

**GOVERNMENT OF INDIA  
FINANCE  
LOK SABHA**

UNSTARRED QUESTION NO:6914  
ANSWERED ON:18.05.2012  
DENIAL OF BAIL TO CUSTOMS DUTY EVADERS  
Sharma Dr. Arvind Kumar

**Will the Minister of FINANCE be pleased to state:**

- (a) whether Government intends to amend Section 104 of the Customs Act, 1962 to deny bail to a person found involved in the evasion of Customs duties and if so, the details thereof;
- (b) whether the proposed amendment seeks to nullify the Supreme Court's liberal approach to cases of evasion of customs and excise duties; and
- (c) if so, the reasons therefor and reaction of the Government thereto?

**Answer**

MINISTER OF THE STATE IN THE MINISTRY OF FINANCE (SHRI S.S.PALANIMANICKAM)

- (a) Through clause 120 of the Finance Bill, 2012, as introduced in Lok Sabha, Government had proposed to amend section 104 of the Customs Act, 1962 so as to provide that offences punishable with imprisonment of three years and more shall be cognizable and non-bailable. However, Government has since moved an amendment to the Finance Bill to provide that all offences under the Customs Act shall be bailable.
- (b) The Supreme Court had interpreted the provisions of law as it stood and had held that all offences under the Customs Act were non-cognizable and bailable. In a recent decision, Hon'ble Supreme Court has held that all offences under the Central Excise Act as well as Customs Act are non-cognizable and bailable. It is proposed to maintain this position in respect of excise offences. In the case of Customs Act too, it is proposed to prescribe that all offences are bailable. However, offences relating to prohibited goods or those involving evasion or attempted evasion of duty exceeding Rupee fifty lakh (i.e., the more serious offences) under customs laws alone are proposed to be made cognizable.
- (c) The changes have been proposed in order to ensure the effective functioning of Customs officers especially in matters affecting the security and economic interest of the country.