

had been terminated by the contractor. The Connaught Place Police Station had registered a case *vide* FIR No. 897 of 28-8-81 under section 380 IPC. The arrested persons had been released on bail.

### Liability of Agricultural Land to Capital Gains Tax

\*962. SHRI V. N. GADGIL : Will the Minister of FINANCE be pleased to state :

(a) whether it is a fact that the High Court of Bombay has held recently that agricultural land is not liable to capital gains tax ; and

(b) whether Government propose to amend the Income Tax Act and the Constitution to make it subject to Capital Gains Tax ?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SAWAI SINGH SISODIA) : (a) *In Manubhai A. Seth & Co. Vs. N.D. Nirgudher, 2nd Income-tax Officer A-II Ward, Bombay (1981) 128 ITR 87.* the Bombay High Court has held that capital gains arising from sale of land situate in India, which land is used for agricultural purposes, would be revenue derived from such land and, therefore, agricultural income within the meaning of section 2(1) of the Income Tax Act, 1961 and Parliament would have no legislative competence to tax such agricultural income. Hence, the Bombay High Court has held that to the extent that section 2(14) (iii) of the Income Tax Act read with section 45 makes the profits or gains arising from the transfer of such lands situate within the jurisdiction of a municipality, municipal corporation, notified area committee etc. (which has a population of not less than 10000) or in any area within the notified distance from such municipality etc., subject to the levy of capital gains tax by Parliament, it would be beyond

the legislative competence of Parliament.

(b) The decision of the Bombay High Court has not been accepted by the Government and the High Court has also granted leave to appeal to the Supreme Court against its judgement. An appeal on behalf of the Union of India will be filed on receiving the certified copy of the Certificate of Fitness from the Bombay High Court. It is relevant in this connection to also mention that a contrary view in the matter has been taken by the Gujrat High Court in the case of *Ambalal Maganlal Vs. Union of India (1975) 98 ITR 237*, where it has been held that it was competent for Parliament to enact section 2(14) (iii) of the Income Tax Act so as to provide for tax on capital gains arising from transfer of agricultural lands situate in the areas mentioned above.

2. In view of the position as set out above, there is no proposal under consideration of the Government present to sponsor any legislative measure to supersede the effect of the decision of the Bombay High Court.

### Permission to Export-Import Bank to Raise Funds in India and abroad

\*963. SHRI B. V. DESAI : Will the Minister of FINANCE be pleased to state :

(a) whether the Union Government have given permission to the Export-Import Bank of India to raise funds in India and abroad ;

(b) if so, whether the Export-Import Bank has also been asked to explore new methods of raising resources and financing exports ;

(c) if so, whether the Standing Committee on Export Finances in

the Reserve Bank has already examined some possibilities in this direction; and

(d) if so, how much funds have been raised by the banks so far at home or abroad?

**THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY):**  
(a) No, Sir.

(b) to (d). Do not arise.

#### **Managing Director of a Company Involved in Smuggling**

10353. **SHRI A. K. ROY :** Will the Minister of FINANCE be pleased to state :

(a) whether his attention has been drawn to the news-item published in the Calcutta-based Bengali Weekly, Coalfield Times, dated February 22, 1982 under the caption "Dumdum Biman Bandar Diye Chorai sonar chalan Barse" if so, facts in details and the steps taken thereon ;

(b) name of the Managing Director and the company referred to in the same news involved in such smuggling of jewels;

(c) details of such smuggling of precious metals caught and their value in rupees in Dumdum, Bombay, Delhi and Madras airport in the years 1979-80, 1980-81, and 1981-82 ;

(d) whether such smuggling is on the increase and big persons are involved in this ; and

(e) the names and details of the top twenty biggest smugglers caught and the value of their smuggled goods in the principal airports of the country since last three years and the steps taken thereon ?

**THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SAWAI SINGH SISODIA):** (a) Yes, Sir.

Reports received by Government, however, do not confirm that the Customs authorities at Calcutta airport apprehended any Managing Director of a Company for attempting to smuggle gold and precious stones during the recent past.

(b) Does not arise.

(c) The total value of gold and silver seized by the Customs authorities at the airports of Bombay, Delhi, Calcutta and Madras during a period 1979 to 1982 (upto February) is given below :—

Year	Approximate value of gold seized	Approximate value of silver seized
	(Value : Rs. in lakhs)	
1979	77.70	14.90
1980	48.80	58.90
1981	164.90	1.10
1982	96.00	—
(Upto February)		

(d) Reports received by Government indicate that gold and silver continue to be sensitive to being smuggled through the airports at Bombay, Delhi, Calcutta and Madras.

(e) The information is being collected and will be laid on the Table of the House.

#### **Investigation into the charges made against executives or senior officials of N. T. C.**

10354. **SHRI SATISH PRASAD SINGH :**

**SHRI K. LAKKAPPA :**

Will the Minister of COMMERCE be pleased to state :

(a) whether it is a fact that some of the mills managed by the National Textile Corporation Limited