

Malpractices by Tea Board by exporting tea in substandard tea chests

8489 SHRI JYOTIRMOY BOSU
Will the Minister of COMMERCE be pleased to state:

(a) whether Government are aware of the fact that during a recent enquiry by the Tea Board into the malpractices of exporting tea in substandard tea chests, a section of exporters in Calcutta was found to have failed to produce cash memos and bills in support of their purchases of tea outside tea auctions as reported in the 'Hindustan Standard', dated the 19th June, 1972,

(b) if so the facts of the matter and

(c) the action if any taken to stop such malpractices?

THE MINISTER OF COMMERCE
(PROF. D. P. CHATTOPADHYAYA)

(a) Yes, Sir

(b) In October 1971 an importer in Canada complained that some teas imported by him from India were tainted and emitting bad smell. After holding necessary enquiries and conducting tests with the help of ISI and after giving a hearing to the exporter, the Chairman Tea Board cancelled the Export Licence of the Exporter under the Tea (Distribution and Export) Control Order, 1967.

(c) For undertaking remedial measures regular and intensive survey of the conditions of the tea chests have been and are being conducted by the Tea Board in association with the Indian Standards Institution and other interests in order to pin point the causes of complaints. At the instance of the Board, the ISI have now considerably tightened up their inspection procedure to eliminate the possibility of use of sub-standard chests for packaging of tea. The tea gardens have been warned not to purchase

their requirement of tea chest panels from doubtful sources. Any tea chests found to be sub-standard/broken are prevented from being shipped until the chests are properly repaired using plywood panels and fittings bearing ISI marks. At the instance of the Board the Calcutta Tea Traders Association have warned the tea producers that any tea chests found to have been over-packed with tea will not be allowed to be sold in auction.

Remittances by Foreign Companies

8490 SHRI JYOTIRMOY BOSU
Will the Minister of FINANCE be pleased to refer to the reply given to Unstarred Question No 4269 on 1st September 1972, regarding remittances by foreign companies in India and state

(a) under what clause and section of Indian Income-tax Act 1961 the "Head Office Expenses" of the Foreign Companies and Foreign Banks in particular are allowed as admissible legitimately chargeable to the revenue of Indian Branches,

(b) the basis method or criteria laid down by Government/C.B.D.T. and their instructions to the Commissioners of Income-tax in regard to the justifiability thereof in relation to the gross income, net income deposits etc., and

(c) how far do these head office expenses compare vis-a-vis the managing Agency Commission System since abolished in India?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH) (a) Profits and gains of a business are computed after deducting the admissible expenses in accordance with the provisions of the Income-tax Act, 1961, particularly those of sections 28 to 44 of that Act. The "Head Office Expenses" of the foreign companies and foreign banks assessed in India are allowed as a

deduction in computing their taxable income generally under section 37(1) of the said Act.

(b) The general criterion applied in determining the admissibility of "Head Office Expenses" is the one laid down in the said section 37(1), viz., whether such expenditure is laid out or expended wholly and exclusively for the purposes of the Indian business and is not in the nature of capital expenditure.

Interest paid or credited by the Indian Branch to the Foreign Head Office is not allowed as a deduction on the ground that a person cannot pay interest to himself but the cost (including interest paid), if any, to the Head Office of obtaining the funds to be lent to the Branch in India is allowed in the same way as if that cost had been incurred by the Indian Branch direct.

No specific instructions have been issued for limiting the admissibility of such expenses in relation to the gross income, net income or deposits. The quantum of such admissible expenditure is determined on the facts of each case. However, if in any case the Income-tax Officer is of the opinion that the actual amount of income accruing or arising to the non-resident cannot be definitely ascertained, Rule 10 of the Income-tax Rules, 1962 provides that the income may be determined as a percentage of turnover or as a proportion of the world profits (computed in accordance with the Indian tax law) or in any other suitable manner.

(c) Foreign Head Office Expenses and Managing Agency Commission payable under the managing agency commission system are not really comparable as the former are a reimbursement/payment of actual expenses incurred in respect of, or properly allocable to, the Indian Branch while the latter represented remuneration paid for services rendered by managing Agents.

Remittances by Foreign Companies

8491. SHRI JYOTIRMOY BOSU:
SHRI K. SURYANARAYANA:

Will the Minister of FINANCE be pleased to refer to the reply given to Unstarred Question No. 2755 on the 9th March, 1973 regarding remittances by foreign companies in India, and state:

(a) the depreciated value of the original capital brought by each of these companies for investment in India;

(b) whether Government propose to put restrictions on the profit remittances by the foreign companies; and

(c) if not, the reasons therefor?

THE MINISTER OF FINANCE
(SHRI YESHWANTRAO CHAVAN):

(a) The information is not available.

(b) and (c). Government's policy is to freely permit the remittance of profits and dividends earned by foreigners on their investments in India, subject to payment of Indian taxes thereon. In respect of utilisation of reserves for declaring dividends by 100 per cent foreign owned companies certain restrictions were imposed, details of which are as under:—

According to the decisions taken by Government in April, 1972, remittance facilities in respect of dividends declared by 100 per cent foreign owned companies, wholly or in part out of reserves, are conditional on the Reserve Bank being satisfied (i) that the reserves have been drawn upon only for maintaining the dividend quantum at the average of the previous 5 years or at 10 per cent of the paid up capital, whichever is more; (ii) that the drawal on reserves does not exceed 10 per cent of the total of the paid up capital and free reserves of the company at the beginning of the year and (iii) that the balance of free reserves left after the