

[Mr. Deputy Speaker]

Corporation (Amendment and Miscellaneous Provisions) Act, 1978, the Banking Companies (Acquisition and Transfer of Undertakings Act, 1980, the Export-Import Bank of India Act, 1981 and the National Bank for Agriculture and Rural Development Act, 1981, be taken into consideration."

*The motion was adopted*

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

The question is :

"That clauses 2 to 18 stand part of the Bill."

*The motion was adopted*

**Clauses 2 to 18 were added to the Bill**

MR. DEPUTY SPEAKER : The question is :

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

*The motion was adopted*

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

SHRI JANARDHANA POOJARY : Sir, I move :

"That the Bill be passed."

MR. DEPUTY SPEAKER : The question is :

"That the Bill be passed."

*The motion was adopted*

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CUSTOMS (AMENDMENT) BILL,  
CUSTOMS TARIFF (AMENDMENT) BILL  
AND  
CENTRAL EXCISES AND SALT (AMENDMENT) BILL

[English]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : I beg to move :

"That the Bill further to amend the Customs Act, 1962, be taken into consideration."

I beg to move :

"That the Bill further to amend the Customs Tariff Act, 1975, be taken into consideration."

I beg to move :

"That the Bill further to amend the Central Excises and Salt Act, 1944, be taken into consideration."

Sir, I am proposing a few amendments to the Customs Act which are essentially procedural in nature and are meant to overcome practical difficulties faced in implementing the provisions of the Act. The nature of amendments proposed has also been brought out in the Objects and Reasons of the Bill, already before you. I would only highlight a few of the important amendments proposed in this Bill.

15.01 hrs.

[SHRI SOMNATH RATH *in the Chair*]

Sir, Hon. Members are aware that large quantities of contraband are seized by the officers of customs. Under the present arrangements, disposal of seized goods can be taken up only after all the proceedings under the Act, including prosecution proceedings, are completed. Since such proceedings are time-consuming and take, in big cases, several years, the goods get deteriorated or fast depreciate in value due to technical obsolescence, etc. Further, storage also involves provision of warehouse space which costs quite heavily, particularly in metropolitan areas like Bombay, apart from problems of security etc. With a view to expedite the disposal of such goods, a new provision is being introduced as section 110 (1A) by which the Department will be able to arrange for inspection and take samples and photographs of such goods before a magistrate for the purpose of evidence and to dispose of the goods. The question of making over the sale proceeds to the owners in cases where the departmental or court proceedings go in their favour will, however, be duly considered by the appropriate authorities on the merits of each case.

Another important amendment is to provide for powers to the Central Board of Excise and Customs to issue directions to subordinate officers regarding assessment of duty in order to ensure uniformity of assessment. This has become necessary in the light of disputes in different Custom Houses and collectorates leading to different practices or assessment, adversely affecting the revenue or trade interests and leading to avoidable litigation.

Another essential amendment is to restore the drawback granted on exports effected through post. While amending sections 74 and 75 of the Act in 1983, the drawback on postal exports had got excluded. Since this exclusion was not intentional, the position is being restored. The provisions of the Bill also provide for giving retrospective effect to the amendment, so that all pending claims could be finalised and further to enable those who had failed to make any claim due to the exclusion, to do so. This amendment is essentially a measure towards export promotion.

Mr. Chairman, Sir, as the Hon. Members are aware, the Central Excises and Salt Act governs the levy and collection of central excise duty. To carry into effect the purposes of this Act, the Central Excise Rules, 1944 have been framed. The Committee on Subordinate Legislation have suggested certain modifications in the Act to cover some of the provisions presently available in the Central Excise Rules. In addition, the experience of the implementation of the Act and the Long Term Fiscal Policy formulated recently have also necessitated certain modifications in the Act. Accordingly, it is proposed to amend the Central Excises and Salt Act.

The Central Excise Rules provide for examination of goods for export at the factory of production itself, subject to payment of fees to be determined by the Collector. The Committee on Subordinate Legislation of the Lok Sabha had pointed out that there is no statutory authority, at present, for making the rules for collection of such fees. It had recommended that a specific provision may be incorporated in the Act. Accepting this recommendation, it is proposed to introduce a new clause in the Act which would enable the Central Government to make rules pro-

viding for levy of fees for examination of excisable goods intended for export and for rendering any service by a Central Excise Officer and the Act or the rules.

Under the Central Excise Rules, one of the methods for service of a notice, summons etc., is by affixing it on the notice board of the officer who has passed the order. The Committee on Subordinate Legislation of the Lok Sabha has been emphasising that the provision relating to serving of such communications by affixing on the notice board of the officer is of an extreme nature, and should not form part of the rules framed under delegated powers. The Committee has recommended that the Act may be amended for this purpose. It is proposed to insert a suitable provision in the Act to implement the recommendation of the Committee.

Under the Central Excises and Salt Act, there is at present no provision corresponding to Section 140 of the Customs Act, 1962 for prosecution of the company or its officers. It is felt that such a provision is essential in the Central Excises and Salt Act also. It is proposed to insert a suitable provision in the Central Excises and Salt Act for the prosecution of the company, as also a person in-charge of the company. It is also proposed to provide for exception in the case of a person, who proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of the offence.

The provision presently relating to recovery of duties not levied, short-levied etc. envisages issue of a show cause notice in regard to such amounts short recovered within six months. The cases are decided by the Assistant Collector of Central Excise. It also provides that where the short-levy etc. is by reason of fraud, collusion, suppression of facts etc. with intent to evade payment of duty, the period within which a show cause notice is to be issued would be five years, instead of the normal period of six months. Such cases are also decided by the Assistant Collector of Central Excise. Keeping in view the nature of the provision, it is felt that the decision to invoke the extended period should be exercised at the highest level in the field. It is proposed to provide in the Act that

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show cause notices in such cases shall be issued and the cases decided by the Collector of Central Excise. The proceedings pending before an Assistant Collector of Central Excise on the date when the provisions become effective shall be transferred to the Collector of Central Excise.

Though the Central Excise Rules provide for a Collector or a Deputy Collector of Central Excise, to exercise all or any of the powers of their subordinates under the rules, there is no such provision enabling senior officers to exercise the powers conferred by the Act on their subordinates. There is such an enabling provision in the Customs Act, 1962. It is proposed that a new provision on the same lines be inserted in the Central Excises and Salt Act also.

The Central Excises and Salt Act provides for formation of special benches of the Customs, Excise and Gold (Control) appellate Tribunal consisting of at least three Members to hear the appeals relating to classification and valuation. To enable the constitution of a larger number of benches within the available resources and thereby achieving greater disposal rate, it is proposed to amend the Act, providing that the special benches may consist of two or more Members. Where disagreements arise, the President of the Tribunal could decide the issue.

The First Schedule to the Customs Tariff Act, 1975, as it exists, is based on the Customs Cooperation Council Nomenclature with suitable adaptation through contractions and expansions of the headings to meet our requirements. Looking to our import trade, headings were either merged or Sub-headings created to meet our special requirements.

The present Bill seeks to introduce a new system of classification of goods known as the Harmonized Commodity Description and Coding System, developed by the Customs Corporation Council at Brussels. This system popularly known as Harmonized System, provides a comprehensive classification system which is simple, yet precise and can be objectively applied to secure

uniformity of classification at the international level both for collection of customs duty as well as for statistical compilation. In the Harmonized System, the general structure is far more rationalised and has taken into account modern technological developments which makes it more up-to-date as compared to the present CCCN. The system consists of headings at 4-digit level based on the CCCN which have been further divided into sub-headings at the fifth and six digit levels.

At present, the same commodity has to be described and redescribed many times as the goods pass from one country to another in international trade. This leads to absence of comparability in trade statistics which also suffer from errors affecting the quality of international trade statistics and the application of customs and freight tariffs. Further, international trade data cannot readily be transmitted from one country to another in the absence of mutually acceptable and recognised standard codes. The Harmonized System will substantially overcome these problems and facilitate standardisation of trade documentation and transmission of data, thus facilitating international trade. It thus provides a common international economic language and code. The Harmonized System will further help in tariff negotiations, both under the Generalised System of Preferences as well as bilateral or multilateral negotiations among countries, by providing standardised data for negotiations.

Looking to the advantages of the System, the International Convention on the Harmonized Commodity Description and Coding System was signed by India in the Annual Session of the Customs Cooperation Council June, 1985, subject to ratification.

While transposing the Customs Tariff rates in the Harmonized System, necessary care has been taken to maintain the existing level of Customs duty on the individual items on the Tariff Schedule as far as possible. However, the rate structure is only academic at this moment as the same is not being brought into force immediately. As the intention is only to change the nomenclature, any unintended change suggested in the rate structure will be corrected while bringing the

Act into force, if necessary, through exemption notifications.

Having dealt with the general aspects, I now propose to highlight certain salient features of this legislation for the benefit of the Hon. Members of the House. The existing Customs Tariff Act, 1975, based on the C.C.C.N. provides for a flat rate of assessment with regard to Project Imports under Heading 84.66, Laboratory Chemicals under Chapter 29; Passengers' Baggage, personal importation by post or air and Ship Stores under Chapter 100. These are conscious departures from the C.C.C.N. which have been provided in our tariff with a view to streamline and simplify the assessment of these goods. This has worked well over the years and I propose to continue the same under the Harmonized System also.

Sir, I move.

MR. CHAIRMAN : Motions moved :

"That the Bill further to amend the Customs Act, 1962, be taken into consideration."

"That the Bill further to amend the Customs Tariff Act, 1975, be taken into consideration."

"That the Bill further to amend the Central Excises and Salt Act, 1944, be taken into consideration."

Shri Thampan Thomas.

SHRI THAMPAN THOMAS (Mavelikara) : Sir, all these three Amendments which have been brought forward and which are being discussed together are of much importance in the present state of affairs. The Customs Department and the Excise Department require revamping. Both these Departments are working inefficiently, and because of the method by which they are working, a lot of things are being smuggled into India, including weapons. The Customs Department could not prevent smuggling of these items into this country; it is they who have created this situation, and it is very well known to every one. But I am not going into the details now. All these things are

happening because of the failure of this Department. It appears that the purpose of these Amendments is to prevent such things happening. But how far it will be possible to prevent such things by this sort of small amendments here and there is not known. In fact, a drastic change is required in the very approach of the Department.

In today's newspapers there is a news item that some of the Customs officers' houses have been raided and that a lot of things have been found in Delhi and Bombay. These things were done earlier also. All these reveal that these people who are working there, who are very much involved in these activities, are a party to these clandestine transactions. When Government is coming forward with these Amendments, I want to know how much evaluation has been made on this subject, what is the Government's attitude on this and what steps Government are taking in this regard. That is one thing I want to know. I want to point out that there is connivance between these people and the large groups of people who are involved in clandestine and smuggling operations. The people in the Department are colluding; for that, effective steps have not been taken. On the other hand when innocent people, who are going abroad to do some job and earn some money, come back to this country, they are harassed. The Customs officials look towards those people with vengeance, with prejudice, and those innocent people are put to lot of trouble. Government should have a lenient approach towards these innocent people who go out for jobs and who come back to this country, but at the same time, a hard approach is necessary in the case of persons are involved in smuggling and clandestine operations—they have to be dealt with severely. Based on the experience which the Government has gained, I think, there is nothing in the proposed amendment except that it only relates to procedure. They do not want to make it more easy. Rather they want to make it more complicated.

One of the points for which the customs Act is sought to be amended is for purposes of disposing of perishable goods. I am of the view that if the Government is prepared to adopt on the spot valuation and on the spot disposal of the cases and if there are

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persons who are capable of taking an on the spot decision these things will not arise. What is happening is that for years together these things are pending with the result that perishable goods have to be finally destroyed. So, the best method is to have speedy disposal of the cases at the spot itself and make such devices for that purpose by giving necessary powers to the competent authorities. The proposed amendment will only lengthen the period from three years to five years. So, my submission is that more decentralised devices and de-centralised activity will have to be proposed. The Customs and Central Excise activities have to be reviewed and a fresh look has to be taken. On the one hand the customs activity is going on and on the other there is a phenomenon how far the management which owns the company can evade the provisions of excise duty. If the person is capable of evading excise duty his profit becomes more than 100 per cent. Therefore, the difference between the original price and the profit which a man earns because of evading excise duty is much. Therefore, the trend is to evade excise duty. To avoid that Government should have another approach towards the problem. This is my submission.

SHRI R. P. DAS (Krishnagar) : Sir, three Bills have been taken together and I would like to deal only with the Customs Tariff (Amendment) Bill. This is one of the bulkiest Bill that has been brought before the House with 496 pages. Then, Sir, it was introduced only yesterday and today it has been brought for passing by the House. Surely not many of the Members would have gone through the Bill in detail.

SHRI JANARDHANA POOJARY : Sir, only four pages are there and the rest is the Schedule.

SHRI R. P. DAS : The Schedule also forms part of the Bill. Sir, this Bill seeks to replace the existing system of classification of goods for customs purposes by a more detailed nomenclature. This new system is known Harmonised Commodity Description and Coding System. We are also told that

six digital level is one of the characteristics of this system. It is more or less a scientific system. I think it would help international trade by putting into effect this nomenclature. It has been based on the Customs Cooperation Council Nomenclature and this system was introduced as far back as 1950. The existing Bill of 1975 was also based on CCCN but in the mean time much water has flown down the river. Therefore, the need has arisen to introduce this Bill in this House. It has been done in the context of changing international trade pattern and changing technology. It is true it will help in standardising the trade documentation and transmission of data. It will also help computerisation of customs classification. It will also help in uniformity in classification. All this constitutes a new international economic language. So, this sort of Bill needs to be introduced without much delay and that has been done properly and it should also be passed. For that reason, I would like to support this Bill wholeheartedly.

I would also like to point out that public Accounts Committee recommended for introduction of such a system. Therefore, there is nobody here who will not support this Bill. But, Sir, in this connection I would like to point out one or two things. One is that it is a question of new system.

Sir, at the time of introduction of new system some difficulty also arises. When the passenger fares were rounded by the Railway Ministry the cost of the tickets was pushed up. In this case also when this system will come into effect then there is every possibility of the prices being pushed up.

In the context of long-term fiscal policy to take place shortly in this House, the implementation of the present Act should be postponed for some time. It should be taken up after the next Budget Session and after the completion of the discussion on the new fiscal policy so that everything could be discussed in a detailed manner. If it is implemented here and now then, I think, it may push up the prices. Therefore, Sir, it is my submission that it may be implemented at a later stage. With these words I thank the Chair.



[Translation]

**SHRI VIJOY KUMAR YADAV** (Nalanda) : Mr. Chairman, Sir, on this occasion I would like to say one or two things which relate to excise duty particularly. In my opinion Government is being deprived of revenue worth crores of rupees due to connivance of big excise officers and industrialists. Here I would like to make a mention about my constituency where a large number of bidi manufacturing units are located in which about 15 thousand workers are employed. They manufacture about 1½ crores of *bidis* every day. After reading the reply to a question asked by me in this regard I feel that all the excise laws have been enacted with the consent of local officers. Instead of showing their full production, they show production of some lakhs and in this way loss of revenue worth crores of rupees in the form of excise duty is being suffered in Bihar alone.

My constituency Nalanda is in Bihar. There are 35 lakhs *bidi* workers in the entire country. If the industry in the entire country is taken into account, then one can only imagine the heavy loss of revenue in the form of excise duty. According to law the excise officers are required to check the goods thoroughly at the production centre from where movement of goods should be allowed only after obtaining a certificate. *Bidis* are manufactured in Bihar Sharief and they are sold in Heedalsingh Sarai and from there they are sent to Bengal and from there to Assam. The local Excise Commissioner and his subordinate officers have a hand in the evasion of excise duty. In this way people are bungling there so far as payment of excise duty is concerned. Therefore, some stringent law should be enacted to check evasion of excise duty in such a manner.

Sir, raids have been conducted on customs officers in the country. Similar type of raids should be conducted on excise officers, big industrialists, monopolists and capitalists who are indulging in such activities and are earning crores of rupees every year. It will prove beneficial to the country. With these words I resume my seat.

**SHRI KALI PRASAD PANDEY** (Gopalganj) : Mr. Chairman, Sir, despite my

being an Independent Member, I wholeheartedly welcome the Customs Tariff (Amendment) Bill, 1985 presented here by the Hon. Minister of Finance. I have to say only one thing. My friend Shri Vijoy Kumar Yadav has told that a scheme has been formulated to conduct raids against Custom Officers. If there is evasion of custom duty, then a scheme should be formulated to conduct raids against customs officers and legal action should be taken against them in order to improve the economy of the country.

Sir, in the end I would like to say that all powers should not remain concentrated only in the hands of Commissioner of Customs. Some powers should also be vested with the subordinate officers of the Commissioner of Customs so that they could also check evasion of custom duty. It will help checking evasion of Government revenue to some extent.

[English]

**SHRI JANARDHANA POOJARY** : Sir, I am grateful to the Hon. Members for welcoming this Bill, even though it was stated that there was not much time to discuss this Bill. Sir, it is true that there is not much time given to the Hon. Members to speak on this Bill. But I am sorry that we were not able to bring forward this Bill before this House much earlier. But it is a fact that because of the steps that are going to be taken, we found it necessary to have these amendments to the Bill. Sir, as I have stated in my introductory speech, this Bill has been brought forward particularly for replacing the Schedule and items have been included specifically for this purpose. It is not only to help the management also the officers to identify correctly the commodities which attract duty, The apprehension has been raised that because of this, there will be a change in the duty and also there will be rise in the prices of commodities. Sir, no rise in the duty is contemplated and there will be no effect on prices of the commodities.

As the Hon. Members are aware, certain exemptions and benefits were given to the people of this country in the last Budget. Particularly, we had reduced the exemption limit and thereby given benefit of about Rs. 300 crores to the tax payers. In the beginn-

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ing, when the original Budget was presented, there was an apprehension that the collection of the revenues would go down. In this connection, I would like to bring to the notice of the Hon. Members certain figures pertaining to the collection of revenues.

The customs duties collected during April to November, 1985 were Rs. 5740.69 crores; last year during the same period, the collection was Rs. 4316.84 crores. The increase is Rs. 1423.85 crores during this period. The collection in respect of excise duty during April to November, 1985 is Rs. 8127.71 crores; during the same period last year, it was Rs. 6994.33, showing an increase of Rs. 1133.38 crores. While in the case of customs duties, the increase is 33 per cent, in respect of excise duty, it is 16.2 per cent. As far as direct taxes are concerned, the collection during April to November, 1985 was Rs. 2158.19 crores and the collection during the same period last year was Rs. 1754.11 crores. The increase is Rs. 404.08 crores or 23 per cent.

I would like to share with the Hon. Members information relating to the searches conducted. While the number of searches conducted last year upto November, 1984 was 2192, this year upto November, 1985, this figure has gone upto 4246. The value of assets seized in these searches was : last year upto November, 1984—Rs. 1163.85 lakhs; this year upto November, 1985—Rs. 2597.72 lakhs. The number of prosecutions launched ; Last year upto November, 1984—222; this year upto November, 1985—647.

In so far as curbing the smuggling activities is concerned, the value of the goods seized last year was Rs. 101.09 crores for the whole year; this year we have already crossed the figure of Rs. 170 crores upto this time.

This is because the action that has been taken is exemplary. As I have stated earlier, our Revenue Department deserves congratulations. I admit that there are some black sheep in this department also. It has been mentioned that there were collusions and certain people were conspiring with some industrialists who were black sheep in their own spheres. Such people are being identified

and actions have been taken and will be taken against such people; we will not leave any such person. The determination of the Government is very clear. We are committed to that. We are also committed to collect more revenues.

In the case of income tax, when we collect more by our efforts, the States will also be entitled to 85 per cent of the income-tax collected. When there is more collection of excise duty, 45 per cent will go to the State Government. So, in this year when we collected more revenue, with our own efforts working day in and day out, your State also is going to be benefited. So, I will request that not only your State, but all the States should also put forth more efforts for mobilisation of resources and collection of revenues in the field of sales tax. If the States also tighten up their administrative machinery and take action against corrupt officials or the persons who are conspiring with those people, then there will be more collection and more mobilisation of resources in the State also.

SHRI H. A. DORA : Is it more collection or more corruption ?

SHRI JANARDHANA POOJARY : When we are mobilising more revenue, and if you opposition members think that it is corruption, then I leave it to your imagination. So far as we are concerned, we think that the country is very happy and some Hon. Members from the opposition, including Shri Indrajit Gupta complimented the Government and the Hon. Member who stood up just now also stated that they would be with the Government so far as the action that is going to be taken is concerned. You know very well that there is a strong lobby working against us. But even then, we are not going to be scared. We will certainly take action. This is the commitment that this Government has given to our nation. Thank you very much.

MR. CHAIRMAN : The question is :

“That the Bill further to amend the Customs Act, 1962 be taken into consideration.”

*The motion was adopted*

MR. CHAIRMAN : The House will now take up clause by clause consideration of the

Bill. The question is :

“That clauses 2 to 14 stand part of the Bill.”

*The motion was adopted*

Clauses 2 to 14 were added to the Bill

Clauses 1, Enacting Formula and the Title were added to the Bill.

SHRI JANARDHANA POOJARI : I beg to move :

“That the Bill be passed.”

MR. CHAIRMAN : The question is :

“That the Bill be passed.”

*The motion was adopted*

MR. CHAIRMAN : The question is :

“That the Bill further to amend the Customs Tariff Act, 1975 be taken into consideration.”

*The motion was adopted*

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

“That clause 2 stand part of the Bill.”

*The motion was adopted*

Clause 2 was added to the Bill.

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

SHRI JANARDHANA POOJARY : I beg to move :

“That the Bill be passed.”

MR. CHAIRMAN : The question is :

“That the Bill be passed.”

*The motion was adopted*

MR. CHAIRMAN : The question is :

“That the Bill further to amend the Central Excises and Salt Act, 1944, be taken into consideration.”

*The motion was adopted*

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

“That Clause 2 to 8 stand part of the Bill.”

*The motion was adopted*

Clauses 2 to 8 were added to the Bill

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

SHRI JANARDHANA POOJARY : I beg to move :

“That the Bill be passed.”

MR. CHAIRMAN : The question is :

“That the Bill be passed.”

*The motion was adopted*

15.40 hrs.

MOTION RE : “SEVENTH FIVE YEAR PLAN, 1985-90”—*Contd.*

[*English*]

MR. CHAIRMAN : Now, we will go to next item. The House will now take up for further discussion the Motion moved by the Hon. Minister Shri Ajit Panja.

SHRI ANAND GAJAPATHI RAJU (Bobbili) : Mr. Chairman, Sir, today what we are going to discuss is a very wide canvass and I think that certain aspects of it I should bring before the notice of this House. In the State of the Union message given by His Excellency, the President this year, food, work and productivity were stressed. This is a perspective which will be offered. I would like to mention a few words about each.

Regarding food, from year to year, we plan both Kharif and Rabi Crops and