

I have gone into each one of these cases. They fall under these two categories: either they are old grants of land which have been resumed by Defence and for which alternative land has been given, or they are leases for over 30 years which have been converted into ownership.

The hon. Member wanted land to be given to one persons. Even that I have examined. I find that he is neither a lessee nor an old grantee. He is a person who had a licence to have a firewood-stacking depot, or a building materials depot, for only six months. And licensees are not entitled under our rules for grant of land.

श्री निहाल सिंह: अध्यक्ष महोदय, पब्लिक यूटिलिटी के लिए ये दते हैं। इसके बारे में मैं यह बताना चाहता हूँ कि वाराणसी कर्ट में फुलवारिया गांव है। जब जमीन ली गई, उससे पहले से वहाँ पर गांव था और गांव के लोग उसी रास्ते से आते जाते थे। अब 4-5 साल पहले उसका घिरवा दिया गया है, जिससे गांव वालों को 5 मील की दूरी तय कर के आना पड़ता है। इस रास्ते को खोलने के लिए राजनारायण जी ने सत्याग्रह भी किया था। सिससे वहाँ के लोगों को बहुत परेशानी है। जब पब्लिक यूटिलिटी के लिए लेते हैं तो क्या 8-10 फुट का रास्ता इन नागरिकों को निकलने के लिए देने के लिए तैयार नहीं ?

SHRI V. VENKATARAMAN :

If the hon. Member writes to me on this, just as I have made a thorough research on this matter, I will do some research on the other matter also, and do whatever is possible.

श्री बी. डी. सिंह: मंत्री महोदय ने अपने जवाब में बताया है कि इसको पंजीकृत

निकायों और न्यासों द्वारा चलाया जाएगा। कुछ ट्रस्टों को भी छावनियों की जमीन लीज पर दी गई है, जैसे इलाहाबाद छावनी की जमीन कुछ ट्रस्टों को दी गई है, लेकिन उसका जो रेंट लगाया गया है वह बहुत अधिक है। एक शैक्षणिक संस्था के लिए 40 हजार रुपये वार्षिक किराया बहुत है, वह कैसे इसको दे पाएगी ? इस डिसक्रीपीसी को क्या माननीय मंत्री जी देखने का कष्ट करेंगे।

SHRI R. VENKATARAMAN :

We make an exception in the case of educational institutions and certain public trusts. It depends on each case. If there are any cases in which there is a need for reduction of the rent, I would look into them: it has to be examined individually; no hard and fast rules universally applicable can be laid down.

Recommendations of Wanchoo Committee on Trusts

*184 **SHRI SUNIL MAITRA :**
Will the Minister of FINANCE be pleased to state :

(a) what were the main recommendations of the Wanchoo Committee made in 1973 to regulate the activities of the Trusts :

(b) have these recommendations been accepted ;

(c) if so, have these been incorporated into law; and

(d) if not, the reasons therefore ?

**THE MINISTER OF STATE
IN THE MINISTRY OF FINANCE
(SHRI PATTABHI RAMA RAO) :**
(a) to (d). A statement is laid on the Table of the House.

Statement

The main recommendations made by the Wanchoo Committee in their final report submitted in December 1971 to regulate the activities of trusts and the action taken thereon are indicated below:—

- | Recommendation | Action taken |
|--|--|
| <p>1. Every person in receipt of income derived either from property held under trust or other legal obligation for charitable or religious purposes or from voluntary contributions received on behalf of such trust or institutions should be required to furnish a return of income if the total income, ignoring the exemption under section 11 and 12 of the Income-tax Act, 1961, exceeds the maximum amount not chargeable to income-tax.</p> | <p>Accepted and implemented through the Finance Act, 1972.</p> |
| <p>(Para 3.52)</p> | |
| <p>2. The law may be amended to provide that where a person, who is under an obligation to furnish a return of income under section 139 (4A) of the Income-tax Act, 1961, fails to furnish such a return, he shall be liable to pay penalty upto one per cent of the income of the trust for each year of default or part thereof.</p> | <p>Accepted and implemented through the Taxation Laws (Amendment) Act, 1975.</p> |
| <p>(Para 3.52)</p> | |
| <p>3. The income-tax law may be amended to cast an obligation on all charitable and religious trusts which seek income-tax exemption to register themselves with the Income-tax Department. Trusts which fail to get registered within a prescribed period will not be entitled to claim income-tax exemption. The existing trusts may be required to get themselves registered within one year from the date of enactment of the new provision and trusts formed after the enactment should get themselves registered within six months of the date of the constitution of the trust.</p> | <p>Accepted and implemented through the Finance Act, 1972.</p> |
| <p>(Para 3.52)</p> | |
| <p>4. All trusts with income-receipts exceeding rupees twenty-five thousand should be under a statutory obligation to have their accounts audited in the prescribed manner.</p> | <p>—do—</p> |
| <p>(Para 3.53)</p> | |
| <p>5. Law should be suitably amended to provide that where a trust for the relief of the poor, education or medical relief derives income from any activity for profit, its income would be exempt from income-tax only if the said activity for profit is carried on in the course of the actual carrying out of a primary purpose of the institution. So far as trusts for any other object or general public utility are concerned, pursuit of any activity for profit should continue to render them ineligible for tax exemption.</p> | <p>Accepted and implemented through the Taxation Laws (Amendment) Act, 1975.</p> |
| <p>(Para 3.55)</p> | |

Recommendation	Action taken
<p>6. The existing conditions for spending the trust income for charitable purposes within the same year, or accumulating it in the specified manner, should be relaxed, where the trust is prevented from complying with them on account of not having actually received the income in question.</p>	<p>Accepted and implemented through the Taxation laws (Amendment) Act, 1975</p>
<p>(Para 3.56)</p>	
<p>7. All 'ghost' or anonymous donations to charitable trusts should be taxed at the rate of 65 percent. Religious trusts may, however, be left out of the purview of this provision.</p>	<p>Accepted. A provision in this regard was incorporated in the Taxation Laws (Amendment) Bill, 1973, but it was deleted by the Select Committee on that Bill.</p>
<p>(Para 3.57)</p>	
<p>8. Where any part of the Corpus or income of a charitable or religious trust is used by or the benefit of the founder, trustee, etc., for any period in a year, such a trust should be liable to pay wealth-tax on the value of its entire property in the same manner as the discretionary trusts under the provisions of section 21(4) of the Wealth-tax Act, 1957.</p>	<p>Accepted and implemented through the Finance Act, 1972.</p>
<p>(Para 3.58)</p>	
<p>9. Barring the original corpus, there should be a total ban on trusts investing any of their funds in any business concern including a limited company.</p>	<p>Accepted. A provision in this regard was made in the Taxation Laws (Amendment) Bill, 1973. However, the Select Committee on that bill modified the provision and instead laid down a pattern of investment for trust funds. The Finance Bill, 1983 seeks to give effect to the recommendation of the Wanchoo Committee and further lays down uniform pattern of investment of all categories of trust funds.</p>
<p>(Para 3.59)</p>	
<p>10. Section 13 of the Income-tax Act, 1961 provides, inter alia, that a charitable or religious trust or institution will be denied exemption from tax if the funds belonging to it are invested, or continue to remain invested, during the previous year in any concern in which the author or for under thereof or substantial contributor to it or their relative has a substantial interest. This condition should not operate when such an investment itself forms a part of the initial corpus of the trust.</p>	<p>Not accepted as it was felt that the proposed relaxation may provide scope for abuse.</p>
<p>(Para 3.60)</p>	
<p>11. The term 'substantial portion', used in section 13 of the Income-tax Act, 1961 should be so defined as to mean any property or income exceeding one thousand rupees and the term 'substantial contribution' used in the said section should be defined as an amount exceeding five per cent of the corpus of the trust. Further, persons mentioned in section 13(3) of the Income-tax Act, 1961 should also include a trustee and his relatives and the term 'relative' should also include relatives through marriage.</p>	<p>The first and third recommendations were accepted and implemented through the Finance Act, 1972. The second recommendation was implemented in a somewhat modified form through the Taxation Laws (Amendment) Act, 1975.</p>
<p>(Para 3.61)</p>	

Recommendation

Action taken

12. Section 12 of the Income-tax Act, 1961 may be amended to provide that the benefit of tax exemption in respect of income received by way of voluntary contributions will be available only to charitable and religious trusts which ensure wholly for the benefit of the public. Further, it may be provided that the voluntary contributions received by religious and charitable trusts will be treated as income of such trusts for the purpose of section 11 and 13 of the Income-tax Act 1961. However, voluntary contributions in the nature of endowments or for specific projects related to the objects of the trust may be allowed to be accumulated or set apart.

Accepted and implemented through the Finance Act, 1972.

(Para 3.62)

13. The law may be suitably amended to provide that exemption under sections 11 and 12 of the Income-tax Act, 1961 will be available to trusts created before 1st day of April, 1962 if they conform to the requirements of the law as applicable to trusts created after 31-3-1962. The period for effecting the necessary changes may be fixed at two years from the date of amendment of the law in this behalf. As some mixed trusts may have to be split up for this purpose, a suitable machinery may be set up by the Government to effect a smooth change.

Effect was sought to be given to one of the main recommendations in relation to the provisions contained in section 13(1)(b) of the Income-tax Act through the Taxation Laws (Amendment) Bill, 1973, but the Select Committee on that Bill did not even approve of this modification and deleted the proposed amendment.

(Para 3.64)

14. There is a strong case for having an all-India legislation for the purpose of controlling and regulating the working of various public charitable and religious trusts in India. Apart from the provisions contained in the draft Bill, which was introduced in the Parliament in 1968 for this purpose (but which lapsed with the dissolution of the Lok Sabha in 1970), such legislation should contain some further provisions. The Government should have the power to nominate one or more trustees in the case of a trust with income exceeding rupees fifty thousand per annum, notwithstanding the terms of the trust deed. There should also be a provision against the continuance of the same persons as trustees on the governing body of a trust. The number of life trustees in any public trust should not exceed 25 per cent of the total strength of its trustees. As regards other trustees, the principle of rotation should be introduced so that one-third retire every five years. No trustee should be eligible for re-appointment more than once. Further, there should be yet another provision to ensure that the number of trustees who are close relatives of the founder(s) of a trust, does not at any time exceed 25 per cent of the total strength of the trustees. These provisions should be made applicable even to the existing trusts.

Accepted. The Ministry of Law, Justice and Company Affairs (Legislative Department) was requested to take necessary action for sponsoring an all-India legislation for regulating the functioning of charitable and religious trusts. That Department brought this recommendation to the notice of the Law Commission in November, 1972 for consideration along with a proposal for all-India legislation regarding public trusts referred to the Law Commission in 1970.

(Paras 3.65 and 3.66)

SHRI SUNIL MAITRA : You kindly see page 2 of the statement. Item no. 9 reads as follows:

“Barring the original corpus, there should be a total ban on trusts investing any of their funds in any business concern, including a limited company.”

Then the comments under the heading ‘Action taken’ suppress more facts than they reveal. The Taxation Laws (Amendment) Act, 1975 puts an end to all these controversies and the Taxation Laws (Amendment) Act, 1975, sets a definite pattern of investment of funds in such trusts. In the light of this particular piece of legislation, the Income Tax Act was subsequently amended and the amended Act says that the trusts which accumulate money may invest in government securities, securities approved by the government, postal saving banks, cooperative banks, etc. But in the Finance Bill it was stated that the target date of the compliance of this particular form of investment would be 1-4-1978. When Mr. H.M. Patel was the Finance Minister, then through the Finance Bill, the period was extended upto 1-4-1981. Subsequently, Mr. Venkataraman extended it to 1-4-1982. Now the extension period is over. On 28th February, the Finance Minister introduced the Finance Bill proposing to extend the period upto November 1983. In view of the fact that from 2nd April 1982 the extension period has expired, has the Finance Ministry instructed the Central Board of Direct Taxes to so assess the properties of the trusts which have invested their money otherwise, to tax them according to law? Have the Income Tax Officers, in their assessment, since 2-4-1982 till date taken into consideration that these trusts no longer enjoy this exemption; and are they assessing the properties of these trusts including their investments so as to bring them within the net of the provisions of the Income Tax Law?

SHRI SATYASADHAN CHAKRABORTY : This was a question, for your information.

SHRI SUNIL MAITRA : Mr. Venkataraman, you please reply.

THE MINISTER OF DEFENCE (SHRI R. VENKATARAMAN): I can instruct him.

SHRI RAM VILAS PASWAN : What is the briefing going on, Sir?

MR. SPEAKER : This is a democratic country.

SHRI SATYASADHAN CHAKRABORTY : It is always joint responsibility of the Cabinet -- collective responsibility.

MR. SPEAKER : If you want the ex-Finance Minister, he is here!

SHRI PATTABHI RAMA RAO : Mr. Speaker, Sir, I wish to say that the Finance Bill, 1983, about which the hon. Member has mentioned, further seeks to amend the relevant provisions relating to charitable and religious trusts and institutions with a view to regulating the investments of trusts funds and to bring to charge business profits of such trusts. Under the proposed amendment, a uniform pattern of investment is being laid down for all categories of funds belonging to charitable and religious trusts and institutions. The same pattern of investment will apply in relation to accumulation of income in excess of 20 per cent thereof. The Hon. Finance Minister has mentioned a number of them. You know all that.

SHRI SUNIL MAITRA : They are Sections 6 and 7 of the Finance Bill that has been introduced by the Finance Minister, I know about

[it. But my question is not that. My question is, from 2.4.1982 onwards.....(Interruptions)

MR. SPEAKER : He is replying. How do you presume that he is not replying ?

SHRI PATTABHI RAMA RAO: I have to go into it and tell you what exactly the Finance Minister means. He mentioned what exactly are the norms under which this Bill has been introduced. He has given time up to 30th November, 1983 that is, such trusts and institutions will forfeit exemption from tax, if any part of their funds invested before 1-3-1983, otherwise than in any one or more of the norms specified continue to remain so invested or deposited after 30th November, 1983. That means, up to 30th November, already he has given time.

SHRI SUNIL MAITRA : Regarding this particular answer I have got a second supplementary.

My point was not that. The Finance Minister has no power. Only this Parliament, this House, has the power. The Finance Minister has got no power to extend it. The date expired on 1-4-1982. From 2-4-1982 how are you making the assessment? The question is, how are you making the assessment? On what basis are you making the assessment? If you are still making the assessments after 1-4-1982 onwards also, then it is something illegal.

SHRI PATTABHI RAMA RAO: It is under law. It is being done legally. What is has done is legal.

SHRI R. VENKATARAMAN : If you think that it is illegal you can challenge in a court of law.

SHRI SUNIL MAITRA : My second supplementary is.....(Interruptions)

MR. SPEAKER : You have already had it.

SHRI SUNIL MAITRA : The Finance Bill of 1975.....(Interruptions)

AN HON. MEMBER : Do not allow him, Sir.

MR. SPEAKER : You should not do like this. You have had it already.

SHRI SUNIL MAITRA : Why are you coming to the rescue of the Finance Minister, Sir?

MR. SPEAKER : All right. Fire off.

AN HON. MEMBER : Do not allow him.

SHRI SUNIL MAITRA : The Finance Bill of 1975, the Amendment Act of 1975, suitably amended Sections 11 and 13 of the Income Tax Act. And, those sections, 11 and 13 contained the recommendations of the Wanchoo Committee. But in order to obviate the difficulties of the Birals, Mafatlals, Singhania, etc. who had floated the trusts, Section 10 (23) (c) was incorporated in the year 1976. Now, under Section 10(23)(c) the Government has arrogated to itself the power to notify the trusts....(interruptions)

MR. SPEAKER : You put it in a nutshell.

SHRI SUNIL MAITRA : The Government has arrogated to itself the power to notify the trusts who would be exempted from the operation of the income-tax laws.

700 such Trusts have been notified. But here the law specifically says that notification should be for a definite specified period. Is it a fact that out of 700 notified Trusts, more than 300 Trusts have been granted exemption from operation of income-tax laws in perpetuity? If so, what action does he propose to take against officials, who, in violation of the law, have granted exemptions in perpetuity?

SHRI PATTABHI RAMA RAO : This is nothing to do with that question. I want notice for this.

SHRI SUNIL MAITRA : It is related to the Wanchoo Committee Report.

SHRI PATTABHI RAMA RAO : He talks about 1973-74 acts also. All these things will go now with the new Bill that has been introduced.

SHRI SUNIL MAITRA : That is nothing to do with the new Bill.

MR. SPEAKER : Quote statistics. I know that this is important I will allow you another question. You give me one more. I will put it to the Minister, because I am myself interested in this.

SHRI SUNIL MAITRA : Thank you.

SHRI BHIKU RAM JAIN : He says that there are various Trusts which were in existence when the 1961 income-tax law came into being, they have invested their money in various industrial undertakings and have equity holdings in the companies. Will the Minister kindly inform the House the amount involved in this? If all the trusts are expected to sell off their investments and re-invest in the Government treasury, then what effect will it have on the economy of the industrial world of India?

SHRI PATTABHI RAMA RAO : There is already a provision here. It says that any charitable or religious trust or institution will forfeit exemption from tax if any funds of the trust or institution are invested or deposited after 28 February, 1983 other than in any one or more of the modes specified. For all these Trusts, the time lapses on 30 November, 1983.

SHRI BHIKU RAM JAIN : This is something, which will have a very big effect on the economy. I shall, therefore, make a suggestion that this matter should be discussed in a half-an-hour discussion.

MR. SPEAKER : You have lot of time in the Budget. You can make this point then. I think, the Minister will study it.

SHRI K. LAKKAPPA : The Wanchoo Committee has suggested in its report remedial measures of unearthing black money and how to deal with the parallel economy in the country. Taking into consideration this report, these trusts are being operated by the large houses in order to convert their black-money into white. These trusts have become a *modus operandi* in the hands of large houses. When such activities have been brought to the notice of the Government time and again, what action does the Government propose to take to plug the loopholes in the Trust Act, which has been handy for the black-marketeers, hoarders and tax offenders to convert their black money into white?

I would like to know the specific answer for this question.

MR. SPEAKER : You cannot be allowed so many times to know.

SHRI PATTABHI RAMA RAO : Mr. Speaker, Sir, I am afraid, the

hon. Member himself might have forgotten what he had started and where he has ended.

SHRI K. LAKKAPPA : The hon. Minister should have knowledge about these things and he must know that time and again we have been warning and we have been telling that this black money, parallel economy (*Interruptions*).

MR. SPEAKER : Look here, now comes the sermon.

SHRI K. LAKKAPPA : What steps he has taken to plug the loop-holes? (*Interruptions*) We want to know specific reply for this question from the hon. Minister.

SHRI PATTABHI RAMA RAO : Mr. Speaker, Sir, I may mention in brief why the provision in the latest 1983 Finance Bill have been made.

MR. SPEAKER : Next question.

Inordinate Delay in Delivery of Cargo at Bombay Airport

*186. **SHRI G. NARSIMHA REDDY :** Will the Minister of TOURISM AND CIVIL AVIATION be pleased to state :

(a) it is a fact that the authorities at Bombay Airport take one month for delivering the cargo from the date of arrival in spite of the concerned parties fulfilling all the required formalities ;

(b) if so, what are the reasons and difficulties of the authorities for this delay and whether the delay can be minimised ; and

(c) if so, how it can be minimised and how many minimum days are required, with details thereof ?

THE MINISTER OF STATE OF THE MINISTRY OF TOURISM

AND CIVIL AVIATION (SHRI KHURSHEED ALAM KHAN) :

(a) to (c) Cargo is normally delivered to the consignee within forty eight hours of its arrival if all the documents are in order. There have been instances where cargo has been cleared within hours of its arrival. In some cases, however, delay does take place if all the prescribed conditions have not been fulfilled. Delays occur sometimes due to labour problems at the airport and sudden heavy arrival of cargo resulting in congestion. Every effort, like supplementing labour force, working overtime etc. is made to minimise the delay in clearing the cargo.

SHRI G. NARSIMHA REDDY : Mr. Speaker, Sir, there are good number of industries in our country which are running with the imported machinery. Whenever there is a breakdown, the industrialist wants those spare parts urgently from the foreign countries. He places an order and gets it by air because it is urgent and after reaching Bombay airport, he expects the delivery within two or three days. But in practice there are many instances, if I quote the names in the House it will not be proper, where the delivery of cargo has taken more than one month resulting in the shutting down of the concerned industry or of the machinery causing loss to the production and loss to the Government revenue. So, I would like to know from the hon. Minister, is it a fact that due to the paucity of space in Bombay airport, all the cargo which comes from different parts of the world, is put in one room and after completing the formalities, the airport authorities are taking days and weeks together to locate the particular cargo and deliver it ?

SHRI KHURSHEED ALAM KHAN : Sir, when the normal arrival of the cargo is there, there is not much difficulty about it. No doubt, the expansion is necessary in view of the increasing cargo arriving in the