

money from any source as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee, in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Bureau under sub-section (1).

22. Budget

The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Bureau and forward the same to the Central Government.

23. Annual report

The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

24. Annual report to be laid before Parliament

The Central Government shall cause the annual report referred to in section 23 to be laid, as soon as may be after it is received, before each House of Parliament.

25. Accounts and audit

(1) The Bureau shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Bureau shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Bureau to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Bureau shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Bureau.

(4) The accounts of the Bureau as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER VIII PENALTIES AND ADJUDICATION

26. Penalty

(1) If any person fails to comply with the provisions of clause (c) or clause (d) or clause (h) or clause (i) or clause (k) or clause (l) [xxx] or clause (r) or clause (s) of section 14 or clause (b) or clause (c) or clause (h) of section 15, he shall be liable to a penalty which shall not exceed ten lakh rupees for each such failure and, in the case of continuing failure, with an additional penalty which may extend to ten thousand rupees for every day during which such failure continues:

PROVIDED that no person shall be liable to pay penalty within five years from the date of commencement of this Act.

(1A) If any person fails to comply with the provisions of clause (n) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees and, in the case of continuing failure, with an additional penalty which shall not be less than the price of every metric ton of oil equivalent of energy, prescribed under this Act, that is in excess of the prescribed norms.

(2) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

COMMENT

This section provides penalty for failure to comply with the provisions of clause (c) or clause (d) or clause (h) or clause (i) or clause (k) or clause (l) or clause (n) or clause (r) or clause (s) of section 14 or clause (b) or clause (c) or clause (h) of section 15 upon which he/she shall be liable to a penalty which shall not exceed ten thousand rupees for each such failure and, in the case of continuing failure, with an additional penalty which may extend to one thousand rupees for every day during which such failure continues. It is an exception that no person shall be liable to pay penalty within five years from the date of commencement of this Act. The amount not paid may be recovered as if it were an arrear of land revenue.

27. Power to adjudicate

For the purpose of adjudging under section 26, the State Commission shall appoint any of its members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Central Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the clauses of the sections specified in section 26, he may impose such penalty as he thinks fit in accordance with the provisions of any of those clauses of that section:

PROVIDED that where a State Commission has not been established in a State, the Government of that State shall appoint any of its officers, not below the rank equivalent to a Secretary dealing with legal affairs in that State to be an adjudicating officer for the purposes of this section and such officer shall cease to be an adjudicating officer immediately on the appointment of an adjudicating officer by the State Commission on its establishment in that State:

PROVIDED FURTHER that where an adjudicating officer appointed by a State Government ceased to be an adjudicating officer, he shall transfer to the adjudicating officer appointed by the State Commission all matters being adjudicated by him and thereafter the adjudicating officer appointed by the State Commission shall adjudicate the penalties on such matters.

28. Factors to be taken into account by adjudicating officer

While adjudicating the quantum of penalty under section 26, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the repetitive nature of the default.

29. Civil Court not to have jurisdiction

No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

COMMENT

This section provides that no civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which an adjudicating officer appointed under this Act or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any civil court in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

CHAPTER IX

APPELLATE TRIBUNAL FOR ENERGY CONSERVATION

30. Appellate Tribunal

The Appellate Tribunal established under section 110 of the Electricity Act, 2003 (36 of 2003) shall, without prejudice to the provisions of the Electricity Act, 2003 (36 of 2003), be the Appellate Tribunal for the purposes of this Act and hear appeals against the orders of the adjudicating officer or the Central Government or the State Government or any other authority under this Act.

COMMENT

The Appellate Tribunal for Energy Conservation is empowered to hear an appeal against the orders of the adjudicating officer or the Central Government or the State Government or any other authority under this Act.

31. Appeal to Appellate Tribunal

(1) Any person aggrieved, by an order made by an adjudicating officer or the Central Government or the State Government or any other authority under this Act, may prefer an appeal to the Appellate Tribunal for Energy Conservation:

PROVIDED that any person, appealing against the order of the adjudicating officer levying any penalty, shall, while filing the appeal, deposit the amount of such penalty:

PROVIDED FURTHER that where in any particular case, the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, the Appellate Tribunal may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realisation of penalty.

(2) Every appeal under sub-section (1) shall be filed within a period of forty five days from the date on which a copy of the order made by the adjudicating officer or the Central Government or the State Government or any other authority is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

PROVIDED that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.