

(Shri K. Lakkappa)

The investments of the Reserve Bank should be for the benefit of this country and they should not be invested in such institutions which have committed huge fraud by making shady transactions. In fact, the Reserve Bank should make investigations into all such transactions. I hope that wisdom will prevail on the hon. Finance Minister and he would make efforts to stop such frauds and the Reserve Bank will undertake more responsibility to go into such shady transactions.

SHRI H. M. PATEL: What the hon Member has said is not at all relevant to this Bill; But I will give him this assurance that if there are any Indian Banks or foreign Banks operating in India, which take recourse to malpractices of any kind or indulge in anything undesirable, we shall certainly look into them most carefully and take whatever steps are called for.

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed"

The motion was adopted.

16.28 hrs.

CUSTOMS, CENTRAL EXCISES AND SALT AND CENTRAL BOARDS OF REVENUE (AMENDMENT) BILL

MR. CHAIRMAN: We will now take up the Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Bill. The hon. Minister.

SHRI VINODBHAI B. SHETH (Jamnagar): Sir, I rise on a point of order. I have given notice of some

amendments, but they have not been circulated.

MR. CHAIRMAN: I will come to them at the time of the clause by clause consideration.

SHRI VINODBHAI B. SHETH: They have not been circulated.

MR. CHAIRMAN: I will check it up.

डा० लक्ष्मी नारायण पांडेय (मंदसौर) सभापति महोदय, मेरा एक निवेदन है, हमने कुछ सशोधन दिये थे, सम्भवतः उनको मर्कुलेट करने में कुछ कठिनाई हो सकती है, लेकिन जिन्होंने सशोधन दिये हैं, उनको हम पर बोलने का अवसर जरूर दिया जाए।

MR. CHAIRMAN: You have given an amendment for the omission of the whole clause. That is not admitted.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SATISH AGRAWAL): Sir, I beg to move*:

"That the Bill to provide for certain amendments to the Customs Act, 1962, the Central Excises and Salt Act, 1944 and the Central Boards of Revenue Act, 1963, be taken into consideration."

Sir, the notes on clauses make a mention about the intention of the Government in bringing forward this legislation. I may be permitted to say something with regard to the objective of this particular amending Bill very briefly.

I would like to submit that during the last 15 years, the indirect tax revenue of the Central Government has risen from Rs. 800 crores and something over to nearabout Rs. 7000 crores. Naturally, the work of the Indirect Tax Board has assumed large

*Moved with the recommendation of the President.

proportions and so, it has become very necessary that to cope up with the work, the strength of the Indirect Taxes Board and Direct Taxes Board also is increased. This opportunity has been availed of by the Government to seek an amendment of the concerned law to increase the strength of the two Boards from 5 to 7. Of course, that is the amendment that I am seeking. Presently in the two Boards, Direct Taxes and Indirect Taxes—Direct Taxes dealing with income-tax, gift tax, estate duty and Indirect Taxes dealing with excise and customs administration—there are five members each and it is not a sufficient number to cope up with the work with the phenomenal increase in the working of the Departments. Briefly, I would submit that I have now come before the House with an amendment of that particular provision to increase the strength of the Boards from 5 to 7.

So far as certain amendments to Customs Act and Central Excise and Salt Act are concerned, in both the laws, there are certain similar amendments which have been sought to be carried out. I do not want to go in detail, but briefly, I would like to submit that one provision which is being sought to be introduced is with regard to the minimum sentence which is provided under Section 135 of the Customs Act. In certain cases, the minimum punishment so far as smugglers are concerned, is six months. I think the House will bear with me that this minimum punishment of six months is going to be increased to one year and that particular amendment finds place here.

AN HON. MEMBER: 2 years.

SHRI ROOP NATH SINGH YADAVA (Pratapgarh): Why not 10 years?

SHRI SATISH AGRAWAL: That depends upon the wishes of the House; I have nothing to say in that.

Advance licences are granted to various exporters and those exporters have to export their items against those advance licences. Actually, what happens that whenever they import, they have to pay customs duty and when they re-export, they get the draw-back. So, it is more or less an adjustment. Moreover, there is a lot of harassment and a lot of multiplication of work. So, it has been provided that there should be book adjustment. Whenever any exporter imports any goods within the country against the advance licence, his account will be debited and when he exports, his account will be credited and the balance amount either way will be adjusted with 12 per cent interest. That is one amendment I am seeking to make. The objective is to boost up our export. It is an additional facility to the exporters and they will be freed from harassment.

Similarly, in 1974, the Salt Act was amended and in 1975, that was brought into force. There have been several petitions in the High Courts and Supreme Court. There has been a dispute about the definition of 'manufacture'. With regard to the definition of 'related person', 'distributor', the Department was interpreting all these things in a particular way. But then, the trade and industry people challenged in the High Courts and Supreme Court all those matters. So, in this particular Bill which is before the House for consideration, we are trying to amend certain provisions with regard to the definition of 'distributor' or 'related person', 'valuation' and 'manufacture'.

Take, for example, just to state my point more clearly, a manufacturer who is manufacturing cups and plates and he is selling for Re. 1/- each. He completes the process of manufacture and pays duty to the Government, say, at the rate of Re. 1/- per plate. Thereafter, he passes it on to his son-in-law who paints it and sells it at the rate of Rs. 3/- each and, further

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on, he passes it on to the another son-in-law who does the packing and sells it at the rate of Rs. 4/- each and the consumer gets it at the rate of Rs. 4 of Rs. 5 each.

Now, I can charge the duty at the rate of Re. 1 because the process of manufacture has been bifurcated into various stages and, therefore, the "related person", "distributor", "packing, ancillary and auxiliary processes of manufacture are not included in that. The various modes and methods have been devised to evade or avoid the duty. So, I have taken this opportunity, in clauses 19, 21 and 22, to redefine under the main Act certain definitions pertaining to the words, "manufacture", "manufacturer", "related person", "distributor", etc. so as to plug all the loopholes wherever avoidance or evasion of duty might take place. That is the general policy of the Government. That way, those particular provisions are also being amended.

PROF. P. G. MAVALANKAR (Gandhinagar): You might do re-thinking on clauses 19, 21 and 22.

SHRI SATISH AGRAWAL: I do not know. I am in the hands of the House. Whatever the wishes of the House are, I will definitely take them into consideration while I reply at a later stage. I am now briefly speaking; I am not going to make a long speech. Nor I am expected to do that at this stage. Of course, the Department has prepared a long speech on all the points. I am not going to refer to that.

Similarly, we are going to import certain items and when those imported items or articles are used in the manufacture of certain goods, certain indigenous material is also used in the manufacture of those goods. Then the question of drawback comes in. The procedure is very cumbersome.

Say, for example, 90 per cent imported material is used in the manufacture of a certain item and 10 per cent indigenous material is used in that. But the item is being exported. There comes the drawback. The Drawback Claims Commissioner will have to find out how much imported material was used, how much indigenous material was used, what is the ratio and all that. He will have to find out the average and calculate the drawback rate, fix the drawback rate and allow the drawback. The whole process takes years and there is so much of harassment.

The people in industry and trade have represented to the Government that the procedure of drawback should be simplified. It has now been decided that in all those items and articles where the Central Government has decided and declared that these are our net imports—we have to import; we cannot do without it—in all those cases in which 10 or 15 or 20 per cent indigenous material is used and the articles are going to be exported, for drawback purposes, the entire material used in the items exported shall be deemed to be all imported material for the purpose of drawback so that there is not that much of harassment. There are certain minor amendments here and there.

There is one more provision that I would like to mention and that is with regard to refunds, short levies and excess levies which are charged. The other day, my hon. friend, Shri Amrit Nahata, while speaking in the House was referring to that. He asked: What authority has the Government to tell a manufacturer or an industry, say, after a year or so, "You were liable to pay this much duty. But you did not pay this much duty. Therefore, you have to pay this much duty, Rs. 10 lakhs, by way of short levy. The demands are raised. He asked: Where is the justification for raising demands, against a man who

has already sold the goods, who has charged the duty from the customer at a lesser rate? He said that they raise the demand and they want to realise the demand, enforce the demand, from a particular person who has sold the goods and charged a lesser rate of duty. He was saying that there was no justification of that. I am in agreement with him. But there is another position also. Take, for example, a person who has charged a higher rate of duty from the customer and, after one or two years, he files a claim for refund saying, "Legally, this much duty is chargeable, not Rs. 10 lakhs but Rs. 5 lakhs. Please refund the balance." Now, he files a claim and the settlement of the claim takes four or five years. He has already realised the higher rate of duty from the customer. He is claiming for the refund. This will be the unintended benefit, according to the procedure of law, that he would be going to have. These are the two positions. As far as Mr. Amrit Nahata is concerned, I did not want to intervene in the debate. He dwelt on one aspect of the matter that there was no justification for the Government, there was no morality in this Bill that less charge demand should be raised. As far as the question of refund is concerned, during the past years, the House will be astonished to know that the Government has ordered refunds after several years through the judgments of courts to the tune of crores of rupees. In one case of Hind Lamp recently in the month of probably March or April, we, under the judgment of the court, had to refund one crore and forty lakhs of rupees to Hind Lamp, because they said that the duty which was realised from them was in excess and its refund was provided for under the law. They had already realised the duty from their customers. So, such cases are also there.

Now, we have equally provided for all a period of six months or one year in certain cases. If some department

wants to raise a less charge demand against somebody, then the department should do it within six months. If somebody wants to realise it, he should have it within a period of six months because within six months normally the matters are disposed of. So, certain amendments on this score which are valid in law as well as in equity on both sides, I mean those provisions are already there and in such cases, we have also sought an opportunity to do it. My learned friend was just now telling me that in case of refunds, I have prescribed a procedure that he should file a refund application to the Assistant Collector within six months of a particular event and his case will be decided; he will get his refund. So, we wish that all these cases should not go to the courts; the courts should not be agitated. Of course the High Courts and the Supreme Court can always look into these matters under judicial jurisdiction. But so far as refund matters are concerned, beyond six months, we have also sought an opportunity to do it in this particular Bill. With these words, we have tried to do justice to the trade and industry, removing certain handicaps and bottlenecks, facilitate and boost up the export and provide more punishment for the smugglers and above all try to restructure our Boards and provide more Members so as to ensure speedy disposal of pending appeals before the Boards which number is in thousands. Then there is one important point because you are raising a question and it has struck my mind with regard to a part of the decentralisation programme of the party in power. So, we have in this particular Bill sought this opportunity to provide that the Assistant Collectors who are exercising adjudication power upto Rs. 10,000, now they will be exercising power upto Rs. 25,000. So, there has been a certain amount of delegation of power downwards below. Similarly, the power of the Assistant Collector can be delegated to the Superintendent

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and the power of the Collector can be delegated to the Assistant Collector and power of the Board can also be delegated that way.

SHRI VAYALAR RAVI (Chirayinkil): There will be more corruption.

SHRI SATISH AGRAWAL: That is a legacy with us. My friend, what can we do? We are trying to improve the matters as much as possible. But my friend, Mr. Ravi, I can quote 101 instances where you and your Government had financial bungalings with the administration of this country. Can you site even one single instance of granting exemption on any political consideration to any party within the sphere of the Janata Party Government?

SHRI VAYALAR RAVI: There was a case where the highest political consideration was shown. I have got a document with me. I can just now produce it.

PROF. P. G. MAVALANKAR: The Minister said that the number of members of the Boards will be raised from five to seven. But he has not given a proper and satisfactory explanation as to what will happen with their working, because merely by adding the numbers you are not going to solve the problem. What other machinery do you envisage? Perhaps, you might explain a little bit more in detail?

MR. CHAIRMAN: Mr. Mavalankar; if you want to speak, you can speak. You send your name; you can participate in it. There is no difficulty because the time is there. In his reply, he will give these things, Mr. Ravi. Mr. Minister, you should not have given response to this. You are unnecessarily yielding. That is the difficulty. Don't yield.

SHRI SATISH AGRAWAL: He is my beloved friend, Mr. Ravi. I have

to yield to Mr. Mavalankar and to any other Member of this House. Any way, this is such a long debate. So, I was just submitting before the House that let us be very objective with regard to criticism of the whole administration and I do not mind. It is almost welcome. I welcome concrete suggestions. So far as Mr. Mavalankar's query is concerned, we are trying to provide one member exclusively for more judicial work, that is, pending appeals before the Board. And we are delegating this power to the Assistant Collector and to the Collector and giving the power to the Collector for review of the Assistant Collector's orders. Which powers are not with the Collectors now, which powers are now with the Board. Powers of review are being given to the Collectors. If the Assistant Collector's order is *mala fide* or bad in law or has been done in collusion, then the Collector can call for the records and remove that particular order. Now the Collectors do not have that authority. These powers are being delegated to them. There will be less corruption. We are trying to improve matters by rationalising, restructuring and strengthening the whole administration of customs and excise departments. We are doing our best. I hope that, with these amendments, we will be able to go a step further.

At the outset, some Members were asking as to why such piecemeal legislations were being brought forward. I would like to clarify that Government is contemplating to bring in a comprehensive excise law in the next Session of Parliament. In the meanwhile, it is essential that we proceed with certain amendments. That is why, I would beg of this House to pass these minor amendments which are contained in this Bill. I assure this House that, whatever suggestions they make will receive the best attention of the Government and will be incorporated in the comprehensive Bill on excise

that is being brought forward. I have requested the Chairman of the Estimates Committee, Shri Satyendra Narayan Sinha, that the Estimates Committee may examine my Departments thoroughly within the next three or four months and give their concrete suggestions, so that I may put these departments which are the major revenue-earning departments of Government of India on very sound footing minus the corruption of which Mr. Vayalar Ravi is complaining. very much.

MR. CHAIRMAN: Motion moved:

"That the Bill to provide for certain amendments to the Customs Act, 1962, the Central Excises and Salt Act, 1944, and the Central Boards of Revenue Act, 1963, be taken into consideration."

Mr. Manoranjan Bhakta.

SHRI MANORANJAN BHAKTA (Andaman and Nicobar Islands): Mr. Chairman, Sir, first of all, I would like to congratulate the hon. Minister, who has proved to be a very dynamic Minister, for the recent seizures he has made of contraband articles to the tune of lakhs of rupees.

But I wonder why he has brought this Amendment Bill at this juncture when the report of the Jha Committee is awaited because the Jha Committee's report, we expect, will cover the entire process of Central excise, customs, etc. The Jha Committee's report will highlight the problems in this regard and will help us to have proper and adequate provisions under the Central Excise and Customs Acts.

The Minister, during his introductory speech, has very nicely tried to convince the Members of this House to accept his amendments. There are certainly some good provisions that he has proposed in this Bill. Definitely he deserves congratulations from this House for that.

There are, however, some items which, I feel, need reconsideration by the Minister. For instance, section 2(f), the definition of 'manufacturer', is sought to be amended. The Minister has said it in such a way that it appears to us to be so easy, to be so rational. But the way this Bill tries to extend the definition of 'manufacturer', it tries to bring every one under its purview; the person who digs the earth and the person who packs and sells, both, are liable to pay Central excise duty; even those who will be packing, those who will be storing, for selling, everybody, come under the purview of the definition 'manufacturer'. This will definitely lead to more corruption, because, at the moment, the machinery we have is not enough; it is not adequate to stop this corruption.

Secondly, I feel it is very much necessary for the Government to have a dialogue with different chambers of commerce and others as to how we can rectify all these lacunae. In the meantime, small manufacturing units and ancillaries also should not suffer because, if the small and ancillary units suffer, that also will cause difficulty in two ways: firstly, it will lead to rise in prices of the production in the country and, secondly, it may pose the threat of unemployment to a number of persons who are working in the ancillary units.

Now the new item 3(A) has been proposed to keep parity with the amendment suggested to clause (f). I feel that this applying trade marks, brand names etc. will definitely further affect the prices of goods, as I said earlier, and increase administrative burden and also encourage malpractices.

Then, again, referring to what he has said regarding revision of tariff value, I wonder whether our Hon. Minister, who is a lawyer himself, has considered whether it is within

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the frame work of Art. 14 of the Constitution or whether it comes in the way. That has to be looked into.

There is another provision, which I feel is one-sided—even while you are trying to keep the two together, i.e. big manufacturers and small scale manufacturers. The big manufacturers, because they have big units and their cost of production will be less, will be able to somehow sell their produce at lower prices. This also has to be kept in mind.

Then, again, under Sec. 4 it appears that established trade practices are going to be annulled or altered in the country because 'related person', 'dealership' and other things are also some of the important things. I do not think any hasty decision should be taken. It requires more study of the issue because this will definitely increase the burden of the Administration, as I said earlier, and encourage malpractices instead of doing any good to the people.

Then, again, there is another point which is a very important one. I do not know how the Hon. Minister—who is learned enough in these matters—views this particular issue. 11(B) (5) says:

"Notwithstanding anything contained in any other law, the provisions of this section shall also apply to a claim for refund of any amount collected as duty of excise made on the ground that the goods in respect of which such amount was collected were not excisable or were entitled to exemption from duty and no court shall have any jurisdiction in respect of such claim".

I cannot understand why, when any officer of the Central Excise has collected some amount by mistake or by error the Government is not liberal enough and why the Government is trying to debar the concerned persons from seeking redress in a court of law. I also cannot un-

derstand why the Government is insisting on an official approach to bureaucracy which will cause more harassment to genuine persons who have not committed any mistake or any breach of the law of the land. That is why I feel that in case any Central excise duty is collected by mistake, that should not come under the purview of this. If it is not refunded within the specific time, they should be allowed to go to a court of law. Due protection should be provided to such persons from whom by mistake, the Government has collected the duty.

Now, the hon. Minister wants to increase the number of Members of the Central Boards. I cannot understand how mere increase in the number of Members of the Central Boards is going to help him to do the work effectively. What really is needed is complete overhauling of the Central Excise Department. The staff and officers working in the fields right from the level of Inspectors should be given more facilities. Their service conditions must be improved; more staff should be recruited and proper training should be given to them so that they can perform their duties effectively and implement the spirit of the law effectively. Instead of doing that, the hon. Minister is asking for increase in the number of Members of the Board; I feel it is a poor show by him. The hon. Minister is wise enough and we have seen his performance during the last one year. I would request him to consider my suggestions carefully.

16.58 hrs.

[SHRIMATI PARVATHI KRISHNAN in the Chair.]

SHRI AMRIT NAHATA (Pali): Madam Chairman, I welcome this Bill. By and large, this Bill seeks to discourage smuggling, encourage export and plug the loopholes in the matter of evasion of excise.

The most important part of this Bill to me appears to be the extension of the definition of the term

'manufacture', I know all the industrialists of the country, big business houses including the FICCI, have opposed this extension of the definition. Of course, they always take the name of small industrialists, ancillaries and others, but the real purpose of their opposition to the extension of the definition is to encourage and safeguard a very widespread practice of excise evasion. I would explain how it is done.

In economics, by manufacture we understand adding of value, but there was a defect in the law; manufacture was defined earlier as a manufacturing process where a complete thing is manufactured. This was always taken advantage of by the manufacturers. They would half-finish a good, a particular article and pay excise only on that half-finished or semi-finished good and pass it on to their relatives, their subsidiaries or their family members and other relations for its total finish which they call processing. And thereby they evade excise on almost half the value of the goods produced. Now, what happened was that if anyone else happened to produce a finished good, he would pay excise on the whole article and another fellow who is clever enough to divide it and subdivide it into various processes will pay only half of it. This is a great anomaly, a discrimination and almost all big business houses and big industrialists have resorted to this practice of manufacturing semies, that is, semi-finished goods rather than manufacturing fully finished goods thereby evading the excise. Therefore, 'processing' to be included in the definition of 'manufacture' is scientifically, legally and economically a correct thing.

17 hrs.

Then, look at these multi-nationals. Most of the multi-nationals in our country sell their brand names. That is all. Take the Bata's for example. They buy shoes from the market. Then they stamp their brand name and sell it at a very high price. They do not

pay excise at all. They pay excise only on that price of the shoe at which they purchase. They purchase at Rs. 30 a stamp it and sell it at Rs. 60 but pay the excise only on Rs. 30. Now it is said that if you include this brand-name in value and charge excise on it, then these multi-nationals will stop purchasing the goods from the smaller makers.

This is only a camouflage. Multi-nationals do it because it is cheaper for them. If they were themselves to manufacture these shoes, the cost will be Rs. 45 but since it is available in the market at a cost lesser than what they can afford, they buy it from the market. It is not out of philanthropy they are doing. It is not out of concern for the artisans they are buying from the market. It is because the cost of the artisan is much lower than the cost of that huge factory because of their top-heavy administration, because of their top-heavy costs and because of their other costs like advertisements, this and that. Even if excise is levied after inclusion of the brand name in the value, it would still be advantageous for the multi-nationals to pay the excise on the brand-names rather than manufacture those articles themselves. They will not do it. It will be still economical for them. Therefore, brandname must be included in the value when excise is calculated.

Packing, of course. I would say, is rather harsh because here a distinction is sought to be made. Packing for storing is not excisable while packing for selling would be excisable and this would give unnecessary and arbitrary discretion to the officials and they would harass the people. Therefore, as far as packing is concerned, it may be excluded. But, otherwise, the stamping of the brand-names and the so-called procession which were hitherto excluded from the definition of 'manufacture' which are now sought to be brought within the purview of the term 'manufacture' is very sound and scientifically, legally and economically it is very necessary and I support it.

[Shri Amrit Nahata]

There are two bases of calculating excise in the present law and that discrepancy continues even now. In clause 4 of the Excise Act there is a procedure of determining the excise. The manufacturer has to submit a price list and he has to submit the specification list. Now a very long period of time is taken to agree to the price list and the specification list...

SHRI SATISH AGRAWAL: Classification list.

SHRI AMRIT NAHATA: Yes, classification list and the price list—both. Now, recently a new concept has been introduced in the excise law. This item 68—not elsewhere specified, a 5 per cent excise is levied on these articles. There the basis of calculating the excise is the invoice. Now this is a very healthy practice and this has created an atmosphere of trust between the Excise Administration and the people who pay the excise. I would recommend that this standard or this test of calculation must be extended to all the items of excise and Clause 4 of the Act must be totally revamped and amended keeping this principle in view.

The Minister was just now telling us about the less charge and the refund. A very clever thing has been done in this Bill. I pay a certain amount of excise to the Government. After six months or nine months I am told that I have paid less excise, so I must pay so much amount more. This is known as 'less charge demand'.

Formerly the time limit for this was one year—that within one year Government may place a less charge demand on me. Now in this Bill they have reduced this period of one year to six months. This is a very welcome thing. But in the next breath they have taken away what they have given.

Please see Clause 24, amendment 11A (I):

"When any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, a Central Excise Officer may, within six months from the relevant date...

Provided that where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act, or of the rules made thereunder with intent to evade payment of duty, by such person or his agent, the provisions of this sub-section shall have effect, as if the words "six months", the words "five years" were substituted."

Invariably, the Excise officials will say, well you did not pay excise because of evil intentions. After six months and even upto the term of five years they will put this less charge demand. This always happens. Officer never concedes that less excise was collected from you because of his fault, because he miscalculated. The officer always puts the blame on the person who pays excise. They say, no, no, you had the intention of evasion of tax. Therefore, one year has been, in actual practice, extended to five years. Formerly it was two years here, one year there and they have reduced one year to six months. They have given something. But on the other hand they have taken away this concession—two years they have extended to five years. This is not a correct practice.

श्री सतीश अग्रवाल : मोहन-मीकिन जैसे केस में क्या करें, जहाँ फ्राड हो रहा है?

श्री अमृत नाहटा : 6 महीने में कीजिये।

Make your Department efficient. Has any officer been brought to book for over-charge of under-charge? Never. If an officer charges less from me, they put the demand on me to pay

more. All right. But do it within six months. If they charge more from me, and I demand it back, then they say, or, they go to courts. We have to pay so much back. Why did you charge more in the first instance? Did you book any officer on the charge of collecting less or collecting more? Once you start holding your officer responsible for collecting less or more, this practice would be discouraged. But that is never done. It is the tax payer who is considered to be criminal and the tax collecting official is considered to be demi-God. This attitude must go. Make your department efficient. If you cannot collect your excise within six months of collecting it, then give it up. If your officer has committed a mistake, take action against him. But do not penalise the tax payer for the inefficiency and for the negligence of your officers.

Don't harass him. Don't trouble him.

AN HON. MEMBER: This is quite reasonable.

SHRI AMRIT NAHATA: Sir, this one year term has to be reduced to 6 months. I welcome the amendment.

The extension of the period of 2 years to 5 years is a most retrograde step.

Regarding refund or less-charge demand there is the provision in Clause 4. I feel that some deterrent punishment must be provided for in regard to the administrative set up also.

The Hon. Minister promised in the House that he is going to bring in a comprehensive Bill. He has also informed the House that he has requested the Chairman of the Estimates Committee also to examine the Excise Administration.

I hope that when the final Report of the Jha Committee comes, and also when the report of the Estimates Com-

mittee comes, he will make a complete review of the whole administration and come up with a comprehensive Bill. Let him take his own time. There is no hurry. But he must bring in this comprehensive Bill.

Finally I would say that he should restructure the entire administration. The Excise Administration should be separated from the Customs Administration. There are 50,000 employees working in the Excise Department alone and they are governed by one common Board for Customs as well as for Excise.

The Customs men have to deal with smuggling.

The Excise men have to deal with people who run industries within this country. The industries are not going to run away. The people who run these industries whether they are small-scale or medium, are not going to run away. They should not be treated as criminals. The customs men and the excise men should have two different types of attitudes altogether.

Customs people may have police uniform and police powers but the excise men should not have police uniform and police powers. Sir even an ordinary excise employee getting Rs. 400 a month can make an industrialist bankrupt I hope that these police powers will be reviewed. The whole structure of the Administration must be reviewed.

I do hope that he will come with a comprehensive Bill in this regard.

SHRI VAYALAR RAVI (Chiryankil): The hon. Minister is very enthusiastic about this Bill because it is for the first time that he may be piloting a Bill in this House. I only want to highlight certain points.

Shri Amrit Nahata has suggested that the Customs and Excise Departments should be bifurcated into two, because of administrative convenience. I hope that the hon. Minister will not

[Shri Vayalar Ravi]

agree to do it because he may lose even one portion of his portfolio. Already a portion of the revenue, of the Income-tax Department, is with another Minister. Revenue has been bifurcated into two, one is income-tax and the other is Customs and Central Excise. Income-tax is with another Minister. Customs is with him. I found that the Minister was unable to answer certain questions on economic offences and revenue, as it is functioning under two Ministers. So, I would advise him not to do so as he may lose one portion of his portfolio again.

The hon. Minister has explained certain plus points in the Bill. We do appreciate that. At the same time, we think that he should completely review the functioning of these departments, customs as well as excise and I hope that before he brings in a comprehensive Bill he will look into it.

Then, regarding complaints about the Department of Central Excise and Customs, these complaints come from the consumer, the people who have to deal with these departments. They complain that they are being harassed. Some scope is given to harassment to the people who deal with these cases in the department.

Mr. Amrit Nahata has raised certain points and I do not want to elaborate those points once again. You have got the proviso of Amendment 11A in page 10, I hope you will consider that point.

Regarding refund, you have got amendment 11B. When it comes to refund, the Department is always reluctant to accept a claim. They feel, why should they accept a claim, because they have done something wrong.

This is the tendency that is prevailing in the Department. They must put an end to this tendency. Whenever anyone puts in his claim for refund, they should examine it dispassionately and in a very judicious manner. Unfortunately, that tendency

is still not there. The Department always tries to justify themselves. In that process, the casualty is that of the citizen of this country. This is the point I make. You must assert yourself so as to change the attitude of officers of the department.

The provisions with regard to customs and excise are identical in regard to grant of refund as well as collection of tax etc. On page 11 of this Bill, look at section 11(c) which gives the power to levy taxes. You say that you are following the practice prevalent so far with regard to excise duty etc., etc. I would like you to explain how far it will go. Will it not lead to harassing the people? Will not the provision be used against them? I am here expressing my doubt only. Will you kindly enlighten me on that? Will you tell me whether some of the provisions in the Bill will only lead to a large number of Assistant Collectors being appointed? Is this not a fact that a large number of Assistant Collectors for provisional assessment will go to the factory and make assessments on the spot? Will this not lead to more harassment and lead to more number of these officers—Assistant Collectors or Excise Officers—being appointed? This is my doubt. I hope you will explain that? There is a reduction on the excise duty. I welcome that. That has been given to the manufacturers. But it will be passed on to the big houses. It may be an inconvenience to them. But, at the same time, Madam, Chairman, you will be surprised to know the real exemption given by Government to big business. I can point out that regarding automobile tyres, there is an excise concession given, of course, by the previous regime—they gave that concession to an automobile tyre manufacturing company in U.P. called "Mody International". But, others had not been given such a concession. There are other Indian companies who have not been given that concession. Even in Kerala, there is a tyre company which is running in very heavy losses.

The previous regime have given 50 per cent in excise concession to this firm—Mody International Co. You are continuing that. Why are you continuing that? That is my question. If it is not for a political reason, will you look into it?

SHRI SATISH AGRAWAL: I am sorry, I do not know it.

SHRI VAYALAR RAVI: Please look into this. The same thing should be applied to other tyre manufacturing companies also. I may tell you that there are some tyre companies like the Dunlop. (Firestone etc. foreign—multinational companies which are controlling 80 per cent of the automobile tyre production in this country. Shri George Fernandes knows it very well. The other day he was explaining that the Dunlop Tyre Company had made Rs. 4 crores of profit. They are using under-cut method in the tyre manufacturing. They send the tyres out of the factory—the first quality tyres which they market as second quality tyres—and on that 50 per cent rebate or concession in excise is allowed. They sell them outside at a profit. They are continuing this excise manipulation being enjoyed by the multi-nationals.

Since, you have rung the bell, I shall give you one more point which is most important. That is regarding the seizure. You said about the Assistant Collectors' being given the power. They can effect the seizures of a company involving Rs. 25,000/- or so. I have myself represented to you and on the floor of the House about many seizures that have been made. Just now we had passed the Reserve Bank Amendment Bill by which the Reserve Bank has been given more powers. They are armed with more powers to invest the foreign exchange in foreign securities. That is what we are doing with the extra foreign exchange that we have got. In this context, may I know from the hon. Minister as to what steps are taken in the case of the people who are poor and who are working as cooks etc. abroad, especial-

ly in the gulf countries? Madam Chairman knows this very well because many have gone to the gulf countries from her own constituency. Somehow they have escaped to gulf countries to make living. When they come here, at the airport, they were harassed and humiliated and they were hauled up. I should congratulate you Mr. Minister, however you spent some time at Bombay Airport to see the situation there. But, I would tell you that the situation has not improved at all. It will not improve until you change the baggage rules. So far you have not changed the baggage rules. As per the present rules, the customs officers at the airport can harass and confiscate everything belonging to passenger including his dress. As a Member of Parliament, I am getting a number of complaints in this respect. Even today I received one complaint.

Madam Chairman, this is a very serious matter. I have been appealing to the hon'ble Minister for the last one year. Something must be done to stop this harassment at the airport by the custom officials.

Lastly, I would like to suggest that slab system should be introduced. These people are remitting money to the country every month. Please introduce a slab system according to the remittances for carrying certain items from abroad when they come to India. With these words, I once again appeal to the good sense of the Minister to consider the problem of the poor people living abroad and stop the harassment at the airport.

श्री जगत राव (फिलौर) : मंत्री महोदय ने इस बिल के उद्देश्यों में कहा है और अपने प्राथम में भी कहा है कि इस बिल का उद्देश्य रेवेन्यू बोर्ड में मੈम्बरों की तादाद बढ़ाना है। साथ ही समवलर्ज के लिए जो सजा का प्रावधान है उसको बढ़ाना है, कम से कम सजा को बढ़ाना है और जो मैजिस्ट्रल डिफिकल्टीज धारती है उनको दूर करना है।

[श्री भगत राम]

यह बिल बहुत महत्वपूर्ण है। एक्साइज और कस्टम हमारे देश की इनकम का एक मेन सोर्स है। हमने देखा है कि सरकार ने पूँजीपतियों को बहुत सी छूट दी हैं, कंसेशन दिये हैं जिस का बोझ आम लोगों पर पड़ा है। चीनी के मालिकों को बड़ी छूट दी गई है, एक्सपोर्ट के लिए सबसिडी दी गई है जिस का बुरा असर आम जनता पर, कंप्यूटर पर पड़ा है। इसी तरह से एक्साइज ड्यूटी बढ़ाने से आम लोगों पर बोझ पड़ा है। कस्टम और एक्साइज टैक्स का जो इवेशन होता है उससे भी पूँजीपतियों को लाभ होता है और आम लोगों पर इसका बर्झन पड़ता है। इसी तरह से जो स्मगलर हैं उनके बड़े बड़े जो अफसर हैं उनके साथ ताल्लुकात हैं और इसकी बिना पर वे स्मगलिंग करते हैं। जिससे देश को नुकसान पहुँचता है। मैं कहूँगा कि यह बिल पास कर देना काफी नहीं होगा। उनकी कितनी भी जायदादें हैं और साथ साथ अफसरों की जितनी जायदादें हैं उनकी इन्वायरी आपकी करानी होगी और पता लगाना होगा कि कैसे इन्होंने इतनी बड़ी जायदादें बना ली हैं। ऐसा आप करेंगे तभी स्मगलिंग को आप रोक सकेंगे। साथ ही आपको उनके लिए सजा को भी बढ़ाना होगा।

हमारे देश के बहुत से मध्यम कमाने के लिए बाहर मुल्कों में गये हुए हैं। अपने देश में क्योंकि उनको काम नहीं मिलता है इसलिए उनको बाहर जाना पड़ता है। खास कर जिस इलाके से मैं आया हूँ वहाँ के बहुत से लोग विदेशों में गए हुए हैं। अब वे वस पंद्रह या बीस लाख के बाद मध्यम करके आपिस आते हैं तो उनकी हवेशा यह शिकायत होती है कि एयरपोर्ट पर उनको बहुत ज्यादा हैरास किया जाता है। उनको वहाँ छः-छः घंटे खड़ा रहना पड़ता है। विदेशों में जो एयरपोर्ट अधिकारी हैं उनके और हमारे वहाँ के एयरपोर्ट अधिकारियों के व्यवहार में जमीन आस-

मान का अन्तर है, यह भी वे बताते हैं। इस तरफ आपका विशेष ध्यान जाना चाहिए और आपको देखना चाहिए कि उनके साथ किसी तरह का दुर्व्यवहार न हो। दस-पंद्रह साल के बाद बड़े चाब से वे अपने देश में आते हैं अपने परिवारों से मिलने के लिए, रिश्तेदारों से मिलने के लिए। परन्तु एयरपोर्ट पर दुर्व्यवहार से उनका मन मूटाव हो जाता है। अपने रिश्तेदारों के लिए या अपने घर वालों के लिए वे अपने साथ उपहार लाते हैं। जब उनकी तलाशी वगैरह होती है तब उनको बड़ा हैरास किया जाता है। इसका एक कारण यह भी है कि जो कस्टम एलाउम है वह सिर्फ पांच सौ रुपए ही रखा गया है, यही उनको दिया गया है, इतने का माल लाने की ही उनको छूट दी गई है।

500 रु० का सामान लाने की उनको इजाजत है। लेकिन मेरा ख्याल है कि यह कस्टम अलाउंस की लिमिट 1962 में रखी गई थी और तभी से यह इतनी ही चली आ रही है जब कि कीमतें तब से बहुत बढ़ चुकी हैं। तो जो लोग विदेशों से उपहार लाते हैं क्योंकि कीमतें यहाँ पर उनकी ज्यादा होती है इसलिए उनको कस्टम अधिकारियों द्वारा हैरास किया जाता है। इसलिए मैं मंत्री महोदय से अपील करूँगा कि जो कस्टम अलाउंस है, क्योंकि कीमतें बढ़ चुकी हैं और हमारे विदेशों में रहने वाले भाई अपने परिवार वालों के लिए उपहार लाते हैं, और देश को विदेशी मुद्रा भी कमाकर देते हैं, इसलिए यह जो कस्टम अलाउंस है इसको 500 रु० से बढ़ा कर कम से कम 3,000 रु० कर देना चाहिए ताकि जो लोग उपहार लाते हैं उनका हैरासमेंट न हो।

यह भी देखा गया है कि जो कितानें विदेशों से हमारे देश में आती हैं उनको कस्टम अधिकारी अड्डा कर लेते हैं। जैसे पिछले समय में हमारे सुविमाना में पीस बुक सेंटर है उन्होंने हाणकांग से कार्नेड सामो-रि-नूंग की कितानें मंगाई, इसी तरह से हमारी पार्टी

ऑफिस जासंघर के कामरेड वलीप सिंह जीहल ने कुछ माधो-त्स-तुंग की किताबें और कुछ पोलिटिकल्स बुक्स हांगकांग से मंगाई थीं। कलकत्ता के कस्टम अधिकाारियों ने उनको रोक लिया और लैटर लिखा कि इनको जप्त कर लिया जाएगा। इसलिए मेरा कहना है कि जो किताबें बरीरह पढ़ने के लिए मंगते हैं उनको कस्टम्स अधिकाारी जप्त न कर सकें ऐसा प्रोवीजन इस बिल में होना चाहिए।

अन्त में मैं आपसे यही अपील करंगा कि स्मगलिंग को रोकने के लिए जो सजा है वह कम है उसको और बढ़ाना चाहिए और जो बाहर से हमारे भाई भाते हैं उनकी जो प्रोसेच्युटर्स हैं उनकी जल्दी से जल्दी सोल्व करना चाहिए। बोर्डों के मेंबर का कोई लाभ नहीं होगा।

SHRI VINODABHAI B. SHETH: (Jamnagar): Madam Chairman, I welcome this Bill which seeks to impose punishment on smugglers and to increase the punishment from six months to 12 months.

Now, the hon. Minister has assured the House that a comprehensive Bill will be introduced in the next Session of Parliament and I welcome it. But side by side, I would request him to incorporate a special court for economic offenders. There are so many economic offences being committed in this country and the process of justice is very slow.

MR. CHAIRMAN: Will you come forward before the mike and speak? You are not audible.

SHRI VINODABHAI B. SHETH: It is meant to boost export of goods. The advance licence scheme is meant to fulfil the commitment of export to the foreign countries. It is most welcome. But the duty and drawback procedures should be simplified. As you know Sir, there are duties including counter

vailing duties. I have represented to the hon. Minister seven months ago about the illegal duty on the manufacture of plastics sheets. I have not yet got justice from the Department. It is the considered view of everybody that it is an illegal duty. But the machinery and the procedures are very cumbersome even to give justice to the small manufacturers.

Now Madam, a separate Directorate should be created for the prosecution. Otherwise, the courts will take years to give judgement. But the culprit will go scot-free while man innocent persons suffer. Sometime back some opinion was given that it was illegal that the extra duty collected was not reduced for three years. The judgement comes after three or four years. The hon. Minister will reply that pilferage of goods worth thousands of rupees takes place at Bombay Port. I say that it should be some lakhs of rupees. The hon. Minister has visited many customs houses, even godowns and warehouses. I have been told so. It is the most important aspect that pilferage should be stopped, otherwise credibility in the department will be lost.

One of the clauses seeks to amend the definition of the word 'manufacture'. I think it will lead to many complications and it will give rise to many litigations. Section 2(f) of the Central Excise Act defines manufacture as 'manufacture' includes any process incidental or ancillary to the completion of a manufactured products." The said definition had been interpreted by the hon. Supreme Court of India in the matter of Union of India and other *versus* Delhi Cloth and Cotton Mills Co. Ltd. "SA Nos. 168—170 of 1960 as under: "Manufacture implies change, but every change is not manufacture and yet every change of an article is the result of treatment, labour and manipulation. But something more is necessary and there must be transformation a new and different article must emerge having a distinctive name, character or use."

[Shri Vinodabhai B. Sheth]

You will have to face such litigation before the Supreme Court ultimately and unless the judgement is in your favour, once again there will be a lot of complications and the small trader, small producer and simple processor will suffer. Mr. Nahata had already drawn attention to the fact how big industrialists evade duties. But the department of the hon. Minister is sufficiently vigilant to take care of this. But he should not bring the entire class of small traders, small manufacturers and small processors under this definition. I oppose this clause tooth and nail and it should be deleted. You can find better solution to check evasion.

Shri Vayalar Ravi had drawn attention to simplifying the procedure in the airports; he is not present now. In some foreign countries there is some system of giving numbers of passengers and they decide that today so many passengers will be examined: 2, 6, 15, 18, 24, etc. Of course in this country there is vast population and we are in the habit of bringing many more things than what is legally permissible. If such a system is followed, at least ten per cent will be examined and everybody will be afraid that his number will come up for checking. So, that kind of fear will be a deterrent to bring banned items into this country. When we have done so many things by giving exemption to the manufacturers and small traders upto Rs. 5 lakhs, why cannot we simplify the procedure? Why ask them to file so many proformas? Every time an excise officer will come, he will waste his time as well as the time of the small manufacturer.

I have tabled some amendments and I shall have a further opportunity of speaking on some of my amendments when the time comes. Before that I want to concur with Mr. Nahata. If you are extending the limit to five

years for levy on manufacturers who are detected and who have not paid proper excise duty, you are keeping the hanging sword for five years. The earlier proposal was two years; you had one year and you want to increase it to five years; you should keep that period of two years when you are going to increase the number of persons on the Board also. I shall speak more when my amendments are taken up.

SHRI A. ASHOKARAJ* (Perambalur): Madam Chairman, on behalf of my party, the All India Anna Dravinda Munnetra Kazhagam, I welcome the Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Bill, 1977.

I would like to mention here that the revenue from the Customs Duty and the Excise Duty is in the Divisible Pool and it is shared between the States and the Centre. I would take this opportunity of saying that this revenue is not shared with the States in the same proportion of their contribution to the Pool. For example, I would say that Coffee, Tea, Cardamom, Pepper etc. are produced in Southern States of Tamil Nadu, Kerala and Karnataka and tobacco in Andhra Pradesh. These commodities contribute major share of foreign exchange earnings and also substantial share in the customs and excise revenue of the Central Government. I refer to one important issue here solely guided by the motive that the Central Government will be able to augment Customs and Excise Duty revenue in future substantially.

If the Government of India ploughs back a substantial portion of this revenue in the replantation schemes of plants of Tea, Cardamom, Pepper, Coffee etc. resulting in bumper harvest, naturally the Government will take home increased customs and excise revenue. At the moment, the cultivators of these cash crops are left to

*The original speech was delivered in Tamil.

the tender mercies of monsoon. I would suggest that 75 per cent of the customs revenue from these commodities must be ploughed back in improving the cultivation of these foreign exchange earners. The hon. Minister should not take shelter under the plea that the Seventh Finance Commission is looking into the question of sharing such revenues between the Centre and the States. The Government of India must be guided by the primary consideration of looking to the minimum financial requirements of the cultivators of these cash crops, who contribute Herculean share in the revenues but get back only Lilliputian share to meet their dire needs. This must be changed immediately.

I would also refer to another important matter. It is calculated by the Experts that 60 per cent of the Excise revenue is contributed by those whose consumption is less than Rs. 100 a month. You can imagine how these people are being crushed under the tax burden. They are being bled to the marrows. Here it becomes relevant to point how we have forgotten even our Father of our Nation, Mahatma Gandhi who launched Salt Satyagraha as a potential weapon for winning Freedom. Now that Salt, which aroused the feelings of nationalism, which is the basic ingredient of every man's food is being taxed heavily. I suggest that the excise duty on salt must be repealed by the Central Government which swears by the name of the people and their welfare.

I would now come to the question of Ports which are the primary source of collecting Customs Duty. I understood that Madras Port contributes about Rs. 500 crores in the total Customs Revenue of the country. If we spend a sizeable amount in the modernisation of these ports, we will be able to supplement further customs revenue because of quick transportation in loading and unloading of goods exported and imported. We are told that the cement which we have im-

ported could not be unloaded and it is on the high seas for days together; naturally cement will get spoiled. We will lose not only money but also our country's honour in international circles, if such a situation is allowed to continue. I am told that Outer Arm project with an investment of Rs. 7.5 crores has been sanctioned for Madras Port. I suggest that this money should be given forthwith from the Customs Revenue contributed by the Madras Port so that the project is implemented without any delay.

I welcome the provisions in this Bill regarding increasing minimum punishment for smuggling. I would say that smuggling is indulged in—in fact encouraged by rich people—to cater to the sophisticated tastes of rich people. I wish to say that the provisions of this Bill must be implemented vigorously so that the source of smuggling can be eradicated once and for all.

With these few words I conclude my speech.

डा० लक्ष्मी नारायण पांडेय (मंदसौर):
सभापति महोदय, इस सदन में जो विधेयक संशोधनों के लिए प्रस्तुत किया गया है वह वास्तव में अत्यन्त विचारणीय है और महत्वपूर्ण भी है। इस संशोधन विधेयक के स्थान पर यदि एक कांफ्रिहेंसिव बिल लाया जाता तो अधिक अच्छा होता। इस बिल को प्रस्तुत करते हुए माननीय मन्त्री जी ने बड़ी सरलता के साथ कह दिया कि कुछ ही छोटे मोटे प्रावधान संशोधन किए गए हैं परन्तु वास्तव में यदि इस विधेयक को पूर्ण रूप से देखा जाये तो पता चलेगा कि बहुत अधिक संशोधन किए गए हैं। केवल प्रत्यक्ष कर बोर्ड अथवा अप्रत्यक्ष कर बोर्ड की सदस्य संख्या बढ़ाने से ही इस बिल का सम्बन्ध नहीं है। इस बिल के जो क्लोज़ हैं, 19, 21 और 22 महत्वपूर्ण हैं धारा 19 में जो मैन्युफैक्चर की परिभाषा बदल दी गई है उस परिभाषा के बदलने से कई प्रकार की नई गड़बड़ियाँ

[डा० लक्ष्मी नारायण पांडेय]

उत्पन्न होने की आशंका है। इसीलिए मैंने अपने संशोधन प्रस्तुत किए थे लेकिन सम्भवतः चूंकि मैंने इस प्रकार की संशोधित धारा को हटा देने की बात कही थी इसलिए वह संशोधन संभवतः स्वीकार नहीं किए जा सके। लेकिन इसमें जो मैन्यूफैक्चरर, या निर्माता की परिभाषा दी गई है वह ठीक नहीं है, उससे बड़ी जटिलतायें पैदा होंगी। जहां तक निर्माता, वितरक और निर्माण का सम्बन्ध है, यह 19, 21 व 22 तीनों धारार्यें आपस में इस हेतु सम्बन्धित हैं।

इस सम्बन्ध में मैं आपका ध्यान, सुप्रीम कोर्ट और बाम्बे हाई-कोर्ट ने जो मत व्यक्त किया है, उसकी ओर दिलाना चाहूंगा :

"The Bombay High Court in their decision on the Commissioner of Salestax Vs Dunken Coffee Manufacturing Company on 28th January, 1975, observed:

"merely selling the goods purchased under a different label or trade name will not amount to manufacture even if such label or trade name is known in the market as a commercial commodity different from that by which the goods purchased are known in the market."

इसी प्रकार से सुप्रीम कोर्ट ने भी अपना मत व्यक्त किया है और कहा गया है कि मैन्यूफैक्चरर शब्द की व्याख्या बड़ी व्यापक है और उसमें कई बातें सम्मिलित हैं धारा 19 में मैन्यूफैक्चरर, या निर्माता की जो परिभाषा दी गई है उससे तो जो री-पैक करने वाले व्यक्ति हैं वह भी उसमें आ जाते हैं। यदि कोई बल्क पैकिंग लेकर उसके आधार पर छोटी पैकिंग बनाता है, जोकि छोटा उद्योग चलाने वाला है, वह बाजार में उस चीज को बनाकर लाता है तो इस परिभाषा के अनुसार वह भी निर्माता माना जायेगा तथा उस पर भी ड्यूटी लग जायेगी। इस प्रकार से लघु उद्योगों को

प्रोत्साहन मिलने के बजाय हानि पहुंचेगी। ऐसी स्थिति में मैं माननीय मंत्री जी से आग्रह करूंगा कि वे इसके बारे में पुनः विचार करें ताकि लघु उद्योग-धंधे वालों को इस परिभाषा के कारण आपत्ति न हो। तथा अन्य उन व्यक्तियों को भी जो सीधे निर्माता नहीं हैं, कोई कठिनाई न हो। मेरे विचार में जो पूर्व परिभाषा थी, जो पूर्व धारार्यें थी, यदि उनको वैसे ही रहने दिया जाता तो ज्यादा अच्छा होता। उससे किसी प्रकार की विसंगति या कठिनाई पैदा नहीं होती।

माननीय मंत्री जी ने बताया है कि हमारी 800 करोड़ की आमदनी बढ़कर 7000 करोड़ हो गई है—यह बात स्वागत योग्य कही जा सकती है। आपने यह भी कहा है कि 6 महीने की सजा के स्थान पर एक साल कर दिया जायेगा वह भी एक उचित प्रभाव है लेकिन जो कानून में खामियां हैं जैसे आप देखते हैं कि यह व्यक्ति तस्कर है परन्तु उसको पकड़ने में असमर्थ रहते हैं क्योंकि उसके विरुद्ध प्रमाण एकत्र नहीं कर पाते। प्रमाण के अभाव में ऐसा व्यक्ति जो वास्तव में तस्कर है, अपराधी है वह छूट जाता है। बड़े-बड़े अपराधी लोग छोटे लोगों की वजह से बचते रहते हैं। मैं चाहूंगा कि ऐसे बड़े-बड़े लोगों को पकड़ा जाये जो वास्तव में अपराधी हैं। उनके नीचे जो व्यक्ति अपनी रोजी रोटी के लिए काम करते हैं वही लोग पकड़ लिए जाते हैं और बड़े अपराधी बचे रहते हैं। इसी कारण मैंने मंत्री जी का ध्यान आकर्षित किया है कि एक कांफ्रिहेंसिव बिल लाने की आवश्यकता है। यह बात सही है कि पिछले दिनों जिस प्रकार से खुले रूप में तस्करी के प्रकरण सामने आते थे या तस्करी होती थी उन पर नियंत्रण हुआ है। नेपाल की सीमा और पाकिस्तान की सीमा पर तस्करी को प्रभावी ढंग से नियंत्रित करने का कर्म किया गया है किन्तु उसके लिये और प्रभावी कार्य करना होगा। इस सम्बन्ध में सतर्कता भी बरतनी आवश्यक है। उस हेतु यदि मल अभिनियम में कुछ और संशोधन

करने की आवश्यकता हो, तो इस प्रकार के संशोधन लाय जाने आवश्यक हैं, ताकि अपराधियों को पकड़ा जाये और उन्हें दण्ड मिले व हमारा राजस्व बढ़े ।

मैं अधिक समय न लेते हुए इतना ही निवेदन करना चाहूंगा कि माननीय मंत्री जी जो बिल लाये हैं, यह बहुत अच्छा कदम है, लेकिन जैसा मैंने निवेदन किया है कि धारा 19, 21 व 22 को यथावत रहने दें, इनमें संशोधन या परिवर्तन न करें, तो मैं समझता हूँ इस में कोई विसंगति या कठिनाई पैदा नहीं होगी ।

PROF. P. G. MAVALANKAR (Gandhinagar): Madam Chairman, I must say that the Minister Shri Satish Agrawal Ji has already given the impression to the House and the country that he is very dynamic and knowledgeable in what he is doing and he has also earned, I think, our gratitude for what he has done within one year at his disposal, and from that point of view, I think that this Bill is welcome. But I must say that it goes only to a limited extent and it does not go far enough. Of course, he told us that a comprehensive Bill is coming, but then I would ask him; if it is coming, why did he bring this Bill at this stage except perhaps to get a few advantages quickly like the expansion of the Board, giving more punishment to smugglers etc? That is all welcome, but I hope that now that he has promised us a comprehensive Bill, although he must bring it as early as he possibly can, I hope he and Government will not show any undue haste in bringing that Bill. Because it is a comprehensive Bill, you cannot bring it every now and then. Therefore, I hope that, that part of taking care will be looked into. We do not know, of course, what the Jha Committee Report is going to say about it, but one finds from the experience in these matters that when Government invites experts to sit on a Committee and get the Report and recommendations, the Reports often times are very

good and comprehensive, but for some reason or the other, either it is too idealistic or too unpragmatic or too impractical etc., Government tends to water down many of the good recommendations of the Committee concerned. I cannot anticipate what the Jha Committee says. All I will, therefore, say is that if the Jha Committee goes into the whole question by suggesting certain improved procedures and simplifications and lessening of harassment and humiliation to the traders and the consumers and the general people in this country. I hope Government will show imagination and boldness to accept them and proceed in the matter.

Madam Chairman, I do not know why clauses 19, 21—it is of course consequential to 19—and 22 are at all incorporated in this Bill. I hope the Minister will show some kind of an attitude of understanding when my friend, Mr. Vinodbhai Sheth will perhaps move his amendments in regard to those clauses. I personally feel that what the Minister says in terms of plugging the loopholes, he might not be able to do that and by having these

kinds of definitions he will only complicate matters further. For example, asking the manufacturers to be taxed at various processes. Then no manufacturer in the country, for that matter in any country, keeps the tax on him, he passes it on to the consumer and ultimately it is the consumer who has to pay a very heavy price. Now, the Janata Government is committed to reducing the prices. Naturally so, we all want it. In fact, that is one of the criteria by which the people will judge you and me and all of us. Therefore, I feel that you have to take a very serious look into the matter of definition of manufacturers, taxing at various levels, manufacturing levels within the same process, because in the same process, the same goods, if you go on taxing at different levels, then what happens is that you may get some more money, some more revenue, but in the end you will get more sense of injustice and harassment and trouble from the

(Prof. P. G. Mavalankar.)

people, which will be condemnation of you by the people, which I think you have to avoid. It is not enough you get more money. You must also get more goodwill and more cooperation of the people whether they are manufacturers, traders or consumers or perhaps all. Therefore, I make this point.

SHRI VINODBHAI B. SHETH:

There will be more labour and less revenue.

PROF. P. G. MAVALANKAR: As a matter of fact, Madam Chairman, I feel that why I say that a comprehensive legislation is necessary is that I want the Minister and the entire Government to see how they can rationalise the whole structure and make it more sensible, more just and more honest. In fact, the structure is made elaborate with all kinds of provisos. One proviso says something, then the next proviso says that the previous one will not apply. This is undoing what has been done and again doing what has been undone. Officers are now used to this kind of a legal jugglery. People, unfortunately, are getting used to it, not by obeying the law, but by circumventing it in such a way that they either find another loophole which the Government cannot plug because there is no law, or by a method which is better and quicker but much worse method—better from their point of view, but much worse from the country's point of view—viz. by bringing the officials in the Administration. If that is so, I would beg of you, in the name of the people of this country, viz. the ordinary, good, decent citizens of this country, that you should simplify the structure in such a way that the comprehensive bill is shorter and simplified in terms of controls and procedures.

In this regard, the assumption would be that you take every citizen to be an honest man until proved to the contrary. We say that we come from Gandhiji's country. Gandhiji said: "I will not accept anybody as a scoundrel, unless he is proved so." Otherwise, the

person will be taken as a gentleman, or as a lady. But in our country, unfortunately, the reverse thing happens. Everybody is taken as a scoundrel, until he proves that he is a gentleman. I have just come back from abroad. I saw many good things there. But it does not mean that in other countries, everybody is honest. No. I am not saying that there, in the foreign countries, people are not bad at all, or that some people don't dodge taxes. But there, they give a certain allowance to human nature, and they do not try to harass anybody and everybody.

I conclude by saying that if the Minister wants to earn the gratitude of the people, he must bring a comprehensive bill after considering all the points that I have mentioned.

I want to support my friend from Tamil Nadu who spoke about the abolition of salt duty. He said that instead of doing that, you have increased the tax on salt in your latest budget. You should have at least thought of some other commodity which was tax-free. Therefore, in order to eliminate corruption and harassment, you should see that the structure is rationalized and made sensible. If you bring in a better and simplified but comprehensive bill, you will earn the gratitude of this House and of this country.

श्री परमानन्द गोविन्दजीवाला (खंडवा):

सभापति जी, अभी माननीय मंत्री जी ने बताया कि इनडाइरेक्ट टैक्सेशन सैंकड़ों करोड़ रुपये से बढ़ कर हज़ारों करोड़ रुपये हो गया है। मैं तो इतना निवेदन करना चाहता हूँ :

MR. CHAIRMAN: You have to complete by 6 o'clock.

श्री परमानन्द गोविन्दजीवाला : मुझे दो, चार मिनट बाद में कल दे दीजिए।

MR. CHAIRMAN: No, you should conclude by 6 p.m.

SHRI PARMANAND GOVINDJIWALA: Then I will be getting only 5 minutes.

MR. CHAIRMAN: Yes, most of the people have got only 5 minutes.

SHRI PARMANAND GOVINDJI-WALA: After all, other people have been given 10 minutes, or more than 10 minutes. I may at least be given 8 minutes or 10 minutes.

मैं यह निवेदन कर रहा था कि कम से कम जनता सरकार इस बात को देखें कि हर इनडाइरेक्ट टैक्सेशन की बढ़ोतरी के साथ काल धन में कितनी बढ़ोतरी हुई। 7 हजार करोड़ रुपये आप के काफर्स के अन्दर आ रहे हैं लेकिन इस 7 हजार करोड़ रुपये के साथ पूरे हिन्दुस्तान भर के अन्दर सरकार की इस नीति के कारण कितना काला धन उत्पन्न हो गया है। इस बिल के सिलसिले में मैं यह निवेदन करना चाहता हूँ कि बिल के स्टेटमेंट आफ आवजैक्ट एण्ड रीजन्स में यह बताया गया है :

“Essentially the amendments are intended to remove certain practical difficulties experienced in the operation of Customs and Central Excise laws, and doubts regarding the interpretation of certain important provisions therein..”

स्मर्गलिंग रूकेगी या नहीं और सरकार स्मर्गलिंग को रोकने में समर्थ हो सकेगी या नहीं, मैं उस विषय पर इस समय नहीं बोलना चाहता। लेकिन यह जो संशोधन आया है, यह जो अमेंडमेंट आया है, सभापति महोदया, मुझे इस बात में बड़ी आशंका है कि क्या यह बिल इन्टर प्रिटेसन को ठीक करेगा, क्या यह बिल प्रैक्टिकल डिफिकल्टीज को दूर कर देगा? इस विषय में मुझे आशंका है।

सभापति महोदया, आज के विधेयक में जो क्लॉज 19 है, और जो मूल क्लॉज था, उनकी तरफ मैं आपका ध्यान आकर्षित करना चाहता हूँ। सैन्ट्रल एक्साइज एण्ड साल्ट

एक्ट का पुराना जो सेक्शन दो था, वह इस प्रकार से रिफाइन किया गया है —

“‘manufacture’ includes any process incidental of ancillary to the completion of the manufactured product, and”

इन शब्दों के बाद

Something was added into it by way of clarification.

लेकिन इसके अन्त का जो पोर्शन है, उसको ध्यान से देखें —

“and the word ‘manufacture’ shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods but also any person who engages in their production or manufacture on his own account.”

अब सभापति महोदया, यह जो प्रस्तावित संशोधन है, इसको अगर आप देखें तो पायेंगी कि इस प्रस्तावित संशोधन की भाषा भी वही है —

“and the word ‘manufacture’ shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods but also any person who engages in their production or manufacture on his own account.”

बिल्कुल वही के वही शब्द हैं। अगर आप इसमें मेन्युफक्चर शब्द को देखें तो एक बात हम को मालूम होगी कि पता नहीं कि किस आधार पर, कितने लोगों को तंग किया गया है। माननीय मंत्री जी को यह मालूम होगा—जैसा कि माननीय अमृत नाहटा जी बता रहे थे और उन्होंने बाटा वालों का उदाहरण दिया—इसमें से बाटा वालों को हटा करके,

[श्री परमानन्द गोविन्दजीवाला]

एक मिडिल क्लास वाले को रख दिया जाय । अब हमारे सामने प्रश्न यह है कि एक आदमी हेण्डलूम लगा कर बैठा हुआ है, या पावरलूम लगा कर बैठा हुआ है, उसके पास पूंजी नहीं है । वह माल लेता है और बना कर बेचता है तो ऐसे आदमी को भी आप मेन्युफेक्चर मान कर चलेंगे ।

MR. CHAIRMAN: Please conclude. Do not repeat the points.

श्री परमानन्द गोविन्दजीवाला : मेरा आप से निवेदन यह है कि ऐसे लोगों के बारे में आपको सोचने की आवश्यकता है । ऐसे लोगों को पहले भी तंग किया जाता रहा है । इसलिए यह बहुत आवश्यक है कि ऐसे लोगों को क्या मेन्युफेक्चरर की परिधि में रखा जा सकता है या नहीं ? इस पर विचार करना बहुत आवश्यक है ।

MR. CHAIRMAN: You have made your point. Please resume your seat.

श्री परमानन्द गोविन्दजीवाला : मैं यह निवेदन करना चाहता हूँ कि जब आप एक कम्प्रीहेंसिव बिल लाने वाले हैं तो इसको खाने की आपको क्या जरूरत पड़ी ?

MR. CHAIRMAN: The Minister will reply to the debate tomorrow.

BUSINESS ADVISORY COMMITTEE

EIGHTEENTH REPORT

THE MINISTER OF PARLIAMEN-
TARY AFFAIRS AND LABOUR
(SHRI RAVINDRA VARMA): Sir, I
beg to present the Eighteenth Report
of the Business Advisory Committee.

18 hrs.

HALF-AN-HOUR DISCUSSION

LOSS IN NATIONAL TEXTILE CORPORATION

MR. CHAIRMAN: The House will now take up the Half-an-Hour Discussion by Dr. Laxminarayan Pandeya.

डा० लक्ष्मी नारायण पांडेय (मंदसौर) : सभापति महोदया, प्रश्न क्रमांक 606, दिनांक 5 अप्रैल, 1978 के उत्तर में माननीय मंत्री महोदय ने यह स्वीकार किया था कि केवल मध्य प्रदेश की ही सात मिलों में प्रति मास होने वाला घाटा लगभग 48 लाख रुपया है और इसीसे यह बात सिद्ध होती है कि एन० टी० सी० के कार्य संचालन में कहीं न कहीं किसी प्रकार की गड़बड़ी है और उसको ठीक किया जाना आवश्यक है । यद्यपि माननीय मंत्री जी ने उत्तर में यह बताया था कि इन घाटों को दूर करने के लिए, मिलों के आधुनिकीकरण करने, पुरानी मशीनों को ठीक करने, एक्सेस लेबर को हटाने, या उसकी संख्या कम करने तथा कुछ अन्य कदम उठा कर इस घाटे को नफे में बदलने की प्रक्रिया चल रही है । लेकिन मुझे यह कहते हुए दुःख होता है कि मंत्री महोदय के इस विचार के बावजूद भी वहाँ के जो अधिकारी हैं, जिन के हाथ में कार्य सौंपा गया है वे मंत्री जी विचार कार्यरूप में परिणत नहीं कर रहे हैं और यह जो घाटा संभवतः निरन्तर बढ़ता ही चला जाएगा । उन्होंने करीब अड़तालीस लाख का घाटा प्रति मास बताया है परन्तु यह घाटा मेरी जानकारी के अनुसार 70-80 लाख प्रति-मास और सात आठ करोड़ रुपये वार्षिक का केवल मध्य प्रदेश में ही है । जिस प्रकार की कार्यप्रणाली मध्य प्रदेश के इन मिलों के अधिकारियों ने अपनाई है—नाम मैं किसी