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GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

New Delhi, the 26th Nov., 1987

N O T I F I C A T I O N

G.S.R. 936 (E).- In exercise of the powers conferred by section 10 of the Dadra and Nagar Haveli Act, 1961 (35 of 1961), the Central Government hereby extends to the Union territory of Dadra and Nagar Haveli, the Gujarat Minor Forest Produce Trade Nationalisation Act, 1979 (Gujarat Act No. 7 of 1979), as in force in the State of Gujarat on the date of this notification, subject to the following modifications, namely:-

M O D I F I C A T I O N S

1. Save as otherwise directed hereinafter, throughout the Act,-

   (a) for the words "State" or "State of Gujarat", wherever they occur, the words "Union territory of Dadra and Nagar Haveli" shall be substituted;

   (b) for the words "State Government", the word "Administrator" shall be substituted.

2. In section 1; for sub-section (3), the following sub-section shall be substituted, namely:-

   "(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint."

3. In section 2,-

   (a) clause (1) shall be renumbered as clause (1B) and before clause (1B) as so renumbered, the following clauses shall be inserted, namely:-

   '(1) "Administration" means the Dadra and Nagar Haveli Administration';

   '(1A) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli appointed by the President under article 239 of the Constitution';

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(b) for clause (2), the following clause shall be substituted, namely:-

'(2) "appointed day" means the date of enforcement of this Act provided under sub-section(3) of Section 1';

(c) for clause (3), the following clause shall be substituted, namely:-

'(3) "authorised officer" means a person or an officer of the Administration appointed by it, by an order published in the Official Gazette to sell, purchase or transport any minor forest produce on behalf of the Administration under the provisions of this Act, and includes an officer of the Corporation authorised by it under sub-section (3) of section 6';

(d) clause (4) shall be omitted;

(e) for clause (6), the following clause shall be substituted, namely:-

'(6) "Corporation" means Forest Development Corporation of a State appointed under sub-section (2A) of section 6 of the Act';

(f) after clause (10), the following clause shall be substituted, namely:-

'(10A) "Regulation" means the Dadra and Nagar Haveli Land Revenue Administration Regulation, 1971';

(g) for clause (11), the following clause shall be substituted, namely:-

'(11) "Union territory" means the Union territory of Dadra and Nagar Haveli';

(h) in clause (13), for the word "code", the word "Regulation" shall be substituted.

4. In section 3,-

(a) in sub-section (1),-

(i) in the opening portion, for the words "State Government", the words "Central Government" shall be substituted;

(ii) clause (i), for the words, "appointed day" the words "date, this Act comes into force" shall be substituted;

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(b) in sub-section (2), the words "subject to the provisions of the Bombay Prohibition Act, 1949," shall be omitted alongwith the marginal reference.

5. In section 4, proviso to sub-section(1) shall be omitted.

6. In section 6,-

(i) the proviso to sub-section (2) shall be omitted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:-

"(2A) Notwithstanding anything contained in sub-section(1), the Administrator may, after consultation with the Forest Development Corporation of any State, appoint such State Forest Development Corporation as the sole agent for the purpose of selling, purchasing or transporting any minor forest produce and such appointment shall be on such terms and conditions as may be determined by the Administrator."

7. In section 7, in sub-section (1), in the explanation, for clause(ii), the following clause shall be substituted, namely:-

'(ii) "Scheduled Tribes" shall mean tribes or tribal communities or parts of, or groups within such tribes or tribal communities as are declared and notified as such under the Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962."

8. In section 9,-

(a) in sub-section (5), for the words "State Government" occuring for the second and fourth times, the words "Central Government" shall be substituted;

(b) in sub-section (6), for the words, "State Government", the words "Central Government" shall be substituted;

(c) in sub-section (8), for the words "State Government", the words "Central Government" shall be substituted.

9. In section 11, for the words "State Government", the words"Central Government" shall be substituted.

10. In section 13, the words "of the State Government" shall be omitted.

11. In section 15, in clause (b), for the words "State Government", the words "Central Government" shall be substituted.

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12. In section 18, the following section shall be substituted, namely:-

"18. No suit, prosecution or other legal proceeding shall lie against the Central Government, the Administrator, the Corporation, an authorised officer, an agent or any other employee serving in connection with the administration of the Union territory or of the Corporation for anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder."

13. In section 20, sub-sections (4) and (5) shall be omitted.

14. In section 22, sub-section (2) shall be omitted.

15. Section 23 shall be omitted.

ANNEXURE

THE GUJARAT MINOR FOREST PRODUCE TRADE NATIONALISATION ACT, 1979 AS IN FORCE IN THE STATE OF GUJARAT AS EXTENDED TO THE UNION TERRITORY OF DADRA AND NAGAR HAVELI.

(GUJARAT ACT NO. 7 OF 1979)

An Act to provide for the nationalisation of trade in certain minor forest produce in the State of Gujarat.

It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Gujarat Minor Forest Produce Trade Nationalisation Act, 1979.

(2) It extends to the whole of the Union territory of Dadra and Nagar Haveli.

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

2. In this Act, unless the context otherwise requires,-

(1) "Administration" means The Dadra and Nagar Haveli Administration;

(1A) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli appointed by the President under article 239 of the Constitution;

(1B) "agent" means an agent appointed under section 6;

(2) "appointed day" means the date of enforcement of this Act provided under sub-section(3) of section 1;

(3) "authorised officer" means a person or an officer of the administration appointed by it, by an order published in the Official Gazette to sell, purchase or transport any minor forest produce on behalf of the Administration under the provisions of this Act, and includes an officer of the Corporation authorised by it under sub-section (3) of section 6;

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(4) - omitted.

(5) "Committee" means the Advisory Committee constituted under sub-section (1) of section 7;

(6) "Corporation" means the Forest Development Corporation of a State appointed under sub-section(2A) of section 6 of the Act;

(7) "grower" means a person who grows any minor forest produce in the land in his possession, whether as an occupant, tenant or in any other capacity, and includes, in relation to such produce grown in any unoccupied land or any forest land or waste-land comprised in any reserved or protected forest constituted under the Indian Forest Act, 1927,- XVI of 1927.

(a) where such land is leased, the lessee, and

(b) where such land is not leased, the Administrator;

(8) "import" means to bring into the Union territory from outside the Union territory otherwise than across a customs frontier;

(9) "minor forest produce" means any of the following classes of forest produce:-

(a) timru leaves.

(b) mhowra flowers.

(c) mhowra fruits, seeds and doli,

(d) any other class of forest produce which the Administrator may, by notification in the Official Gazette, declare to be a minor forest produce for the purposes of this Act;

(10) "prescribed" means prescribed by rules made under this Act;

(10A) "Regulation" means the Dadra and Nagar Haveli Land Revenue Administration Regulation, 1971;

(11) "Union territory" means the Union territory of Dadra and Nagar Haveli;

(12) "Unit" means an area of the Union territory constituted as a unit under section 5;

(13) words and expressions used but not defined in this Act shall have the meanings assigned to them, in the Regulation or, as the case may be, in the Indian Forest Act, 1927. XVI of 1927.

Restriction on sale, purchase or transport of minor forest produce.

3. (1) Notwithstanding anything contained in any law for the time being in force or in any settlement, grant, agreement, usage, custom, or any decree or order of a Court or any Tribunal or any document having the force of law, no person other than the Central Government, an authorised officer or an agent shall sell, purchase or transport -

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(i) with effect on and from the date, this Act comes into force, any of the minor forest produces specified in sub-clauses (a), (b) and (c) of clause (9) of section 2, and

(ii) with effect on and from the date of publication in the Official Gazette of a notification issued under sub-clause (d) of clause (9) of section 2, the minor forest produce declared as such under such notification.

(2) It shall be lawful for-

(a) any person to sell any minor forest produce to, or purchase any minor forest produce from the Administrator, authorised officer or an agent;

(b) a grower to transport any minor forest produce grown by him from any place in a unit where such produce has been grown to a purchasing centre or depot set up in that unit under section 8 or to any other place in that unit;

(c) (i) any person who has purchased any minor forest produce from the Administrator, or an authorised officer or an agent, and

(ii) any person who has purchased any minor forest produce from another person under clause (e)

to transport the same, in accordance with the terms and conditions specified in a permit issued by such authority and in such manner as may be prescribed, for the purpose of being used in the manufacture of finished goods within the Union territory or for the purpose of sale outside the Union territory, or for the purpose of re-sale to the Administrator, an authorised officer or an agent;

(d) any person to import any minor forest produce or to transport the minor forest produce so imported, in accordance with the terms and conditions of a permit issued by such authority and in such manner as may be prescribed; and

(e) (i) any person, who has purchased any minor forest produce from the Administrator or authorised officer, or an agent to sell such of the minor forest produce, as may be specified by the Administrator by general or special order published in the Official Gazette, to any other person; and

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(ii) other person to whom the minor forest produce is so offered for purchase to purchase the same,

in accordance with the terms and conditions specified in a permit issued to the seller for the purpose of sale and to the purchaser for the purpose of purchase, by such authority and in such manner as may be prescribed.

Explanation.- For the purpose of this section, a transfer of a right to collect any minor forest produce or an exchange of minor forest produce for some other thing shall be deemed to be a sale, and in acquisition of a right to collect any minor forest produce or an exchange of any thing for some minor forest produce shall be deemed to be a purchase.

Fixation of price by Administrator in consultation with Committee.

4. (1) The Administrator shall, after consultation with the Committee and having regard to the factors specified in sub-section (3), fix in respect of each class of minor forest produce, the price at which such produce shall be purchased by it or by an authorised officer or by an agent from growers of that produce in the year following the year in which the price is fixed:

(2) The price fixed under sub-section (1) shall be published in the Official Gazette and in such other manner as may be prescribed, not later than the 31st day of December of the year in which it is fixed, and the price so fixed shall not be altered during the year to which it relates:

Provided that where the Committee fails to tender advice within the period specified under sub-section (3) of section 7 or such further period not exceeding fifteen days as the Administrator may allow, the Administrator may fix the price without such advice.

(3) For the purpose of fixing the price of any minor forest produce under sub-section (1), the Administrator shall have regard to the following factors, namely:-

(a) the price, if any, fixed under this Act or under any other law for the time being in force, for the concerned minor forest produce in the unit during the preceding three or two years or one year, as the case may be, for which such price may have been fixed, and where no such price may have been fixed for any such year or years the price for the concerned minor forest produce prevailing in the year in which the price is fixed or such price as would have prevailed, in the unit during the next succeeding year,

contd..5/-

(b) the quality of the minor forest produce,

(c) the transport facilities available,

(d) the cost of transport,

(e) the general level of wages for unskilled labour prevalent in the unit, and

(f) such other factors as may be prescribed.

Constitution of units.

5. The Administrator may, in respect of any minor forest produce, by notification in the Official Gazette, divide the whole Union territory into such number of units, and each of them comprising such areas, as the Administrator may deem fit.

Appointment of agents.

6. (1) The Administrator may, for the purpose of selling, purchasing or transporting any minor forest produce on its behalf, appoint any person as an agent in charge of any unit and it shall be lawful to appoint the same person as an agent for more than one unit.

(2) The terms and conditions of appointment of any agent shall be such as may be specified by the Administrator in the order of appointment:

Provided that nothing contained in this section shall prevent the Administrator from appointing the Corporation as the sole agent for the purpose of selling, purchasing or transporting any minor forest produce and such appointment shall be on such terms and conditions as may be determined by the Administrator.

(2A) Notwithstanding anything contained in sub-section (1) the Administrator may after consultation with the Forest Development Corporation of any State, appoint such State Forest Development Corporation as the sole agent for the purpose of selling, purchasing or transporting any minor forest produce and such appointment shall be at such terms and conditions as may be determined by the Administrator.

(3) If the Corporation is appointed by the Administrator as its sole agent under this section, it shall be lawful for the Corporation to authorise any person including its officers for the purpose of selling, purchasing or transporting any minor forest produce on its behalf under the provisions of this Act.

(4) The Administrator may prescribe the procedure for the appointment of an agent under sub-section (1).

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Constitution of Advisory Committee.

7. (1) The Administrator shall, by notification in the Official Gazette, constitute an Advisory Committee consisting of such members not exceeding five as may be specified in such notification for the purpose specified in sub-section (2):

Provided that -

(i) atleast one member shall be from amongst the persons who, in the opinion of the Administrator, are traders ordinarily carrying on the trade of buying or selling of some minor forest produce,

(ii) atleast one member shall be from amongst the persons who, in the opinion of the Administrator, are growers, and

(iii) atleast one member shall be from amongst persons belonging to the Scheduled Tribes, who are members of the Forest Labourers Co-operative Societies.

Explanation - For the purpose of this proviso,-

(i) a trader or a grower shall mean, in a case where the trader or the grower is a local authority, a society, a company or any other association of individuals, a person authorised in writing by such local authority, society, company or association, as the case may be, to represent it on such committee;

(ii) "Scheduled Tribes" shall mean tribes or tribal communities or parts of, or groups within such tribes or tribal communities/as are declared and notified as such under the Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962.

(2) The Committee shall advice the Administrator in the matter of fixation under section 4 of the fair and reasonable price at which any minor forest produce may be purchased by the Administrator, an authorised officer or an agent, and in respect of such other matters relating to the administration of this Act as may be referred to it by the Administrator.

(3) The Committee shall tender its advice to the Administrator within such period as the Administrator may specify in that behalf.

(4) The Committee shall perform its functions in such manner as may be prescribed.

(5) The members of the Committee shall be entitled to such remuneration and travelling and other allowances as may be prescribed.

(6) The term of the Committee shall be one year from the date on which it is constituted:

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Provided that the Administrator may, by an order in writing, extend the said term for a further period not exceeding one year.

Setting up purchasing centres and depots.

8. (1) The Administrator shall, having regard to the convenience of growers and collectors of minor forest produc set up at such places in each unit such number of purchasing centres or depots as it may think fit, for the purchase and sale of minor forest produce under the provisions of this Act.

(2) At every such purchasing centre and depot, there shall be displayed prominently on a notice board kept for the purpose a list showing in Gujarati and in such other script or language as may be intelligible to the persons in that locality, the price of each of the minor forest produce fixed by the Administrator under section 4 and the hours at which any minor forest produce shall be purchased or sold at that centre or depot.

Purchase of minor forest produce.

9. (1) The Administrator or the authorised officer or agent shall be bound to purchase at the price fixed under section 4 any minor forest produce offered for sale at the purchasin centre or depot during the hours notified for the purpose under sub-section (2) of section 8:

Provided that the Administrator or the authorised officer or the agent may refuse to purchase any minor forest produce which, in the opinion of the Administrator, authorised officer or, as the case may be, the agent is not fit for the purpose of manufacture of finished goods using such produce, or for any other commercial purpose.

(2) Any persons aggrieved by the refusal of the authorised officer or the agent to purchase any minor forest produce may, within fifteen days from the date of such refusal, make a complaint such refusal to such officer superior in rank to the authorised officer, as the Administrator may empower in this behalf for the purpose of hearing such complaints.

(3) On receipt of a complaint under sub-section (2), the officer empowered to hear complaints under sub-section (2) (hereinafter referred to as "the competent officer") may, after holding such inquiry as he thinks fit and after hearing the parties concerned, either allow or reject the complaint.

(4) Where the competent officer allows the complaint on the ground that the refusal of the authorised officer or the agent to purchase the minor forest produce was not justified, he may direct the authorised officer or the agent to purchase the same, and to pay to the aggrieved person such price for the minor forest produce so purchased by him as the agrrieved person would have been entitled to under sub-section (1) had the authorised officer or the agent, as the case may be, not refused to purchase it.

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(5) Nothing in this section shall be construed to debar the Administrator or the authorised officer or the agent from appropriating to the Central Government any minor forest produce offered for sale, if the Administrator or the authorised officer or the agent has reason to believe that such produce appertains to forest or land belonging to the Central Government and paying to the person so offering such produce for sale only such charges, if any as may have been incurred by such person in collecting such produce, subject to such rules, as the Administrator may from time to time make.

(6) Where any person is aggrieved by the appropriation of the minor forest produce to the Central Government under sub-section (5) by an authorised officer or an agent, he may make a compalint to the competent officer.

(7) On receipt of a complaint under sub-section (6) the competent officer may, after holding such inquiry as he thinks fit and after hearing the parties concerned, either allow or reject the complaint.

(8) Where the competent officer allows the complaint, he may direct the authorised officer or the agent to make payment to the aggrieved person of an amount not less than the price of such minor forest produce as would have been payable to him under this section at the time when such produce was appropriated to the Central Government.

Appeal.

10. Any persons including an authorised officer or an agent, aggrieved by the decision of the competent officer under sub-section (3), (4), (7) or (8) of section 9 may, within a period of thirty days, from the date of communication to him of such decision, make an appeal to the Administrator and the decision of the Administrator on such appeal shall be final and shall not be called in question in any court.

Registration.

11. Every grower, not being the Central Government, who has during the year immediately preceding the appointed day or the year preceding any subsequent day, grown any minor forest produce exceeding such quantity as may be prescribed shall, within thirty days after such day, on payment of such fees and in such manner as may be prescribed get his name and address registered in a register to be kept by the prescribed officer, together with the particulars regarding the quantity of the minor forest produce grown by him and the land in which such produce is grown during such year.

contd...9/-

Disposal of minor forest Produce.

12. Any minor forest produce purchased by the Administrator or by an authorised officer or an agent, under this Act, shall be sold or otherwise disposed of in such manner as the Administrator may, by a general or special order, in writing direct.

Delegation of Powers.

13. The Administrator may, by an order published in the Official Gazette, delegate any of its powers (other than the power to fix the price of minor forest produce under section 4 and the power to make rules under section 20) or functions under this Act or the rules made thereunder to any officer or authority not below the rank of a Range Forest Officer or an Assistant Project Manager of the Corporation, who shall exercise or perform the same, subject to such conditions and restrictions as the Administrator may specify in the order.

Power of entry, search, seizure, etc.

14. (1) Any Forest officer not below the rank of a Range Forest Officer or any Police Officer not below the rank of a Sub-Inspector or any other person authorised by the Administrator in this behalf, may, with a veiw to securing compliance with the provisions of this Act or the rules made thereunder or to satisfying himself that the said provisions have been complied with-

(i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of any minor forest produce;

(ii) enter and search and place;

(iii) seize minor forest produce in respect of which he suspects that any provision of this Act or the rules made thereunder has been, is being or is about to be, contravened, alongwith the receptacle containing such produce or the vehicle or boat used in carrying such produce.

(2) Every person seizing any minor forest produce or other property under clause (iii) of sub-section (1) shall place on such produce or other property a mark indicating that the same has been so seized.

(3) Any forest officer not below the rank of a Range Forest Officer who has seized any property other than a minor forest produce, under clause (iii) of sub-section (1) may release the same on the execution by the owner thereof of a bond for the production of the property so released, whenever required.

(4) The minor forest produce and other property seized under clause (iii) of sub-section (1) shall be kept in the custody of the forest officer not below the rank of a forest guard or village headman until an order of his disposal is received.

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2 of 1974.

(5) The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall, so for as may be, apply to searches and seizures under this section.

Penalty.

15. If any person contravenes the provisions of section 3 or 11 or of any of the terms and conditions of a permit issued under clause (c), (d) or (e) of sub-section (2) of section 3,-

(a) he shall, on conviction, be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

(b) the minor forest produce in respect of which such contravention has been made or such part thereof as the court may deem fit shall be forfeited to the Central Government.

Provided that if the court is of the opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the minor forest produce, it may for reasons to be recorded refrain from doing so.

Attempts and abetment.

16. Any person who attempts to contravene, or abets the contravention of any of the provisions of section 3 or 11 or any of the terms and conditions of a permit issued under clause (c), (d) or (e) of sub-section (2) of section 3, shall be deemed to have contravened that provision.

Cognizance of offence.

17. No court shall take cognizance of any offence punishabl under this Act except on a report in writing of the facts constituting such offence made by any Forest officer not below the rank of a Range Forest Officer or by a police officer not below the rank of a Sub-Inspector or by such other officer as may be authorised by the Administrator in this behalf. /Central Government,

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceeding shall lie against the/Administrator, the Corporation, an authorised officer, an agent or any other employee serving in connection with the administration of the Union territory or of the Corporation for any thing in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Declaration that Act gives effect to certain directive principles.

19. It is hereby declared that the provisions of this Act are for giving effect to the policy of the State towards securing the principles specified in article 46 of the Constitution.

contd..11/-

Power to make rules.

20. (1) The Administrator may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

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

(a) the authority by which and the manner in which a permit may be issued under clauses(c), (d) and (e) of sub-section (2) of section 3;

(b) the other manner in which the price fixed under sub-section (1) of section 4 shall be published under sub-section (2) of that section;

(c) the factors that may be prescribed under clause (f) of sub-section (3) of section 4;

(d) the procedure to be followed in making appointment of an agent under section 6;

(e) the manner in which the functions of the Committee shall be permformed under sub-section (4) of section 7 and allowances to which the members of the Committee shall be entitled under sub-section (5) of that section;

(f) regulation of payment of charges payable to a person under sub-section (5) of section 9.

(g) the quantity exceeding which the grower has grown the minor forest produce for the purpose of being liable to be registered under section 11, the fees to be paid for being registered, the manner in which his name and address shall be registered under the said section and the officer empowered to keep the register for the registration of growers under the said section;

(h) any other matter which is to be or may be prescribe under this Act.

(3) In making any rules under this section the Administrator may direct that a breach thereof shall be punishable with fine not exceeding one thousand rupees and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

Indian Forest Act not to apply to minor forest produce or purposes covered under this Act.

21. Nothing contained in the Indian Forest Act, 1927 shall apply to any minor forest produce in respect of matters for which provisions are contained in this Act. XVI of 1927

contd...12/-

22. (1) If any difficulty arises in giving effect to the provisions of this Act, the Administrator may make such order, not inconsistent with the provisions of this Act as may appear to it to be necessary, for the purpose of removing the difficulty:

Provided that no order shall be made under this sub-section after the expiry of a period of two years from the appointed day.

(2) - Omitted.

[No. U-11015/13/84-UTL (172)]

(ASHOK NATH)
JOINT SECRETARY TO THE GOVT. OF INDIA.

To

The Manager,
Government of India Press,
Mayapuri Industrial Area,
Ring Road, New Delhi.