TOBACCO BOARD (AUCTION) REGULATIONS 1984

No. 8/5/83-EP (AGRI-VI) – In exercise of the powers conferred by section 33 of the Tobacco Board Act, 1975 (4 of 1975) the Tobacco Board hereby makes the following regulations the same having been approved by the Central Government as required by sub-section (3) of the said section namely :-

(1) Short title and commence-ment	(i)	These regulations may be called the Tobacco Board (Auction) Regulations 1984.
	*(ii)	They shall come into force on the date of their publication in the Official Gazette.
(2) Definitions	In these regulations, unless the context otherwise requires -	
	(a)	"Act" means the Tobacco Board Act. 1975 (4 of 1975).
	(b)	"Form" means a form appended to these regulations ;
	(c)	"Director of Auctions" means an officer of the Board appointed to discharge the duties and functions of the Director of Auctions under these regulations;
	(d)	"Auction Superintendent" means an officer of the Board appointed to discharge the duties and functions of an Auction Superintendent under these regulations ;
	(e)	"Senior classifier" means an officer of the Board appointed to discharge the duties and functions of senior classifier under these regulations;
	(f)	"Classifier" means an officer of the Board appointed to discharge the duties and functions of classifier under these regulations and includes a senior classifier ;
	(g)	"Starter" means an officer of the Board appointed to discharge the duties and functions of a starter under the regulations ;
	(h)	"Assistant to Starter" means an officer of the Board appointed to discharge the duties and functions of an assistant to a starter under these regulations ;
	(i)	"Grade" in relation to tobacco means a grade of tobacco as may be specified by the Board from time to time

* Published in the Gazette of India Extraordinary part-III Section 4 Dt.30-8-1984.

	(j)	**"Mixed** bale" means a bale consisting of tobacco of a lower standard of uniformity than that specified by the Board ;
	(k)	"Funked tobacco" means tobacco which, while appearing to be sound, has, in the opinion of the classifier, an aroma indicating that the tobacco has been or is about to become mouldy ;
	(l)	"Mouldy tobacco" means tobacco which contains fungus or mouldy growth ;
	(m)	"Nested tobacco" means tobacco packed in such a manner as to deceive the buyer about the nature and quality of the contents as a whole ;
	(n)	All other terms and expressions will have the same meaning as assigned to them in the Act.
(3) Pass books to be issued to growers	The Director of Auctions shall cause to be delivered to each grower in the local area in which a platform has been established, a pass book in Form 1.	
(4) Growers returns	Every grower shall send the following returns every year to the Auction Superintendent of the platform to which he is allotted.	
	(a)	a return in Form II within fifteen days after the grower has planted tobacco in his land, and
	(b)	a return in Form III on or after the 1st day of July but not later than the 15th day of July in the Districts of Mysore, Kodasu, Bangalore and Kolar and not later than the 30th day of July in other areas.

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* (in the State of Karnataka and on the 15th day of December not later than 31st day of December in the State of Andhra Pradesh)

(5) Allotment, Delivery quotas and Rates	(1)	As soon as may be after the receipt of the return in Form III but not later than seven days period to the holding of the first auction sale of the season on his platform, the Auction Superintendent shall issue to each grower an authorization card in Form IV intimating the total quality of tobacco the grown may deliver during the season of auction sales and the quantity that he may deliver on different dates during such season.
	(2)	In determining the total quantity mentioned above the Auction Superintendent shall take into consideration the following.
	(a)	the total area which is covered by the certificate of registration issued to the grower under section 10 of the Act;
	(b)	the total area shown as planted with tobacco by the grower in the return in Form-II;
	(c)	the average yield of tobacco in the area;
	(d)	the estimated yield indicated in the return in Form III by the grower.

Provided, that the total quantity authorized for delivery shall at no time exceed the estimated yield indicated by the grower in Form III.

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* Added vide Tobacco Board (Auction) Amendment Regulations 1985 published in the Gazette of India part III, Section 4 date 15-2-1985.

(6) Grower not to deliver excess quantity	No grower shall be entitled to deliver tobacco in excess of the quantity authorized under sub-regulation (1) of regulation 5: Provided further that if a grower has delivered less than the quantity authorized on the first or second dates of sale he may deliver the deficit on subsequent occasion with the permission in writing of the Auction Superintendent.	
(7) Mode of packing and delivering tobacco	Tobacco shall be delivered to the platform in the following manner ;	
	(1)	All tobacco shall be packed in bales containing only one grade of tobacco.
	+(2)	No bale shall weigh more than 80 kilograms or less than 25 kilograms net in the case of Auction Platforms in Karnataka and no bale shall weigh more than 100 kilograms or less than 25 kilograms net in the case of Auction Platforms in the State of Andhra Pradesh.
	(3)	The dimensions of the bale shall be 800 millimeters in length 800 millimeters in width and not more than 610 millimeters in height. Provided that a variation not exceeding 50 millimeters shall be permitted.
	(4)	The bale shall be wrapped in two pieces of a material approved by the Board, each of which shall be at least one meter in length and one meter in width.

+ Substituted vide Tobacco Board (Auction) Amendment Regulation 1985 notified in the Gazette of India Part III, Section 4 date 15-2-1985.

	(5)	The bale shall be wrapped in such a manner that by cutting the stitches access may be obtained directly to the tobacco packed in the bale.
	(6)	The wrapping material shall be properly sown with string.
	(7)	The packing material along with the string shall no more than 1 kilogram
	(8)	The bale shall be marked clearly with the registration number of the grower specified in the pass book issued to him under regulation 3 and the date on which the bale is delivered at the platform.
	(9)	No grower shall attach to or inscribe on his bale any other marking. Provided that he may add after and on the same line as his registration number two alphabetical letters for his own identification purposes.
	(10)	The grower shall deliver in one consignment all the bales authorized for sale on any day.
(8) Receipt and weighment	(1)	As soon as the bales are delivered at the platform the Auction Superintendent shall cause each bale to be marked with a lot number in such a manner that all the bales belonging to a grower shall receive consecutive numbers.
	(2)	Each bale shall be weighed and the net weight (after deducting 1 kilogram for the weight of the packing material from the gross weight of the bales shall be clearly marked on the bale.
	(3)	A receipt shall be issued to the grower in Form V and simultaneously a bale ticket in Form VI shall be attached firmly to the bale.
	(4)	The bales shall thereafter be arranged on the platform for sale.

(9) Arrangements on platform	The bales shall be arranged on the platform strictly in orde number.	
(10) Classification of Tobacco	(1)	As soon as the bales are arranged on the platform the classifier shall open the bales, take out as many samples as they deem necessary to arrive at a correct assessment of the grade of the tobacco in the bale and assign an appropriate grade to the tobacco.
	(2)	The grade so assigned shall be inscribed in ink at the appropriate place in the bale ticket.
	(3)	A grade once assigned shall not be changed except by the senior classifier who, if he decided to make a change, shall strike out the grade previously assigned and make an entry to that effect on the bale ticket in red ink and initial the same.
	(4)	After assigning the grade the bale shall be tied up and the samples displayed on the top of the bale till the bale is sold.
(11) Classifier of buyers	The Board at its discretion may classify buyers as A, B or C on the basis of the purchases of tobacco make by them as specified in column No.2 of the table below:-	

TABLE

Column No.1	Column No.2
'A' Class buyers	In the State of Karnataka for the year 1984, not less than one million kilograms during 1983 or an average of not less than one million kilograms of not less than one million kilograms a year during 1981, 1982 and 1983 and for subsequent year not less than three lakh kilograms on the Auction platform concerned during the previous year.

* Amended vide Tobacco Board (Auction) Amendment Regulations 1985.

Published in the Gazette of India Part III Section 4 dt. 15-2-1985.

	In the State of Andhra Pradesh for the year 1985, not less than 3 million kilograms during 1984 or an average of not less than 3 million kilograms a year during 1982, 1983 and 1984 and for subsequent years not less than one million kilograms on the auction platform concerned during the previous year.
'B' Class buyers	In the State of Karnataka for the year 1984 not less than 5 lakh kilograms during 1983 or an average of not less than 5 lakh kilograms a year during 1981, 1982, 1983 and for subsequent years not less than 1.5 lakhs kilograms on the auction platform concerned during the previous year. In the State of Andhra Pradesh for the year 1985, not less than 1 million kilograms during 1984 or an average of not less than 1 million kilograms in a year during 1982, 1983 and 1984 and for subsequent years not less than 3 lakh kilograms on the auction platform concerned during the previous year.
'C' Class buyers	In the State of Karnataka for the year 1984 not less than 1 lakh kilograms during 1983 or an average of not less than 1 lakh kilograms a year during 1981, 1982, 1983 and for subsequent years, not less than 50,000 kilograms on the auction platform concerned during the previous year. In the State of Andhra Pradesh for the year 1985, not less than 1 lakh kilograms during 1984 or an average of not less than 1 lakh kilograms a year during 1982, 1983 and 1984 and for subsequent years not less than 50,000 kilograms on the auction platform concerned during the previous years.

Provided that a person who does not fulfill the condition specified above may be granted authorization as a 'C' class buyer at the discretion of the Director of Auctions.

(12) Procedure for authorization of buyer and condition for authorisation	(1)	The number of buyers authorized to operate on a platform shall ordinarily be limited to fifteen.
	(2)	In granting authorization the Director of Auctions shall give preference to 'A class buyers over 'B' and 'C' class buyers and to 'B' class buyers over 'C' class buyers. In each class of buyers, a buyer who has purchased more tobacco shall less, be preferred over those who have purchased less. In case two buyers have purchased the same quantity of tobacco the question shall be decided by drawing lots.
(13) Application by buyers	*(1)	A person intending to operate as a buyer at a platform shall make an application in Form VII to the Director of Auctions on or before 30th June in the state of Karnataka and on or before 15th January in the State of Andhra Pradesh of the year during which he intends to operate or any other date which the Board may consider appropriate for the smooth operation of the auctions.
	*(2)	a) The application shall be accompanied by a copy of certificate of registration issued by the Board under the Act and by a fee of Rs.500/- b) The fee shall be refunded to the applicant in case authorization is refused.

* Amended vide Tobacco Board (Auction) Amendment Regulations (1985) published in the Gazette of India Part III Section 4 dt.15-2-1985.

	(3)	Separate application shall be made for each platform.
	(4)	The application shall bear the name and signature of the persons (which shall not be more than four) who will act on behalf of the buyer of the platform.
	(5)	a) On receipt of such application the Director of Auctions, may if he finds the applicant eligible for authorization grant the authorization (which shall be in form VIII)* b) The Director of Auctions may after giving the applicant an opportunity of being heard and for reasons to be recorded in writing, refuse to grant authorization to any person who is disqualified under these regulations or whose operation on the platform is not likely to further the efficient working of the platform. c) An authorization once granted shall remain in force till the end of the calendar year during which it has been granted. d) No person shall operate as a buyer on any platform is he – i) has been declared an insolvent by an appropriate court or ii) owes any debt relating to his business to any grower or to the Board.
	(6)	The Director Auctions may refuse to grant authorization to operate as a buyer to any person if he is satisfied that :

* Added vide Tobacco Board (Auction) Amendment Regulations 1988 published in the Gazette of India Extraordinary Part III Section 4 dt.21-12-1988.

		i) Such person's registration issued under the Act has been cancelled some time back and six months have not elapsed since the date of such cancellation or ii) Such person has been guilty of any offence-under the Act or of any malpractice under the rules or regulations; or iii) Such person is a partner with any person to whom authorization has been refused; or iv) Such person has failed to pay in due time to the Board any fine or other sum payable to it by him; or v) Such person has failed to submit any returns or reports to the Auction Superintendent in due time, which he was under the rules or regulations required to submit.
(14) Suspension of buyers	If an authorized buyer remains absent without obtaining leave of absence from the Auction Superintendent concerned for consecutive days during which auctions are conducted, the Auction Superintendent may suspend such buyer from the platform for a period not exceeding 15 days. Provided that the Director of Auctions may revoke such suspension if he is satisfied that the absence of the buyer was caused by reasons beyond his control or that the presence of the buyer on the platforms necessary in the interest of maintaining competition on the platform.	
(15) Auction procedure	(1)	The auction of tobacco shall start as soon as in the opinion of the Auction Superintendent, sufficient number of bales are ready for sale.
	(2)	Each bale shall be put up for sale strictly in the order of lot number.

Provided that the starter may alter the order of sale if he considers that such alteration is necessary to facilitate the smooth conduct of a sale.

(16) **Conduct of sales**	(1)	At every sale the starter, the assistant to starter and his assistance shall take their positions together in a line and shall not be separated by any other persons.
	(2)	The assistant to the starter shall stand facing the main line of buyers and beside the bale which is being sold and shall continue in that position until the name of the buyer of the bale has been declared by him
	(3)	Buyers shall arrange their own position in the line of buyers.
	(4)	If the buyers are unable to agree on their position the matter shall be referred to the Auction Superintendent whose decision shall be final.
(17) **Mode of bidding**	(1)	At the commencement of the sale of each bale starter shall announce the grade and the price he puts on it.
	(2)	Immediately there after, the assistant to the starter shall take of the price and continue to chant that price or any higher price bid by a buyer till he is satisfied that no higher bid will be forth coming. He shall then announce the name of the highest bidder.
	(3)	A buyer accept the starting price and there after the bidding shall proceed by bids of not less than 10 paise per kilogram until the bales is knocked down to the highest bidder.
	(4)	As soon as the bale has been knocked down the assistants shall enter at the appropriate place on the bale ticket the price or the tobacco and the name of the buyer and put his initials there on. He shall also obtain the initials of the buyer. After this, the buyer shall not question the sale on the ground that the price indicated is incorrect or that he did not bid for the bale.

(18) Withdrawal of tobacco kept for sale	(1)	When a classifier finds that a bale is so badly handled damaged, mixed, mouldy or funked as to be unfit for sale without being rehandled, he shall with the consent of the senior classifier with draw the bale from sale. A notice to this effect shall be prominently displayed on the bale and the bale shall not be offered for sale by the starter.
	(2)	The bales shall be delivered to the grower who may reoffer the bales for sale, on such day as may be authorized to be Auction Superintendent, after rehandling the tobacco. Such reoffered tobacco shall not be counted against the tobacco that the grower might be authorized to deliver on that date under Regulation 5.
(19) Mouldy, funked, mixed, badly handled or damaged tobacco	(1)	If a bale is so mouldy, mixed, badly handled, damaged or funked as to be irreparable by handling but in the opinion of the senior classifier may positively have some value, the bale may be offered for sale if an entry to that effect is made on the bale ticked and a notice to that effect is prominently displayed on bale and is so declared by the starter before the bale is offered for sale.
	(2)	No buyer shall repudiate the sale of such a bale merely on the ground that it is mouldy, mixed, badly handled, damaged or funked.
(20) Nested tobacco	(1)	No grower shall offer for sale any tobacco which is nested.
	(2)	If a classifier finds that a bale is nested he shall withdraw the bale from sale and report the matter to the Auction Superintendent.
	(3)	If a buyer discovers and reports to the Auction Superintendent within 48 hours of a sale that the bale purchased by him was nested, the Auction Superintendent shall immediately cause the tobacco to be inspected.

	(4)	If on a report by a classifier, referred to in Sub-regulation (2) or as a result of the inspection referred to in Sub-regulation (3) the Auction Superintendent is satisfied that a bale is nested, he shall be authorized to impose the penalty of refusal to receive or put for sale any tobacco delivered by the grower under rule 7 of the Tobacco Board (Auction) Rules, 1984.
	(5)	If the Auction Superintendent feels that the registration of the grower should be cancelled he shall make a report to the Chairman accordingly and the Chairman may proceed under rule 7 of the Tobacco Board (Auction) Rules, 1984.
	(6)	A bale after sale found to be nested shall be referred for sale by the Auction Superintendent and the sale proceeds shall be utilized to make a refund to the buyer towards the purchase price of the bale and cost of transport. If the amount realized by such sale is not sufficient to refund the buyer, such short fall shall be recovered by the Auction Superintendent from amounts due to the grower by the Board and pay to the buyer.
(21) No bid bales	If no buyer bids for a bale the Starter may reduce the starting price. If even then there is no bid forthcoming the starter may which draw the bale from sale. Such bale, may at the option of the grower, be either returned to him or be re-offered for sale by the Auction Superintendent on any other date if no bids are received for a bale so offered for sale, the Board or such agency as may be authorized by the Board shall buy the bale at such price as may be specified by it from time to time. Provided that it shall not be obligatory for the Board or the agency to buy tobacco which the Board may consider unsuitable for purchase by it.	
(22) Rejection by grower	(1)	Within 30 minutes after the sale price has been marked by the assistant to the starter, the grower may, by drawing a clearly visible red cross on the bale ticket, refuse to accept the price for such bale.

	(2)	A grower who has refused to accept the price of a bale may either remove it from the platform or request the Auction Superintendent to reoffer it for sale.
	(3)	Such bale shall be reoffered for sale only one and if at such resale the grower refuses to accept the price for such bale he shall remove the bale from the platform or offer it to the Board for purchase under regulation 21.
(23) Repudiation by buyers	(1)	Subject to the provisions of regulation 19 a buyer may notify the senior classifier within 30 minutes after the sale for the day is concluded that a bale purchased by him is badly handled, mouldy funked or damaged or is in some other manner unfit for sale.
	(2)	The senior classifier will immediately investigate the matter and if he upholds the contention of the buyer the sale of the bale may be repudiated by the buyer.
	(3)	If the senior classifier does not uphold the contention of the buyer the sale shall stand.
	(4)	If the contention of the buyer has been upheld or rejected the senior classifier shall indicate on the front of the bale ticket the reason for upholding or rejecting the contention.
	(5)	Such bale may be returned to the grower or reoffered for sale as the case may be under the provisions of regulation 18 or regulation 19.
(24) Removal of bales by buyers	(1)	A buyer shall remove the bales purchased by him from the place of sale on the platform to a place indicated by the Auction Superintendent within half an hour of the closing of the bales after sale.
	(2)	A buyer shall remove his tobacco from the platform within 5 hours of the sale.
	(3)	If a buyer fails to remove his tobacco within the time prescribed in Sub-regulation (2) the Auction Superintendent shall not be liable for any loss or damage which the tobacco may sustain.

(25) Removal of bales by the growers	(1)	A grower shall remove the tobacco which is returned to him for any reason within 5 hours of the close of sale.
	(2)	If the grower fails to remove the tobacco within the allotted time, the Auction Superintendent may have the tobacco removed and stored at the cost of the grower.
	(3)	If the grower fails to claim the tobacco within a period of 10 days from the date it became liable to be removed, the Auction Superintendent may have the tobacco sold and make payment of the price realized to the grower after deducting the cost of storage and other incidental expenses.
(26) Payment to growers	*(1)	In the State of Karnataka the Auction Superintendent shall pay the grower the price of the tobacco sold on his platform within 10 days of the conclusion of the sale and in the State of Andhra Pradesh, the Auction Superintendent shall pay 50 percent within 10 days and the balance within 45 days of the conclusion of the sale in which the tobacco was sold and from such payment the fee liable to be recovered from the grower under section 14A of the Act, the Duty of Excise liable to be paid by the grower under the provisions of the tobacco Cess Act, 1975 (No.26 of 1975) and such other charges as the grower is liable to pay under the rules or regulations shall be deducted.
	(2)	The payment shall be made by a cheque drawn in favour of the Bank wherein the grower has his account and which is indicated in the pass book issued to him under regulation 3.
(27) Payment by buyers	(1)	A buyer shall pay to the Auction Superintendent the price of the tobacco purchased by him within such time as the Board may require.

* Amended vide Tobacco Board (Action) Amendment Regulations 1985 published in the Gazette of India Part III, Section 4, Dt. 15-2-1985.

	(2)	If a buyer fails to settle his accounts within the time specified in terms of sub-regulation (1) the Auction Superintendent may impose the penalty of refusal to permit him to be present at and to make purchases on the platform under rule 9 of the Tobacco Board (Auction) Rules, 1984.
	(3)	If the Auction Superintendent feels that the penalty of cancellation of registration should be imposed he shall make a report to the Chairman who may proceed under rule 9 of the Tobacco Board (Auction) Rules, 1984.
	(4)	A buyer who fails to make payment within the specified time shall not be permitted to bid on any floor established by the Board till such time as he settles his account.
	(5)	To ensure timely payment from the buyers, the Board may require each buyer to produce, to the satisfaction of the Board, a Bank guarantee or letter of Credit or such other Security for such sums as it may deem necessary.
(28) Presence on the platform	(1)	No person other than those authorized by the Auction Superintendent shall be permitted to enter into a platform.
	(2)	Not more than two representatives of a buyer shall be permitted to enter the platform or participate in the bidding at a time.
	(3)	A grower whose tobacco is being auctioned or his representative duly authorized by him may enter the platform in order to examine the price fetched by his tobacco after his bales have been knocked down.
(29) Disputes	If any dispute not provided for in the regulations arises in the course of or incidental to sales, the matter shall be referred to the Director of Auctions whose decision shall be final.	
(30) Repeal	The Tobacco Board (application to the State of Karnataka) Regulations, 1979 and the Tobacco Board (application to the State of Andhra Pradesh) Regulations 1979 are hereby repeated and the provisions of the General Clauses Act, 1897 (10 of 1897) shall so far as may be apply to the interpretation of these regulations as it applies to the interpretation of a Central Act.	