

Refund of Excise Duty to Manufacturers

*24. SHRI⁺ MADHAVRAO
SCINDIA:
SHRI JANARDHANA
POOJARY:

Will the Minister of FINANCE be pleased to state:

(a) whether the Excise duty refunded to manufacturers earlier this year has since been recovered;

(b) if so, the amount so recovered;

(c) whether any inquiry has been conducted into the circumstances of issue of instructions for refund of the Excise duty; and

(d) if so, the details of the findings thereof?

THE MINISTER OF FINANCE (SHRI YASHWANT SINHA): (a) to (d). Refunds of Excise Duty have been allowed in pursuance of decisions of courts or as per instructions issued by the Central Board of Excise & Customs in March, 1990, keeping in view certain judicial pronouncements on the subject. However, the Government has since decided that in principle it would not be appropriate to refund excise duty to manufacturers as they would have already passed on the burden of the duty to their customers. Necessary legislation for this purpose is being formulated.

Excise Refund Issue

*33. PROF. VIJAY KUMAR
MALHOTRA:
SHRI HARSH VARDHAN:

Will the Minister of FINANCE be pleased to state:

(a) whether Government's attention has been drawn to the newsitem captioned, "Government in a jam over Excise refund

issue" appearing in the "Hindustan Times" dated 15th September, 1990; and

(b) if so, the reaction of the Government to the issues raised therein?

THE MINISTER OF FINANCE (SHRI YASHWANT SINHA): (a) Yes, Sir.

(b) Refunds of Excise Duty have been allowed in pursuance of decisions of courts or as per instructions issued by the Central Board of Excise & Customs in March, 1990, keeping in view certain judicial pronouncements on the subject. However, the Government has since decided that in principle it would not be appropriate to refund excise duty to manufacturers as they would have already passed on the burden of the duty to their customers. Necessary legislation for this purpose is being formulated.

SHRI MADHAVRAO SCINDIA: Sir, I would like to quote from the 21st September, 1990 issue of *The Hindustan Times*. "It is time for the Government to come out with a complete statement on the subject so that all doubts and speculations are set at rest."

"Any delay on our part in coming out with the facts will only make matters worse and lead to further misrepresentations and misunderstanding in public mind."

"Attention was drawn to the allegation made by Congress-I spokesman that an amount of Rs. 350 crore had been refunded."

"Telex instructions were issued by the CBEC on September 22, 1988 advising all concerned officers of the Department not to issue any refund order. This status quo continued until 21st March, 1990 when suddenly "out of the blue" instruction was issued by telex directing the concerned officers to sanction refund claims."

MR. SPEAKER: Mr. Scindia, you are an efficient Parliamentarian. You can also speak without quoting.

SHRI MADHAVRAO SCINDIA: I would

like to say that these are the words of one Yashwant Sinha, Member of Parliament. It is fortunately a coincidence that we have a Finance Minister with a same name now. I think, it is high time that Shri Yashwant Sinha, the Finance Minister, now answer the queries put by Shri Yashwant Sinha, Member of Parliament.

I would like to know from the Finance Minister whether he agrees with his predecessor in office that there was nothing unusual in the refunds of excise and the orders issued in March, 1990 were an unusual occurrence and how much did the total amount comes to; which companies were the main beneficiaries and how were these instructions issued by telex which in my opinion were highly unusual.

SHRI YASHWANT SINHA: Sir, Yashwant Sinha, Finance Minister stands by everything that he had said as Member of Parliament. Let me make that absolutely clear. We have looked into the matter, i.e. my colleague Shri Digvijay Singh and myself.

Now, I may inform the hon. Member that the Former Finance Minister, not only said that it was not unusual as far as the instructions of an issue like telex of 21st March, 1990 were concerned, but in a statement which he had made in the Rajya Sabha, he said that "I am fully satisfied that the action of the Board was legally and administratively correct and clarifications issued by it were fully within its competence. I am afraid, after going through the records, which are there with me now, I am totally unable to share this confidence of the former Finance Minister.

Sir, I would like to say that the question has been discussed *ad nauseam* in the Ministry of Finance. What the Ministry of Finance has lacked all along is the political courage to take the decision. The Law Ministry kept on telling the Ministry of Finance "You take the policy decision, whether you want to legislate to this or not." The Ministry of finance kept on evading the issue. It is only now that we have said that we have taken a decision. We have said that we want a legis-

lation and we have also said that we will go ahead and try to introduce that legislation in this Session of Parliament.

Now, I would like to bring to the notice of this House that the question of legislation was considered by the previous Government. A reference was made to the then Attorney General. He gave his opinion. What was his opinion?

After taking into account the judgement of the Court on the basis of which the telex instructions to which the hon. Member has referred, he said:

"After taking that judgement into account, what I wish to emphasize is that the amendment of the Act to achieve the objective of prevention of unjust enrichment needs to be very carefully looked into, from all aspects-practical, legal and constitutional, and should be fool-proof as far as human ingenuity can do so. The exercise should be done promptly, but not in haste."

That was the opinion that he gave, and on the 12th of October, the then Law Minister put his own minutes on the file. He justified the action of the former Finance Minister who had stayed the operation of the circular as a result of the points which we had made, and he justified that, and he said:

In this view of the matter, I suggest that we continue to stay the action on the Revenue Department circular dated 28th March. Simultaneously, we may undertake appropriate legislation with retrospective effect."

This was the advice which the former Law Minister on 12th October 1990; and I am very sorry to have to say this, that this file remained with the former Finance Minister much after he demitted office, and was received by me on the 5th December 1990. (*Interruptions*)

MR. SPEAKER: Order, please. Take

your seats. Mr Scindia.

SHRI MADHAVRAO SCINDIA: In view of the revelations made in the House just now by Mr. Yeshwant Sinha, I would like to know from him whether he intends to institute a very high-level inquiry into this whole, rather seemingly unfortunate episode, and whether he would also make it time-bound, so that the country could know what were the reasons, and who were the people behind these very unusual orders being issued; and also I had asked, in my earlier question, what was the total amount, and which were the companies which benefited.

In my second supplementary, I would also like to ask: The same Mr. Yashwant Sinha, M. P. had said that no appeal was made to the Supreme Court when, normally High Court orders which are against the Government are appealed against, in the Supreme court. I would like to supplement the painstaking efforts of Yashwant Sinha, M. P. and I would like to ask him whether he is now going to go in appeal to the Supreme Court on this issue. These are the basic points: whether you are going to appeal, and whether you are going to institute a very high-level inquiry into it; and the amount and the persons benefitting.

SHRI YASHWANT SINHA: As far as the inquiry is concerned, as I have said, things are trickling in; and we are looking at it.

As I said, my colleague, Mr. Digvijay Singh and I myself are taking a personal interest in the matter. We are trying to see all the facts. If, on the basis of the facts, we come to the conclusion that anything was done with *mala fide* intention, then we shall certainly institute an inquiry.

Prime facie case there is. (Interruptions)

PROF. P. J. KURIEN: You can announce an inquiry here itself. (Interruptions)

MR. SPEAKER: Mr. Kurien, I have not called you. Your colleagues are there. I will call you.

PROF. P. J. KURIEN: What has been said by the hon. Minister in the House clearly proves that there is a *prima facie* case. (Interruptions)

MR. SPEAKER: He is aware of the case.

(Interruptions)

PROF. P. J. KURIEN: There is no need for postponing it. (Interruptions)

MR. SPEAKER: He is the Finance Minister; he knows what his duty is. Mr. Kurien, will you take your seat? I will call Mr. Janardhana Poojary, who has a right to ask the question.

(Interruptions)

MR. SPEAKER: Mr. Kurien, you please take your seat. Do not consult the rule book during the Question Hour.

(Interruptions)

SHRI YASHWANT SINHA: I can understand the agitation of the hon. members. I share their concern. Let me make it very clear. There is absolutely no desire or intention on my part to conceal any information from this Honourable House. I will never do that. I am prepared to share everything. The point is and this is a point which I would really like to be taken into account—that officers come and go, they take a view; the important thing is at the political level what view was taken and that involves the former Finance Minister and an honourable member of this House, Mr. Madhu Dandavate. Therefore, I have to be very circumspect, I have to be very cautious and therefore I am unable to say that we will rush into an inquiry. Please bear with me, we are looking into it and if there is a need for any further inquiry, I shall come and share with you.

There is another part of the Question which the hon. Mr. Madhavrao Scindia has raised. That information we have already shared with many Members of Parliament

through a communication. If you agree - it is a long list - I will place it on the Table of the House.

MR. SPEAKER: Mr. Poojary.

SHRI P. CHIDAMBARAM: Place the opinion on the Table of the House.

SHRI JANARDHANA POOJARY: Who are the three ones most benefited, read out. *(Interruptions)*

SHRI YASHWANT SINHA: As far as refunds of Rs. 1 crore and above are concerned, the total amount which was refunded during the period 21-3-1990 and 24-8-1990 which was the date on which the circular was withdrawn, the total amount was a little over Rs. 52 crores. As far as Rs. 50 lakhs and above are concerned, the total amount was Rs. 17 crores and 34 lakhs. This was the period when the circular was issued and when the circular was withdrawn. Now, one very funny thing is that the former Finance Minister made that stirring statement justifying whatever had been done and on the other hand, he turned tail and withdrew the circular. If he was so confident, that the circular was right, that it was entirely legal, it was entirely moral, then he should have stood up and said that there was no need to withdraw that circular. But he withdrew it and, therefore, I am not able to reconcile these two obviously contradictory statements.

SHRI JANARDHANA POOJARY: Some information has been given by the hon. Finance Minister. Today the entire House has been stirred to hear the revelation. It is the biggest scandal of the century. *(Interruptions)*

SHRI NIRMAL KANTI CHATTERJEE: What about Bofors?

SHRIMATI SUBHASHINI ALI: Do not insult Shri Sanjay Singh.

SHRI JANARDHANA POOJARY: The present Prime Minister, Shri Chandra Shekhar has stated in his interview to *Week* magazine dated 30th September, 1990 that

the PMO's Office also was involved. Now, it is very clear that there is a scandal and the hon. Prime Minister of this country who is running the country today has clearly made a charge against the previous Government and the honourable former Prime Minister, Mr. V. P. Singh's office saying that his office was involved. Now my submission will be, whether the honourable Finance Minister—I do not say that he is not an honest man—is defending somebody else or whether he has defended the earlier Prime Minister Mr. V. P. Singh and he has shirred his responsibility. Now, in order to find out the truth, the entire House, the entire nation wants it and as stated by the hon. Finance Minister in his letter addressed to the former Prime Minister, he demanded all the documents.....*(Interruptions)*

MR. SPEAKER: Please come to the question.

SHRI JANARDHANA POOJARY: The hon. MPs of the Janata Dal have been demanding all the documents and action to be taken. Now, rule 370.....

MR. SPEAKER: Mr. Poojary, please come to the question. You are a former Minister of State in the Ministry of Finance. Do not quote the rules book.

(Interruptions)

SRI JANARDHANA POOJARY: I am quoting the rule pertaining to Question Hour...*(Interruptions)*

MR. SPEAKER: I have given the floor to Mr. Poojary.

SHRI JANARDHANA POOJARY: Rule 370 of Rules of Procedure and conduct of business in Lok Sabha says:

"If, in answer to a question or during debate, a Minister discloses the advice or opinion given to him by any officer of the Government or by any other person or authority, he shall ordinarily lay the relevant document or parts of document

containing that opinion or advice, or a summary thereof on the Table.”

Now, Sir, I demand all the documents to be placed...

MR. SPEAKER: What is your question?

SHRI JANARDHANA POOJARY: Will the hon. Finance Minister place all the documents before the House and also whether he is going to set up a Parliamentary Committee to probe into the matter? *(Interruptions)*

MR. SPEAKER: Let us hear the Finance Minister.

SHRI YASHWANT SINHA: As far as the rule which the hon. Member has quoted, according to that rule I have to lay on the Table of the House any document from which I quote. I shall obey that rule and place the file from which I have quoted. That is very clear, Sir. I will lay down this statement.

As far as a Parliamentary probe is concerned, as I said, once we have looked into the matter and if we feel that there is a need for a Parliamentary Board, we ourselves will come before this House.

[Translation]

PROF. VIJAY KUMAR MALHOTRA: I would like to know about the amount refunded during the Congress regime in addition to the amount of Rs. 52 crore refunded by the present Government during the last year. This practice of refunding the amount has been in vogue for the past many years. It is public money which was collected by Government from the capitalists and was refunded to them later on. So, it has become a very big scandal. Government should institute an enquiry into it. The Government should take steps to recover this amount and invest it in setting up proposed Consumer

Fund. Shri Chandra Shekhar ji, before assuming the office of the Prime Minister had raised this issue thrice in this House, that the refunded amount of Rs. 10 thousand crore should be taken back. What is his reaction in regard thereto?

SHRI YASHWANT SINHA: The matter of refunding thousands of crores of rupees was raised when we were not in the Government. The former Minister of finance had given figures of the amount so refunded. *(Interruptions)* Ram Dhan ji, at least you should not support them so far as this matter is concerned. I would like to say that an amount of Rs. 2000 crore is held up due to the suits filed before the High Courts and the Supreme Court. 40,000 appeal cases are pending before the Tribunal and the Collector. We have issued a notification regarding this, because if the Department itself directs not to withhold the refund, it will have an adverse effect on the Tribunals thinking. The matter was discussed in this context and it was presumed that this notification would have an adverse effect on pending court cases in which crores of rupees were involved and it would weaken the Government side. No Government lawyer while making arguments in the High Courts and the Supreme Court, can plead against stoppage of refund in the context of the notification which permits issued of refund. A very big amount is involved in it. So, we are thinking about introducing a Bill in this session for making a law to check this practice. The money collected through such unjust means would be invested into the consumer Welfare Fund or some other fund proposed to be set up in future. *(Interruptions)*

[English]

MR. SPEAKER: The Question hour is over.