

... (अवधान) ... लेकिन मैं इतना आशावादी बन सकता हूँ कि इसके लिए हम जल्दी में जल्दी कोशिश करेंगे आज हम यह नहीं कह सकते हैं कि कौन सी वह एग्जैक्ट डेट होगी परन्तु सन् 72 तक वह जरूर पूरी हो जायेगी।

SHRI RAJASEKHARAN : What about my query ? The Deputy Minister of Foreign Trade is here. Let him answer my question. (Interruptions)

MR. DEPUTY-SPEAKER : Order, please. As I said in the very beginning, so many issues have been raised relating to so many Ministries. Some Ministers may be in a position to reply and others may not be in a position to reply. But all the points that have been raised will be duly noted and the Government should take action. I would request Shri Bal Raj Madhok also to cooperate with me. I called his name but he was not present. Now, we have finished this. If I go back, there will be no end to it.

SHRI BAL RAJ MADHOK : If you had gone to another item, I would not have insisted. But you are still on it... (Interruption)

MR. DEPUTY-SPEAKER : I have allowed all Members to make their submissions. That stage is over now. Now, we go on to the next item.

15.25 hrs.

CENTRAL SALES TAX (AMENDMENT) BILL*

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P. C. SETHI) : I beg to move for leave to introduce a Bill further to amend the Central Sales Tax Act, 1956.

MR. DEPUTY-SPEAKER : Motion moved :

"That leave be granted to introduce a Bill further to amend the Central Sales Tax Act, 1956."

SHRI SHRI CHAND GOYAL (Chandigarh) : Sir, I will oppose this Bill on four constitutional and legal infirmities.

(1) You will be pleased to know that Clause 14 of the Bill says that this will also be extended to the Districts of Kohima and Mokokchung. I have gone through the provisions of the original Central Sales Tax Act of 1956, and sub-section 2 of the Act says that it extends to the whole of India. I have studied the amendment upto date. In fact there used to be one saving clause that it does not apply to the State of Jammu and Kashmir. But even those words were excluded and deleted in the year 1958 and since then the entire Act has been extended to the whole of India. But this provision that it will also be extended to the districts of Kohima and Mokokchung indicates as if these two districts have been out of the purview of this Act and as if these two new districts have been added to the territory of India. I think this is a legal infirmity for which absolutely there is no justification.

(2) In clause 3 have inserted a new section, Section 6A which throws the burden of proof on the dealer in the case of transfer of goods otherwise than by way of sale. In this respect I wish to submit that the Central Sales Tax or any sales tax is leviable only on the sales. Supposing a dealer transfers his goods from one State to another under a contract of agency or from a principal to his agent or from an agent to his principal, then those transfers cannot be subjected to the levy of sales tax. The Central Sales Tax has adopted the definition of sale from the Sale of Goods Act which says that a sale is a transfer of goods for consideration whether in cash or for deferred payment. My respectful submission in this behalf will be that only sales can be subjected to the levy of sales tax and no other transfer. This new provision is throwing the burden of proof on the dealer. Supposing goods are transferred from one State to another, then the burden is thrown on him to prove that these goods have been transferred not by way of sale but by another mode of transfer. This goes contrary to the provisions of the Indian Evidence Act.

MR. DEPUTY-SPEAKER : Now you are going into the merits of the Bill. You are only to oppose the introduction of the Bill.

SHRI SHRI CHAND GOYAL : I am dealing only with the legal points. I am not going into the merits of the Bill.

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MR. DEPUTY-SPEAKER : You are going into the merits of the Bill.

SHRI SHRI CHAND GOYAL : Not in the least. I am not going into the merits at all. Sec. 101 of the Evidence Act says :

"Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist."

So *prima facie* the burden lies on the shoulders of the Government to prove that a particular transfer does not come within the purview of a sale but it is another mode of transfer. This burden has been wrongly thrown on the dealer.

(3) I would like to submit that now provision has been made in clause (4)...

MR. DEPUTY-SPEAKER : You are going into the details of the Bill.

SHRI SHRI CHAND GOYAL : These legal infirmities may be existing in various sections. I have to point out that clause 4 says that people will be required to furnish security either for the purpose of getting themselves registered or these securities can be demanded for the continuance of their registration certificate. The dealers are not the paid employees of the Government. They are rendering this voluntary service to the Government. They are collecting Central Sales Tax for the Government. Why should they be required to furnish this security even for obtaining a registration certificate ?

Sir, one more thing only and I would conclude.

Clause 11, which means, Section 14 of the principal Act, deals with what are goods of inter-State importance:

Now, Sir, the words 'iron and steel' include the word 'tyre'. How can the word 'tyre' be included in the word 'iron and steel' ? Tyres are made of rubber or some such material and they cannot possibly be included in this category of iron and steel. Therefore, I want to invite the attention of the Government to this point.

MR. DEPUTY-SPEAKER : You are going into the merits. You are going into the clauses of the Bill. Shai S. C. Jha.

श्री शिव चन्द्र भ्वा (मधुबनी) : उपाध्यक्ष महोदय, मैं इस विधेयक का विरोध करता हूँ। मुझे विश्वास है कि यह विधेयक सुप्रीम कोर्ट से स्ट्रक ब्राफ हो जायगा क्योंकि जिस रूप में रखा है, वह बड़ा फौल्टी है।

सरकार टैक्स की चोरी को रोकना चाहती है उस का मैं स्वागत करता हूँ। लेकिन जिस रूप में विधेयक बनाया है उस से बहुत से लूप होल्स आ जाते हैं और टैक्स का इवेजुन होगा बावजूद इस विधेयक के।

कोल की जो डेफीनीशन देना चाहते हैं उस में से चारकोल को ब्राफ हटाना चाहते हैं, और स्टेटमेंट आफ् श्रीबजेक्ट्स और रीजन्स में कहते हैं :

The Supreme Court has ruled that the existing definition of 'coal' includes 'charcoal'.

सुप्रीम कोर्ट का फैसला है कि कोल में चारकोल भी आता है। यदि इस फैसले को हम मान लेते हैं तो मैं समझता हूँ कि जो मकसद है उससे ज्यादा हल हो जायगा। लेकिन दूसरी डेफीनीशन रखने का नतीजा यह होगा कि यह विधेयक चैलेंज होगा। सुप्रीम कोर्ट के फैसले के खिलाफ आप काम करें मुझे कोई एतराज नहीं है क्योंकि मैं ने कहा है कि सुप्रीम कोर्ट को बन्द करना चाहिये, जो रीऐक्शनरी जजेज हैं उन को हटाना चाहिये। लेकिन जो अभी बनावट है उस में जब तक सुप्रीम कोर्ट अपने दूसरे फैसले से पहले फैसले को रद्द नहीं करता है तब तक पहला निर्णय जारी रहेगा, यह बेरी धारणा है। लेकिन बावजूद इस के जो आप नयी डेफीनीशन ला रहे हैं और कोल में से चारकोल को हटाना चाहते हैं इस से इस विधेयक के चैलेंज होने और स्ट्रक ब्राफ् होने की सम्भावना है।

इसी तरह से आयरन और स्टील की परिभाषा में आप परिवर्तन लाना चाहते हैं, उस में भी बहुत से लूप होल्स हैं। इसी तरह से जूट

भी स्टेट सबजेक्ट है। यह तीनों प्राइटम्स—कोल, आयरन और स्टील और जूट प्राइवेट सैक्टर के मतहत हैं उन को मौका मिलेगा कि वे सुप्रीम कोर्ट के पास जायें और इस विधेयक को स्ट्रक आफ करायें। मेरा कहना है कि इस तरह से आप सेल्स टैक्स इवेज्न् को नहीं रोक सकेंगे बल्कि इवेज्न् और भी बढ़ जायगा, मैदान और साफ हो जायगा। इसलिये इस विधेयक को फिर स ड्राफ्ट कर के दूसरे रूप में आप लायें, यही मेरा निवेदन है।

SHRI P. C. SETHI : As far as the points raised by Shri Shri Chand Goyal are concerned as per provisions of the Sixth Schedule to the Constitution the Act did not apply to these districts of Nagaland... (Interruption).

श्री मोलहू प्रसाद : उपाध्यक्ष महोदय, क्या मैं यह मान लूँ कि योजना बद्ध ढंग से लोक सभा सचिवालय और मन्त्रालय, मैं ने जिस मुद्दे को उठाया है, उस को टालना चाहते हैं ? आप इस पर व्यवस्था दीजिये।

MR. DEPUTY-SPEAKER : No, no How can you intervene in the middle of a discussion ? Order please.

SHRI P. C. SETHI : What I wanted to say was this. The hon. Members Shri Goyal and Shri Jha raised several points about the merits of the Bill. Whether there are any loopholes or not, the only valid point raised by Shri Goyal was as to why Kohima and Mokochung districts have been included in this Bill. It was very correct. In the Sixth Schedule you will find that these districts have been included because they have become part of Nagaland. That is why we have included this. Constitutionally, the Bill is absolutely correct. When we come to the discussion of the Bill, the merits of the case can be discussed.

MR. DEPUTY-SPEAKER : Now, the question is :

"That leave be granted to introduce

a Bill further to amend the Central Sales Tax Act, 1956."

The motion was adopted.

SHRI P. C. SETHI : Sir, I introduce* the Bill.

MATTERS UNDER RULE 377 *Contd.*

श्री मधु लिमये (मुंगेर) : उपाध्यक्ष महोदय, माननीय मोलहू प्रसाद एक अर्से से आप से यह जानना चाह रहे हैं कि हरिजन और आदिवासियों के बारे में जो प्रस्ताव है उस पर आज बहस होगी ? आप जरा कार्य सूची देख लीजिये।

MR. DEPUTY-SPEAKER : I have said from the very beginning that let us make all efforts to take it up.

श्री ओमप्रकाश त्यागी (मुरादाबाद) : इस को समय नहीं मिलेगा। हर साल इसको इस प्रकार से निकाल दिया जाता है। हरिजनों की समस्या पर कोई विचार करने वाला नहीं है।

MR. DEPUTY SPEAKER : Kindly listen to me. It is in the order paper and it is for this House to decide. I only want the cooperation of Shri Molahu Prasad, Shri Madhu Limaye and Shri Tyagi to allow this so that we can go through the business as quickly as possible.

श्री मधु लिमये : जब तक ग्रांडर पेपर के सारे मोशन नहीं खत्म होंगे हम नहीं उठेंगे। आप अभी निराय लीजिये।

SHRI OM PRAKASH TYAGI : I support this.

MR. DEPUTY SPEAKER : I cannot allow this.

श्री मधु लिमये : साढ़े छैं बजे सदन स्थगित होगा, अभी आप फैसला कीजिये। मैं मोशन पेश कर रहा हूँ बाकायदा कि जब तक हरिजन और आदिवासियों के प्रस्ताव पर बहस पूरी नहीं होती है तब तक इस सदन की कार्यवाही चलती रहेगी चाहे 11 बज जायें। आप इस पर बोट ले लीजिये।

*Introduced with the recommendation of the President.