

THE ALCOCK ASHDOWN COMPANY LIMITED
(ACQUISITION OF UNDERTAKINGS)
ACT, 1973

(No. 56 of 1973)

[14th December, 1973.]

An Act to provide for the acquisition of the undertakings of the Alcock Ashdown Company Limited for the purpose of ensuring rational and co-ordinated development and production of goods essential to the needs of the country in general, and defence department in particular and for matters connected therewith or incidental thereto.

WHEREAS Alcock Ashdown Company Limited were engaged in boat building, ship repairs and the production of marine diesel engines, and were also engaged in the production of goods which are essential to the needs of the country, such as, light and heavy structurals, transmission line towers, railway points and crossings, grey iron castings and also other goods needed by the maritime and other industries;

AND WHEREAS as a result of heavy losses suffered by the company, an order has been made by the High Court at Bombay for the winding up of the company;

AND WHEREAS there has been a complete closure of the work of the undertakings owned by the company from after January, 1971;

AND WHEREAS it is urgently necessary to bring the undertakings owned by the company into operation so that the interests of the country in general, and the defence department in particular, may not be adversely affected by reason of the stoppage of production and supply of goods produced by the company;

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

Short title. 1. This Act may be called the Alcock Ashdown Company, Limited (Acquisition of Undertakings) Act, 1973.

Definitions. 2. In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date on which this Act comes into force;

(b) "company" means the Alcock Ashdown Company Limited, being a company as defined in the Companies Act, 1956, and having its registered office in the State of Maharashtra;

1 of 1956.

(c) "Court" means the High Court at Bombay;

(d) words and expressions used herein and not defined but defined in the Companies Act, 1956, have the meanings respectively assigned to them in that Act.

1 of 1956.

Undertakings of the company to vest in the Central Government.

3. On and from the appointed day, the undertakings of the company shall, by virtue of this Act, be transferred to, and shall vest in, the Central Government.

General effect of vesting.

4. (1) The undertakings of the company shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

In relation to the undertakings

(2) All property included as aforesaid in the undertakings which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other incumbrances affecting it, and any attachment, injunction or any decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any business of the undertakings of the company is pending by or against the company, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the company or of anything contained in this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the company.

4. Ins. by Act 33 of 1974, s. 2 (w.e.f. 14-12-1973).

5. (1) Notwithstanding any decree, judgment or order of any court or anything contained in any other law for the time being in force, the Receiver, Official Liquidator of the company or any other person, in whose possession or custody or under whose control the undertakings of the company or any part thereof may be, shall deliver possession of the undertakings of the company or such part thereof as may be in his possession, custody or control to the Central Government forthwith.

Duty to deliver possession of the undertakings and documents relating thereto.

(2) The Receiver, Official Liquidator or any other person who has, on the appointed day, in his possession or under his custody or control any books, documents or other papers relating to the undertakings of the company which have vested, under section 3, in the Central Government, shall be liable to account for the said books, document or other papers to the Central Government or to such person as the Central Government may specify in this behalf.

(3) The Central Government may take, or cause to be taken, all necessary steps for securing possession of the undertakings which have vested in it under section 3.

6. (1) The company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all the properties and assets of the company, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3.

Duty to furnish particulars.

(2) So much of the obligation of the company under sub-section (1) as relates to the properties and assets of the company in the possession, custody or control of the Receiver shall be discharged by him and so much of that obligation as relates to the properties and assets in the possession, custody or control of the Official Liquidator shall be discharged by the Official Liquidator.

7. (1) The Central Government shall deposit, in cash, in Court, to the credit of the company, an amount equal to the sum of rupees one crore for the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the company.

Payment of amount.

(2) For the avoidance of doubts, it is hereby declared that the liabilities of the company in relation to the undertakings which have vested in the Central Government under section 3, shall be met from the amount referred to in sub-section (1).

(3) In meeting the liabilities of the company in relation to the undertakings which have vested in the Central Government under section 3, the Court shall distribute the amount referred to in sub-section (1) amongst the creditors of the company, whether secured or unsecured, in accordance with their rights and interests, and if there is any surplus left after such distribution, amongst the contributories of the company in accordance with the rights and interests of such contributories.

8. The undertakings, which have vested in the Central Government under section 3, shall be managed on behalf of the Central Government by such person or body of persons (including one or more Government companies, whether in existence at the commencement of this Act or incorporated thereafter) as may be nominated by the Central Government

Management and administration of the undertakings.

in this behalf, and such person or body of persons shall carry on the management in accordance with such regulations as may be made by the Central Government in this behalf.

Penalties.

9. (1) Any person who—

(a) having in his possession, custody or control any property forming part of the undertakings of the company, wrongfully withholds such property from the Central Government; or

(b) wrongfully obtains possession of any property forming part of the undertakings of the company which have vested in the Central Government under this Act; or

(c) wilfully withholds or fails to furnish to the Central Government as required by sub-section (2) of section 5 any document which may be in his possession, custody or control; or

(d) wilfully fails to furnish an inventory as required under section 6; or

(e) when required to furnish such inventory, furnishes any particulars therein which are false and which he either knows or believes to be false or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund within a time to be fixed by the court any property wrongfully withheld or wrongfully obtained or any document wilfully withheld or not furnished.

(2) No court shall take cognizance of any offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

**Offences
by com-
panies.**

10. (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.

11. No suit, prosecution or other legal proceeding shall lie against the Central Government or an officer or other employee serving in connection with the affairs of the undertakings of the company for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

12. (1) The Central Government may, by notification in the Official Gazette, make regulations with regard to the matters specified in section 8.

Power to make regulations.

(2) Every regulation 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 regulation or both Houses agree that the regulation should not be made, the regulation 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 regulation.