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A New Fiscal Architecture: Analysing the Health Security se National Security Cess Bill, 2025



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Introduction: A New Purpose-Linked Fiscal Mechanism

The *Health Security se National Security Cess Bill, 2025* represents another significant restructuring within India's indirect tax landscape at a time when the GST Compensation Cess approaches its statutory conclusion. The Bill introduces a dedicated, capacity-based cess applicable initially to pan masala, intended to create a predictable and ring-fenced revenue stream devoted exclusively to public health and national security as per the objectives. Although the proceeds are credited to the Consolidated Fund of India, the law mandates their utilisation for these specified purposes, giving the cess a unique statutory identity distinct from general taxation under our Constitution.

Policy Rationale: Replacing Compensation Cess and Funding National Priorities

The policy rationale behind this cess combines fiscal necessity with targeted public policy. With the expiry of the GST Compensation Cess mechanism, the Union Government sought a new instrument capable of delivering steady non-GST revenue without altering the GST rate structure. Simultaneously, the demands of national security modernisation—ranging from cyber and space capabilities to precision warfare systems—necessitate a stable and sustainable resource base. At the same time, the public-health burden associated with consumption of pan masala and related products underscores the need for a behavioural tax mechanism that internalises the social cost of such demerit goods. The cess thus reflects a two-pronged philosophy: disincentivising harmful consumption while financing critical national imperatives.

Design of the Levy: Capacity-Based Assessment as the Core Principle

A defining feature of the new cess is its shift from transaction value and quantity-based taxation to a capacity-linked model. Liability arises simply from owning, operating, or controlling machines (or manual processes) used for manufacturing pan masala. The levy is computed on the basis of the machine's maximum rated speed, expressed in pouches or tins per minute, and the weight of the packed product. Machines with lower rated speeds attract a lower rate of cess per month, whereas high-capacity machines capable of producing between 1,001 and 1,500 pouches per minute with heavier pack weights face increased monthly cess liabilities. Manual units, irrespective of output, are required to pay a flat ₹11 lakh per month. By delinking liability from production volumes, the cess addresses chronic issues of underreporting and manipulation of actual output that previously plagued enforcement. However, the disputed regarding non usage or short usage of machinery as they existed in the central excise regime earlier might again crop up with the passage of time.

Statutory Placement of Rates: Parliamentary Control over Fiscal Design

A particularly noteworthy aspect of the framework is that the **rates** of the cess are **prescribed in the Schedule to the Act itself**, rather than being left to executive discretion through rules or notifications. This is in stark contrast to the **GST Compensation Cess**, where rates and changes could be implemented by the Central Government via notification, subject to GST Council recommendations. By embedding the rates within the primary legislation, Parliament has asserted clear control over the levy's fiscal architecture, ensuring that any modification of rates requires a legislative amendment rather than an executive notification. This approach enhances parliamentary oversight, strengthens taxpayer certainty, and represents a deliberate departure from the more flexible—and often fluctuating—rate-setting model seen under GST-era cesses.

Compliance Architecture: Registration, Verification and Monthly Obligations

The Bill establishes a stringent compliance framework anchored in transparency and accurate reporting. Every taxable person must undergo registration and disclose detailed machine specifications, including rated speed and packing configuration. Officers are empowered to verify or calibrate these machine declarations. Cess payment is due monthly by the seventh day, accompanied by a mandatory return; delays attract interest. The law also provides an abatement mechanism for machinery that remains inoperative for at least fifteen continuous days, subject to verification, ensuring that businesses do not incur liability during genuinely non-operational periods.

Enforcement Powers: Search, Seizure, Penalties and Prosecution

In light of the historically high evasion risk in the pan masala and tobacco-adjacent sectors, the enforcement tools under the Bill are extensive. Senior officers may conduct inspections, searches, and seizures of goods, machinery, or documents. Severe contraventions—such as operating undeclared machinery, falsifying records, or engaging in large-scale evasion—are punishable with monetary penalties, confiscation of goods and machinery, and imprisonment of up to five years. These provisions reflect a conscious policy decision to combine administrative simplicity with strong deterrence in sectors susceptible to clandestine production and revenue leakage.

Federal Positioning: A Union Levy with Shared Benefits

Though the levy is imposed and administered by the Union Government, as per the debates in the Parliament the cess revenue will be shared with State Governments for specific health schemes. This arrangement recognises the constitutional reality that public health falls within the State List, while defence lies within the Union domain. By sharing revenue but retaining centralised administration, the Government seeks to maintain cooperative federalism while ensuring that the Union's defence and state wise health-sector commitments receive assured budgetary support.

Sectoral Impact: Reshaping Compliance in the Pan Masala Industry

The immediate impact of the cess will be most keenly felt in the pan masala sector, historically characterised by valuation disputes, classification issues, and clandestine production. The capacity-based scheme significantly reduces avenues for evasion and supply underreporting, while giving compliant manufacturers certainty regarding monthly fiscal obligations. It also imposes stricter discipline on machine declaration and operational transparency. Given the rising public-health focus and the deterrence value of capacity-based levies, the Government may consider extending the cess to additional demerit goods in the future, should the need arise.

Comparison with the Newly Reintroduced Excise Duty on Tobacco Products

The fiscal landscape post-2025 now contains two distinct, coexisting imposts: the newly introduced Health-National Security Cess and the excise duty revived on tobacco products via the Central Excise (Amendment) Bill, 2025. Although both apply to demerit goods, their legal character and functional mechanics differ substantially.

The reintroduced excise duty on tobacco is a traditional levy linked to the event of manufacture. It follows the conventional specific or ad valorem model, where the rate is tied directly to output or value. Its proceeds form part of the general pool of revenue and are not earmarked for any special purpose.

The cess, in contrast, does not tax manufacture as an event; it taxes the *capacity to manufacture*. It is indifferent to actual production volume. More importantly, it is statutorily dedicated to public health and national security, giving it a purpose-bound character absent in excise duty. While excise applies to a broad range of tobacco products, the cess currently applies only to pan masala, though it may be expanded. Thus, while both levies may operate concurrently on distinct product universes, they do so with different objectives, constitutional justifications, and structural designs.

Constitutional Distinction: Nature of Excise Duty vs. Nature of a Cess

The Constitution treats excise duty and cess as distinct fiscal instruments. Excise duty, derived from Entry 84 of the Union List, is a general tax on manufacture or production of goods. It is not tied to any specific purpose and is entirely fungible within the Consolidated Fund. Judicial interpretation has consistently affirmed manufacture as the taxable event, irrespective of sale or distribution.

A cess, although constitutionally still a "tax," belongs to a separate class of imposts: it is levied for a defined, specific purpose. Parliament may impose a cess for healthcare, education, infrastructure, environment or, as in this case, national security and public health. While cess proceeds are also credited to the Consolidated Fund, they are statutorily earmarked and non-fungible. Courts have repeatedly upheld that a cess remains a tax in form but acquires a purposive character in substance. Importantly, once the purpose ceases or the parent statute is repealed, the cess too lapses.

Thus, excise duty and cess differ not only in functional design but also in constitutional identity: excise is a general revenue tax on manufacture, while a cess is a purpose-specific tax that may or may not relate to manufacture, and whose proceeds are earmarked for a defined end.

Conclusion: A Purpose-Driven Fiscal Blueprint for the Future

The *Health Security se National Security Cess Bill, 2025* marks a substantive shift in India's indirect tax policy—one that blends revenue mobilisation with behavioural regulation and purpose-linked public expenditure. By reintroducing capacity-based taxation within a modern compliance architecture, the Bill attempts to close long-standing enforcement gaps in the pan masala sector while securing predictable revenues for two constitutionally significant domains: public health and national security. Its long-term impact, however, will depend on how effectively the administration balances strict enforcement with procedural fairness and how transparently the earmarked funds are deployed. As India continues to refine its fiscal instruments beyond the GST framework, this legislation may well serve as a blueprint for future targeted cesses anchored in national priorities.

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