retrospective effect, it has been felt necessary to propose amendments to Sections 3(1) and 7(1) of the Andhra Pradesh Electricity Duty Act, 1939 (as amended by Act No. 10 of 2021 and Act No.10 of 2024) (hereinafter referred to as "the Act").

In order to provide legislative guidance for the range of duty rates in the Act itself, a rate of duty between 0.06 rupees (6 paise) per unit (KWH) of energy and 1.00 rupees (100 paise) per unit (KWH) of energy is being provided in Section 3(1) of the Act. Within the range of duty provided, the State Government may decide on the rate to be levied, considering the increase in cost of supply and current consumption year by year, the costs and obligations of developing physical infrastructure, and a variety of dynamic factors with a bearing on the subject which vary from time to time.

In order to avoid further legal complications due to inadvertent drafting errors and to emphasize that the licensees are always recovering the duty from persons or classes of persons for the electricity duty collected by the State Government from the licensees with the sanction of the State Government, the word 'previous' in Section 7 of the Act is proposed to be replaced with 'whether granted prior or post facto' to protect such recovery actions of the licensees in addition to introducing a proviso for that purpose, with the validating amendments and substitutions taking retrospective effect from 26.08.2021.

Further, in order to meet the financial requirements of the State Government, there is an imperative need to augment revenue by tapping all available sources. Therefore, the Government has decided to propose amendments to the existing Sections 3(1) and 7(1) of the Act.

This Bill seeks to give effect to the above decision.

GOTTIPATI RAVI KUMAR,
Minister for Energy.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill authorizes the Government to issue notifications/ orders in respect of matters specified therein and generally to carry out the purposes of the Act and such notifications issued which are intended to cover matters mostly of procedural in nature are to be laid on the Table of the both Houses of the State Legislature and will be subject to any modifications made by the Legislature.

The above provisions of the Bill regarding delegated legislation are thus of normal type and are mainly intended to cover matters of procedure.

GOTTIPATI RAVI KUMAR,
Minister for Energy.

**MEMORANDUM UNDER RULE 95 OF THE RULES OF PROCEDURE
AND CONDUCT OF BUSINESS IN THE ANDHRA PRADESH
LEGISLATIVE ASSEMBLY.**

The Andhra Pradesh Electricity Duty (Second Amendment) Bill, 2024 after it is passed by the Legislature of the State may be submitted to Governor for his assent under Article 200 of the Constitution of India.

GOTTIPATI RAVI KUMAR,
Minister for Energy.

PRASANNA KUMAR SURYADEVARA,
Secretary-General to State Legislature.