

12.20 hrs.

STATEMENTS BY MINISTERS

(i) **Certain urgent matters relating to Taxation**

[English]

THE MINISTER OF FINANCE (PROF. MADHU DANDAVATE): Sir, after the presentation of the Budget for 1990-91, certain urgent matters relating to taxation have been considered by the Government. Since these are of public importance, I consider it necessary to announce these in the House now.

The Honourable Members will kindly recall that the leaders of the Non-aligned countries had during the Harare Summit in 1986, decided to set up the AFRICA FUND, with India as Chairman. Given the deep emotional involvement of the Indian people with the struggle of the Black majority in South Africa, it was decided to set up the AFRICA (PUBLIC CONTRIBUTIONS INDIA) FUND. With a view to encouraging the public to contribute generously to this Fund, it has been decided to extend to this Fund 100 per cent deduction under section 80G of the Income-tax Act in respect of all contributions made on or after 1-4-1990.

In order to encourage development of tourist infrastructure in regions where such facilities are almost non-existent today, it has been decided that expenditure incurred in new approved hotels set up in hilly and other remote areas will be exempt from Expenditure Tax for a period of ten years. It has also been decided that such hotels will be allowed deduction of 50 per cent, instead of the normal 30 per cent under section 80-I, subject to certain conditions.

In the present situation facing the country, the immediate need to earn more foreign exchange can hardly be over emphasised. In order to maximise exports of computer software, it

has been decided to exempt the entire profits from export of computer software from income-tax on the same lines as in the case of merchandise exports. With this tax concession, the industry is expected to show substantial growth in exports in the current year itself. This concession will be reviewed in the light of actual export performance in the next two years.

At present, customs duty is levied on the value of computer software by treating it as a commodity import. The non-resident licensor or seller is also subjected to income-tax on royalty payment for licensing of the software. To avoid this dual levy for exporters, Government has decided that lumpsum payment for systems software supplied by the manufacturer along with the hardware itself would be subjected only to customs duty and not to income tax. Application software forming part of an approved software export scheme would be subjected only to income-tax on the licensor or seller. It is proposed to fully exempt such application software from import duty, when imported in accordance with the existing policy on computer software export subject to certain conditions

There are three separate schemes for import of computer hardware on concessional duty with varying export obligation. Concessional duty ranges from 35 per cent to 65 per cent and the export obligation from 150 per cent to 350 per cent. Software exporters would be eligible for import of hardware at a concessional duty of 25% and their export obligation will also be fixed on the scale applicable to manufacturer exporters i.e. export equivalent to three times of the value of imported equipment, in a period of four years.

Notifications to give effect to these proposals will be issued shortly. Wherever necessary, I will bring before the House legislative proposals in this regard.

SHRI NIRMAL KANTI CHATTERJEE (Dumdum): What is the revenue impact of all this? What about the remote hilly areas?

SHRI SOMNATH CHATTERJEE (Bolpur): You ask him to go to this Chamber! (*Interruptions*)

[*Translation*]

PROF. VIJAY KUMAR MALHOTRA (Delhi Sadar): Mr. Speaker, Sir, the statement made in the House by hon. Minister is related to a very important subject which requires discussion in the House. As statement has been made on the last day of this Session, discussion on it is not possible. It is my submission that such statement should be made in the House during mid-session so that a discussion could be arranged. In such circumstances, how can we express our views on it.

(ii) Non-Recovery of Central Excise Dues from Messrs. I.T.C. Limited

[*English*]

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRI ANIL SHASTRI): Sir, it would be recalled that after the Question hour in Lok Sabha on August 31, 1990 some Hon'ble Members had raised the question of non-recovery of Central Excise dues of Rs. 80.30 crores pertaining to Saharanpur Factory of Messrs. I.T.C. Limited. Since some misgivings in the context of my reply to Unstarred Question No. 1917 on 23-8-1990 were expressed regarding the adequacy of the action taken by the Government to recover these dues, I wish to place the facts before the House to clarify the position in this regard.

The Central Excise authorities had raised a demand of Rs. 5.91 crores against Messrs. I.T.C. Limited in respect of this Unit, which was duly discharged by the Company. Subse-

quently, some Collectors of Central Excise having I.T.C. factories in their jurisdiction, raised some doubts about the methodology adopted in the assessment of this demand. The matter was referred to the Law Ministry and later to the Attorney General. On the basis of the Law Ministry's advice, the demand was requantified as Rs. 80.30 crores for the Saharanpur Unit. Messrs. I.T.C. challenged this demand in the Allahabad High Court on the ground that they had not been given an opportunity of explaining their stand and therefore, the principles of natural justice had been violated. Although the Allahabad High Court had not granted any stay against recoveries from the assessee, the matter was considered by the Government at that time and on the representation of the Company as well as advice of the Central Government Standing Counsel, a decision was taken in February, 1989 not to take any coercive steps for recovering the outstanding demand till the pendency of the Writ Petition.

In the meantime, a public interest petition was filed in Allahabad High Court by Shri Virendra Varma, who was then a Member of Parliament (Rajya Sabha), seeking direction of the Court for recovery of the outstanding dues against this Company. When this matter was brought to Government's notice, orders were issued on 10-1-90 for immediately encashing the bank guarantee and putting up the proposal for recovery of the balance amount to the Finance Minister since the decision not to take any coercive steps had been taken at the level of the Minister in the previous Government. However, before the bank guarantee could be encashed, the assessee obtained a stay order from the Allahabad High Court on 16-1-1990 against any recovery.

The Allahabad High Court dismissed the petition on 9-8-1990. The assessee filed an SLP in the Supreme Court which was also dismissed on 22-8-1990. However, the Court allowed