

Houses of the Legislature, the government in August 2016 de-listed fruits and vegetables from the purview of the APMC through a resolution. Further, it was expanded to all farm products. Apart from the government claim that farmers will get a better price after the amendment, it believes that the competitive environment will help the APMCs improve their infrastructure as well as their quality of service to attract farmers. According to Mr. Ghanavat, farmers will go to the market which gives them a better price, be it private buyers or the APMCs.

Maharashtra has 306 APMCs. The APMC Act had made it mandatory for farmers to sell all their crops in the mandi within a geographically delineated market area under a particular committee's jurisdiction. A few lakh traders and head loaders survive on these committees. It is alleged that local political interests drive all the decisions taken by the APMCs. The supporters of the Bill claim that political compulsions have forced successive governments not to push for the amendments.

Shashikant Shinde, leader of the head loaders and one of the MLAs opposing the Bill, said it is being introduced to serve the interests of multinational companies. According to him, the APMCs provide a mechanism which ensures at least a minimum support price for the farmers' produce, and outside the APMCs, farmers will be forced to sell at a price quoted by companies. The State government will continue to hold meetings with the stakeholders, and is likely to present the Bill, approved by all, in the budget session from February 24, 2019.

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THE WAREHOUSING CORPORATIONS ACT, 1962: A CONTEMPORARY REVIEW

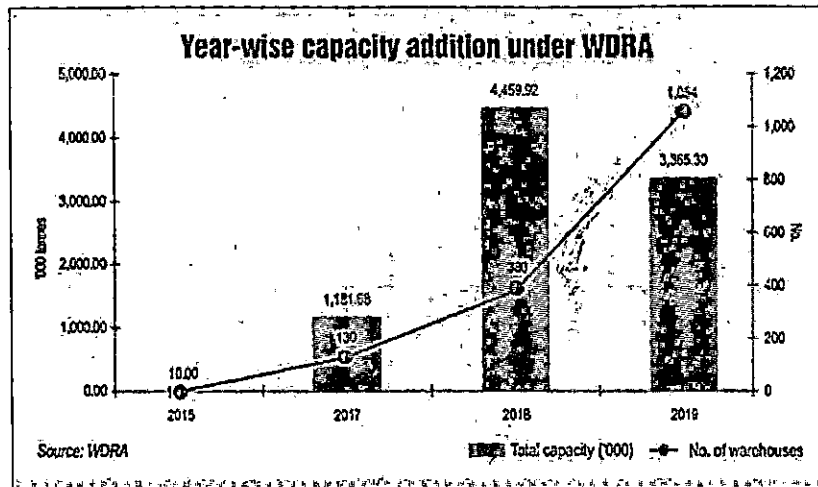
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1. INTRODUCTION

A grain saved is a grain produced. These golden words remain as a mere proverb when one visualizes the quantum of post-harvest wastages and losses of agricultural produce due to inefficient supply chain management. The reason for such huge post-harvest losses mainly attributes to lack of scientific storage facilities and improper transportation, poor front end infrastructure, such as inadequate warehousing facilities, redundant food processing technology and farmers' inaccessibility to value-added services¹.

India, being the primarily agriculturist country, has grown leaps and bounds in the agricultural production capacity. This developed production capacity has necessitated the augmentation of development of well articulated storage capacity. India has total agricultural warehousing capacity of around 91 MMT at present to store and conserve such large quantities with state agencies owning 41% of the capacity and the balance distributed among private entrepreneurs, cooperative societies, farmers, etc. However, these government agencies use 66% (60 MMT) of India's total agricultural storage capacity which also includes hired capacity of 23 MMT. The total state-owned storage capacity of 37 MMT is held through three public sector agencies viz. Food Corporation of India (FCI), Central Warehousing Corporation (CWC) and State Warehousing Corporation (SWC)². Agricultural warehousing accounts for fifteen percent of the warehousing market in India and is estimated to be worth INR 8,500 crore³.



These statistics reveal that warehousing plays a very critical role in the promotion of agricultural marketing, rural banking and financing and achieving the aim of food security in the country. Warehousing is very significant link in the whole supply chain management of agricultural produce.

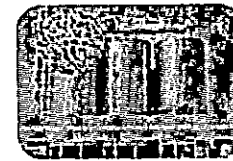
2. CONCEPTUAL DEVELOPMENT

Warehousing refers to the activities involving storage of goods on a large-scale in a systematic and orderly manner and making them available conveniently when needed. In other words, warehousing means holding or preserving goods in huge quantities from the time of their purchase or production till their actual use or sale. The agricultural warehousing and food processing industries contribute significantly to warehousing⁵.

Warehousing primarily refers to the storage of goods to be transported, whether inbound or outbound. The Warehousing and Storage industry includes establishments operating warehousing and storage facilities for general merchandize, refrigerated goods and other warehouse products. Warehouses are one of the major segments of the rapidly growing logistics industry. Currently the segment has evolved from providing not only

custody for goods but also offering value added services such as sorting, packing, blending and processing. With evolution of an organized retail sector modern warehouses for the storage of perishable goods have become indispensable⁶.

Important Functions of the warehouses are as follows-



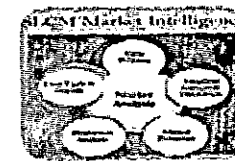
Scientific Storage



Financing

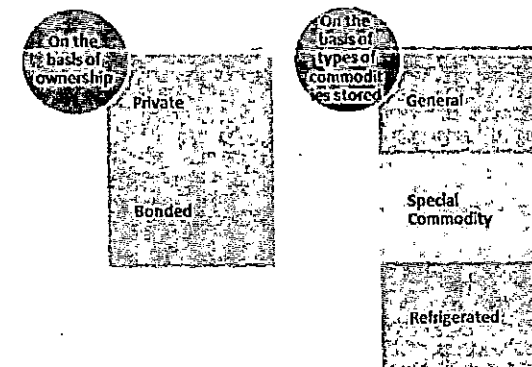


Price Stabilization



Market Intelligence

The warehouses can be categorized into following types-



Agricultural warehousing involves the storage of agricultural products such as food grains, cereals, oilseeds, sugar, pulses, spices, fruits and vegetables. Storage capacity available with the Food Corporation of India (FCI), a part of the warehousing capacity available with the Central Warehousing Corporation (CWC) and state warehousing corporations (SWCs) and capacity leased from the private sector is used for the storage of food grains procured by the central government. A major chunk of the country's organized warehousing capacity is thus still being managed by the government through public sector undertakings such as FCI, CWC, SWCs, state marketing federations, and state civil supplies corporations. As of June 2020, the agricultural warehousing capacity stood at over 166 million tons (mt)⁷.

3. THE WAREHOUSING CORPORATIONS ACT, 1962

A. Historical Background

In the year 1889, the then Secretary of State for British India put forward a scheme to introduce grain elevators in India. A few decades later, the Royal Commission on Agriculture in India (1928) recognized the problem and made several suggestions regarding storage and warehousing. This can be considered as the birth of the concept of 'warehousing' in India.⁸

In 1928, the Royal Commission on Agriculture underscored the need for a warehousing system in India. The Central Banking Enquiry Committee, 1931, too, drew attention to this need. The Reserve Bank of India emphasized the need for warehouses as early as in 1944, and proposed that every State Government should enact legislation to regulate the functioning of warehouses. The All-India Rural Credit Survey Committee of the Reserve Bank of India (set up in 1951 and submitted its report in 1954) also made comprehensive recommendations for the development of warehousing as an integrated scheme of rural credit and marketing. As a result of the recommendations of the Committee, the Government of India enacted the Agricultural Produce (Development and Warehousing) Corporations Act, 1956. The Act provided for:

- (a) The establishment of a National Co-operative Development and Warehousing Board (which was set up on 1st September, 1956);
- (b) The establishment of the Central Warehousing Corporation (which was established at Delhi on 2nd March, 1957); and
- (c) The establishment of State Warehousing Corporations in all the States in the country (which were established in various states between July 1957 and August 1958).

In 1962, the Government of India decided to break up the Act of 1956 into two separate Acts – the National Co-operative Development Corporation Act, 1962, and the Warehousing Corporations Act, 1962. The Warehousing Corporations Act came into operation on 18th March, 1962. The Act defines the specific functions and the area of operations of Central and State Warehousing Corporations. It enlarged the list of the number of commodities meant for storage⁹.

B. Legal Analysis

The Warehousing Corporations Act, 1962 is divided into five chapters and one schedule. The Act was implemented to provide for the incorporation and regulation of corporations for the purpose of warehousing of agricultural produce and certain other commodities and for matters connected therewith. The Act extends to the whole of India.

The two significant definitions in the Act which needs special elaboration are the definitions of "Agricultural Produce" and of "Notified commodity".

"Agricultural produce"¹⁰ means any of the following classes of commodities, namely: –

- (i) Foodstuffs, including edible oil-seeds;
- (ii) Cattle fodder, including oil-cakes and other concentrates;
- (iii) Raw cotton, whether ginned or unginned, and cotton seed;
- (iv) Raw jute; and
- (v) Vegetable oils

And "notified commodity"¹¹ means any commodity (other than agricultural produce) which the Central Government may, by notification in the Official Gazette, declare to be a notified commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution. These two definitions make it clear that these commodities can be stored in warehouses. The scope is very wide and as per the needs of the time, more commodities can be included as "notified commodities".

Further, Chapter two has elaborated the following aspects related to the Central Warehousing Corporation-

- a. Constitution
- b. Share holding
- c. Management mechanism
- d. Composition of Board of Directors
- e. Functions of the CWC
- f. The formation and functions of the executive committee
- g. Meetings of the Corporation
- h. Types of funds to be maintained by the Corporation i.e. Warehousing Fund & General Fund

On the same lines, Chapter three has given details about the State Warehousing Corporation. Further, Chapter four lays down provisions with respect to financial management of the corporations. Warehousing corporations have to deal with numerous financial transactions along with raising money for its successful functioning. Hence, the law has empowered the Warehousing corporations with the power to raise money from investment and borrowings. In order to streamline the working of the corporations, they have to seek approval of their yearly programs and financial budgets from the respective governments. Section 31 of the same chapter makes the provision for audit of

the accounts of the warehousing corporations. Such audited reports shall be placed before Comptroller & Auditor-General of India and to the Central Government and before the shareholders as well. These legal bindings make the corporations financially accountable and minimize the chances of corruptive practices.

In the fifth chapter, the miscellaneous provisions are included which deal with following residuary but significant matters connected with the working of the warehousing corporations-

- a. The Corporation can delegate its powers and authorities to the Secretary and other functionaries for the effective functioning.
- b. In any meeting of the shareholders of a Warehousing Corporation, every member shall have one vote in respect of each share held by him in the Corporation¹².
- c. If there is any difference of opinion between the Central Warehousing Corporation and a State Warehousing Corporation regarding their respective functions and powers under this Act, such difference shall be referred to the Central Government whose decision thereon shall be final.¹³
- d. The Act has made provision of indemnity to Directors against all losses and expenses incurred in the discharge of his duties except such as are caused by his own willful act or default. The Act entrusted the Directors with sole responsibility for the misdeeds rather than providing for joint liability.
- e. The penal provision in section 38 provides that whoever, without the consent in writing of a Warehousing Corporation, uses the name of that Corporation in any prospectus or advertisement, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both¹⁴.
- f. Section 39 has further imposed tax liability on the corporations with certain valid legal exemptions.
- g. The warehousing corporations are exempted from the applicability of provisions of winding up.

h. The Act has conferred appropriate government with the powers to make rules for efficient functioning of the corporations.

i. With the previous sanction of the appropriate government, the warehousing corporation can make regulations for the efficient conduct of the affairs of the corporation.

Thus, the Warehousing Corporations Act, 1962 is a comprehensive statute which deals with administrative set up of the warehousing corporations. As the warehouses play significant role in agricultural sector, the legal details of their working strengthen their overall functioning. The letters of law are well worded; however the implementation part reflects both sides which are promising on some counts and need attention on some counts. The operational aspect has been analyzed by the author in the next succeeding part.

C. Operational Aspect

Pursuant to the enactment of the Warehousing Corporations Act, 1962, Central Warehousing Corporation (CWC), a Schedule 'A'-Mini Ratna, Category – 1 Central Public Sector Enterprise (CPSE) was established as statutory body. Its aim is to provide reliable, cost-effective, value-added, integrated warehousing and logistics solution in a socially responsible and environment friendly manner. As a premier Warehousing Agency, CWC is operating 415 warehouses as on 31.12.2019 with a total storage capacity of 101.44 lakh MT including 25 Container Freight Stations (CFSs)/ Inland Clearance Depots (ICDs), 3 Air Cargo Complexes (ACCs), 2 Inland Check Posts (ICPs) at Petrapole and Attari and 3 Temperature Controlled Warehouses.

Warehousing activities of CWC includes food grain warehouses, industrial warehousing, custom bonded warehouses, container freight stations, inland clearance depots and air cargo complexes. Apart from storage and handling, CWC also provides services in the area of clearing & forwarding, handling & transportation, disinfestations, fumigation etc. CWC also offers consultancy services or training to different agencies for construction of warehousing infrastructure. CWC has 19 State Warehousing

Corporations (SWCs) as its associates. Central Warehousing Corporation is 50% shareholder in the equity capital of the SWCs. As on 31.12.2019, these SWCs were operating 2055 warehouses with a total storage capacity of 354.85 lakh MT¹⁵.

The Central Warehousing Corporation provides safe and reliable storage facilities for about 120 agricultural and industrial commodities. The areas of operations of these central warehouses include centers of all-India and inter-state importance. The functions of the Central Warehousing Corporation are:

- (i) To acquire and build godowns and warehouses at suitable places in India;
- (ii) To run warehouses for the storage of agricultural produce, seeds, fertilizers and notified commodities for individuals, co-operatives and other institutions;
- (iii) To act as an agent of the government for the purchase, sale, storage and distribution of the above commodities;
- (iv) To arrange facilities for the transport of above commodities;
- (v) To subscribe to the share capital of State Warehousing Corporations; and
- (vi) To carry out such other functions as may be prescribed under the Act¹⁶.

Separate warehousing corporations were also set up in different States of the Indian Union. The first state warehouse was set up in Bihar in 1956. The areas of operation of the State Warehousing Corporations are centers of district importance. The total share capital of the State Warehousing Corporations is contributed equally by the concerned State Governments and the Central Warehousing Corporation. The SWCs are under the dual control of the State Government and the Central Warehousing Corporation¹⁷.

Maharashtra State Warehousing Corporation was established on 8th August, 1957, under the Agriculture Produce (Development & Warehousing) Act, 1956, which was subsequently replaced by the Warehousing Corporations Act, 1962. The functioning of the State Warehousing Corporation is done on the basis of said Act & the detailed procedure formulated under Bombay Warehouses Act, 1959 and Bombay Warehouses Rules, 1960 duly amended from time to time. As per the Act, MSWC has two

Shareholders, one is Government of Maharashtra and another is Central Warehousing Corporation with 50% shares each. Maharashtra State Warehousing Corporation (MSWC) is one of the oldest State Warehousing Corporation in the country. It was started with 3 Warehousing Centers and has now grown up to the extent of 200 Centers as at present with a total capacity of 17.60 Lakhs M.Ts. (as on 31st March 2019). Maharashtra State Warehousing Corporation has introduced measures for providing economical services to the farmers, to store their primary produce. M.S.W.C. encourages availing the facilities of scientific storage by giving rebate up to 50% to them. Besides this, rebate up to 50% is also given to the farmers from S.C. /S.T. categories and notified tribal areas¹⁸.

These statistics are very promising and the schemes introduced are very much encouraging; however, the numbers never matters. The reach does not always signify the quality. There are several lacunas to be addressed in the agricultural sector, and storage with respect to warehousing is one of the primary concerns. According to the data released by the United Nations Food and Agricultural Organization (FAO), more than 40% of the food produced is wasted at the consumer and retail level. For context, the wheat wastage figure of 21 million metric tons in 2013 equals Australia's total annual production! As unscientific and obsolete storage stares at the face of the poor, India ranks 102 out of 117 countries in the Global Hunger Index under the 'serious hunger' category¹⁹. To put in nutshell, the agricultural warehousing suffers from the following defects-

- a. Inadequacy in terms of storage capacity
- b. Unorganized nature
- c. Lack of preparatory automation
- d. Regional imbalance in warehouse
- e. Lack of adequate scientific storage
- f. Inefficient logistical management

g. High cost of credit

h. Lack of integrated solutions

4. CONCLUSION

Revamping agricultural warehousing in a revolutionary manner is the need of the hour to have a positive domino effect. The exigency to increase the scientific storage capacity of agricultural products stems from the fact that India has an ever-growing population to cater to, along with the rise in production capacity since the green revolution. Even now, the antiquated Cover and Plinth storage system is used in several warehouses across the country. To counter these issues, the Union budget and Shantha Kumar's committee have created a fertile arena to rope in private players into the agricultural warehousing segment, which was until now dominated by the government²⁰.

Further, with a view to increasing the participation of the private sector and development & regulation of the warehousing industry, the Government of India introduced 'The Warehousing (Development and Regulation) Act' in September 2007. The main focus of this Act is to establish a regulated environment for issuance of Negotiable Warehouse Receipt (NWR) under Warehousing Development and Regulatory Authority (WDRA) which was constituted in October 2010 under the said Act. The functions of WDRA include registration and accreditation of warehouses intending to issue NWR. WDRA, since inception had granted accreditation to 51 applications out of 300 applications submitted as on March 31, 2011²¹.

Further, the storage capacity available with State agencies are primarily used for keeping central stock of food grains for the buffer stock, public distribution systems, and other Government schemes which consequently leaves only a marginal capacity for other players to store their produce²².

Over the years warehousing business has been transformed to a great extent from merely a storage infrastructure to a one-stop-shop for supply chain management through the entry of the private sector. Nowadays the goods are stored as per the scientific

methodology to protect them against the quantitative as well as qualitative losses occurring due to unavoidable circumstances such as floods, pest attacks, etc. Hence, 'warehouse performance indicators' should be introduced to check the efficiency of the warehouses which should include quality parameters like the ability to control wastage, pest control measures, provide wide range of testing, grading and certification services which can help in ascertaining the value of the commodity deposited and bring transparency among all interested entities²³.

In order to make the letters of law livelier, following initiatives can be implemented-

- a. To build additional storage capacity
- b. To upgrade the existing state owned warehouses
- c. To provide for adequate manpower and supervision for warehouses
- d. To focus on new and emerging technology and new investment

Warehousing solutions should now promote end-to-end services (Third Party Logistics) for efficient integration of the forward and backward linkages. Smart agritech solutions in warehousing should be promoted by adopting technological solutions such as AI, Machine Learning, IoT, and Automation. They promote efficiency while boosting the functional capacity. Storage of perishable commodities in state-of-art, Grade-A facilities, is the road to success. Modern warehouses have gained traction through the adoption of silos. These scientific structures enable bulk storage along with modern mechanized solutions. Vertical silos, which are made of metal sheets, are equipped with ventilated structures that ultimately promote bulk storage for longer durations²⁴.

Going forward, food grain management is incomplete without augmenting the development of scientific and structural warehousing facilities across the country. We need to create a multi-dimensional approach that will create ripple benefits for different stakeholders. Firstly, the farmers will be able to utilize the economies of scale through mechanized warehousing facilities as post-harvest losses decrease and distress selling gets eliminated. Secondly, the government can fulfill the aspiration for a healthy India

since there is no wastage of food. They will also be able to increase the export of food grains as the storage and retention capacity increases. Lastly, the consumers will get access to hygienic and nutritional food, promoting the idea of a healthy India²⁵.

To conclude, it can be well said that law is perfect on its own terms. Only the operational perspectives need more strengthening and technological support with a view to achieve food security of India in real terms.

¹ Dr. Bhartendu Kr. Chaturvedi, Lieutenant Colonel Anil Raj TA, *Agricultural Storage Infrastructure in India: An Overview*, Volume 17, Issue 5, Ver. II, IOSR Journal of Business and Management (IOSR-JBM) e-ISSN: 2278-487X, p-ISSN: 2319-7668, PP 37-43 (2015), <http://iosrjournals.org/iosr-jbm/papers/Vol17-issue5/Version-2/E017523743.pdf> (last visited June 10,2021)

² Sushma Singh, *Agricultural Warehousing in India: Data, Statistics & Opportunities*, Money mint (08/08/2020, 9 pm), <https://moneymint.com/agriculture-warehousing-india/#:~:text=India%20has%20a%20total%20Agri,cooperative%20societies%2C%20farmers%2C%20etc.>

³ Entrepreneur India, <https://www.entrepreneurindia.co/blog-description/461/agriculture+storage+and+warehousing+with+cold+storage> (last visited June 10,2021)

⁴ Towards Efficient Storage, <https://indianinfrastructure.com/2020/07/12/towards-efficient-storage/> (last visited June 10,2021)

⁵ *supra* note 3

⁶ Madan Sabnavis, Saurabh Bhalerao, Mradul Mishra, *Overview of the India Warehousing Industry*, (16/10/2018), <https://www.careratings.com/upload/NewsFiles/Studies/Warehousing%20Industry%20October%202018.pdf> (last visited June 10,2021)

⁷ *supra* note 4

⁸ Sandeep Chadha, *Warehousing Industry In India: Then & Now*, <https://warehouse.com/warehousing-industry-then-now.html#:~:text=History%20of%20Warehousing%20in%20India&text=After%20independence%2C%20efforts%20were%20renewed,Cooperative%20Development%20and%20Warehousing%20Board%20.> (last visited June 10,2021)

⁹ Chapter 7 Warehousing And Food Corporation Of India, <http://eagri.org/eagri50/AECO242/pdf/lec07.pdf> (last visited June 10,2021)

¹⁰ The Warehousing Corporations Act, 1962, § 2 (a), No.58, Acts of Parliament, 1962 (India)

¹¹ The Warehousing Corporations Act, 1962, § 2 (e), No.58, Acts of Parliament, 1962 (India)

¹² The Warehousing Corporations Act, 1962, § 34, No.58, Acts of Parliament, 1962 (India)

¹³ The Warehousing Corporations Act, 1962, § 35, No.58, Acts of Parliament, 1962 (India)

¹⁴ The Warehousing Corporations Act, 1962, § 38, No.58, Acts of Parliament, 1962 (India)

¹⁵ Central Warehouse Corporation, CWC at a Glance, <http://cewacor.nic.in/CWCViewPage?q=aRHkPwqENGIw33ullbX4y8BYQa6K1n5FHPelqCebYUbyYJQKR5t9Rq+pl8Qr1Wt4bSXLps2hqSmk=>

¹⁶ *supra* note 9

¹⁷ *Id.*

¹⁸ Maharashtra State Warehousing Corporation, About Us, (last visited June 10,2021) <https://www.mswarehousing.com/about.htm>

¹⁹ Abhijit Verma, *Accessible , affordable high tech storage for farmers is the need of the hour, the Business World* (16/06/2021, 9 pm), the Business World, <http://www.businessworld.in/article/Accessible-Affordable-High-Tech-Storage-For-Farmers-Is-The-Need-Of-The-Hour/16-04-2021-386819/>

²⁰ *Id.*

²¹ *supra* note 2

²² *Id.*

²³ *Id.*

²⁴ *supra* note 19

²⁵ *Id.*

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