

Payment
by the
Central
Govern-
ment to
the Com-
missioner.

16. (1) The Central Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to the Company, an amount equal to the amount specified in section 8 and the amounts payable to the Company under section 9.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account, and the said deposit account shall be operated by the Commissioner.

(3) The interests accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.

Certain
powers
of the
National
Textile
Corpora-
tion.

17. (1) The National Textile Corporation shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to a textile undertaking, realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The National Textile Corporation may make a claim to the Commissioner with regard to every payment made by it as the authorised person in relation to a textile undertaking after the appointed day but before the date on which the Ordinance was promulgated for discharging any liability of the Company in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the authorised person.

(3) Save as otherwise provided in this Act, the liabilities in relation to a textile undertaking in respect of any period prior to the appointed day which have not been discharged by the authorised person shall be the liabilities of the Company.

Explanation.—For the purposes of this section, “authorised person” means the person authorised to take over the management of any textile undertaking in pursuance of the order of the Government of India in the late Ministry of Industrial Development No. S. O. 265 (E), dated the 13th April, 1978, issued under clause (a) of sub-section (1) of section 18AA of the Industries (Development and Regulation) Act, 1951.

65 of 1951.

Claims
to be
made
to the
Commis-
sioner.

18. Every person having a claim against the Company in relation to the textile undertakings with regard to any of the matters specified in the Schedule shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

Priorities
of claims.

19. The claims arising out of matters specified in the Schedule shall have priorities in accordance with the following principles, namely:—

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III and so on;

(b) the claims specified in each of the categories, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order.

Examina-
tion of
claims.

(2) If on examination of the claims against the Company, the Commissioner is of the opinion that the amounts paid to him under this Act for payment to such Company are not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine any claim in respect of such lower category.

21. (1) After examining the claims against the Company with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim.

Admis-
sion or
rejec-
tion of
claims.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and in one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the period specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavit;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(7) A claimant who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court of Allahabad and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

22. (1) After admitting a claim against the Company under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due and on such payment, the liability of the Company in respect of such claim shall stand discharged.

(2) If, out of the moneys paid to him in relation to the textile undertakings, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

23. Any money paid to the Commissioner which remains undischarged or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner before his office is finally wound up, to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

24. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

25. (1) Where any liability of the Company in relation to any textile undertaking arising out of any item specified in Part I of the Schedule is not discharged fully by the Commissioner out of the amounts paid to him under this Act, the Commissioner shall intimate in writing to the Central Government the extent of the liability which remains undischarged and that liability shall be assumed by the Central Government.

45 of 1860
2 of 1974.

Disbursement of money by the Commissioner to claimants.

Undischarged or unclaimed amount to be deposited with the general revenue account.

Act to have overriding effect.

Assumption of liability.

(2) The Central Government may, by order, direct the National Textile Corporation to take over the liability assumed by the Central Government under sub-section (1), and on receipt of such direction, it shall be the duty of that Corporation to discharge such liability.

26. Every contract, entered into by the Company in relation to any textile undertaking which has vested in the National Textile Corporation under sub-section (2) of section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from the expiry of a period of one hundred and eighty days from the date on which the Ordinance was promulgated, cease to have effect unless such contract is, before the expiry of that period, ratified in writing by the National Textile Corporation, and in ratifying such contract, the National Textile Corporation may make such alterations or modifications therein as it may think fit:

Contracts to cease to have effect unless ratified by National Textile Corporation.

Provided that the National Textile Corporation shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the textile undertaking concerned, and

(b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

27. Any person who,—

Penalties.

(a) having in his possession, custody or control any property forming part of any of the textile undertakings, wrongfully withholds such property from the National Textile Corporation; or

(b) wrongfully obtains possession of, or retains any property forming part of any of the textile undertakings; or

(c) wilfully withholds or fails to furnish to the National Textile Corporation or any person or body of persons specified by that Corporation, any document or inventory relating to any of the textile undertakings which may be in his possession, custody or control; or

(d) wilfully fails to deliver to the National Textile Corporation any inventory or property and assets forming part of any of the textile undertakings; or

(e) fails to deliver to the National Textile Corporation or any person or body of persons specified by that Corporation, any assets, books of account, registers or other documents in his possession, custody or control relating to any of the textile undertakings; or

(f) wrongfully removes or destroys any property forming part of any of the textile undertakings or prefers any claim under this Act which he knows or has reason to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to ten thousand rupees.

Offences
by com-
panies.

28. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, 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.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Protec-
tion of
action
taken in
good
faith.

29. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of, or other person authorised by, that Government or the National Textile Corporation or any Subsidiary Textile Corporation or any officer of, or other person authorised by, such Corporation for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any officer of, or other person authorised by, that Government, or the National Textile Corporation or any Subsidiary Textile Corporation or any officer of, or other person authorised by, such Corporation for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Delega-
tion of
powers.

30. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section and sections 31 and 32, may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Power
to make
rules.

31. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the time within which, and the manner in which, an intimation referred to in sub-section (4) of section 4 shall be given;

(b) the manner in which the moneys in any provident fund or other fund, referred to in sub-section (2) of section 13 shall be dealt with;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the Ordinance was promulgated.

33. (1) The Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1986, is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See sections 18, 19, 20(1), 21(1), 22(2) and 25(1)]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

PART I

Category I

Employees' dues on account of unpaid salaries, wages, provident fund, Employees' State Insurance contribution or premiums relating to the Life Insurance Corporation of India and any other amounts due to employees in respect of any period whether before or after the date of taking over of the textile undertakings.

Category II

Secured loans obtained from nationalised banks and public financial institutions, other than the National Textile Corporation, in respect of any period whether before or after the date of taking over of the textile undertakings.

Category III

Any credit availed of for trade or manufacturing purposes during the post-take over management period.

Category IV

Revenue, taxes, cesses, rate or other dues to the Central Government, State Government and local authorities for the period after the date of taking over of the textile undertakings.

PART II

Category V

Revenue, taxes, cesses, rate or other dues to the Central Government, State Government and local authorities or State Electricity Boards for the pre-take over management period.

Category VI

Any credit availed of for trade or manufacturing purposes during the pre-take over management period.

S. RAMAIAH,
Secy. to the Govt. of India.