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**STANDING COMMITTEE
ON FINANCE
(1998-99)**

TWELFTH LOK SABHA

THE FINANCE (AMENDMENT) BILL, 1998

FIRST REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

July, 1998/Asadha, 1920 (Saka)

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STANDING COMMITTEE ON FINANCE
(1998-99)

(TWELFTH LOK SABHA)

THE FINANCE (AMENDMENT) BILL, 1998

Presented to Lok Sabha on 4 July, 1998
Laid in Rajya Sabha on 3 July, 1998



LOK SABHA SECRETARIAT
NEW DELHI

July, 1998/Asadha, 1920 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE
ON FINANCE (1998-99)

Shri Murli Deora — *Chairman*

MEMBERS

Lok Sabha

2. Shri Dhirendra Agarwal
3. Shri Mohanbhai Sanjibhai Delkar
4. Shri Haribhai Parathibhai Chaudhary
5. Shri Uttam Singh Pawar
6. Shri Girdhari Lal Bhargava
7. Shri Chetan Chauhan
8. Shri Bhagwan Shanker Rawat
9. Shri Rayapati Sambasiva Rao
10. Shri T. Subbarami Reddy
11. Shri Kavuru Sambasiva Rao
12. Shri Sandipan Bhagwan Thorat
13. Shri Praful Manoharbhair Patel
14. Shri Prithviraj D. Chavan
15. Shri R.L. Jalappa
16. Shri Magunta Sreenivasulu Reddy
17. Shri Rupchand Pal
18. Shri Varkala Radhakrishnan
19. Shri Beni Prasad Verma
20. Shri S. Murugesan
21. Shri M. Sahabuddin
22. Dr. S. Venugopalachary
23. Shri Tathagata Satpathy

24. Kum. Kim Gangte
25. Dr. Bikram Sarkar
26. Shri S. Jaipal Reddy
27. Shri Joachim Baxla
28. Shri P. Chidambaram
29. Shri Buta Singh
30. Shri C.H. Vidyasagar Rao

Rajya Sabha

31. Dr. Manmohan Singh
32. Shri Krishna Kumar Birla
33. Shri N.K.P. Salve
34. Shri M. Rajsekara Murthy
35. Shri Narendra Mohan
36. Shri O.P. Kohli
37. Shri Raghavji
38. Dr. Biplab Dasgupta
39. Shri C. Ramachandraiah
40. Shri Amar Singh
41. Shri Prem Chand Gupta
42. Shri R.K. Kumar
43. Shri Guru Das Gupta
44. Shri Satish Pradhan
45. Shri Suresh A. Keswani

SECRETARIAT

1. Dr. A.K. Pandey — *Additional Secretary*
2. Smt. P.K. Sandhu — *Director*
3. Shri N.S. Hooda — *Assistant Director*

INTRODUCTION

I, the Chairman of the Standing Committee on Finance (1998-99) having been authorised by the Committee to submit the Report on their behalf, present this First Report on The Finance (Amendment) Bill, 1998.

2. The Bill was introduced in Lok Sabha on 29 May, 1998 and was referred to the Committee by the Speaker on 8 June, 1998 under Rule 331E(b) of the Rules of Procedure and Conduct of Business in Lok Sabha. The Bill was considered and approved and the Report was adopted by the Committee at their sitting held on 29 June, 1998.

3. The Committee wish to express their thanks to the Officers of Ministry of Finance (Department of Revenue) for placing before them the detailed information in connection with the examination of the Bill.

NEW DELHI;
30 June, 1998

9 Asadha, 1920 (Saka)

MURLI DEORA,
Chairman,
Standing Committee on Finance.

REPORT

The Finance (Amendment) Bill, 1998 seeks to replace the Finance (Amendment) Ordinance, 1998 which was promulgated on 21 April, 1998. The Committee have been informed that the background of this proposal goes back to September, 1997, when the Government did a mid-term review of the budget 1997-98. They took into account a number of the post-budget commitments already undertaken including the Pay Commission award, after the presentation of the Budget 1997-98 and discussed various ways and means to meet the additional expenditures. The Govt. finally approved following proposals as additional resource raising measures:

- (i) 3% additional special duty of customs on non-POL imports excluding project imports.
- (iii) Foreign Travel Tax on journey to a country other than the neighbouring country from Rs. 300 to Rs. 750.

2. In order to implement the above decision of the Government, it was necessary to amend section 35 of the Finance Act, 1979 which prescribes the rates of foreign travel tax and section 68 of the Finance (No. 2) Act, 1996 which prescribes the rate of special duty of customs on imported goods.

3. As the Parliament was not in Session, accordingly, the President of India promulgated the Finance Acts, (Amendment) Ordinance, 1997 (No. 16 of 1997) on 16 September, 1997.

4. Concerted efforts were made by the Government to replace the Ordinance with a Bill and get it passed during the next session of Parliament but due to dissolution of the Eleventh Lok Sabha on 4 December, 1997, the Bill could not be introduced in Parliament.

5. The Committee have further been apprised that in order to avoid the expiration of the Ordinance on 30 December, 1997 the Government of India had to decide about the reissuance of the Ordinance. This time the rate of foreign travel tax was reduced from Rs. 750 to Rs. 500 per journey w.e.f. 1 January, 1998 in pursuance of the Cabinet decision. Accordingly, the President of India promulgated

the Finance (Second Amendment) Ordinance, 1997 (No. 24 of 1997) on the 24 December, 1997.

6. As the Parliament met only for a short duration from 24 March to 1 April, 1998 after the general elections, the Govt. could not get the Ordinance replaced by a Bill. In view of the fact that the Ordinance would have ceased to operate on the expiration of six weeks from the re-assembly of the Parliament (24 March, 1998) and to continue with the levy of special customs duty and foreign travel tax at the enhanced rates. The Govt. again approved the proposal for promulgation of an Ordinance. Accordingly, the President of India promulgated the Finance (Amendment) Ordinance, 1998 (No. 5 of 1998) on the 21 April, 1998. The recommendation of the President to replace the aforesaid Ordinance was sought under Article 117 of the Constitution for introducing The Finance (Amendment) Bill, 1998 in the Lok Sabha, and the assent was given by the President on 23 May, 1998. The Bill was introduced in Lok Sabha on 29 May, 1998.

7. During the course of evidence when the Committee enquired as to why the Bill could not be placed before the House in November, 1997 and again in March-April, 1998 the representative of the Ministry (Department of Revenue) explained that the Ordinance could not be converted into a Bill because in September, 1997 when the first Ordinance was promulgated, the Parliament was not in Session. Subsequently, as soon as the Session started the Cabinet approval was obtained and the Secretary General was informed by the Finance Minister of his intention to introduce the Bill on 20.11.97. It, however, could not be introduced because Lok Sabha was adjourned *sine die* within four days on 24.11.97 and no business could be transacted during this period. Thereafter, the 11th Lok Sabha was dissolved on 04.12.1997. Again as soon as 12th Lok Sabha was constituted on 24.03.1998, the first two days were allotted for swearing in ceremony and thereafter. President's address. The Interim Budget was presented on 28th March and Lok Sabha adjourned on 1st of April, 1998. Hence, the Bill to replace the Ordinance was introduced in Lok Sabha on 29 May, 1998.

8. The texts of the Finance (Amendment) Ordinance, 1998 and the Finance (Amendment) Bill, 1998 are enclosed at Appendix II and III respectively.

9. Having considered the brief furnished by the Ministry of Finance and clarifications given by their representatives during the

oral evidence, the Committee approve The Finance (Amendment) Bill, 1998 without any recommendation for amendment. However, the Committee strongly feel that Ordinance should not have been repeated twice and in normal circumstances, the imposition of taxes should not be done through ordinances except under some unprecedented and unforeseen circumstances in order to meet an emergent situation.

NEW DELHI;
June 30, 1998

9 Asadha, 1920 (Saka)

MURLI DEORA,
Chairman,
Standing Committee on Finance.

APPENDIX I

MINUTES OF THE SITTING OF THE STANDING COMMITTEE ON FINANCE HELD ON 29 JUNE, 1998.

The Committee sat from 1500 hrs. to 1630 hrs. in Committee Room 53 Parliament House, New Delhi.

PRESENT

Shri Murli Deora — *Chairman*

MEMBERS

Lok Sabha

2. Sh. Uttam Singh Pawar
3. Sh. Bhagwan Shanker Rawat
4. Sh. T. Subbarami Reddy
5. Sh. Kavuru Sambasiva Rao
6. Sh. Sandipan Bhagwan Thorat
7. Sh. Rupchand Pal
8. Sh. Varkala Radhakrishnan
9. Sh. Beni Prasad Verma
10. Dr. Bikram Sarkar
11. Sh. Joachim Baxla

Rajya Sabha

12. Sh. O.P. Kohli
13. Sh. Biplab Dasgupta
14. Sh. C. Ramachandraiah
15. Sh. Prem Chand Gupta
16. Sh. R. K. Kumar
17. Sh. Gurudas Das Gupta

SECRETARIAT

1. Smt. P. K. Sandhu — Director
2. Sh. N. S. Hooda — Assistant Director

Representatives from the Ministry of Finance (Deptt. of Revenue)

1. Sh. Ravi Kant — Chairman (CBDT)
2. Sh. D.S. Solanki — Chairman (CBEC)
3. Sh. J.S. Mathur — A.S. (Budget)

The Chairman welcomed the Members and representatives of the Ministry of Finance (Deptt. of Revenue). He informed the Members that The Finance (Amendment) Bill, 1998 which seeks to replace The Finance (Amendment) Ordinance, 1998 was introduced in Lok Sabha on 29 May, 1998. The Bill was referred to the Standing Committee on Finance on 8 June, 1998 by the Hon'ble Speaker for examination and report. The Chairman further informed that the representatives of the Ministry have been invited for assisting the Committee and for giving clarifications, if any, required by the Members on the above mentioned Bill.

The Committee then took the evidence of the representatives of the Ministry of Finance (Deptt. of Revenue).

A record of the verbatim proceedings was kept.

The witnesses then withdrew.

The Committee thereafter considered the Bill and approved the same without any recommendation for amendment. The Report was also considered and adopted by the Committee at the same sitting.

The Committee then adjourned.

APPENDIX II

THE FINANCE (AMENDMENT) ORDINANCE, 1998

No. 5 OF 1998

Promulgated by the President in the Forty-ninth Year
of the Republic of India.

An Ordinance further to amend the Finance Act, 1979
and the Finance (No. 2) Act, 1996.

WHEREAS the Finance Acts (Amendment) Ordinance, 1997 was promulgated by the President on the 16th day of September, 1997 to further amend the Finance Act, 1979 and the Finance (No. 2) Act, 1996;

AND WHEREAS for giving continued effect to the provisions of the said Ordinance with certain modifications, the Finance (Second Amendment) Ordinance, 1997 was promulgated by the President on the 24th day of December, 1997;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Finance (Second Amendment) Ordinance, 1997;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Finance (Amendment) Ordinance, 1998.

(2) It shall be deemed to have come into force on the 16th day of September, 1997.

2. In sub-section (1) of section 35 of the Finance Act, 1979, for clause (i), the following clause shall be substituted, namely:—

“(i) for every such journey to any place outside India other than a place in a neighbouring country—

(a) at the rate of seven hundred and fifty rupees on or after the 26th day of September, 1997 but before the 1st day of January, 1998;

(b) at the rate of five hundred rupees on or after the 1st day of January 1998;"

3. In section 68 of the Finance (No. 2) Act, 1996:—

(a) in sub-section (1), for words "two per cent.", the words "five per cent." shall be substituted;

(b) to sub-section (1) as so amended, the following proviso shall be added, namely:—

"Provided that in the case of goods falling under heading Nos. 27.09 to 27.15 and heading No. 98.01 of the said First Schedule, the provisions of this sub-section shall have effect as if for the words "five per cent.", the words "two per cent." had been substituted."

4. (1) The Finance (Second Amendment) Ordinance, 1997 is hereby repealed. Ord. 24 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the Finance Act, 1979 or the Finance (No. 2) Act, 1996 as amended by the said Ordinance, shall be deemed to have been done or taken under the Finance Act, 1979 or, as the case may be, the Finance (No. 2) Act, 1996, as amended by this Ordinance. 21 of 1979. 33 of 1996.

K.R. NARAYANAN,
President.

RAGHBIR SINGH,
Secy. to the Govt. of India.

APPENDIX III

THE FINANCE (AMENDMENT) BILL, 1998

A BILL

*further to amend the Finance Act, 1979 and the
Finance (No. 2) Act, 1996.*

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Finance (Amendment) Act, 1998.

(2) It shall be deemed to have come into force on the 16th day of September, 1997.

2. In sub-section (1) of section 35 of the Finance Act, 1979, for clause (i), the following clause shall be substituted, namely:—

“(i) for every such journey to any place outside India other than a place in a neighbouring country—

(a) at the rate of seven hundred and fifty rupees on or after the 26th day of September, 1997 but before the 1st day of January, 1998;

(b) at the rate of five hundred rupees on or after the 1st day of January, 1998;”.

3. In section 68 of the Finance (No. 2) Act, 1996,—

(a) in sub-section (1), for the words “two per cent.”, the words “five per cent.” shall be substituted;

(b) to sub-section (1) as so amended, the following proviso shall be added, namely:—

‘Provided that in the case of goods falling under heading Nos. 27.09 to 27.15 and heading No. 98.01 of the said

First Schedule, the provisions of this sub-section shall have effect as if for the words "five per cent." , the words "two per cent." had been substituted'.

4. (1) The Finance (Amendment) Ordinance, 1998 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Finance Act, 1979 or the Finance (No. 2) Act, 1996 as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of the Finance Act, 1979 or, as the case may be, the Finance (No. 2) Act, 1996, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Consequent upon the finalisation of the decision on the Fifth Pay Commission's recommendations, a review of the expenditure budget for 1997-98 was undertaken. The review revealed that a number of post-budget commitments already undertaken as well as the Pay Commission award after the presentation of the budget added up to a total expenditure beyond the levels included in the budget estimates. It was further noted that there were a number of proposals for additional expenditure which were pending consideration. These developments indicated a slippage in the fiscal deficit which would send a negative signal to the financial markets and would have a serious impact on interest rates and on the inflow of investment.

2. It was, therefore, considered necessary to initiate measures to mobilise additional resources to meet the increased expenditure needs of the Government. Accordingly, it was decided to take a number of measures to mop up additional resources which, *inter alia*, included raising the special duty of customs from two per cent to five per cent *ad valorem* on the imported goods (other than petroleum products and project imports) and raising the foreign travel tax in respect of journeys undertaken to non-neighbouring countries from Rs. 300 to Rs. 750 per passenger. As the revenue raising measures had to be brought into effect immediately, it was necessary to amend section 35 of the Finance Act, 1979 which prescribed the rate of foreign travel tax and section 68 of the Finance (No. 2) Act, 1996 which prescribed the rate of special duty of customs.

3. Since the Parliament was not in session, and the President was satisfied that the circumstances existed for taking immediate action in the matter, the Finance Acts (Amendment) Ordinance, 1997 (Ord. 16 of 1997) was promulgated on the 16th September, 1997.

4. The said Ordinance could not be replaced by a Bill in the winter session of Parliament in 1997. Therefore, to give continued effect to the provisions of the said Ordinance Government recommended for the promulgation of another Ordinance subject to the modification that the foreign travel tax for journeys undertaken to non-neighbouring countries be charged at the rate of Rs. 500 per passenger in place of

Rs. 750 per passenger with effect from the 1st January, 1998. Accordingly the Finance (Second Amendment) Ordinance, 1997 (Ord. 24 of 1997) was promulgated on the 24th December, 1997.

5. The above said Ordinance also could not be replaced by a Bill during the first session of the Twelfth Lok Sabha. Therefore, further to give continued effect of the said proposals. The Finance (Amendment) Ordinance, 1998 (Ord. 5 of 1998) was promulgated by the President on the 21st April, 1998.

6. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 21st May, 1998.

YASHWANT SINHA.

ANNEXURE

EXTRACT FROM THE FINANCE ACT, 1979

(21 OF 1979)

* * * * *

35. (1) With effect from the date of commencement of this Chapter, there shall be levied on all passengers embarking on international journeys a tax (hereafter in this Chapter referred to as the foreign travel tax)—

(i) at the rate of three hundred rupees for every such journey at any place outside India other than a place in a neighbouring country;

* * * * *

EXTRACT FROM THE FINANCE (NO. 2) ACT, 1996

(33 OF 1996)

* * * * *

68. (1) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, or in that Schedule, as amended from time to time, there shall be levied and collected as a special duty of customs, an amount equal to two per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act.

* * * * *