

(vii) ALLOTMENT OF AGENCY FOR  
DISTRIBUTION OF LPG IN TAMIL NADU

SHRI A. SENAPATHI GOUNDER  
(Palani) : Madam Chairman, under  
Rule 377 I wish to bring the following  
matter of public importance.

Palani Constituency in Tamilnadu  
comprises Business Centres like  
Oddan Chatram, Dharapuram, Vel-  
lakkoil, Chennimalai, Kangayam  
and holy places like Palani, Lord  
Karthikeya being the presiding deity.  
Palani is like Tirupathi. Lakhs of  
pilgrims from Andhra Pradesh, Kar-  
nataka and Kerala visit this place and  
stay mainly in Choultries/lodges. The  
hoteliers in their efforts to serve food  
to pilgrims, in the absence of cooking  
gas, scanty supply of kerosene, have  
resorted to buying firewood from  
illegal felling of trees from un-  
scrupulous elements. These forests  
lie within a distance of ten miles from  
Palani. This has upset the ecological  
balance. Local population of more  
than one lakh people have to do the  
same to cook their daily food. This,  
I am afraid, will upset the National  
Forest Policy of our Government  
aiming at preserving forests, wild life  
and green vegetation.

Our Government under the leader-  
ship of respected Prime Minister has  
always endeavoured to improve the  
standard of living of all. One way is  
to provide uninterrupted supply of  
cooking gas, L.P.G. connections, and  
kerosene.

I understand that there are two  
L.P.G. Bottling plants at Coimbatore  
and Salem which are likely to be  
expanded. I, therefore, insist upon  
the Government that agencies for dis-  
tribution of L.P.G. be immediately  
allotted at the above places, especially,  
in view of the fact that interviews have  
been conducted for agencies at Palani  
at least eight months ago and further  
provide continuous supply of kerosene.

13.20 hrs.

STATUTORY RESOLUTION RE-  
DISAPPROVAL OF CENTRAL  
EXCISE LAWS (AMENDMENT  
AND VALIDATION) ORDINANCE,  
1982 (ORDINANCE NO. 1 OF 1982)  
AND CENTRAL EXCISE LAWS  
(AMENDMENT AND VALIDA-  
TION) BILL

MR. CHAIRMAN : Now, the  
House will take items 10 and 11 to-  
gether—Statutory Resolution.

SHRI BHOGENDRA JHA  
(Madhubani) : Madam, I move the  
following Resolution :—

“This House disapproves of the  
Central Excise Laws (Amendment  
and Validation) Ordinance, 1982  
(Ordinance No. 1 of 1982) pro-  
mulgated by the President on the  
24th September, 1982.”

Madam, this Ordinance is based  
and has arisen because of a judgement  
of Delhi High Court, as we have been  
told in the statement of the Finance  
Minister, on 6th August, 1982. So  
the judgement of the Delhi High Court  
was delivered on 6th August, 1982.  
One fails to understand why the Cen-  
tral Government did not think it fit  
to go to the Supreme Court itself and  
seek the remedy because here the  
matter has been raised by the High  
Court, as the statement of the Minister  
states, that if any partial exemption is  
made to any excise duty then the whole  
range of such duties even on other  
enactments would be affected, cannot  
be collected and would have to be re-  
funded to the parties. The Minister  
in his statement has very correctly  
narrated if they refund the amount  
already collected, the consumers  
would not be benefited by that. Only  
those in the higher echelons of business  
would be benefited who have already  
collected from the consumer. But  
the pertinent point is that this House  
is sitting from 4th October and the  
notification for it has been issued  
earlier and the Ordinance by the  
President has been promulgated on

24th September. So, firstly the Government had the option of moving the Supreme Court so that it could be thrashed out because it is not only applicable to this case but may be to other cases of the country also in other enactments where Government will be forbidden from exempting partially even particular cess or duties because the partial exemption will compel the total failure of the Government to collect any excise duty or any cess in other cases also. That was a major problem and ought to have been thrashed out in Supreme Court. The Minister's statement does not touch this point.

Secondly, suppose they did not find it fit to go to the Supreme Court. Then, on the 4th of October, the House was meeting. It was open to the Government to have this Bill from the first day itself. They could have given priority to this particular legislative business. Only for about 6 or 7 or 8 days, what was the particular hurry, I don't understand, for promulgating this ordinance.

In a sense, Madam Chairman, this is an affront to the Parliament itself. Parliament was to meet from 4th. This notification was issued just before that. Questions were being tabled by Hon. Members. But then, Government comes forward with such an Ordinance. So, I repeat, this is an affront to the Parliament itself. And the Minister's statement does not explain this at all. He has not stated what harm it would have caused between those 6 or 7 or 8 days. He could have brought up the Bill and this would have been passed by both the Houses. Because, at present, they are not afraid of this House. Rightly or wrongly they have got overwhelming or absolute majority in the House. They have majority in the other House also. Therefore there is no hitch to get it passed. Some of the Members even on this side would have no objection to some of the proposals of the

Government; but the Government did not choose to adopt that method. Instead of that, the Government rushed in and brought forward an ordinance. That is my primary and basic objection. That is why I seek disapproval of the ordinance by the House. I wish to record my disapproval of this method of promulgating ordinances just in the eve of Parliament session. The Parliament had been called. We have been summoned. Notification has already been issued. Members are preparing for it. Then you come with such an ordinance. This has become a habit which we should try to avoid. There must be an end to this habit, in the interest of Parliamentary Democracy, in the interest of the Sovereignty of this Parliament and to give it, its due place, and not to face the House with a *fait accompli*. Because, the ordinance is already there and you come with this before the House. The Minister's statement does not touch this point at all. Firstly there was no hurry for it. Since the House was sitting from 4th October, there was no hurry. Secondly, ignoring the House, you do it. After promulgating the Ordinance you face the House with a *fait accompli*. What harm would have exactly happened if they had not passed this ordinance? That, they have not stated. There was an Act in 1944 enacted by the Britishers. It is called 'Excise and Salt Act'. So, Salt was also included in it. For a certain period even after our freedom, we used to say that whereas everything is being hit by inflation the price of salt has not been rising so much. But now it cannot be said like that. It is a touchy subject. Salt is an essential item. It is an essential commodity. Without salt even the poorest in the country cannot carry on. Everybody has to depend upon it. That is why Mahatma Gandhi made it an issue against the British Colonisers, the then British Government. That kind of enthusiasm was there in the country. People began manufacturing salt out of even barren soil in order to defy the Tax laws of the Britishers. After

[Shri Bhogendra Jha]

freedom it was expected that salt would totally be exempted from Excise. But up till now it has not been done. Rather, the excise duty is going on increasing even on salt. Now you cannot dare say that an essential commodity like salt is cheaper or will become cheaper. I request them to reply to all the points which I have just now narrated. Government should have taken a bit of courage and a bit of care for the common man. So, exempt the salt from all sorts of excise duty so that at least it is available at the cheapest price for the common man. I have already narrated in my statement that in order to make the controlled cloth cheaper, it is necessary that excise duty on other variety of cloth is raised. About 105 textile mills in the country had to be taken over by the Government, not because Government wanted to take them over but because the mill owners declared that those mills were sick and kept them as such for several years. The textile workers were unemployed for several months and the production of cloth had been stopped. So, the entire nationalised mills of the National Textile Corporation were declared as sick mills. At that time, when these mills were nationalised, one policy was adopted that these mills alone would produce the cheaper variety of cloth because private mill owners and millionaires had to be allowed full freedom to raise prices to the extent they could or they would like to do. That itself was discrimination against the public sector, particularly the sector which had been almost killed by the private sector at the cost of the nation. They had been taken over and nationalised and they have been brought to life again so that they could function as before.

Now, Sir, in order to make the controlled cloth available for the people which itself is very meagre, we are not in position to meet the demands of the common man with regard to the cheaper variety of cloth. Now,

it is very rarely available in most parts of the country. Why can't the burden of excise duty be put on the private mill owners? Now, the Minister's statement says that the excise duty had to be levied on cloth in order to keep the controlled cloth prices as controlled, but then again, it is being transferred to the consumer. Even with regard to the excise duty, the whole policy has been changed. When this item is taxed by the Government, everyone is taxed. In a country like ours where there is economic inequality, where a larger percentage of people are below the poverty line, a few hundreds of people are growing richer and richer. The entire profit of the country is exploited by them. The policy of the Government is to tax all the people, both rich and the poor. That is un-just. Here the policy should be tax the rich, tax the millionaires and give relief to the common man. But through this taxation policy and the excise duty policy also, the common people are taxed. That is extremely unjust. The basic issue is that the excise policy should be changed, altered in the interest of the common man and in the interest of our own country, in the interest of sovereignty of Parliament democracy, this habit of bringing Ordinance on the eve of the Session, after the issue of the Notification for the holding of the Session and after the issue of the notice to the Members of Parliament should be given up.

श्री राम विलास पासवान (हाजीपुर) :  
वैसे तो सारी चीजें ठीक हैं, लेकिन इस  
वक्त यहां दो मन्त्री हैं और एक सदस्य उस  
तरफ बैठे हैं। यदि ऐसे ही सब चले जाएंगे  
..... लंच रखा नहीं है.....

सभापति महोदय : लंच तो आज  
खत्म है .....

श्री राम विलास पासवान : लेकिन ट्रेजरी  
वैन्चेज को कुछ लोग तो जमा कर रखने  
चाहिए.....कुछ कोरम तो होना चाहिए.....

सभापति महोदय : कोरम तो होना चाहिए। कोरम की घण्टी बजाइयेगा ....

श्री राम विलास पासवान : तो भी कोरम पूरा नहीं होगा। हम लोग कोरम का सवाल नहीं उठाते हैं। अगर इसमें हम लोगों की भी जिम्मेदारी है, तो हम लोग बैठे हुए हैं। सरकार की जिम्मेदारी ज्यादा है।

एक माननीय सदस्य : आपकी तरफ केवल चार सदस्य बैठे हुए हैं।

SHRI BHOGENDBA JHA : Madam Chairman, we can appreciate your helplessness, but we feel that it is very pertinent to point this out to you. They will come only to keep this Government in power, not to run this House and to participate in the proceedings of the House.

श्री राम विलास पासवान : इस बिल को पास करवा लीजिए, लेकिन इसका क्या यूज है? हाउस में सिर्फ दो मिनिस्टर हैं और चार मेम्बर हैं। यह पार्लियामेंट है :

SHRI AMAL DATTA (Diamond Harbour) : Ordinance itself is a farce and the way the Bill is being passed is also a farce.

SHRI BHOGENDBA JHA : It seems to be a mockery.

श्री राम विलास पासवान : आप कोरम करवा दीजिए। इसका कोई मतलब या सेन्स नहीं है। इससे अच्छा है कि लंच आवर रखा जाए।

सभापति महोदय : अगर आप चाहते हैं, तो मैं कोरम की घंटी बजाने के लिए कह देती हूँ। आप लोगों की अंडरस्टैंडिंग है कि लंच आवर में वह नहीं बजानी चाहिए।

श्री राम विलास पासवान : अंडरस्टैंडिंग यह नहीं है कि सिर्फ मंत्री ही रहें।—अब रहने दीजिए।

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PATTABHI RAMA RAO) : Mr. Chairman, Shri Bhogendra Jha has mentioned that the Ordinance should not have been issued just a week before the Parliament actually met. I may mention for his information that no Ordinance has been issued by the Government of India during the last one year except this one. This is the only Ordinance that has been issued. It was because it was such an important one. If we did not issue this Ordinance, we would have lost crores of rupees every day, and we cannot afford to lose so much; everyday counts for us.

SHRI SATYASADHAN CHAKRABORTY (Calcutta South): Madam, at least you ask the Minister to bring their Members from the Central Hall who are holidaying there. Most probably, they are in a mood to desert him.

SHRI BHISHMA NARAIN SINGH : You are there.

MR. CHAIRMAN : It is the responsibility of both the sides.

Resolution moved :

"This House disapproves of the Central Excise Laws (Amendment and Validation) Ordinance, 1982 (Ordinance No. 1 of 1982) promulgated by the President on the 24th September, 1982."

Mr. Minister, you have to move the consideration motion.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PATTABHI RAMA RAO) : I beg to move :

"That the Bill to provide for the amendment of laws relating to

[Shri Pattabhi Rama Rao]

Central excise and to validate duties of excise collected under such laws, be taken into consideration."

Hon. Members would have seen from the Statement of Objects and Reasons as well as clauses of the Bill that it has been introduced to overcome a delicate and difficult situation created by a judgement of the Delhi High Court relating to assessment of various types of additional duties of Central Excise.

Hon. Members may be aware that the Government has been collecting different types of duties of excise under various enactments, apart from the basic excise duty levied under the Central Excises and Salt Act, 1944. These duties, for instance, include the additional excise duties in lieu of sales tax leviable on sugar, tobacco and fabrics, which are entirely passed on to the States and Union Territories, under the provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 ; additional duties of excise on specified fibres, yarns, fabrics, etc. which are meant for the purpose of subsidising the production of controlled cloth, under the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 ; special excise duty under the Finance Acts for the purpose of augmenting Central revenues, and the proceeds of which are shared between the Centre and the States ; and cesses on various items such as fabrics, bidis, paper etc. (which are levied and collected as duties of excise), earmarked for specific purposes related to the commodities.

The maximum rates to which goods can be subjected to duties of excise are specified in the various enactments and the Central Government has been empowered to ex-

empt excisable goods wholly or partially from the levy of any such duty of excise. For this purpose the Central Government has been issuing notifications following a particular pattern for exempting excisable goods from the basic duty of excise leviable under the Central Excises and Salt Act, 1944 or the additional duties/special duties leviable under other enactments.

The Delhi High Court in a recent judgement had held that in the absence of a specific reference to the nature of duty of excise in the notification itself, which provides for exemption from duty of excise on any goods, the exemption granted under the notification would apply to *all* the duties of excise leviable on such goods under different enactments, that is by whatever name they are called.

The High Court has thus, by its judgement set at nought a long standing and time tested practice of levy and collection of additional excise duties.

The judgement of the Delhi High Court, apart from affecting the prospective levy and collection of additional duties, will also affect assessments made over a long period of time.

In fact, after the pronouncement of the judgement a number of writ petitions have been filed by various manufacturers agitating the same points.

While it is not possible to estimate precisely the revenue implications, on a rough basis it has been estimated that during the financial year 1982-83 alone a sum of Rs. 400 crores approximately can be at stake if the ratio of Delhi High Court judgement is applied to all the notifications currently in force. The judgement will also affect the special/

additional duties collected over the years in the past. The adverse effect on revenue will therefore, be much more than I have indicated.

I am already somewhat perturbed over the trend of revenue collections, which are showing a shortfall due to certain economic causes. The effect of the Delhi High Court judgement, will, therefore, only serve to aggravate the situation.

Hon. Members are aware how the scheme of central excise duty operates. Being an indirect tax, it is collected, from the manufacturers, who in turn, pass on the incidence of duty to their wholesale customers who, then, pass it on to the retailers so that it ultimately lands on the consumers. In this chain it is thus the ultimate consumer who has to bear the burden of the duty.

The point I want to place before the Hon. Members is that in all these cases where refund may have to be given following the Delhi High Court judgement, the consumer will have already borne the burden of the duties. And refund of duty to the manufacturers will only mean a fortuitous windfall benefit to them, without the possibility of any relief accruing to the ultimate consumers. Hon. Members would agree with me that the Government cannot afford to stand by and watch this money being put into the pockets of the manufacturers.

This apart, the judgement of the Delhi High Court has created an uncertainty in the entire scheme of levy of additional duties on excisable goods.

It, therefore, became imperative that the position regarding exemptions granted through various notifications be remedied and clarified immediately, and past assessments of excise duties on the basis of the long-standing scheme for the levy of duties were validated. It was for

this purpose that the Central Excise Laws (Amendment and Validation) Ordinance, 1982 was promulgated by the President on the 24th September, 1982.

The present Bill seeks to replace the Ordinance. The validating provisions of the Bill seeks to place on a legal footing all levies, assessments and recoveries made in the past.

Some of the Hon. Members may perhaps have a genuine apprehension that the Bill seeks to impose duty retrospectively from 1944. Let me set their fears at rest. The Bill does not seek to impose any duty whatsoever retrospectively. It merely seeks to validate the excise duties already collected, and thus already passed on to the ultimate consumer. Those assesseees who did not pay the additional levies because of any stay orders/judgements of Courts of Law, will therefore be required to pay the duty which was not paid, since the Bill seeks to overcome the situation created by the judgement, and the stay orders that have emanated therefrom.

Madam, I beg to move that the Bill to provide for the amendment of laws relating to Central excise and to validate duties of excise collected under such laws, be taken into consideration.

**SHRI BHOGENDRA JHA :** With regard to the Ordinance, the Minister has not touched a single objection that has been raised.

**MR. CHAIRMAN :** He will speak about them at the time of giving his speech.

**SHRI PATTABHI RAMA RAO :** I will then touch all the points.



MR. CHAIRMAN : He will clarify all these things.

Motion moved :

"That the Bill to provide for the amendment of laws relating to Central excise and to validate duties of excise collected under such laws, be taken into consideration."

Now, Shri Amal Datta.

SHRI AMAL DATTA (Diamond Harbour) : Madam Chairman : The Hon. Minister has tried to impress upon the House the urgency of having this Bill enacted, or rather, to go a little back, the urgency for having promulgated the Ordinance on 24th September. He tried to do so, by saying that because of the judgement of the Delhi High Court which, according to the Objects and Reasons appended to the Bill, was delivered on 6th August 1982, the Government was losing crores of rupees daily. Now, in the statement which had been circulated previously to us, authenticated by Shri Pranab Mukherjee, the Finance Minister, it has been stated that in the financial year 1982-83, a sum of Rs. 400 crores would have been at stake, because of that judgement.

It is not stated either by the Minister here, or in the statement of the Finance Minister, whether this estimate is based on the collection of excise duty all over India, or confined to the State or Union Territory of Delhi alone. As is well known, or should be known to the Minister, the judgement of a High Court has effect on the territory to which the jurisdiction of that High Court extends. I do not know, because this has not been made clear, as I said before whether in case this calculation of losing Rs. 400 crores over a year as given in the statement by Shri Pranab Mukherjee, or the statement by the Hon. Minister in the House that the Government was losing every day crores of rupees, is

based on an estimate of the loss which would occur in the collection of Central excise duties all over India, then it is certainly not a correct estimate. The whole basis of the estimate is fictitious.

That is my first point. The second point is that since on the 6th August this judgement was delivered, what has the Government been doing from that date till 24th September—only sitting back on the chair, losing revenue ? Government has a big Law Department ; and I had the fortune or misfortune to go through the Annual Report of that Ministry, which boasts of having four Departments under it and spends crores of rupees. Why could not Government get that Law Department, through the Law Officers of the Government, to file an appeal in the Supreme Court ? This point has been raised by Shri Bhogendra Jha, in moving his Resolution ; and I am emphasizing it for this reason, that there are, after all, 16 or 18 High Courts in this country. They will all give their own interpretations of Statutes, or statutory notifications.

Now, in every case when the interpretation of any notification given by any High Court is contrary to the Government's own interpretation, will the Government rush to amend the law ? Or will the Government go to the Supreme Court, which is the highest judicial authority in this country, to have the law settled by the Supreme Court and only then come, if necessary and if so advised by the Law Department, to have the Act amended and to enact valid laws so far as the provisions made in the previous law are concerned ? I think it is a very bad policy on the part of the Government, first of all, not to go to the Supreme Court on a matter as important as this, when the Government admittedly was going to lose Rs. 400 crores and to have the law settled ; because, this kind of notification

is not confined to this excise law alone. Similar notifications are issued, I am sure, in all taxation laws, in the Customs Act, in the Income-Tax Act and in various other taxation Acts. So, they will have to by and by bring up similar amendments, because people will keep on going to the Court, on the basis of the Delhi High Court judgement. If they cannot go to court for any clarification about the notification under the excise laws, they will still do so in respect of some other laws, as long as that decision is allowed to stand.

The Hon. Minister should have stated clearly and categorically, particularly because this point was mentioned by Shri Bhogendra Jha while moving his resolution—why did the Government not go to the Supreme Court? We are in the dark, in spite of the fact that we have been given a written statement by Shri Pranab Mukherjee, which was circulated to us on Saturday and in spite of the Minister's long written statement he has not mentioned as to whether the Government has or has not gone to the Supreme Court so that this decision of the Delhi High Court is not allowed to stand. Of course any decision of any High Court, which causes a loss of revenue, the Government has to fight, up to the last judicial hierarchy and the Government has not stated whether it is doing so or not.

Madam Chairman, will you give me a little more time?

MR. CHAIRMAN : Only one hour has been allotted.

SHRI AMAL DATTA : The Central Excise Act is a very important Act. The total amount of revenue which the Government expect to collect in the year 1982-83, excise and customs duty together, form about 75 per cent. The total tax revenue the Government expects

to collect in this year is Rs. 17,000 crores and customs and excise together form about Rs. 13,000 crores. And the direct taxes, namely, income tax, estate duty, wealth-tax, and Corporation tax, etc., which have their effect on individual taxable entities including individuals themselves having high income, are only Rs. 4,000 crores. So, this 75 per cent of the total revenue of the Government is now coming from indirect taxes. Now by any canon, of taxation, if equality is to be established through taxation, it cannot be wholly established—and any move towards equality cannot be taken—unless direct taxes play a progressive role in taking money from those who have too much money and then the Government to distributing it to those who do not have it; and indirect taxes are regressive in character because their burden falls on the low income group of people. This is exactly what the Government has done. A comparison between 1978-79 and 1982-83 shows that indirect taxes have gone up from 70 per cent to 75 per cent of the total Government revenue. This is an indication of the policies being pursued by the Government in opposition to their stated policy of moving towards a socialistic pattern of society.

The Government in levying any excise duty do not follow any proclaimed policy as to what duty is to be imposed on what commodities. There are 140 exciseable goods, out of which 7 are exempted.

Why they have been exempted, we do not know, possibly, they have been thoroughly lobbied and, therefore, the Government has exempted them. So far as the goods before tax are concerned, there is no relationship between the value added in manufacture and the rate of taxation. This is a tax which falls on the manufactured goods. It is the process of manufacture which is taxed. But the Government at the time of levying the Central Excise



[Shri Amal Datta]

or any other Excise Duty, completely ignores the value added in manufacture and levies the tax on the basis of the value of the manufactured goods.

Take for instance, a semi-agricultural commodity like tea. The Government has levied excise duty on tea and the collection of excise duty is not meagre. It is more than Rs. 60 crores every year although the Government does not spend even a fraction of that on development of tea industry. What happens is that the tea is an agricultural produce. Very little value is added in its manufacture. It is a labour intensive product. Out of the total ex-garden value of the tea, 60 to 65 per cent goes to labour in the garden. They are very low paid. In spite of that, the Government has put the tax on tea. There again, there is a difference between the tea within a certain price range and above a certain price range. Of course, the higher the value of the goods, the higher is the *ad valorem* duty. But the Government should also see what is the value being added and what is the manufacturing cost of a particular product before they levy a tax. I will give you an example. There is a higher duty on Darjeeling tea as compared to Dooars tea or Assam tea, in spite of the fact that the cost of production is less in Dooars or Assam. The result is, while the Dooars and Assam tea gardens are making profits, the Darjeeling tea gardens are running at loss. The Government has, therefore, no policy in levying central excise duty. While levying this duty it does not see that the weaker sections of the people are not hurt, that the labour intensive industry is not hurt and that the burden of this taxation falls on the people who are able to pay and *ad valorem* duty is so arranged that it only touches those manufactured goods where the value added in manufacturing, is high. Therefore, I oppose this particular amendment which is sought to

be brought on the ground firstly, that the Government is not going to the Supreme Court, secondly, it has brought an amendment on the basis of the High Court Judgement and thirdly it has promulgated this ordinance only on 24th of September, after the summons have been issued to convene the House and there were only a few days left before the House was convened. There was really no hurry. When the Government could wait from the 6th of August to the 24th of September, they could have certainly waited for another ten days or so, until the 4th October, to bring this Bill before the House. So, on all these counts, particularly because of the policy which the Government is following in such matters, which is an arbitrary policy, I oppose this Bill.

13.59 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

MR. DEPUTY-SPEAKER : Shri Girdhari Lal Vyas. I am calling him first today because I did not give him an opportunity last time.

SHRI GIRDHARI LAL VYAS : You are calling me because there is nobody else to speak.

MR. DEPUTY-SPEAKER : You are a reserve speaker.

श्री गिरधारी लाल व्यास (भोलवाड़ा) : केन्द्रीय उत्पाद-शुल्क विधि (संशोधन और विधिमाम्यकरण) विधेयक 1982 का मैं समर्थन करता हूँ।

माननीय उपाध्यक्ष महोदय, यह जो उत्पाद शुल्क के सम्बन्ध में जो बिल यहां पर प्रस्तुत किया गया है और उसमें कोर्ट के डिसीजन की वजह से जो इन्कम का लास सरकार को हो रहा है, उसको विधि मान्य बनाने के लिए सरकार ने यह बिल प्रस्तुत

किया है। दूसरा, हमारा यह भी ध्येय है कि ऐसे आइटम्स पर बिक्री-कर समाप्त करके और इस प्रकार से व्यवस्था लाने की बात हम बहुत अरसे से सोचते आए हैं और उसी प्रकार से कुछ सामान के ऊपर बिक्री-कर के बजाय उत्पाद शुल्क और अतिरिक्त उत्पाद शुल्क इन्होंने इस सम्बन्ध में लगाने की बात कही है। उसकी वसूली में बहुत बड़ी सहूलियत आयेगी और उस सहूलियत के हिसाब से यह उत्पाद शुल्क जो है, इसकी व्यवस्था की है।

मैं यह निवेदन करना चाहता हूँ और जैसा हमारे जैन साहब कह रहे हैं कि इसके सम्बन्ध में और वस्तुओं के ऊपर भी इस प्रकार से उत्पाद शुल्क लगा दिया जाए तो जो बिक्री कर में तकलीफें लोगों को आती हैं और जिस प्रकार की घांघलेवाजी और गड़बड़ है, वह सब की सब समाप्त हो जायेगी। हमारी सरकार ने इस सम्बन्ध में एक कमेटी बनायी है और वह कमेटी सारे पाइन्ट्स पर बहुत गम्भीरता से विचार कर रही है कि बिक्री-कर को समाप्त करके, कैसे ऐसी व्यवस्था की जाए जिसकी वजह से इसकी वसूली में जो विकृतियाँ भुस गई हैं, उनको समाप्त करके हम लोगों को सहूलियत दे सकें और सरकार की आमदनी भी किसी प्रकार से कम नहीं हो सके।

स्टेट गवर्नमेन्ट्स, उनकी वसूली के संबंध में, उनकी आमदनी के बारे में अलग-अलग राय रखती हैं। हरेक स्टेट को आज जो बिक्री-कर से जितना फायदा हो रहा है, उसको वे लोग छोड़ना नहीं चाहते हैं और अभी भी इस प्रकार का कोई फार्मूला हमारी सरकार ने इवाल्फ नहीं किया है जिसकी वजह से यह बताया जा सके कि हमारे स्टेट्स को इस उत्पादन कर से भी उसी प्रकार का फायदा मिल सकेगा जिस

प्रकार की बिक्री-कर से उन सरकारों को होता है। इस सम्बन्ध में जब तक कोई निर्णय नहीं लिया जायेगा तब तक सारी व्यवस्था ठीक प्रकार से बैठ नहीं पायेगी।

माननीय उपाध्यक्ष महोदय, मैं आपके सामने यह सुझाव इसलिए रख रहा हूँ कि स्टेट गवर्नमेन्ट की तरफ से जो बिक्री-कर वसूल होता है, उसकी वसूली में भी लम्बी प्रक्रिया है, उसमें कठिनाइयाँ भी बहुत हैं। जो कागजात भरे जाते हैं, और उसके हिसाब-किताब पेश करने की जो व्यवस्था है उसमें भी लोगों को बहुत बड़ी तकलीफ होती है। साधारण ट्रेडर के सामने भी इस प्रकार की भयंकर तकलीफें हैं। जो इन्स्पेक्टोरेट और अधिकारी इसकी वसूली के सम्बन्ध में मुकर्रर किए हुए हैं, उनसे लोगों को बहुत तकलीफ होती है। इस सारी कठिनाइयों को दूर करने का सब से अच्छा तरीका यह है कि हम दूसरी आइटम्स पर भी इस प्रकार का उत्पाद शुल्क वसूल करें। इससे आमदनी भी बढ़ेगी और जो प्रक्रिया की कठिनाइयाँ हैं वे भी दूर होंगी और लोगों को राहत भी मिलेगी। निश्चय ही इस तरह की व्यवस्था करने की सख्त जरूरत है। आप ने उत्पाद शुल्क लगाया और उस के खिलाफ कुछ कम्पनियों ने हाई कोर्ट में जा कर इसके खिलाफ जो याचिका पेश की और उस कारण से जिस प्रकार की कठिनाई सामने आ कर खड़ी हो गई है उसको रेग्युलराइज करने के लिए सरकार जो बिल लाई है उसका जो माननीय सदस्य विरोध कर रहे हैं मैं समझता हूँ कि वह राजनीतिक कारणों से कर रहे हैं। इस बिल का विरोध करने का तो सवाल ही पैदा नहीं होता। इस प्रकार की प्रक्रिया अपनाई जानी चाहिये ताकि वसूली में भी सहूलियत हो और आम नागरिक को तथा

[श्री गिरधारी लाल व्यास]

दूसरे लोगों के ऊपर भी कोई विशेष भार न पड़े। आज देखा जाता है कि सैल्स टैक्स का जो पैसा है वह सरकारी खजाने में जाता भी नहीं है, व्यापारी उसको अपने पास रख लेते हैं और सरकारी अधिकारी जो हैं वे अनेक प्रकार से उनको तंग भी करते हैं। आप ऐसी प्रक्रिया अपनाएं ताकि लोगों को सहूलियत मिले। अगर उत्पाद शुल्क की व्यवस्था कर दी जाए तो बहुत लाभ होगा। इस में विरोध का सवाल ही नहीं है। जो विरोध करते हैं उन्होंने कोई कनक्रीट सुझाव नहीं दिए हैं। इस बिल का जो विरोध कर रहे हैं वे राजनीतिक दुर्भावना के कारण कर रहे हैं। इस बिल के विरोध का कोई प्रश्न ही पैदा नहीं होता है। आपको चाहिये कि आप गम्भीरता से सोचें कि इन आइटम्स के अलावा और भी क्या कोई आइटम्स हैं जिन पर उत्पाद शुल्क लगाया जा सकता है। इस से वसूली में सहूलियत होगी और रोजमर्रा जो कीमतें बढ़ती ह, रोजमर्रा राज्य सरकारें सैल्स टैक्स बढ़ा देती है, जब भी बजट सेशन आता है हर आइटम पर बढ़ा देती हैं, किसी पर एक प्रतिशत, किसी पर दो और किसी पर तीन प्रतिशत, और रोज जो इस तरह से आमदनी बढ़ाने की बात करती हैं और व्यापारी उससे भी अधिक, चौगुना लोगों से वसूल करते हैं और यह जो रातदिन की प्रक्रिया बन जाती है, वह भी नहीं। उत्पाद शुल्क उत्पादन के स्थान पर ही लग जाए तो उससे बड़ी सहूलियत होगी।

यह बहुत अच्छा बिल है और इसका स्वागत किया जाना चाहिए। इसलिए मैं इस बिल का समर्थन करता हूँ।

श्री हरोश कुमार गंगवार (पीलीभीत) :  
दिल्ली उच्च न्यायालय के छः अगस्त 1982

के निर्णय के प्रभाव को रोकने के लिए जो कि मोदी रबड लिमिटेड बनाम भारत सरकार हुआ था, यह छोटा सा विधेयक लाया गया है। इसका जो विषय वस्तु है उससे किसी को कोई बहुत बड़ा विरोध नहीं हो सकता है। परन्तु इस अवसर पर मैं कुछ बातों की ओर आपका ध्यान दिलाना चाहता हूँ।

आज हमारी नीति आयात के सिलसिले में, केन्द्रीय उत्पाद शुल्कों के मामले में बर'बर बढलती रहती है। कभी किन्हीं चीजों के शुल्क में कमी कर दी जाती है, कभी छूट दे दी जाती है। स्पष्ट जो नीति होनी चाहिए, जो कुछ समय तक चल सके, होनी चाहिए, वैसा नहीं होता है। मैं आप का ध्यान बीड़ी, चाय तथा तम्बाकू जैसी चीजों की तरफ दिलाना चाहता हूँ—जिन का इस्तेमाल आम लोग करते हैं। जिसे लोग इस्तेमाल करते हैं, इनमें बीड़ी एक घरेलू उद्योग के रूप में भी देश में प्रचलित है और एक बहुत बड़ा उद्योग है जिसमें लाखों लोग भ्रमिक के रूप में लगे हुए हैं। घरेलू उद्योग पर बहुत दिनों से यह मांग उठाई जा रही है। बीड़ी के कारखाने वालों की तरफ से कि जिसमें लंगोट लगा होता है, ऐक्साइज ड्यूटी आप लगाते हैं, तो खुबी हुई बीड़ी पर छूट मिलनी चाहिए और जो पैकिट वाली बीड़ी है जिस पर लंगोट लगा होता है उस पर भले ही अधिक उत्पादन शुल्क हो। अगर ऐसा नहीं होता है तो बीड़ी उद्योग चौपट हो जायेगा। इस बारे में कई बार सदन में प्रश्न भी उठाये गये हैं। मैं कहना चाहता हूँ कि गरीब आदमी के इस्तेमाल की चीजें जैसे नमक है वह भी महंगा होता चला जा रहा है। उसके शुल्क के लिए भी कोई स्पष्ट नियम नहीं बनाये हैं, और जो देर तक चलें ऐसे नियम भी नहीं हैं। नतीजा

यह है कि केन्द्रीय उत्पादन शुल्क की वजह से बहुत सी चीजें बहुत महंगी हो जाती हैं। मैं माननीय व्यास जी की इस राय से सहमत हूँ और इस अवसर पर यह कहना चाहूंगा कि देश के अन्दर बिक्री कर के स्थान पर केन्द्रीय उत्पादन शुल्क के रूप में कोई शुल्क लगाया जाये तो ज्यादा अच्छा रहेगा। मैं कोई व्यापारियों की वकालत नहीं करता। लेकिन हम जब बिक्री कर की वसूली करते हैं तो उसमें काफी बंगलिंग का खतरा रहता है और बंगलिंग होती भी रहती है। आपने सैकड़ों मामले इस प्रकार के सुने होंगे कि दिल्ली से सामान बाहर जाता है और दूसरी जगह उस पर ज्यादा टैक्स न पड़ने पाए, दो-दो बार टैक्स न लगे, इस लिए बाडर पार करते-करते 10, 15, 20 रु० ट्रक रिश्वत देकर लोग माल ले जाते हैं और 6-6 घण्टे तक वहां ट्रक खड़ी रहती है, पुलिस वाले घेरे रहते हैं, चेंक करते हैं, लोगों को परेशान करते हैं। अगर केन्द्रीय उत्पादन शुल्क लग जाय बिक्री कर की जगह तो फिर इस चेंकिंग की जरूरत नहीं रहेगी।

आज हालत यह है कि व्यापारी दोहरे खाते रखते हैं, रखने पर मजबूर हैं और सेल्स टैक्स अफसर के यहां रिश्वत पहुंचाते-पहुंचाते परेशान हैं, और इतनी डिस्क्रिशनरी पावर्स सेल्स टैक्स अफसर की हैं कि जहां एक लाख रु० पैनल्टी पड़नी चाहिए वह चाहे तो 10-12 हजार लगा कर मामला रफा-दफा कर सकता है, और इसलिए सौदा होता रहता है। बिक्री-कर अधिकारी की अदालत आजकल के जमाने में सिवाय लेन-देन का सौदा करने के और कोई काम नहीं रह गया है। कोई न्याय की बात नहीं होती है, लिखा कुछ नहीं जाता है, जो सौदा तय हो जाता है उस हिसाब से लिखा जाता है। दो-तीन बार सेल्स टैक्स लगेगा

तो कीमतें बढ़ेंगी और आम आदमी पर उसका पूरा बोझ पड़ेगा। और इस तरह से काले धन को यह जन्म देता है।

इस सम्बन्ध में जैसा बताया गया एक कमेटी बनाई गई है, लेकिन अभी उसका कोई निष्कर्ष नहीं निकला। इस बिक्री-कर की वजह से जो रेवेन्यू आता है उससे 4, 5 गुना आमदनी हो जाय। यदि इसकी प्रक्रिया का कुछ सरलीकरण कर दिया जाए और उसके स्थान पर केन्द्रीय उत्पादन शुल्क लगा कर स्टेट्स में बांटा दिया जाए तो मेरे विचार में अधिक अच्छा रहेगा।

वैसे तो इस अवसर पर विरोध करने का कोई बहुत बड़ा कारण नहीं है। मैं सिर्फ इस लिए इस सशोधन विधेयक पर बोलने के लिए खड़ा हुआ हूँ कि सरकार को अविलम्ब या तो कोई गाइडलाइन्स बनानी चाहिए या कोई सैन्ट्रल एक्ट ऐसा बनाना चाहिए जिससे तमाम देश के अन्दर बिक्री-कर के नियम एक से बनें। उसकी प्रक्रिया सरल कर दी जाए।

एक वस्तु पर एक स्टेट में 5 प्रतिशत कर की व्यवस्था है, दूसरी स्टेट में उस पर साढ़े सात प्रतिशत कर लगता है और तीसरी स्टेट में उस पर 10 प्रतिशत टैक्स लिया जाता है। अलग-अलग राज्यों में अलग-अलग प्रकार से टेक्सेशन की प्रणाली है, और वे अपने तरीके से बिक्री-कर वसूल करती है। इसका नतीजा यह होता है कि जब वह वस्तु दो राज्यों में जाती है तो उस के दाम बहुत ज्यादा बढ़ जाते हैं। इस लिये इस त्रुटि को दूर करने के लिये, व्यापारी की परेशानी और उपभोक्ता की परेशानी को हल करने के लिए, अग्रेष्ठार को रोकने के लिए और आमदनी को चार गुनी पांच गुनी बढ़ा देने के लिए मैं सरकार

[श्री हरीश कुमार गंगवार]

से मांग करता हूँ कि इस अवसर पर बिक्री-कर को समाप्त करके केन्द्रीय उत्पाद शुल्क जैसी कोई वस्तु लागू करे और उससे जितने राजस्व की प्राप्ति हो, उसका बंटवारा राज्यों में कर दिया जाए। यदि नहीं, तो सेल्स टैक्स यूनीफार्म तरीके से सारे देश में, सभी राज्यों में लिया जाए और सब जगह उसका प्रभाव एक सा हो। उसकी प्रक्रिया इतनी सरल कर दी जाए कि जिससे कर-वंचना बच जाए। इन शब्दों के साथ, श्रीमन, मैं आप को धन्यवाद देता हूँ।

श्री राम विलास पासवान : उपाध्यक्ष महोदय, अभी हमसे पहले कई वक्ताओं ने कहा है ....

MR. DEPUTY-SPEAKER : It should be the shortest speech.

श्री राम विलास पासवान : और आपका और मन्त्री जी का ध्यान इस विधेयक के उद्देश्यों और कारणों की ओर खींचा है। मैं भी आपका ध्यान उसी ओर ले जाते हुए "उद्देश्यों और कारणों का कथन" के अंत में जो कुछ कहा गया है, वह बतलाना चाहता हूँ—

"दिल्ली उच्च न्यायालय के उपरोक्त निर्णय के अनुसरण में अनेक याचिकाएँ फाइल की जा रही हैं और न्यायालय अधिसूचनाओं में विनिर्दिष्ट रियायती दरों के आधिक्य में उत्पादन शुल्क के संग्रहण के लिए रोक-आदेश मंजूर कर रहा है। राजस्व की भारी रकम की हानि की सम्भावना को ध्यान में रखते हुए यह अत्यावश्यक हो गया है कि विधि द्वारा भूतलक्षी प्रभाव से पूर्वोक्त आशय को स्पष्ट कर दिया जाए और विधिमाम्यकरण

सम्बन्धी आवश्यक उपबन्ध किए जाएँ। तदनुसार राष्ट्रपति ने 24 सितम्बर, 1982 को केन्द्रीय उत्पादन शुल्क विधि (संशोधन और विधिमाम्यकरण) अध्यादेश, 1982 प्रख्यापित किया।"

इसमें दो बातें मुख्य हैं। पहली बात तो यह है कि जैसा हमारे साथी भोगेन्द्र भा जी ने आपका ध्यान खींचा और यह बात बार-बार इन पार्लियामेंट में आ रही है कि जब पार्लियामेंट का सेशन खुलने को हो तो उसके पहले आप कोई आर्डिनेंस वगैरह निकालने की बात मत करिए। इसके सम्बन्ध में स्पीकर सहाब को भी रुलिंग है और चेयर की भी यही रुलिंग हमेशा से रही है। जब पार्लियामेंट का सेशन होना को हो तो आर्डिनेंस को बजाए पार्लियामेंट के द्वारा ही उसको पास करवाया जाए। क्योंकि इससे लोगों में भ्रम उत्पन्न होता है। यह आवश्यक नहीं कि हर चीज के लिए आर्डिनेंस ही आये।

इस विधेयक को लाने के पीछे कई कारण बताये गए हैं, जैसे कुछ वस्तुओं पर अन्य उत्पाद-शुल्क लगाया जाना कुछ पर डाय-रेक्ट टैक्सेज लगाया जाना और कुछ पर इन्डायरेक्ट टैक्सेज लगाया जाना। आज मैं उस बहस में ज्यादा नहीं जाना चाहता। लेकिन उसके स्थान पर मैं कहना चाहता हूँ कि हमारा सीधा-साधा मत यह है कि धनी आदमी पर यदि कोई टैक्स लगाया जाता है तो आप उसे तुरन्त लगा दीजिए। यदि गरीब पर वह टैक्स लगाया जाता है तो आप गरीब को आगे परेशान मत करिए। आपको जो 13 हजार करोड़ रुपये अभी एक्साइज ड्यूटी के नाम पर टैक्स के रूप में मिल रहे हैं 4 हजार करोड़ रुपये डायरेक्ट टैक्सेज के तौर पर मिलते हैं, आपके कुल टैक्सेज का 75 प्रतिशत भार हिन्दुस्तान की

गरीब जनता को सहन करना पड़ता है। भुमा-फिराकर वह गरीब ही बीच में मारा जा रहा है। हमारे जैसा आदमी इसलिए इस बात का हिमायती रहा है कि आम जनता को कुछ न कुछ राहत मिलनी चाहिए। इस देश में कुछ मुट्ठी भर लोग ही ऐसे हैं, जो खूब कमा रहे हैं, कुछ ब्लैक मनी के रूप में कमा रहे हैं, कुछ दूसरी मनी के रूप में कमा रहे हैं। यदि उनसे आपको कोई टैक्स वसूल करना हो तो आप देशक कीजिए, लेकिन आम जनता को आप राहत देने के बारे में सोचिए। आप इस बारे में कोई कदम अवश्य उठाए। इस चर्चा में सब से बड़ा मुद्दा यह है कि इस केस में दिल्ली हाई कोर्ट में सरकार की हार क्यों हुई। मैं इस प्रश्न में नहीं जाना चाहता कि सरकार इस फैसले के खिलाफ सुप्रीम कोर्ट में क्यों नहीं गई। आपके विभाग में हजारों रुपए तन्खाह पाने वाले अधिकारी हैं। इसके बावजूद कानून में इस प्रकार के लूप-होल्ज क्यों रह जाते हैं, जिसके कारण हाई कोर्ट सरकार के खिलाफ मिट्टकचर्ज पास करता है?

सब से विचारणीय बात यह है कि आम आदमियों के लिए जो सामान्य कानून बनाए जाते हैं, उनके बारे में हमें यह शंका होने लगी है कि आपके यहां जो लोग कानून के निर्माता हैं, वे नीयत साफ न होने के कारण कानून में कुछ न कुछ छोड़ देते हैं, जिससे आम आदमी और गरीब का विश्वास कानून पर से उठ जाता है। आप तो गवर्नमेंट हैं, आप हाई कोर्ट और सुप्रीम कोर्ट में लड़ सकते हैं, और अगर वहां काम न बने, तो आप यह बिल लेकर पार्लियामेंट में आ सकते हैं कि 400 करोड़ रुपए का नुकसान होने का खतरा है, इसलिए यह टैक्स का प्रवधान भूतलवी प्रभाव से, बिद रेट्रोस्पेक्टिव इफेक्ट, लागू होगा। लेकिन जब आपकी

जगह कोई गरीब आदमी कानून के चक्कर में पड़ता है, तो उसे कितनी कठिनाइयों का सामना करना पड़ता है।

मेरा आग्रह यह है कि टैक्सिज इस डंग से लगाए जाएं कि गरीब लोगों पर उनका भार कम से कम पड़े और शक्तिशाली अमीर लोगों पर करों का भार पड़े। इसके साथ ही साथ कानून इस तरीके से बनाए जाए कि बड़े-बड़े लोग उसकी पकड़ से निकल न सकें।

इस विधेयक से गवर्नमेंट की मशीनरी की फेल्युर साबित हुई है, क्योंकि गवर्नमेंट हाई कोर्ट में हार गई है। जहां तक नमक पर इनडायरेक्ट टैक्स या एक्साइज ड्यूटी लगाने का सम्बन्ध है, जिसको ले कर इतना बड़ा सत्याग्रह हुआ था, या जनता क्लायथ अथवा केरोसीन आयल पर एक्साइज ड्यूटी लगाने का प्रश्न है, हम लोग उसका हमेशा विरोध करते रहेंगे। बुद्धिमत्ता इसी में है कि जो आम आदमी से सम्बन्धित जीवनोपयोगी वस्तुएं हैं, कम से कम उनपर एक्साइज ड्यूटी न लगाई जाए। बड़े लोगों से सम्बन्धित चीजों पर एक्साइज ड्यूटी इस तरह लगाई जाए कि वे लोग उससे बच न सकें। आज वे लोग कोर्ट के माध्यम से अपना बचाव कर रहे हैं और अरबों रुपए उनके पास जा रहे हैं। यह नहीं होना चाहिए।

श्री चन्द्रपाल सिंह (अमरोहा) : उपाध्यक्ष महोदय, केन्द्रीय उत्पाद-शुल्क विधि (संशोधन और विधिमान्यकरण) विधेयक के बारे में कई वक्ताओं ने अपने विचार प्रकट किए हैं। मेरा कहना यह है कि उत्पाद-शुल्क के बारे में संशोधन करने के लिए समय-समय पर छोटे छोटे बिल लाना ज्यादा अच्छा



[श्री चन्द्रपाल सिंह]

नहीं लगता। जब सरकार को कोई नुकसान होने की सम्भावना होती है, या कोई मामला कोर्ट में जाता है तभी वह इस बारे में कोई कदम उठाती है। मैं समझता हूँ कि सेल्ज टैक्स और एक्साइज ड्यूटी आदि के बारे में एक व्यापक और पूर्ण कानून बनाने के लिए एक कमेटी गठित करनी चाहिए, ताकि एकरूपता लाई जा सके और छोटे बड़े के भेद को खत्म किया जा सके।

आज स्थिति यह है कि हम छोटे लोगों पर बहुत टैक्स लगाते हैं और बड़े लोगों से टैक्स वसूल नहीं कर पाते हैं। टैक्स वसूल करने वाले अधिकारियों का ताम-भ्राम देख कर आप ताज्जुब करेंगे। अगर सरकारी अधिकारियों के भ्रष्टाचार का बोलबाला देखना है, तो इस विभाग में देखिए। सैकड़ों गुना पैसे वे दबा लेते हैं। वह सरकार के पास तक नहीं पहुँचता है। इसके लिए भी प्रबन्ध किया जाना चाहिए। इस प्रकार से यहां पर संशोधन लाने से कोई लाभ होने वाला नहीं है। बेसिक मुद्दा यही है कि आज जो भ्रष्टाचार व्याप्त है उसको दूर करने का प्रयास किया जाना चाहिए। यह प्रयास तभी हो सकता है जबकि इसमें एकरूपता लाई जाए। जैसा कि गंगवार जी ने यहां पर कहा है, इस सम्बन्ध में कोई व्यापक बिल यहां पर लाया जाना चाहिए। आज तो अधिकारियों को असीमित अधिकार मिले हुए हैं, वे जैसा भी चाहें कर दें। इसलिए मेरी भी आपसे प्रार्थना है कि आप इसके लिए कोई व्यापक बिल यहां पर प्रस्तुत करें। जल्दी-जल्दी में इस प्रकार से संशोधन लाने से नुकसान होता है। अतः आपको पहले से पूरी तैयारी करके व्यापक बिल यहां पर लाना चाहिए।

श्री रीतलाल प्रसाद वर्मा (कोडरमा) :  
उपाध्यक्ष महोदय मैं मन्त्री जी को धन्यवाद दूंगा क्योंकि उन्होंने कहा कि करों के सम्बन्ध में उन्होंने कमेटी के माध्यम से गहन अध्ययन किया है और यह अच्छी बात है। आज सारे देश में उत्पादन और वितरण में करों के सम्बन्ध में भयंकर भ्रष्टाचार चल रहा है। इस सम्बन्ध में सरकार को कोई क्लियरकट व्यू लेना चाहिये। आज प्रतिदिन काम में आने वाली जो जनोपयोगी वस्तुएँ हैं उन पर उत्पादन कर और विक्रय कर, दोनों ही लगते हैं। हर राज्य में और केन्द्र में भी कर लगते हैं और एक ही चीज पर दो-तीन दफा कर लगने से उस वस्तु का दाम कई गुना बढ़ जाता है। इसके अलावा सरकार करों का संग्रहण भी ठीक प्रकार से नहीं करती है। सरकारी मशीनरी और व्यक्तायी वर्ग के साठ-गांठ से भ्रष्टाचार पनप रहा है। इस प्रकार करों की चोरी जोरों से हो रही है। दूसरी ओर करोड़ों-अरबों रुपया एक्साइज और बिज्जी कर का बकाया है। अभी तक इस देश में सरकार इस बात में स्पष्ट नहीं हो सकी है कि किन वस्तुओं पर कैसा कराधान होना चाहिए और उनके संग्रहण की पद्धति क्या होनी चाहिए। यही कारण है कि भयानक चोर-दरवाजे बने हुए हैं जिसमें अधिकारियों को भी भ्रष्ट होना पड़ता है और व्यापारियों को भी। आज की स्थिति में बिना भ्रष्टाचार के न तो कोई व्यापारी अपना व्यापार ही चला सकता है और न सरकारी मशीनरी ही ठीक प्रकार से चल सकती है।

हाईकोर्ट का जो निर्णय हुआ, रबड़ के सम्बन्ध में, उसके बाद आप इसमें संशोधन कर रहे हैं। यह अच्छी बात है लेकिन जो रबड़ कम्पनियाँ हैं उनपर 80 लाख कर बकाया है। उसकी वसूली नहीं हो रही है।

टोबैको कम्पनियां इण्डिया में जो हैं चार और उनकी जो सक्सीडियरी कम्पनियां हैं उनपर भी करोड़ों रुपये का एक्साइज कर का बकाया है। सरकार इस बात की स्टडी नहीं कर पाई है कि जो इसमें कमजोरियां और लूपहोल्स हैं उनको किस तरह से दूर किया जाय। उदाहरण के लिए एक सिग्रेट की डिब्बी पर एक रुपया लिखा रहता है। भारत की जो चार बड़ी-बड़ी टोबैको कम्पनी हैं, उनकी पैदावार पर 72 पैसे एक्साइज कर लगता है। कम्पनी प्राइस, कन्ज्यूमर प्राइस, डिस्ट्रीब्यूशन प्राइस और रिटेल प्राइस—इन चारों में अंतर है। हम लोग प्रति डिब्बी एक रुपया जनता से लेते हैं, उनको बहुत कम में देते हैं। इससे भी हम लोगों को सबक लेना चाहिए कि व्यवसायी वर्ग जो है, वह सरकार को भांसा देता है। इससे लगता है कि सरकार और उनकी मिलीभगत है। इस से राष्ट्र को क्षति होती है। अभी तक अरबों रुपया उत्पादन कर, बिक्री-कर के रूप में बाकी है। इस तरह से कर के बीच बड़ा संघर्ष हो रहा है। यह उचित होता कि जितने भी कल-कारखाने हैं, जितनी भी वस्तुयें पैदा होती हैं, उनका उत्पादन कर फैक्ट्री में लगाया जाए, ताकि उसके बाद तो दूकानदार द्वारा, होलसेल द्वारा और रिटेलर द्वारा जो टैक्स लगता है, वह बच सके। दाम बढ़ता जाता है। सेल्स टैक्स को तो समाप्त ही कर देना चाहिए। उत्पादन जो होता है, उस पर उत्पादन कर वहीं पर लगाया जाए। उसकी पूरी जांच पड़ताल की जाए और मशीनरी-टाइट की जाए, ताकि वहां पर भ्रष्टाचार न चल सके और जनता को राहत मिल सके।

इस दिशा में और भी बिचार करके सम्पूर्ण तरीके से काम्प्रिहेंसिव बिल लाना

चाहिए। कोर्ट के डिसीजन पर आप यह अमेंडमेंट ला रहे हैं अगर उसमें और भी डिसीजन आने वाले हैं, तो यह अच्छा नहीं है कि बार-बार एक-एक अमेंडमेंट के लिए आप बिल लायें। इसके लिए आप एक कमेटी बनाकर, जिसमें अर्थ-शास्त्री, विशेषज्ञ और बड़े-बड़े व्यवसायी और जनता के प्रतिनिधि हों, इसमें इस पर चिन्तन मनन करना चाहिए। ताकि जनता को लाभ मिल सके।

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PATTABHI RAMA RAO) : Mr. Deputy-Speaker, Sir, I must express my gratitude to all the seven Members who have participated in the discussion on this legislation. Mr. Bhogendra Jha spoke first and said that this Ordinance need not have been promulgated particularly when Parliament was meeting this month; he also mentioned that we should not have been in a haste to do this and that, instead, we could have gone to the Supreme Court and appealed. Let me assure him that this Government has not brought in any other Ordinance during the last one year; this was the only Ordinance which was brought in last month and that too because it was absolutely necessary, it was a question of losing several crores of rupees every day in view of the judgment of the Delhi High Court...

SHRI BAPUSAHEB PARULKER (Ratnagiri) : You waited from 6th August to 27th September.

SHRI PATTABHI RAMA RAO : That is not the point. We did not waste any time. We asked for leave of appeal to the Supreme Court. We have appealed to the Supreme Court. In the meanwhile, though this High Court jurisdiction is limited only to this Union Territory, unfortunately people from all over India, traders and manufacturers from

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all over India, were rushing to the court to get stay orders and thus we were losing very heavily. The point is that we did not want to give time and see that they went on like that and got stays for the writs they were filing.

SHRI AMAL DATTA : Your estimate of Rs. 400 crores is on the basis of all India or only the Union Territory of Delhi ?

SHRI PATTABHI RAMA RAO : That is for all India.

SHRI AMAL DATTA : Then it is not relevant.

SHRI PATTABHI RAMA RAO : Why ?

SHRI AMAL DATTA : Because, as I said, the authority of Delhi High Court extends only to the Union Territory of Delhi.

SHRI PATTABHI RAMA RAO : Traders from other places are also coming and rushing here and file writs. That is what I am telling you. So every trader thinks that he has got a right to file a writ here and he is then filing a writ and getting a stay. That way we are losing heavily.

SHRI AMAL DATTA : Have you seen the Minister's statement ? It says that a few writ petitions have been filed.

SHRI PATTABHI RAMA RAO : Few or more—that is not the point. But they are quite in number. The question is : whether a few or more, the income lost is very heavy. You should not forget that...

SHRI AMAL DATTA : The Supreme Court did not give you leave yet.

SHRI PATTABHI RAMA RAO : That is not the point. But the procedure has to be followed....

SHRI AMAL DATTA : I know the procedure.

SHRI PATTABHI RAMA RAO : It had been referred to the Law Ministry and they have advised. We cannot, however, afford to wait. Every day we are losing, as I have said, so much money. It is not possible to wait for the Supreme Court's decision.

SHRI AMAL DATTA : I have pointed out that from 6th August to 24th September they have waited. My specific question is whether they have gone to the Supreme Court. When did you file the application in the Supreme Court ? Why did you not get the leave yet ? That point you make clear. You come to this House to have a Bill like this passed but you have no specific details. You should have gone to the Supreme Court on the 24th. When did you go ?

SHRI PATTABHI RAMA RAO : All that procedure takes time. Please hear me....(Interruptions)

MR. DEPUTY-SPEAKER : Why don't you hear him ? He is replying not to only to you but to all the members. Let him complete his reply and if you want any clarification, I will allow.

SHRI PATTABHI RAMA RAO : I am mentioning and I think Mr. Jha and a few others raised that question that an appeal should have been filed in the Supreme Court. We lose every day so much of money which we cannot afford. .... Sir, since you wanted that information, I just got it. More than 125 writs have been filed and stay orders have been obtained ever since the judgment of the High Court—involving several crores of rupees.

MR. DEPUTY-SPEAKER : 125—are you not satisfied ? Is it a small number ?

**SHRI BAPUSAHEB PARULEKAR :** The question is : when did the Government file the leave application ? That is what my learned friend was asking . He is not referring to that.

**SHRI PATTABHI RAMA RAO :** We must first get the leave. Unless we get the leave.....

**SHRI BAPUSAHEB PARULEKAR :** When did you apply for leave ?

**SHRI BAPUSAHEB PARULEKAR :** When did you apply for leave?

**SHRI PATTABHI RAMA RAO :** There is no question of applying. Hear me. All that requires procedure and loss of time. Instead of that.. (*Interruptions*) Why don't you allow me to have my say ? I heard you very patiently...

**MR. DEPUTY-SPEAKER :** You can ask your clarification afterwards. Let him complete his reply.

**SHRI PATTABHI RAMA RAO :** If you have to resort to all that, it will take more time and every day we are losing, as I mentioned, so many crores of rupees. Then meanwhile so many writs have come. So the best course was to issue the ordinance and then come before the House. Otherwise we lose money....Mr. Agarwal, you, yourself, had been Finance Minister earlier. You know what it means.

**SHRI SATISH AGARWAL (Jaipur) :** That is why I had not opposed the Bill. But I oppose the tendency to issue ordinances.

**SHRI PATTABHI RAMA RAO :** There is no other go. When we were losing crores of rupees by this judgment of the Delhi High Court, are we to wait and silently and patiently see how much money we are

losing ? It is right ? Then where is it going—this revenue ? It is going into the pockets of the manufacturers and not to the consumers. Do you like it ? Is it the socialistic pattern that you want to encourage ? Actually not. I am sure you will not be a party to that.

**MR. DEPUTY - SPEAKER :** If I am correct, the traders have already collected this from the people. What I say—is it right ?

**SHRI PATTABHI RAMA RAO :** Yes, Sir. They have collected and it has not been passed on to the consumer. That is the whole trouble. Now the revenue that we are getting cannot be passed on to the consumers. So unless we brought this ordinance and stopped it, it was not possible to go ahead with the collection of the revenue.

As regards the other important point raised by some friends, including Mr. Vyas it is about sales tax. He said instead of sales tax, why not a central excise levy ? The sales tax, you know very well, is a State subject. Unless the States give their consent to change this, it is not possible. Yes, since they have agreed, on three commodities central excise has been levied, namely, tobacco, sugar and textiles. But there is a snag there again. The entire proceeds will go to the States or the Union Territories. The revenue will not come to the Central Government. That is why a committee has been set up under the chairmanship of Pandit Kamalapati Tripathi to go into the question and after we receive their report, we will go into it and see how best we can rectify that matter or at any rate, to bring more goods into the net of the central excise.

Most of my friends have been talking only about the issue of the ordinance before the Parliament meeting. I have mentioned about it. Mr. Datta, I think, was saying about the tax on tea. Actually this tax on tea was made according the quality of the



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tea. It is not as if a tax has been levied all over the same thing....(*Interruptions*) Not merely on the price but on the quality. The price is according to the quality.

SHRI AMAL DATTA : Are you not taking into consideration the high cost of production of Darjeeling tea ? That was my specific question.

SHRI PATTABHI RAMA RAO : All that must have been taken into consideration. But in any case, that subject is beyond the scope of this Bill. That is a different matter. However, I am replying to you. That is the point.

By and large, Hon. Members have understood the serious situation and though they say that the ordinance should not have been issued just before the Parliament was meeting, but, as I explained, we were losing crores of rupees and therefore, we had to issue the ordinance and there was no other go. So instead of going deeper into it and taking more time of the House, I request the House to kindly accept the Bill.

SHRI BHOGENDRA JHA : The Minister has tried to answer some of the points and he has kept silent on some basic points. He could not let the House know what amount was actually lost between 6th August and 24th September when the ordinance was issued. Why was the matter not taken up earlier and has any accountability and responsibility been fixed therefore at whatever level—political or administrative which is their affair ? But the country will like to know that. As a corollary, from 24th September upto 4th October when the House sits, had they waited for this House without issuing an ordinance, what amount would they have lost ? When they say that there was a loss from 6th August to 24th September, how

much the country had lost during this period ? What actually the country had lost from 24th September to 4th October ? My apprehension is that from 24th September to 4th October, the loss would not have been such as to warrant promulgation of the Ordinance on the 24th September when the House was to sit on the 4th October. That is why the question arises like this. The tax was collected from the consumers by the industrialists or wholesalers or big traders and it is lying there. None in this House will stand in support of these big sharks but we would support only the consumers. On that there need be any apprehension. The major point here is that you have treated this Parliament contemptuously and you did not take this House seriously—you had no respect for this House. Now, this House is faced with a *fait accompli*. You promulgated the Ordinance and that is bad as far as it goes. What is worse is your system. You are trying to create this system which is the worst for our democracy, for our Parliamentary system. That is why I have moved this disapproval Resolution.

The other point is this. I have raised that when the excise duty was being discussed and the Government was arguing in favour of the consumers, I wanted some satisfactory reply from the Hon. Minister. For example, the question of salt is here even today. On the issue of salt we have participated in our Freedom Struggle. When Gandhi Ji selected the minor issue of salt, at that time, many intellectuals argued why this minor issue was selected. It was selected because this issue concerned every single individual, every single person—rich or poor. That was why this issue was selected.

Government now talks in the name of the common man. It does not exempt the salt. You cannot dare say that at least salt is cheaper. Will the Government be courageous enough

to announce in this House just now that it will come later on with some amending Bill to exempt salt from excise duty throughout the country so that the country, the whole world, will at least know that this country has exempted salt from excise duty? Sir, the Minister has kept mum. He said certain things in his statement and had been arguing on behalf of Government that in order to make the controlled cloth cheaper, they had to levy excise duty on other varieties of cloth. Sir, I had raised this point and I again raise it. The Government is following a policy whereby the public sector is being penalised. In the category of textile mills, I think they have nationalised 105 of them if I remember correctly. These were taken over only after they had become sick for several years together. The mill owners closed these down and opened other mills. The workers were unemployed and so the production came to a standstill. In such a situation, these mills were taken over and the burden fell on the National Textile Corporation. The private sector sharks were always allowed to loot the people. In such a situation, are they going to change this policy in favour of the common man not to levy excise duty on other varieties of cloth but they will levy only on luxurious varieties of cloth? But the common man's variety of cloth, that is, control cloth is not available. The common man is not getting cloth. These are pertinent questions. If all these things are taken into account, I think, the promulgation of Ordinance just on the eve of the Session was wrong. Therefore, I have submitted before the House for the disapproval of the Ordinance promulgated by the President.

MR. DEPUTY-SPEAKER: Now, I shall put Shri Bhogendra Jha's Resolution to the vote of the House. The question is :

"This House disapproves of the Central Excise Laws (Amendment and Validation) Ordinance,

1982 (Ordinance No. 1 of 1982) promulgated by the President on the 24th September, 1982."

*The motion was negatived.*

MR. DEPUTY-SPEAKER : The question is :

"That the Bill to provide for the amendment of laws relating to Central excise and to validate duties of excise collected under such laws 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 and 3 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 and 3 were added to the Bill.*

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

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PATTABHI RAMA RAO) : Sir, I beg to move :

"That the Bill be passed."

MR. DEPUTY - SPEAKER : Motion moved :

"That the Bill be passed."

SHRI T. R. SHAMANNA (Bangalore South): Sir, the Bill has been substantially discussed and the Minister has given his reply also. My observation here is that in no other country of the world we have got as many taxes as we have in India, namely, Estate Duty, Special Excise Duty, Additional Excise Duty, Central Excise Duty, Central Sales Tax, etc. and States also levy different types of taxes like octroi and in many cases



[Shri T.R. Shamanna]

so many cesses like education cess, etc. The amount collected from these taxes vary from one State to another.

Sir, recently I have been to Germany and you will be wonderstruck to know that there are hardly three or four taxes and these too are collected at the source. If there are a few taxes so much of expenditure will be saved and so much of worry to the tax-payer will be avoided. The more and more methods you adopt to levy the taxes, the more and more you are teaching the taxpayer to cheat the Government. The fundamental principle of taxation is that it has to be simple, economical and easily collectable.

Sir, here you are amending an Act to give protection from 1944 and the wording here is :

"Had been in force at all material times."

So, this Bill applies even if it is 100 years old. Sir, the Government has got a large number of legal experts and such things will not arise if enactments are made after proper scrutiny. Furthermore, the Minister has said that this is the first Ordinance. It may be first Ordinance for this Session but many other Ordinances have been passed earlier. Gundu Rao's Government has passed thirty-nine Ordinances in one year.

MR. DEPUTY-SPEAKER : How does it concern here. You ask your party people to oppose it there.

SHRI T.R. SHAMANNA : Sir, what I am suggesting is that let it be properly examined. People should not be harassed and at the same time tax-payer should be taxed to the extent it can bear it. I think the Government of India will hereafter avoid such in-consistencies and the taxes should be levied on the basis of their being simple, economical and useful.

श्री रामावतार शास्त्री (पटना) :  
उपाध्यक्ष जी, इस विधेयक के जरिये अगर

बड़े लोगों पर, पैसे वालों पर, पूंजीपतियों पर उत्पाद शुल्क ज्यादा से ज्यादा बढ़ाया जाता तो मुझे बड़ी प्रसन्नता होती। लेकिन सरकार बुनियादी तौर पर जनता पक्षीय नहीं है, आम जनता का पक्ष नहीं लेती है, बल्कि उन पर चोट करती है और बड़े पूंजीपतियों का पक्ष लेती है। इसकी यह नीति है। यही वजह है कि नमक पर भी शुल्क बढ़ रहा है, या चस पर लगेगा। मोटे कपड़े पर भी लगेगा, बीड़ी और चाय पर भी आपने कर लगाया है। तो मैं केवल दो बातों की चर्चा करना चाहता हूँ।

आचार्य भगवान देव : (अजमेर) :  
उपाध्यक्ष जी, इनको डबल पेंशन मिलनी शुरू हो गई है, संसद से भी और स्वतंत्रता संग्राम सेनानी की भी।

श्री रामावतार शास्त्री : संसद की तो अभी नहीं मिलती है, जब मेम्बर नहीं रहेंगे तब मिलेगी भाई।

MR. DEPUTY-SPEAKER : He wants to know whether you are getting double pension.

SHRI RAMAVATAR SHASTRI :  
He does not know.

MR. DEPUTY-SPEAKER : Are you not getting ?

SHRI RAMAVATAR SHASTRI :  
How can I get ? I get only one.

MR. DEPUTY-SPEAKER : He is M. P. now. Therefore, he gets one.

आचार्य भगवान देव : हमेशा यह मांग करते रहे हैं कि यह बढ़ायी जाय, अधिक दी जाय। डबल पेंशन के हमेशा हिमायती हैं।

MR. DEPUTY-SPEAKER : The sacrifice made by Mr. Shastri is so great. I know he has gone to prison for so many years.

श्री रामावतार शास्त्री : मुझे सरकार ने मजबूर किया बोलने के लिये नमक और मोटे कपड़े को शामिल कर के। नमक सत्याग्रह याद रखिये मेरी राजनीतिक पैदाइश 1930 में नमक सत्याग्रह से ही हुई। नमक सत्याग्रह गांधी जी ने चलाया, पूरे देश को एकात्मक किया और उनकी मांग थी कि गरीब से गरीबी और अमीर से अमीर नमक सब कोई इस्तेमाल करता है। इतनी उपयोगिता शायद और किसी चीज की नहीं है। इसलिये उन्होंने कहा कि गरीबों पर टैक्स लगाना नमक के जरिये गलत है, और उन्होंने नमक सत्याग्रह बहुत बड़े पैमाने पर हिन्दुस्तान में शुरू किया। यह सरकार महात्मा गांधी की अनुचर अपने को बताती है, उनका अनुसरण करने वाली बताती है। लेकिन उनके द्वारा जिस कर का विरोध किया गया उस कर को लगाती भी है। यह अजीब विडम्बना है। तो इस तरह से कम से कम नमक पर तो टैक्स नहीं लगाना चाहिये, और पर लगायें।

आचार्य भगवान देव : उपाध्यक्ष जी, आजादी की जो लड़ाई लड़ी गई वह पेंशन के लिए नहीं लड़ी गई।

MR. DEPUTY-SPEAKER : There was a foreign Government in India when Mahatma Gandhi opposed it. The same is not the case now, when a national Government is there. Now the whole of the taxes go to the people of the country. Previously it was going to England.

SHRI RAMAVATAR SHASTRI : My point is,—the poor people are hit.

MR. DEPUTY-SPEAKER : At that time the conditions were different. Now, it is going to the people.

श्री रामावतार शास्त्री : तो नमक को तो कर से बिल्कुल मुक्त रखिये और

गांधी जी की शिक्षा पर चलिये। विदेशी सरकार हो या देशी सरकार, नमक का इस्तेमाल गरीब करता है जिसको आज खाने को नहीं मिल रहा है वह भी मार में नमक मिला कर पी लेता है। तो इसका तो हम कभी समर्थन नहीं कर सकते हैं कि नमक पर उत्पाद शुल्क आप लगायें।

ठीक उसी तरह से मोटा कपड़ा। अजीब तरीका है, यानी जो कपड़ा सरकार बनाये जनता के लिये उस पर टैक्स लगा दीजिये, और जो बड़े-बड़े पूंजीपति टाटा, बिड़ला, डालमिया आदि बनायें, निजी मिल मालिक बनायें उन पर उत्पाद शुल्क उतना नहीं लगाइये, कम लगाइये या तुलना में उसको कम कीजिए। इस लिए हम समझते हैं कि गरीब लोग जिस कपड़े को इस्तेमाल करते हैं, खासकर आपका कंट्रोल्ड क्लार्थ होता है, पहले तो वह आसानी से मिलता नहीं है क्योंकि आज भी मेरे पास पटना से चिट्ठियां आ रही हैं कि हम लोग दुकानदार हैं और हमारे पास कपड़ा नहीं है, फिर आप इस विधेयक के जरिये उस पर टैक्स बढ़ाना चाहते हैं, तो आप उस पर टैक्स मत बढ़ाइये। एक तरफ तो आप बीस सूत्री प्रोग्राम के अंतर्गत मोटा कपड़ा गरीबों को देना चाहते हैं, फिर उस पर टैक्स बढ़ाना चाहते हैं। इसलिये मैं चाहता हूं कि आप मोटे कपड़े को इससे छूट दीजिए।

15 hrs.

जहां तक फैंसी कपड़े की बात है, यहां से भगवान देव जी चले गए, यदि उनकी तरह कोई फैंसी कपड़े पहनें, तो उस पर आप अधिक टैक्स लगा दीजिए, उस में कोई हर्ज नहीं है। लेकिन गरीब जिस कपड़े का इस्तेमाल करता है, उस कपड़े

[श्री रामावतार शास्त्री]

पर इस तरह का शुल्क नहीं लगाया जाना चाहिए।

इसलिए मैं आपका ध्यान दो बातों की तरफ विशेष रूप से दिलाना चाहता हूँ और सरकार से चाहूंगा कि जैसा अग्रवाल जी ने कहा कि नमक पर शुल्क नहीं लगाया जा रहा है, मैं जानना चाहूंगा कि सचमुच में क्या आपने नमक को छोड़ दिया है, यदि छोड़ दिया है तो मैं आपको धन्यवाद दूंगा। यदि नहीं छोड़ा है और आप नमक पर भी उत्पाद शुल्क लेना चाहते हैं तो मैं उसका विरोध करता हूँ। नमक और मोटे कपड़े को आप छोड़िये। फिलहाल तो हम चाय पर भी छोड़ने के लिए कहेंगे, लेकिन इन दो चीजों पर विशेष रूप से, एक तो नमक और दूसरा राशन की दुकानों से मिलने वाला कन्ट्रोल्ड कपड़ा। वैसे राव साहब हमारे पुराने दोस्त हैं, एक कमेटी में हम दोनों थे, इसलिए उन से निवेदन करने का मेरा अधिकार है कि आप इन दोनों चीजों को उत्पाद शुल्क से मुक्त करने पर विचार कीजिए। धनी लोगों पर कर खूब लगाइये, हम समर्थन करेंगे।

MR. DEPUTY-SPEAKER : Shri Amal Datta, you have already participated in the debate on this Bill. I am allowing you as a special case to ask certain clarifications. You cannot make a speech. Please put your points.

SHRI AMAL DATTA : It cannot be done in that fashion.....

MR. DEPUTY-SPEAKER : You cannot make a speech; you have already done that. If I allow you to do that today, you must not forget that I have to allow other Members also like that. Please ask for clarifications.

SHRI AMAL DATTA : Mr. Deputy-Speaker, Sir, I had made a point in my speech that indirect taxes in this country have gone up in four years time from 70 to 75% which means that through indirect taxes, Government is creating more disparity among the people. I do not know whether the learned Minister had taken note of this point, but he has not replied to that. I hope, he will give a reply to this now.

My second clarification is about the case on which the Ordinance was issued and the Bill has been brought forward before the House now. What exactly is the date on which the application for special leave to the Supreme Court has been filed. That is very important for me to know whether it has been done before or after the promulgation of this Ordinance.

In the same context, it has been stated that 125 writ petitions have been filed. What is the amount at stake in those 125 writ petitions? That has not been made clear. On what basis has the amount of Rs. 400 crores been arrived at?

These are the points on which I would like to have clarification from the Minister. Then, thirdly...

MR. DEPUTY-SPEAKER : You are making another speech. It is not possible. You should not take the time of the House like this. The total time allotted for this Bill is only one hour.

SHRI SATISH AGARWAL (Jaipur): Mr. Deputy-Speaker, Sir, I would not take much time while participating in this debate. I am one of the signatories to the motion for rejection of the Ordinance. So far as the third stage of the Bill is concerned, I would like to make a few points.

While participating in the discussion on this Bill, my colleague, Shri Ramavatar Shastri made a point that there should be no excise duty on salt.

For his information I may tell him that there is absolutely no excise duty on salt, but it is through the Finance Bills that salt is exempted from the levy of the duty. It has been the consistent policy of every Government, whether Congress or Janata Government, not to levy any duty on salt. If that be the position and that position is going to continue, I would like to make one suggestion. Any party may come to power, so far as salt is concerned, no party is going to support levy of excise duty on salt. The Government, at the moment, is proposing to bring forward a comprehensive excise law. At present, it is the Central Excise and Salt Act, 1944. I would suggest that when the Government bring forward a comprehensive excise Bill, the word 'salt' may be deleted for all times to come. This is because in future any Government may become mad and impose some duty because the law provides for levying of duty. It is only through the Finance Bill that no duty is levied on salt and that declaration is made every year. But for future let this intention be made clear to the country that any Government, whosoever may come to power, will never be able to levy any excise duty so far as salt is concerned. The Comprehensive Excise Bill should be only the Central Excise Act, and not the Central Excise and Salt Act.

Since 1979, when I was the Minister incharge of the Customs and Excise, I distinctly remember that we have been making pronouncements in this House and outside that we shall be bringing forward a comprehensive Excise Bill before this House. The Excise law hardly contains 10-12 sections, and the whole administration is governed by rules. Rules are changed by the Department every now and then, they just lay a copy of the rules on the Table of the House; the rules are generally not amended and modified. I would plead with the Minister that so far as the comprehensive excise law is concerned, earlier the better that you bring forward this legislation, if not now, at least in the coming Budget session, because we have been making

pronouncements in this House for the last four years that we shall bring such a legislation. And for this purpose, I had sanctioned strength to draft out this legislation, but unfortunately for the last four-five years, it has not seen the light of the day.

Now, the last and the most important point. I have had a lot of experience about the working of this Department. It contributes 75% of the total Government of India revenue to the Consolidated Fund of India. Customs and Excise revenue contributes 75% of the total revenue of the Government of India. But unfortunately, there is no mechanism at the Central level to know as to what is the position with regard to the cases pending in the High Court and Supreme Court, and the stakes are very high. If in one single case a stay order is granted, hundreds of writ petitions are filed, because nobody wants to pay excise duty to the Government. If stay orders are granted, crores of rupees are blocked. Nobody in this House will support that big sharks should take benefit of it.

The Public Accounts Committee had very strongly recommended this year as also last year the fortuitous gains accruing to these manufacturers should be forfeited to the State and they should not be allowed to avail of that. There is a very strong recommendation of the Public Accounts Committee about these fortuitous gains. These people collect excise duty from the consumers saying that it is leviable, and they know it well that it is not leviable. They go on collecting, and after a year or so they file a refund application or go to a court of law, that under the law, the duty is not leviable, it should be refunded to them and the High Court grants refund worth crores of rupees.

In the Bombay Sales Tax Act, there is a provision that if we have collected duty which was not leviable in the eye of the law knowing it full well, but because you have collected from the



[Shri Satish Agarwal]

consumers, and because it cannot be refunded to the consumers, it must be go to the State, which is meant for the welfare of the people. I think, the House will agree with me, so far as this question is concerned, that the amount of duty collected by these manufacturers which was not liable for collection, and which cannot be refunded to consumers should go to the welfare fund, that is the Consolidated Fund of India and not to these manufacturers. So you must bring forward a suitable amendment to the law in that behalf.

And lastly, you must create a Directorate of Prosecutions. Government should not be penny-wise and pound foolish. Crores of rupees are locked up in cases, but at the Central level, the Hon. Minister and even I, we were not in a position to know as to how many cases are pending in these High Courts, how many in the Supreme Court, who is going to prosecute or defend the Government in those cases? The level of the lawyers is very poor. They are paid very little. They are under the Control of the Ministry of law and the Finance Ministry has nothing to do with it. And when the Collectors of Customs and Excise approach those panel of lawyers, they say you will pay me hardly Rs. 50 or Rs. 100 per hearing while in private cases I charge a thousand or two thousand rupees. They don't bother about the departmental cases. So, some suitable mechanism has to be evolved by the Finance Ministry itself in order to safeguard its interest in various litigation cases pending in the High Courts and Supreme Court so that the stay orders are not obtained by those parties in absence, so that the stay orders are vacated at the earliest, so that the Government revenues are not locked up in litigation worth crores of rupees. I am aware of many such cases. In one single case of Tata Telco, more than Rs. 25 crores are locked up.

Stay order has been obtained; no excise duty is being collected in one single case.

MR. DEPUTY-SPEAKER: Mr. Agarwal, there should not be also arrears in the High Courts and the Supreme Court also.

SHRI SATISH AGARWAL: That is a different matter, Sir.

MR. DEPUTY-SPEAKER: That might be different, but for five or six years they do not come to the Supreme Court.

SHRI SATISH AGARWAL: That is for, the Government to see to it; whether they can keep some judges earmarked for disposal of revenue cases or not, as far as your Department is concerned and that is within your competence and your jurisdiction to create a separate Directorate of Prosecutions regarding which proposals are already there, which was to be set up, but could not be set up. I think it is worthwhile spending Rs. 10 lakhs for a Centralised coordination or information data and also mechanism to see that your cases are properly defended in the High Courts and the Supreme Court; stay orders are not easily obtained, stay orders are vacated, proper securities are furnished and I am not going into those cases where the house securities have been furnished and later on when the department went for realisation, the man was not at all available and like that. So, this Department of Prosecutions should be created, proposals of which are already in the files. You must see to it that it is done as early as possible. With these observations and advice, I support so far as the Bill is concerned. I oppose the Ordinance, not the Bill.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI PATTABHI RAMA RAO): Mr. Deputy-Speaker, Sir, as regards the three good friends from the Opposition who have spoken just now, I don't think I need mention anything to the first Speaker, Shri Shamanna, because he spoke mostly with his own State in his mind. So, I cannot reply

to all that he said and I do not propose to reply to him.

But as regards my good friends Sarvaswari Shastri and Agarwal, I must mention that Shri Agarwal himself has answered on my behalf that there is no excise duty on salt. And I would like to tell him and the other friends who have spoken about the excise duty on salt that today there is no excise duty levied on salt. But one thing is that the Act of 1944 carries the title—Central Excises and Salt. We are trying to remove that “Salt” from that title and therefore, in future it will be Central Excises only. But to do so there are so many formalities that are to be followed.

*(Interruptions)*

SHRI PATTABHI RAMA RAO: One minute, please. Please do not disturb me.

MR. DEPUTY-SPEAKER: Whenever any Minister or any Member is replying or speaking, only if he yields, then you speak. He is not yielding, so please do not disturb him.

SHRI PATTABHI RAMA RAO: Actually the modalities are to be followed because salt is mainly dealt with by the Commerce Ministry. So, when we are now processing the Bill through, very shortly, there will be no difficulty about it. We are amending the name also. “Salt” will be omitted and hereafter it will be called only “Central Excises”. As regards the other point of Mr. Agarwal, viz. that a comprehensive Bill has to be brought, actually the Bill is ready and it can be introduced anytime. There is no difficulty about it.

The third point is about the Directorate of Prosecution. It is a good idea. Being myself a lawyer, I personally prefer that such a thing is created. Anyway, I am not giving any assurance. I am telling that I appreciate the idea; but, then, we have to examine it in depth and see what

best can be done in that direction—regarding Directorate of Prosecution. It is a good idea. We will get it examined, and see what best can be done to expedite these matters. Certainly we will examine it, because we are losing crores of rupees in stays. Certainly we will examine.

MR. DEPUTY-SPEAKER: Mr. Datta wanted some dates.

SHRI PATTABHI RAMA RAO: Mr. Datta wanted to know about the date of appeal to Supreme Court—special appeal. We have gone in for special leave. All that will take time. We wanted to take care of that completely. So, we also went for the Ordinance. An appeal in the Supreme Court would not help us. *(Interruption)* It would not help us. It is only a question of delaying and helping the traders. The traders’ writs are there and stay orders are there. We will be losing heavily. So, we had to issue an Ordinance and save revenue.

MR. DEPUTY-SPEAKER: The question is:

“That the Bill be passed”.

*The motion was adopted.*

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15.18 hrs.

STATUTORY RESOLUTION RE:  
APPROVAL OF NOTIFICATION  
UNDER ESSENTIAL SERVICES  
MAINTENANCE (ASSAM) ACT  
AND

SUPPLEMENTARY DEMANDS  
FOR GRANTS (ASSAM), 1982-83

MR. DEPUTY-SPEAKER: Now we go to the next item namely, Statutory Resolution. We are taking up items 12 and 13 together.