

[Sh. Bhubaneshwar Prasad Mehta]

ing projects immediately so that irrigation facilities may be provided to that area. A master plan of the entire area should be formulated to provide irrigation facilities through small and medium irrigation projects..

14.33 hrs.

CUSTOMS (AMENDMENT) BILL

[English]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI RAMESHWAR THAKUR): Sir, I beg to move:

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

The Bill contains proposals to amend certain provisions of the Customs Act, 1962, so as to ensure that goods imported on payment of scarce foreign exchange are used as quickly as possible for the purpose for which they have been brought into the country. Too often in the past it has been noticed that once goods are imported, they remain in the landing area for an unuly long period or in cases where they are warehoused, they are not cleared at the appointed time. In their 124th Report (1987-88), the Public Accounts Committee had dwelt on this situation and had recommended that certain basic changes in the law relating to warehousing are also essential not only for streamlining the working of the Customs bonded warehouses, but also in the overall interests of the economy. The provisions in the Bill seek to implement the directions of the Public Accounts Committee not only relating to warehoused goods but also goods imported for home consumption. In the process, apart from speedy utilisation of imported goods, optimum use will be made of space in docks, airports, container depots and warehouses.

The Bill seeks to reduce the period for which the imported goods can be left un-cleared. Secondly, it seeks to curtail the period for which the imported goods can be deposited in warehouses, pending final clearance. In the third place, the Bill prescribes current rates of interest on duty leviable on imported goods whether for warehousing or for home consumption directly, but not paid within the prescribed period. It is expected that these changes would result in imported goods entering the productive channel at the earliest and thereby resulting, amongst other benefits, in an increase in the productive base of the industrial units.

In brief the proposed amendments are:-

- (a) After 7 days of the return to the importer of the clearance documents duly assessed, the importer will be liable to pay interest on the duty.
- (b) The present period of 45 days for which imported goods are allowed to be kept in the landing area before they become liable to disposal by the custodian, is proposed to be reduced to 30 days.
- (c) The period of warehousing is being reduced from 3 months as at present to 30 days.
- (d) Before actual warehousing of the goods the importer has to deposit 50 per cent of the duty assessed, with the remaining 50 per cent to be paid at the time of clearance alongwith interest. Even where the first 50 per cent of the duty is concerned, the importer will have to pay interest if he does not deposit the amount within

7 days of the assessment documents.

Consequential amendments relating to the provisions for refunds of Customs duties and quasi-judicial appellate procedures have also been proposed in the Bill.

I seek the wisdom of this august House on the proposed legislation.

MR. DEPUTY SPEAKER: Motion moved:

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

Now, there are some amendments to this. Shri Agnihotri, are you moving?

[Translation]

SHRI RAJENDRA AGNIHOTRI (Jhansi): Mr. Deputy Speaker, Sir, I beg to move:

"that the Bill circulated for eliciting public opinion thereon up to April 16, 1992" (1)

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Deputy Speaker, Sir, I beg to move:

"that the Bill be circulated for eliciting public opinion thereon upto March 26, 1992."

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Deputy Speaker, Sir, the hon. Minister has suggested several amendments in this Bill. Goods continue to be stored in the warehouses and nobody bothers to get its delivery. Whenever the goods are not cleared from the warehouses, the enhanced, rates of interest will be charged and the interest would also be charged on goods which are not cleared for more than seven days. I would refer to other things afterwards. Let me first refer to page No. 2.

[English]

"(2) where the importer fails to pay the

import duty under sub-section (1) within seven days from the date on which the bill of entry is returned to him for payment of duty he shall pay interest at such rate, not below twenty per cent and not exceeding thirty per cent per annum."

[Translation]

This rate of interest is unreasonable. Similarly, it has been stated in the following paragraph:

[English]

"Rent and charges, claimable on account of such goods under this Act together with interest on the same from the date so specified the rate of six percent."

[Translation]

Here the rate of interest is six percent and you have proposed 20-30 percent interest. Similar rules should be applied everywhere whether it concerns income tax. Sales tax or custom duty of the tax-payer fails to deposit the tax money in time he has to pay more interest. My submission is that the rate of interest should be the same for all the taxes. Rate of interest on income tax is 24 percent and at the time when the amount is refunded the interest is given at the rate of 12 to 18 percent. Similar parametre should be applied everywhere.

It is completely irrelevant to adopt different parametres in regard to the rules regarding income tax, sales tax or custom duty. I think that it does not have good effects. Several provisions have been made in several clauses. But there is a lot of discrepancies in the rate of interest being charged for different taxes. The Government charges more interest but gives less interest on refunds. The rate of interest should be the same on both the sides.

I am confident that the hon. Minister would certainly accept the suggestions I have given an if he does this, he would be applauded all over the country.

[English]

MR. DEPUTY SPEAKER: The time allotted for the discussion is one hour. It includes the Minister's reply also.

SHRI SRIBALLAV PANIGRAHI (Deogarh): Mr. Deputy Speaker, Sir, I rise to support the Customs (Amendment) Bill, 1991. The objective of this Bill has been explained by the hon. Minister in his initial remarks while moving the Bill for consideration.

The intention behind this Bill is very good. The intention is that the warehouses should not be misused by the importers. Some restrictions have been suggested in this. Now, I wonder, why the Government have not thought about it earlier. You know, in our country, we do not have sufficient space to store the goods. There are warehouses near the Sea Ports and the Air Ports. An importer is allowed to keep his goods for three months. The Government also hires private warehouses which are in the vicinity of the Ports. The importers are using the warehouses as if they are their own stores. So, they can keep the goods for a period of three months. If it exceeds the three month period, there is no provision for any penalty except interest to be paid. While taking delivery of their goods, they are only required to pay the necessary Customs Duty.

If the importers keep their goods beyond three months, then there is a provision that they have to pay interest at the rate of 18 per cent; even that is very beneficial to them. Sometimes, they judge the situation market position and accordingly they import their goods and keep them in the stores thereby putting the other importers into difficulties. It gives rise to blackmarketing; there is a scope for blackmarketing. This does encourage, in sense, sometimes, blackmarketing, keeping the goods, waiting for a long time for the market position improve; it suits them. Therefore, I support the Bill and suggest that the misuse should be prevented.

Again, I would say that this is another step, small step, in its limited way, which will

also contribute in its own way, may be in a limited measure, to the building of our much desired foreign exchange reserves, because unless one is expelled, an importer is compelled, one will not import goods.

Then the foreign exchange reserve crunch is there; that will also be eased by this to some extent.

This Bill relates to customs collection; our customs collection is not picking up as expected; the picture is not bright.

SHRI SRIKANTA JENA (Cuttack): Bungling is going on.

SHRI SRIBALLAV PANIGRAHI: It was earlier going on; and gradually there is some check on it; still there is scope for improvement. Everybody knows that parallel economy is running by blackmarketeers, by smugglers. Till about October, there was a shortfall of Rs. 2700 crores in customs duty collection. There is an appreciable increase in certain other areas. In the central excise duty collection; there is an addition of Rs. 400 crores, more than what was expected, what was the target or compared with the level of collection during the corresponding period of the previous year.

The position of indirect tax, income tax, corporate tax is also satisfactory with the result that we have some excess collections; but, certainly, this is worrying us. If I remember correctly, at the time of presentation of the Budget, even after this liberalisation was brought in our economic policy, industrial policy, there was stipulation of 26 per cent increase in the collections. But, I am now afraid this will not materialise. The Finance Ministry is no doubt monitoring it; they have made a review - recently which revealed that the figure of shortage will touch Rs. 4000 crores by the end of this financial year; if it will be so, then the target that we are having to reduce our fiscal deficit to 6.5 per cent of our GDP will not be achieved.

I think this also is the understanding the Government of India has with the IMF about

this. Therefore, no doubt, the Government is also addressing itself to this problem and trying to find out ways and means how the position can be improved. I would be happy if the hon. Minister enlightens us on this aspect about this shortfall in customs collection. Of course, because of restrictions on imports and because of the squeezing of the credit, the squeezing of money supply, it has resulted in a sort of shortage in the customs collection.

I think there was a proposal and the hon. Minister of State of Finance was quoted in some newspapers that the Government was thinking of setting up some settlement Commission where all those pending cases will be heard. The people who are effected can directly go there and appear and get expeditious relief with regard to their claims. In such cases they will have to pay 50 per cent of the claim while initiating the case. I think that was the thinking. What has happened to that proposal? On the one hand the traders will get relief because of the speedy disposal of their claim cases and on the other hand the Government also can increase their revenue collections, which will be very useful.

With this, I support the Bill and thank you for giving me an opportunity.

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Deputy-Speaker, I rise to support the Bill, because any legislative or executive action which would streamline the import procedure, the customs clearance and the flow of goods through the customs barrier is certainly welcome and is in the national interest. But permit me to make a few brief remarks as regards the customs administration.

I am sure that the hon. Minister is aware of the persistent public complaints regarding the arbitrary manner of customs clearance. And I would like to have this opportunity to hear from the hon. Minister whether the administration of the Customs Department itself is under his review and whether the

Government proposes to streamline the administration itself.

There has been some new — and I hope it is not authentic — that the Government is seeking foreign collaboration in Customs administration. I would like the hon. Minister to take this opportunity to clear this situation. While I am fully in support of Customs classification or even nomenclature following international standards, I am sure that we can manage our affairs ourselves and at least in this field we do not require any foreign or technical collaboration.

A point has been made here about the interest payable on the tax dues. Here, in this Bill, the Minister proposes to introduce a variable rate of interest. Now this I cannot understand. I feel that there should be a uniform and fixed rate of interest not only among the various tax dues, say the income-tax or the Customs duty, but that it should be related to the highest bank rate for lending. Or, it can be a little higher. May be statutorily, we can prescribe that the rate at which the tax dues shall be collected shall be subject to an interest of say one or two per cent higher than the maximum bank lending rate. That will provide for necessary flexibility and, at the same time, eliminate the element of arbitrariness which would be there, if the custom authorities are given the discretion to vary the interest payable at will. Secondly, among the various classes of tax dues, there should be a pattern of uniformity. Thirdly, when the Government refunds the taxes, as proposed by my learned colleague, at least the Government should pay back what it collects at the same rate of interest.

I have one more point to take. While there should be a time limit starting from the point of receipt of the Bill of Entry by the importer — I am fully in favour of it — the Bill is silent about any time-limit being prescribed for processing the Bill of Entry. How much time does the Custom Department itself take from the date of entry of goods into India to the time taken for assessment and to the time that the Bill of Entry is finally in the

[Sh. Syed Shahabuddin]

hands of the importer? That also needs to be looked into if the procedure is to be streamlined. We would like to know from the hon. Minister whether if not by a statute, there is any executive instruction or any in-built mechanism that a Bill of Entry is processed and the assessment is made within certain time frame and the importer then gets to know what he has to pay without any undue delay.

Lastly, there are regulations with regard to demurrage forfeiture. I think the hon. Minister should like to make them more rigorous than what they are. Perhaps that time-limit also needs to be looked into.

With these qualifications, I support the Bill because I think it is a welcome step.

[*Translation*]

PROF. PREMDHUMAL (Hamirpur): Mr. Deputy Speaker, Sir, we support the aim behind this Bill. It has become a tradition not to pay custom duty after importing goods by the imports or not to take delivery of the goods in time from the warehouses. Now it has been proposed to raise the interest on customs duty and to increase the amount of rent also; and in this way the Government is making efforts for an early clearance of goods from the warehouses and to raise its revenue by taking such small steps.

I would also like to emphasize on whatever has been said by my previous speakers. You have said.

[*English*]

That fluctuating rate of interest of twenty per cent to thirty per cent to be decided by the Court. Why not fix it?

[*Translation*]

We will have to fix up the percentage of interest whether it should be 20 per cent or 24 per cent, Who will decide for this 10 per

cent fluctuation; from whom they will charge less and from whom they will charge more? This discrimination is not proper. Besides this, as my colleagues have expressed their opinion as to why there is a difference in rate of interest on the amount to be recovered by the Government and on the amount to be refunded by the Government. The Government pays very less interest on the amount to be refunded by it. What is the logic behind it? The hon. Minister is unable to amend it, but I would like to suggest him that the rate of interest on the refund of amount of income tax payable to the poor classes particularly the employees, whose tax is deducted at source, should be fixed.

15.00 hrs.

The Government is unable to recover taxes from those who evade taxes worth crores of rupees. Therefore I would like to suggest that the similar rate of interest which is being charged by the Government i.e. 24 per cent or 20 per cent on the TDS should be fixed on the refunds also. It is a common tradition that the importers do not take delivery of their imported goods in time and most of the goods are kept in the warehouses waiting for their clearance; but the importers take delivery according to their own convenience. The Government has taken a right step in this regard. This tendency of the importers should be curbed.

Again, I would like to request the Government that it should pay the interest at the same rate on the refunds as it is charging on the amount of recovery of taxes. With these words, I support this Bill.

SHRI RAJENDRA AGNIHOTRI (Jhansi): Mr. Deputy Speaker, Sir, this Bill relates to the customs duty. I would like to submit to the hon. Minister that the importers are using the warehouses as their own stores or godowns and the imported goods are kept there for a long time, because the traders do not consider it profitable to take delivery of their goods at a particular time. I support the steps taken by the hon. Minister in this regard.

I support the present rate of interest also. Besides this, there should be a uniformity in the rates of sales tax, income tax and the interest paid by the banks. If the present situation continues, it will create a lot of problems and will help in generating the black money and encouraging the corruption.

I would request the hon. Minister to consider my suggestions seriously.

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Deputy Speaker, Sir, basically this is not a comprehensive Bill, but it will definitely have far-reaching effects. The hon. Minister has said about the amendment in some of the rates. The importers keep their goods in the warehouses for long and don't take its delivery, because the market rates of the imported goods are very low and they can not earn much profit. According to the existing provisions, the Government do not get any revenue and the importers themselves earn the profit from the interest. Contrarily the Government has to make arrangements for the safe storing and security of the goods. At present without paying the duty the importers can not take delivery of the imported goods kept in warehouses. The goods remain in the warehouses, till they are exported to the foreign ports. This Bill has been brought for the purpose of shortening this period and amending the rate of duty charged for storing the goods. In this way, the Government will definitely earn some revenue. At the same time, I would like to draw your attention towards the complicated problems regarding customs duty.

Sometimes, the action or behaviour of the officials, of Customs Department is not proper, it should be looked into. Evasion of customs duty should be checked. Though such provisions are there to check this malpractice, yet complaints regarding large-scale evasion of customs duty are being received every day and the Government is incurring loss of revenue. The Government should ensure strict implementation of various laws related to the custom duty and such type of provisions should also be made in other

related laws and Acts as may be helpful in checking the evasion of customs duty and strict action can be taken against the duty evaders. I would like to draw the attention of the hon. Minister that sometimes the officials adopt different norms in imposing the duty after classification of the goods and it creates a lot of problem for the importers and the exporters. The Government should also think about removing these problems so that the importers and the exporters are not unduly harassed by the officials. It should also be kept in mind that the officials do not deny the exporters and the importers of the facilities of storage etc. on the pretext of customs duty. Besides this, the Government should not take any such step after bringing these amendments, as may enable the officials to take benefits of these provisions and to create problems for the concerned parties.

I would again like to submit that stringent measures should be taken to check the evasion of customs duty and a close watch should be kept on the implementing machinery. Although, a close watch is kept on the smugglers but we overlook the concerned officials who help these smugglers in carrying out their activities. As a result the smuggling activities are going on uninterrupted. This situation is not good and these difficulties can only be removed through strict implementation of laws.

[English]

SHRI RAJAGOPAL NAIDU RAMASAMY (Periyakulam): Mr. Deputy Speaker, Sir, I wholeheartedly welcome the Customs (Amendment) Bill on behalf of A.I.A.D.M.K.

This measure is a belated measure and unscrupulous importers have long been using the loopholes in the customs law for causing loss to the exchequer. I would like to know from the hon. Minister as to how much loss the Government has so far suffered over the last five years on account of want of the present provisions. Let the hon. Minister inform the House so that this House could know how the Government had been sleep-

[Sh. Rajgopal Naidu Ramasamy]

ing over this important revenue-earning aspect. I sincerely feel that the bureaucracy and economists ought to have advised the Government to go in for such a legislation long back. Now caught in the vortex of a resource crisis, we are looking in all directions for mobilising the revenue, and, therefore, this Bill has been introduced.

Under the present provisions, imported goods may be stored in warehouses till they are cleared by the importers or re-exported to foreign ports. The importers can keep the goods for three months and afterwards interest at 18 per cent is charged on delayed clearance. But this is being misused by the importers, thereby causing huge loss to the exchequer. The Bill now seeks to curtail the period of warehousing, and also proposes to levy interest on customs duty leviable on warehoused goods. Interest is also proposed to be charged on delayed payments of duty.

These amendments will no doubt increase realisation of customs duty and augment the revenues on account of realisation of interest. But, the Finance Minister must know that this kind of circumventing the law can only be effectively checked, when, in addition to pecuniary penalty, deterrent punishment like imprisonment is also awarded to the defaulters. Today COFEPOSA and FERA are all being feared by the economic offenders not because they will be fined, but because they will have to land in jail thus affecting the entire further activity of committing economic offences. These laws, therefore, serve the purpose.

It is with this in view that I suggest to the hon. Finance Minister to incorporate a provision for imprisonment varying from one month to three months in cases of delayed clearance of warehoused goods. It is only those who play with money are the errants at clearing the goods in time. Ordinary people import what they want and clear them as they want the goods. Therefore, a penal provision for imprisonment should be there in the law.

Sir, presently the Board has got the powers to grant extensions for keeping the goods in warehouses. I would like the Board's powers to be restricted. The Board has got powers to grant extensions now upto one year. But is there any scrutiny at any stage whether the powers on this are used by the Board with due caution? I, therefore, suggest that extensions should be given only for one month and no further extensions should be given. If the importer fails to clear the goods, he shall be liable to be proceeded against for recovery of duty, interest on duty and costs towards such proceedings.

I hope the hon. Finance Minister would consider my suggestions.

[*Translation*]

SHRI TARA CHANDKHANDELWAL: Mr. Deputy Speaker, Sir, I would like to give a few suggestions regarding the Bill moved by the hon. Minister.

Many hon. Members have pointed out that the rate of interest would range from 20% to 30%. I would like to submit that the rate of interest should be fixed. I would like to ask whether this has been allowed to encourage the officers to indulge in corrupt practices. This would help the officers to act in an arbitrary manner and encourage corruption.

Secondly, a point has been raised again and again that there is a lot of difference in the rate of interest for payment of delayed tax and refund of tax. It is a ridiculous situation. We charge interest at the rate of 20% to 30% for delayed payment and offer only 6% rate of interest for refund. This is not the way a system should function in any democratic country. It smells of dictatorship or monopoly of the Government. The hon. Minister should think over it.

Seven days' time has been given to clear the goods imported. I would like to submit that this time period is not sufficient. Two days are generally wasted in complet-

ing the initial formalities, then it has to be ascertained under which special category the goods have been imported and what duty rate has to be charged. Sometimes it becomes a question of dispute. I would like to suggest that this should be added after the clause providing seven days time period i.e. if there is no dispute between the importer and the custom's Department. These are my three suggestions.

[English]

PROF. SUSANTA CHAKRABORTY (Howrah): Mr. Deputy Speaker, Sir. I think you for giving me this opportunity. This Customs (Amendment) Bill, 1991 aims at amending the provisions mainly relating to warehousing of goods after import without payment of duty under the Customs Act, 1962. The Sea Customs Act, 1878 was amended in 1962 in this very Parliament and that is now, the principal Act. The objective of the Act was to facilitate in every possible way the smooth running of genuine trade while ensuring effective measures against smuggling and evasion of duties.

Now, faced with a resource crunch, the Finance Minister is just trying hard to find out ways and means to collect revenues and here is a revenue in the form of customs duty where he just wants to make certain amendments and argument the revenue. By and large I am in agreement with this Bill. With this legislation, I think, the Finance Minister expects to improve collections by about Rs. 200 crores. This aims at expediting the clearance of imported goods from the airports or seaports as well as warehouses. At present, the importers are allowed 45 days to clear the goods from the ports and three months from the warehouses. This legislation seeks to reduce this period to 15 days and one month respectively so that importers are required to clear their consignments quickly after paying their customs duty. This should help augment country's foreign exchange resources. The industries would now be forced to import only items and quantities needed for immediate use. With the Customs Act, 1962, the practice with the dishon-

est traders was that they used to keep their goods in their warehouses, create artificial scarcity in the market and deprive the Government of the revenues. When they agreed to clear the goods, some problems arose. There are certain evidences in the report of the C&AG which the Public Accounts Committee examined. They delayed the process. The Customs officials demanded a certain amount of money as duty and these dishonest traders also agreed to pay the amount they thought right they went to the Court. One such case was referred in the report of the C & AG for the year ending 31st March, 1987. This report of the committee deals with the case where in a big textile manufacturer, the Reliance Industries Limited had earlier obtained a stay order from the Delhi High Court against the payment on the disputed customs duty for imported polyester and nylon filament yarn. However, on the vacation of the stay order by the High Court, the report says:

"The illegal mode of payment of the differential duty of Rs. 31.28 crores made by the party in 138 instalments paid over a period of two years was regularly accepted by the Customs Department."

Sir, the law is there and it is very good. But the Government must be serious and it must plug other loopholes that are there. I do not know whether the Government is reducing the import duty out of its own conviction or whether it has been prescribed by some outside agency. But what I know is that Government is not at all serious about plugging the loopholes. The Customs Department, in this very case that I referred to, sought clarification and directives from the Government after the High Court's order. But that directive too was not given by the Finance Ministry. I know that the Customs Department is infested with dishonesty and that there are dishonest officials. But the honest officials who wanted to plug the loopholes, sought clarification from the Government but the Government did not come forward to do it. How can we say that evasion will be stopped? I may be allowed to refer to one case of Hindalco Ltd. The tax to be paid

[Prof. Susanta Chakraborty]

was Rs. 20 to 30 crores. A raid was also made by the Director Central Revenue Intelligence. Incriminating evidence was found but no action was taken. Is this the way that we shall deal with the case? Laws we can make. But we have to enforce the laws. Is the Government prepared? We all know that there are other Sections of this very Act of 1962 dealing with, under-invoicing and over-invoicing. In this case, what is the attitude of the Government? Why is the Government silent? When they feel that with the changes in time, there is a need to make a change in 1962 Act, why does not the Government deal with the cases of over-invoicing and under-invoicing? I want to know. What is the Government going to do with illegal trade? We all know that by means of over-invoicing and under-invoicing, an amount of Rs. 28.1 billion dollars of capital flight is there in India only during the last three years. There is foreign exchange crunch. We know it. So, why does not the Government come before the parliament with a comprehensive amendment so that all these loopholes could be plugged?

But still I support the Bill. Still I have said earlier that, by and large, I am in agreement with the Bill but I request the Government to come forward with a comprehensive Bill at a later date which would plug the loopholes and help us in augmenting the revenue of our country which is now ridden with foreign exchange crisis.

With these words, I support the Bill.

I thank you again for giving me this opportunity.

SHRIMATI GEETA MUKHERJEE (Panskura): Thank you for allowing me. Now I have nothing specifically to say against the Bill. But I am interested to know about one thing. News has appeared in the press that the Government is thinking about handing over the Customs affairs to a Swiss company. I hope that it is not so. But I was very

much afraid to know this. That is why, I rise to seek a clarification in this connection whether Government has any such intention or, if it is at all thought about, then they should give it up. This is my point. I know that there are difficulties in Customs. I know there are certain things which need to be done about Customs. But about this news, what is the reality? I hope the hon. Minister will clarify and inform us.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI RAMESHWAR THAKUR): Hon. Deputy-Speaker, Sir, we are really grateful to the hon. Members who have made valuable suggestions. They have generally supported the provisions of the Bill.

15.25 hrs.

[SHRIMATI MALINI BHATTACHARAYA *in the Chair*]

Madam, I am particularly grateful to Shri Girdhari Lal Bhargava, Shri Sriballav Panigrahi, Shri Syed Shahabuddin, Prof. Prem Dhumal, Shri Rajendra Agnihotri, Dr. Laxminarayan Pandeya, Shri Rajagopal Naidu Ramasamy, Shri Tara Chand Khandelwal, Prof. Susanta Chakraborty and Shrimati Geeta Mukherjee. They spoke and made a number of the suggestions.

I would like to mention in this connection that the general proposition of the Bill, as has been pointed out by the hon. Members, is to avoid the delays, to streamline the procedures and provide reasonable time to the importers. If they delay in making payments, they have to pay current rate of interest.

In this connection, Members have desired to know whether there will be delay in the banks and what is the rate of interest-as has been said-whether it will be 20 to 30 per cent. It is a provision made in the Bill. To start with, our desire is to keep the current bank rate of 20 per cent in this connection. Whenever rates are raised it will not be a floating rate from 20 to 30 per cent. It will be specified and announced in advance. But, to start

with, the rate will be only 20 per cent. That is the desire of the Government.

AN HON. MEMBER: Will you raise it to 30 per cent?

SHRI RAMESHWAR THAKUR: We can raise it up to 30 per cent. But it is not a floating rate that from one party we charge 20 per cent, from the other party, we charge 25 per cent and from the third party we charge 30 per cent. It is not the interest of the Government to do so. But we do not want to come to the hon. House if the bank rates are reduced, other conditions change. We can certainly change the rate within the frame-work of up to 30 per cent.

DR. LAXMINARAYAN PANDEYA: Is it subject to the discretion of the officers?

SHRI RAMESHWAR THAKUR: No. It will be considered by the Board and the Government and it will be announced in due course. It will be notified. At the moment, this is the intention.

So far as the idea that there should be equal rate for payment of delayed tax and refund of tax is concerned, I would like to make a submission here. Before the previous Government, in the Income-tax Law it was made that it should be 24 per cent for delayed payments. This was a kind of penal payment. There was no discretion left behind. Those who delay, they have to pay. Those who do not delay, they have not to pay. In the case of refund, the experience showed that it was 18 per cent rate of interest. Many people tried to see that they did not obtain and take the refund on time because they were getting 18 per cent from us instead of 11 per cent from the Bank. This was noticed. From our experience we found this and we want to recoup this to some extent. But we do not want them to make profits out of the government by investing and keeping the money invested. Therefore, now it has been reduced to 12 per cent in the case of Income tax. There is a meaning in it because if there is a delay, deliberate delay, then penal interest has to be paid. If there is a

delay on the part of the Department, as far as the normal deposit rate is concerned, we have made it 12 per cent. There is no discrimination. In fact, if we see the Customs and Excise side, at the moment there is no payment for delay, no payment of tax. The incident is not so always. We are bringing forward that change also. That will have the penal interest provision and refund provision also in the Customs and Excise laws. But so far as this part is concerned, it is mean for those who keep the money beyond a certain stipulated period.

One point I would like to clarify. One hon. Member said that the idea is that it will take time to clear the goods and they will have to pay taxes. It is not so.

Nearly in 80 per cent of the cases, their documents are cleared within 72 hours. We will give seven days time from the date, the documents are returned to them. And to start with, we are asking them to pay 50 per cent. Seven days after receiving the documents, if the payment is still due, naturally, they will have to pay interest. We have reduced the time for keeping the goods from 60 days to 30-45 days and from three months to one month. This is reasonable and everybody has welcomed it, the reason being that we import goods when they are a must. When essential goods are imported, though we have got foreign exchange scarcity, the foreign exchange is being released on a very top priority basis for the import of goods. There is no justification if they are not using the imported goods either for manufacture or for human consumption. Sometimes even medicines are brought and they are very essential for human consumption in the hospitals. If the importers still keep it in godowns for a long time, there is no justification in that. Therefore, we have said that they have to clear it. If they do not clear it within the stipulated period, they will have to pay interest and they cannot keep it beyond a certain period. This is a wholesome provision, and every Member had appreciated and we are thankful for them.

With regard to the administration, we

[Sh. Rameshwar Thakur]

have already streamlined the administration of Customs and Excise sufficiently. But there is always room for improvement and the Government is always keen to ensure that no harassment is done to the importers or to the public in general. We are trying to expedite the things. We have got a computerised system in almost all the important ports. Therefore, there is no delay in discharge of the goods. We are trying to clear the goods if the classification is there. Now, we are also trying to expedite the adjudication. Our concern is there should not be any delay.

As regards the power of the Board to give extension upto one year, I would like to say that it has a very limited power, not for any general purpose but it is meant for the purpose of diplomatic goods or stores goods which are hundred per cent export oriented. There are certain goods which are of diplomatic nature or hundred per cent export oriented. There, they have the right and that also to be used only in such matters where no duty is levied. In any case, on such goods we are not levying any duty for obvious reasons, diplomatic reasons and other reasons, where they are having they power to extend the period. Otherwise, in all other cases, there is no discretion with the Board or with the officers concerned to extend even for one day. We have not given if and but' provision; we have not given any power to either exempt from interest or to extend the period, they will have to pay and within the stipulated period of 30 days, they can keep the goods and not beyond that.

With regard to the question as to what is the position of our exports as well as taxes, we would like to mention in this connection that our exports, as we know, in earlier years were slightly bigger. In 1989-90, Rs. 35,410 crores was the value of the imports; in 1990-91, the import was of the order of Rs. 43,170.82. In the current year, as you are aware, the last Government had virtually stopped from 19th of March, 1991, giving any foreign exchange for the imports. Recently when our position has improved, we

have now gradually liberalised to some extent the imports. Nevertheless, as the hon. Members apprehended - Shri Panigrahi has mentioned - we have a shortfall. The Customs upto November our target was Rs. 15,705 crores; we have been able to collect Rs. 12,511 crores. There is a shortage of over Rs. 3,100 crores. We are trying to improve this by various legitimate means to ensure to improve this by various legitimate means to ensure to the extent possible. Depending on the improvement in the ports, this position is likely to be improved.

So far as the Excise is concerned, it is a fact that our target was Rs. 16,688 crores and our collection has been of the order of Rs. 16,941 crores. So we have got a surplus of more than Rs. 252 crores. In the case of direct taxes we have made very tangible improvement in our collection as compared to the last year.

We would like to assure this House that so far as the administration is concerned, the administration will be the primary responsibility of the Government, of the Board. There is no question of handing over the administration to anybody else. There seems to be a misgiving. Sometimes we have offers and we want to examine some expert advice or services being rendered in particular areas of efficiency and in technical areas, that does not mean in any way that we have got any idea of handing over any administrative part to anybody, whosoever it may be. There is no such thing in our consideration.

The last word I would like to say is that this Bill has been brought forward to implement faithfully the 124th Report of the Public Accounts Committee which was submitted in 1987-88 which pointed out the deficiencies and wanted us to make improvements in the legal position. The Report mentioned certain basic changes in the law relating to warehousing is also essentially not only for streamlining the working of the Customs Warehouses, but also in the overall interest of the economy. As a measure of abundant caution, the Government should make it obligatory that the owners of the imported

goods support their warehouses bond by furnishing adequate bank guarantee. The present practice of acceding to the request of the importers for extension of time beyond the allowed period in an apparently routine and casual manner need to be effectively curbed.

Therefore we have followed this and this Bill is in fulfilment of the recommendations made by the Public Accounts Committee. We assure the House that our efforts are fully to streamline the system, to avoid delay and to give all possible assistance to our importers to augment their imports and exports. This piece of legislation is going to help greater utilisation of the imported goods well in time and this will augment to some extent the revenue of the Government also.

PROF. SUSANTA CHAKRABORTY: I would like to just mention one thing. The Minister admitted that there has been a shortfall in the Customs Duty collection. So, the officials have been asked to gear up their machinery to augment the collection. That is also being done.

The mysterious deaths of two Customs personnel in the recent past have added a new and grim dimension to the tussle between the Customs Department and the smuggler-militant combine in the border region. Surely he is aware of that.

MR. CHAIRMAN: You have had your chance. Please make your point only.

PROF. SUSANTA CHAKRABORTY: A fear psychosis has gripped the Customs field personnel. The indifferent treatment being meted out to one widow of one of these officials has caused some resentment among them, I have gathered. So, let me take this opportunity to request the hon. Minister to enquire into the causes of the resentment and to redress the grievance. This is my point.

SHRI RAMESHWAR THAKUR: Madam, we are gearing up the machinery in all respects to ensure just and fair collection

of taxes. No harassment is being done to anybody. But, at the same time, wherever there are lapses and deficiencies, certainly we will try to improve upon them. We are aware that imports are less and our customs collections are less. It cannot be made up just like that. There is no such intention. But, at the same time, certainly we want all the pending cases to be cleared, all the pending ratifications to be completed. We are trying to improve upon and trying to clear those cases by legitimate means. So, there should not be any apprehension in the mind of any hon. Member that we are trying to collect something which is not due to us. We are trying to collect the money which is due to us. We will not leave that money in lurch. By all possible means, legally, by proper channels, and by the implementation of the law, rules and regulations, we are trying to do it and we will do it. (*Interruptions*)

SHRI NIRMAL KANTI CHATTERJEE (Dumdum): Perhaps the Minister did not hear him properly. He has referred to a specific case where a custom official has been done to death and his wife is not getting the relevant support from them. That is his point.

SHRI RAMESHWAR THAKUR: It is not to my knowledge. If the hon. Member gives it to me personally, I will try to ensure that full justice is done. That is not a general case.

SHRI SRIKANTA JENA (Cuttack): We can understand, if there is a shortfall in the official import, when import is not there. But, non-official imports are there. If you go to Connaught Place, you will find a lot of Ministers roaming there and purchasing a lot of items. (*Interruptions*) So, non-official goods are being imported. We are interested to know about that. Are you going to take any action about the non-official imports that is going on in this country?

SHRI RAMESHWAR THAKUR: Government is certainly concerned about the Customs Rules. The official import is the import which comes into the Government account. Nevertheless, it is a known fact that

[Sh. Rameshwar Thakur]

[Translation]

there is smuggling on the long border areas, that we have got in sea and road.

Government has got the enforcement machinery; we have tightened up the enforcement machinery. In fact, we have supplied the figures to this House earlier, about the collection and seizure. The enforcement machinery has done other works also. It has been made active sufficiently on all the fronts, with the limitations of personnel and equipments. We have done a lot in those fronts. We are very vigilant; we are trying our best to ensure that smuggling is reduced. Actual position is that the quantum as well as the number of cases have gone down. But, it is still there and we do not deny it. But, we are active on this front and our people are very vigilant in this regard.

SHRI NIRMAL KANTI CHATTERJEE: What has come down - detection or actual smuggling? Your figures would be for detection.

SHRI RAMESHWAR THAKUR: Both.

MR. CHAIRMAN: Shri Rajendra Agnihotri, are you withdrawing your amendment?

SHRI RAJENDRA AGNIHOTRI (Jhansi): I seek leave of the House to withdraw my Amendment No. 1.

MR. CHAIRMAN: Has the hon. Member leave of the House to withdraw his amendment?

SEVERAL HON. MEMBERS: Yes.

Amendment No. 1 was, by leave, withdrawn

MR. CHAIRMAN: Shri Girdhari Lal Bhargava, are you withdrawing your amendment?

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : I would like to know a few things before I withdraw my amendment. I opposed section 48 for reducing the time span of warehousing because sometimes it happens that things are imported from a foreign country for Exhibition purpose and the importer has to pay a duty of about fifty per cent and execute a bond for double amount for balance fifty per cent. I think it would be gross injustice against these importers.

Secondly, the time period of two months for keeping goods in the warehouses is being reduced. It would cause lot of administrative problems. Applications would be submitted for extension of time period and you would be forced to do it. If you clarify the situation regarding these two amendments, I am ready to withdraw my amendments with the permission of the House. It would help in saving the time of the House also.

SHRI RAMESHWAR THAKUR: Madam Chairman, the things which are imported from abroad are very essential commodities. They are essential for our industry and agriculture. Some times essential medicines and life saving drugs are imported and we do not want that they should be kept in Government Warehousing Corporation for long. That is why the provision of forty five days time period and for some categories three months have been reduced to one month. All the members have generally welcomed the move.

On the issue of interest I would like to submit that what happens at present is that when the documents are received in Customs's Department, they are checked and returned back to the importer within seventy two hours. It is expected from them that they would deposit fifty percent of the amount within seven days and execute a bond to pay the balance of fifty per cent later. I can quote the figures right now. I would not take much time of the House.

[English]

Goods in warehouses after expiry of warehousing period: value of goods- Rs. 667 crores; duty involved-Rs. 774 crores.

Secondly, details of warehoused goods, where free period has expired, as on 5th December, 1991-there are 33 collectorates are: value of goods-Rs. 619.89 crores; and duty involved -Rs. 748.48 crores.

[Translation]

There are 54 cases wherein goods in warehouses after the expiry of warehousing period are lying. The goods are worth Rs. 13 crores and 42 lakhs. It would not be in national interest or in the interest of industry if such cases are not dealt with firmly and interest is not charged from them for delay in clearing goods. That is why a time period has been fixed. There is a proposal to charge 20% interest.

SHRI GIRDHARI LAL BHARGAVA: Since the hon. Minister has clarified many points and has appealed that if it is not done, it would not be in the national interest, I withdraw my amendment.

[English]

MR. CHAIRMAN: Is it the pleasure of the House that amendment No. 2, moved by Shri Girdhari Lal Bhargava, be withdrawn?

SEVERAL HON. MEMBERS : Yes.

The motion was, by leave, withdrawn.

MR. CHAIRMAN: The question is:

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

The motion was adopted.

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

"That clauses 2 to 10 stand part of the Bill."

The motion was adopted.

Clauses 2 to 10 were added to the Bill.

[Translation]

(Interruptions)

SHRI NITISH KUMAR (Barh) : I have a point of order. The hon. Minister was saying 'Ayes' during voting. He is a member of the Upper House. He should observe a little restraint. He is indulging in bogus voting.

MR. CHAIRMAN: All the members are unanimous about this Bill.

(Interruptions)

[English]

MR. CHAIRMAN: The question is:

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

The motion was adopted.

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

SHRI RAMESHWAR THAKUR: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI NIRMAL KANTI CHATTERJEE: Madam, I have just one question to ask. I have heard him in full. It is a welcome phenomenon that he has been forced to restrict imports in order to have a reduction in the adverse balance of payments. My question

[Sh. Nirmal Kanti Chatterjee]

is whether or not your collection shortfall is due to not only a compression or imports but also because of reduced rates of imports that have been introduced in the Budget. Do you have any information in this regard? Can you suggest to what extent collection shortfall is due to compression of imports and to what extent it is due to reduction of duties?

SHRI RAMESHWAR THAKUR: I am not able to give the exact figures now. But it is a fact that it is primarily due to reduction and compression in imports and partly due to the fact that a number of items have been given relaxation in reduction in rates during the last Budget. So, the cumulative effect is the reason for the total reduction in the customs duty.

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

15.53 hrs

STATUTORY RESOLUTION RE:
DISAPPROVAL OF THE MONOPOLIES
AND RESTRICTIVE TRADE PRACTICES
(AMENDMENT) ORDINANCE, 1991
AND
MONOPOLIE AND RESTRICTIVE
TRADE PRACTICES (AMENDMENT)
BILL

[English]

MR. CHAIRMAN: We shall now take up items Nos. 14 and 15 together, namely, Statutory Resolution regarding disapproval of the Monopolies and Restrictive Trade Practice (Amendment) Ordinance, 1991 and Monopolies and Restrictive Trade Practices (Amendment) Bill.

SHRI CHITTA BASU (Barasat): I beg to move:

"That this house disapproves of the Monopolies and Restrictive Trade Practice

(Amendment) Ordinance, 1991 (Ordinance No. 8 of 1991) promulgated by the President on the 27th September, 1991."

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI K. VIJAYA BHASKARA REDDY) Sir, I beg to move:

"That the Bill further to amend the Monopolies and Restrictive Trade Practices Act,

1969 and the Companies Act, 1956, be taken into consideration."

The MRTTP Act 1969 was enacted in 1969 and came into force on 1.6.1970 with the avowed objective of ensuring that the operation of the economic system does not result in concentration of economic power to the common detriment, for the control of monopolies and for the prohibition of monopolistic and restrictive trade practices. The Act was amended in 1982, 1984 and 1985 to bring within its scope unfair trade practices, and to bring the provisions of the Act in tune with modifications in the industrial licensing policies for achieving greater productivity. The basic philosophy as per the Act was never to inhibit industrial growth. It has been our experience that applications of large industrial houses (popularly known as MRTTP undertakings) for establishment of new undertakings, expansion of their activities, amalgamation, merger and takeover whenever found unacceptable, were generally rejected on the grounds valid for purposes of licensing and there were very few cases where such as application could be rejected on the grounds falling under the MRTTP Act. In the process, the projects initiated by the MRTTP companies were delayed in view of the time consuming procedures for prior approval of the Central Government. With the growing complexity of industrial sector and need for achieving competitive edge in the international market and economies of