

Twelfth Lok Sabha

**Session : 2**

**Date : 04-07-1998**

**Participants :** Rao Shri Nadendla Bhaskara, Radhakrishnan Shri Varkala, Sinha Shri Yashwant, Reddy Dr. T. Subbarami, Sinha Shri Yashwant

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Title : Disapproval of the Finance (Amendment) Ordinance and Finance (Amendment) Bill, 1998.( Resolution – withdrawn and Motion for consideration – adopted).

DR. T. SUBBARAMI REDDY (Visakhapatnam) : I beg to move :

"That this House disapproves of the Finance (Amendment) Ordinance, 1998 (No. 5 of 1998) promulgated by the

President on 21 April, 1998."

Sir, the fact remains that the Bill had become absolutely necessary because after the Fifth Pay ' Commission's recommendations were finalised, the amount that was required had gone up from Rs. 11,000 crore to Rs. 18,000 crore. So, an amount of Rs. 7,000 crore was required by the Government and they felt that they had to increase the Special Customs Duty from two per cent to five per cent, and the foreign travel tax to Rs. 750. But at the same time, this august House feels that the issuance of an Ordinance is not at all a welcome thing and, as far as possible, we have to avoid it.

In fact, the Ordinance should be used as a very very sparing weapon like the *Pasupatastram*, But unfortunately it has become a very very easy thing, just to issue Ordinance and put again to the Parliament for passing the Bill. It should be avoided in future. A number of Members have been expressing their concern, but in future we must avoid issuing the Ordinances.

However, one thing I have to accept in this Bill. The fact remains that the people of India or the Government of India do not lose anything in this, but many crores of rupees are required by the Government to pay to the employees because of finalisation of negotiations with the Pay Commission. They have to pay the amount and perhaps they must have felt that they have to raise this money by raising this Customs duty and also the tax. Therefore, they have increased it to Rs. 7,000 crore.

But, at the same time, my suggestion is, even though at this stage the Amendment Bill on Finance becomes inevitable for Parliament to accept it, at least the travelling tax of Rs. 500/- which the new Government proposed should be further reduced because most of our students go to neighbouring countries and also because several people including tourists, the middle class people, keep travelling. This facility should be given to them. That amount must be increased in the Customs duty. Of course, at this stage we cannot change it because the Ordinance is already there.

The second point is, this 2 per cent to 5 per cent Customs duty is proposed to be only for special Customs duty. They do not propose it for items which they are importing without any Customs. That also is

unfair. I do not find fault with Shri Yashwant Sinha, but this is a total mistake committed by whoever is concerned previously because when we are importing the products without any Customs, you do not charge them and when you are charging 2 per cent and 5 per cent, the increase appears to be unfair. This point should also be borne in mind.

i would request the hon. Minister to think over and give answer.

THE MINISTER OF FINANCE (SHRI YASHWANT SINHA) : I beg to move:\*

"That the Bill further to amend the Finance Act, 1979 and the Finance (No. 2) Act, 1996 be taken into consideration."

Taking into account a number of commitments made after the Budget of 1997 and — since my hon. Friend Shri Lalu Prasad is sitting here — and as this is also something which was done by the previous Government as the previous Ordinance, so including the Pay Commission award, the previous Government had, in order to raise additional resources, increased the special duty of customs on all imports (excluding POL and project imports) from 2 per cent to 5 per cent *ad valorem* and also raised the foreign travel tax for journey undertaken to non-neighbouring countries from Rs. 300 to Rs. 750 per passenger. As Parliament was not in Session, the legislative amendments required in Section 35 of the Finance Act, 1979 and Section 68 of the Finance (No. 2) Act, 1996 for implementing the above changes were effected by issue of an Ordinance, namely the Finance Act (Amendment) Ordinance, 1997 (No. 16 of 1997) dated the 16th September, 1997.

The above mentioned Ordinance could not be replaced by a Bill during the Winter Session as the 11th Lok Sabha itself was dissolved. In order to enable the Government to continue to levy special customs duty and the foreign travel tax at the enhanced rates, another Ordinance was promulgated, namely the Finance (Second Amendment) Ordinance, 1997 (No. 24 of 1997) dated the 24th December, 1997 with the modification that the foreign travel tax was reduced from Rs. 750 with the modification that the foreign travel tax was reduced from Rs. 750 to Rs. 500 per passenger, (or journeys undertaken to non-neighbouring countries with effect from the 1st January, 1998.

The Finance (Second Amendment) Ordinance, 1997 could also not be replaced by a Bill, as after the General Elections, Parliament met for a very short duration.

In order to ensure that Government could continue to levy the special customs duty on all

\* Moved with recommendation of the President.

imports and the foreign travel tax at the enhanced rates, as envisaged under the Finance (Second Amendment) Ordinance, 1997, another Ordinance was promulgated, namely, the Finance (Amendment) Ordinance, 1998 (No. 5 of 1998) dated the 21st April 1998.

i had introduced the Finance (Amendment) Bill, 1998 to replace the Finance (Amendment) Ordinance, 1998 in the House on 29th May, 1998. Hon. Speaker, Sir, you had referred this Bill to the Standing Committee on Finance. The Standing Committee on Finance has already examined the Finance

(Amendment) Bill,

We will have an opportunity in this House to discuss the general issues when the Finance Bill I comes up for discussion later. I will, therefore, seek the indulgence of this august House for replacing the Finance (Amendment) Ordinance, 1998 by the Finance (Amendment) Bill, 1998 and pass it, if possible, quickly so that the other Bills could be taken up.

MR. SPEAKER : Motion moved :

"That this House disapproves of the Finance (Amendment) Ordinance, 1998 (No. 5 of 1998) promulgated by President on 21 April, 1998."

"That the Bill further to amend the Finance Act, 1979 and the Finance (No. 2) Act, 1996, be taken into consideration."

Shri N, Bhaskara Rao to speak now.

SHRI NADENDLA BHASKARA RAO (Khammam): Mr. Speaker, Sir, at the outset, I would like to say that there is not much to say about this Bill. But we are supporting this Bill. Even the Ordinance promulgated by the earlier Government was supported by the Congress Party. Here, I wish to make one or two observations.

The first point that has been mentioned is to meet the increased expenditure, the tax has been raised. Another point that has been mentioned is to meet the post-Budget commitments, it has been done. How long will this post-Budget commitment go on? When will the Minister put a full-stop or a comma to this? People are already suffering because of high cost of living. Prices are soaring up like anything, People are unable to purchase even vegetables. So, Mr. Minister, if you go on increasing the taxes like this, people will suffer. Of course, the special duty of

customs on all imports was increased from two per cent to five per cent and the foreign travel tax on non-neighbouring countries was increased from Rs. 300 to Rs. 750/-. The point is that because your expenditure has increased, you want to raise the tax. That is the sum and substance of it. I have seen the Statement of Objects and Reasons supplied to us. If that is the case, why do you not cut down the increase in the expenditure of the Government? Why do you want to put the burden on the people every time? Is it because that you are unable to meet the expenditure that you are raising the tax? This is not justified. Nowhere we found out this that because the Government has a lot of expenditure, it has to raise the taxes. That is not justifiable. That is my humble submission.

Secondly, new facilities also have not been given. To increase the tax, there must be a justification. What are the new facilities that you have provided? The same facility is available in respect of travel. In regard to customs also, nothing new is being introduced. So, I beg to make these two observations. Now, I take leave of you at this. Thank you very much,

SHRI VARKALA RADHAKRISHNAN (Chirayinkil): Sir, I am constrained to oppose the Bill on certain principles. It is not primarily due to the contents of the Bill that I am opposing it but because of the way in which it has been brought before this House.

There is a tendency on the part of the Government to bring in taxation measures outside the House. The Executive is bringing in the taxation proposal and getting it implemented not through this House but through other means. It originates in the Executive, not in the Legislature. My firm view is

that all the tax proposals should originate in the House itself. Otherwise, it will be an *ex parte* decision. Whenever a new tax is imposed, people should also be heard. The Executive must understand the difficulties involved in it in so far as the tax-payers are concerned. Here you are not giving that opportunity to a tax-payer. The view of the tax-payers is represented in the House through the elected representatives. We express not just our own views but also the views that we obtain from the day-to-day experience. So, we will have an opportunity to speak about that.

It has been admitted and it is abundantly clear that the Executive itself was compelled to reduce the tax from Rs. 750 to Rs. 500. Why? Subsequently, the

Executive found that it was inexpedient and it would not be justified in imposing Rs. 750 per traveler going to a country other than the neighbouring countries. But as the Government did not get the required revenue or the expected revenue even after imposing Rs. 750 per traveller, the Government was compelled to reduce the tax proposal to Rs. 500. Such a situation could have been avoided had the proposal been discussed in the House. That itself justifies my stand because that proposal should always be discussed in the House.

I am sorry, I must put it that this is a very bad precedent, a wrong principle opposed to all principles of parliamentary democracy. There is certainly a tendency to promulgate ordinances. This epidemic is prevalent in the States. It is more or less like a contagious disease. It is true that the Constitution provides a provision for issuing ordinances to meet an emergent situation or an extraordinary situation. But here, was there an extraordinary situation prevailing? The Fifth Pay Commission was appointed by the Executive. In the natural course, the Executive would expect an additional expenditure. So what was the necessity of issuing an ordinance to meet an expenditure which was quite expected? I can understand the Executive issuing an ordinance for meeting a natural calamity like floods or some earthquake because it is quite unprecedented or unexpected. The Executive may be compelled to issue an ordinance to meet that situation. Here is a case where the Executive could

expect this expenditure at the time when the Pay Commission was appointed. The Pay Commission was taking evidence and they had submitted the report to the Government. When the exercise about the revenue expenditure was undertaken, the Government found that they had some committed expenditure together with the additional expenditure to be incurred with the implementation of the recommendations of the Pay Commission.

Now I must tell the Finance Minister that he is not primarily responsible for this. It is not the fault of the present Government. It may be the fault of the other Government. That is another matter, I do not want to speak in a political sense. I speak out of certain parliamentary principles. This is the Parliament of the nation. We should set an example to the States that issuing ordinance against the canons of our Constitution is wrong. But when we ourselves are issuing ordinances every now and then, it becomes more or less unfortunate and lamentable.

I may say that this matter has been considered by the Supreme Court. A professor by name Shri Wadhwa had taken up the matter to the Supreme Court... (*Interruptions*)

MR. SPEAKER : Shri Radhakrishnan, There are other speakers also.

SHRI VARKALA RADHAKRISHNAN : Mr. Speaker, Sir, you also will remember that this matter was taken to the Supreme Court. The Supreme Court discussed the issue and gave a final verdict on issuing ordinances.

The Supreme Court admitted that 'you can issue an Ordinance once to meet an emergent situation. But you cannot reissue the same Ordinance for the same purpose.' But here is a case, where they are issuing the Ordinance for the same purpose, not once but twice or thrice. This is really a violation of the principles laid down by the Supreme Court in Wadhwa Case.

I must point out to the hon. learned Finance Minister who is before me that this is quite unprecedented and lamentable. Moreover, it is we who should set certain examples to other States. But this issuance of the Ordinance one after another has become an order of the day to make the Legislature a rubber stamp of the Executive. In Ordinance, there is some commitment. We cannot retract. There cannot be fair and just discussion on a pointed issue because the Executive which is controlling the major portion of the House is committed. You cannot retract even this tax. So, there cannot be any free and fair discussion in the House about the tax proposal. Can we retract? Then the Executive will be put in a very embarrassing situation because the tax already paid will have to be refunded to the tax payers. We cannot create such a situation, and the Executive also will not be doing that.

So, in order to obviate all these difficulties, considering the balance of convenience, it is better that we originate the tax proposals in the House.

MR. SPEAKER : Shri Radhakrishnan, please conclude.

SHRI P. SHIV SHANKER : Sir, my friend while he was speaking, by slip of tongue perhaps, made some observations about the Speaker. I suppose, it is unintentional and most accidental. Therefore, I request that part of it may be expunged.

MR. SPEAKER : I will expunge it.

SHRI VARKALA RADHAKRISHNAN : Yes. Now, I come to my other point...*(Interruptions)*... I have not finished yet.

The Executive should bring it at the earliest opportunity available. My submission is that in the first Session of the 12th Lok Sabha itself, this matter could have been brought in the House and got approved giving its assent. But that was not done.

Repeatedly, it was lapsed. Even after the 12th Lok Sabha was constituted, the Government could have utilised the earliest opportunity to bring in the legislation. But they had not done so. After six weeks, it got lapsed. Again they have issued the very same Ordinance for the fourth time.

MR. SPEAKER : Shri Radhakrishnan, we are not discussing about how this Ordinance was brought. We are discussing about the Finance Bill.

SHRI VARKALA RADHAKRISHNAN : I oppose this Finance (Amendment) Bill on this principle. Again ■ I want to submit about the tax proposals. After all, our cost of living is increasing day by day and prices of essential commodities have increased. Also, we send people to other countries. Most of our people go to Gulf countries for employment. Asking them to pay a high sum of Rs. 500 or Rs. 750, for going there, will be penalising them. So, it will be penalising those people who are going and taking employment elsewhere, *i.e.*, in the United Arab Emirates or Saudi Arabia or any Gulf country. Sir, from my State, tens of thousands of people are going abroad, to these countries seeking employment and getting employment. Now, their travel facility is very much curtailed. They are adversely affected by this proposal. That is another reason for me to oppose the present Bill.

SHRI YASHWANT SINHA : Mr. Speaker, Sir, I am very grateful to the hon. Members who have taken part in the discussions. I entirely agree with the hon. Members, Shri Varkala Radhakrishnan, that Ordinance is a very undesirable way of rising taxes. Rising taxes through an Ordinance cannot be the policy of any Government; it certainly is not the policy of the present Government. The country has passed through very exceptional circumstances in the last few months. I am speaking here for my predecessor Shri P. Chidambaram who is not present in the House at present. Normally he should have defended this Ordinance.

The point is that the Fifth Pay Commission's award was known. What was not anticipated was the final decision which was taken by the then UF Government which raised the burden on the exchequer by a huge margin of around Rs. 7000 crore and that is what made it impossible by the then Finance Minister to make both ends meet and he came before that Government with the proposal that the 2 per cent extra Duty of Customs which had been imposed in the Budget of 1996 be raised to 5 per cent through this amendment. Then he would have normally brought it before the Winter Session of Parliament last year. But we know what happened politically in this country; there was no Winter Session or the Winter Session had to be cut short and this could not be brought before the House. Then there were General Elections. This Government was formed and the House is aware of the fact that we had a very brief Session towards the end of March this year. The Vote of Confidence had to be obtained by the Government, the Interim Budget had to be passed. It was not that we were not trying to bring the Ordinance. I remember from my own Ministry there were two Ordinances — this one and the Income Tax (Amendment) Ordinance. I brought (the Income Tax (Amendment) Ordinance and that Ordinance had been passed by this House in the March Session. So, we did try our best to see that we found time to discuss this. It was not our intention to avoid coming to this House. But we just could not find time. In the meantime this Ordinance was due to lapse in April. We had to re-promulgate it. The revenues involved are substantial. Therefore it was delayed. It was put in the first part of the Budget session of this year and you decided to refer it to Standing Committee. The Standing Committee has considered this and the Standing Committee's Report has been presented before the House and now the Ordinance is before the House for being passed as a Bill. Therefore, the increase in the Pay Commission's award could not have been anticipated.

A point had also been raised as to when this will end, I would like to take this House into confidence and say that when my predecessor had imposed the additional Duty of Customs by 2 per cent in the 1996 Finance Bill, he had mentioned there that this extra 2 per cent will automatically come to an end on 31st March, 1999. This is what he said in the Finance Bill of 1996 which was adopted by the Lok Sabha as the Finance Act of 1996, When this amendment was

moved in 1997 that provision had not been changed. I would like to take this House into confidence and announce today that as far as this 5 per cent

Additional Customs Duty is concerned, I have no "intention of interfering with that sunset provision that it should lapse on the 31st March 1999. It is only a question of a few months between now and 1999. We had absorbed the burden of the Pay Commission's award and the decision of the previous Government in the previous Budget. We are absorbing in this year's Budget and I can assure the House that it is not our intention to carry on taxing imports into this country for this burden and extending this "beyond 31st March 1999.

I will allow this extra duty to lapse on the 31st March, 1999 when I present the next year's Budget. The new Finance Bill will make other provisions and I not be dependent on this.

As far as cutting expenditure is concerned. I would like to assure hon. Member that we have taken all possible steps. I would also like to give credit to the previous Government that despite a whopping burden of somewhere around Rs. 14,000 crore to Rs. 18,000 crore which was imposed as a result of decisions taken by the previous Governments, the increase in expenditure over the budgeted figure was only around Rs. 3,000 crore. It is a creditable achievement. I would like to assure the House that we would keep the strictest possible watch on Government expenditure. We would not allow Government expenditure to cross the budgeted figure. I am quite confident that we will finish this year with a much better performance on the expenditure front also.

With this, I commend that the Bill be passed,

DR. T. SUBBARAMI REDDY : Before I agree with this Bill, I want a clarification from the hon. Minister of Finance. He has not touched upon the point made by me that instead of putting this two per cent to five per cent special duties of customs, why shall it not be distributed to all the items so that it would not be a burden only in respect of certain items.

SHRI YASHWANT SINHA : Sir, a point was raised here about increases in prices. I did not touch it because maybe we will have another opportunity of discussing it. I would like to clarify merely that fruits and vegetables are not being imported and therefore this customs duty is not responsible for any increase in their prices. There are certain items which are exempt. The feeling of the previous Government was — and it is also our feeling — that if we put this duty across the board on certain items like crude, for instance, then, it will have a cascading effect.

Generally, the items which carry a zero duty are items of great use where we have a shortage in this country. Therefore, I would plead with the hon. Member that if we were to spread this across the board, then, the effects will be deleterious in the long run as far as the economy is concerned. This

is why, it has not been increased, i will request the hon. Member to withdraw his Resolution and let this BiN be passed.

DR. T. SUBBARAMI REDDY : Let me again clarify the position. I fully agree that it cannot be done in respect of crude oil and petroleum products. On items like sugar where there was zero tax, recently the Government has imposed some tax and other duties. I am just making a submission before withdrawing my Resolution that less tax is levied on these commodities and that the hon. Minister of Finance may consider those items which come in the way of indigenous production in future.

[Dr. T. Subbarami Reddy]

With this, I now withdraw my Resolution and support the Bill.

MR. SPEAKER : Is it the pleasure of the House that the Statutory Resolution moved by Dr. T. Subbarami Reddy be withdrawn?

*The Resolution was, by leave, withdrawn.* MR. SPEAKER : The question is :

"That the Bill further to amend the Finance Act, 1979 and the Finance (No. 2) Act, 1996, be taken into consideration."

*The motion was adopted.*

MR. SPEAKER : The House will now take up clause-by-clause consideration of the Bill. The question is :

"That clauses 2 to 4 stand part of the Bill."

*The motion was adopted. Clauses 2 to 4 were added to the Bill.* MR. SPEAKER : The question is :

"That clause 1 the Enacting Formula and the Long Title stand part of the Bill."

*The motion was adopted.*

*Clause 1, the Enacting Formula and the Long Title were added to the Bill.*

SHRI YASHWANT SINHA : Sir, I beg to move :

"That the Bill be passed."

MR. SPEAKER : The question is :

"That the Bill be passed."

*The motion was adopted.*