

referred to the double standard that has been practised by some of the parties and the Ruling party. I tend to agree with that. He referred to the Shah Bano case. At that time, I remember many of us objected to the conduct of the Government. While the Government was trying to amend the law to change the verdict, I remember, at that time, We wanted the Government of that time to honour the court verdict and not to capital of to fundamentals. Advaniji's party also took the similar stand. Now you find the double standard. The party of Advaniji which at that time said, "We cannot do anything to change the court verdict" forgets what stand it took at that time. Now in the case of Ramjanam Bhoomi Babri Masjid issue, they openly say that they would not abide by the court verdict. This is the double standard. The people of this country must understand this double standard that BJP is adopting. They will be exposed:

I feel bad, they were not here while I am speaking; I wanted them to be here to understand what kind of double standard they practice. The people must expose them.

SHRI SYED SHAHABUDDIN: I want to say about the Babri Masjid Action Committee...

MR. SPEAKER: At this stage of passing of the Bill, why it should be passed and why it should not be passed, that is the only question which is discussed.

Please understand, there are other Bills to be passed.

SHRI SYED SHAHABUDDIN: The issue began in 1949 and not in 1986. It began

Shri Giridhari Lal Bhargava

not present

Shri Prem Kumar Dhumal

not present

because of the illegal occupation... (*Interruptions*)

SHRI SONTOSH MOHAN DEV: Still some Members from the BJP are peeping in.

MR. SPEAKER: If they want to come back into the House, they can come back.

Now the question is:

"That the Bill, as amended, be passed".

*The motion was adopted*

18.42 hrs

CENTRAL EXCISES AND CUSTOMS  
LAWS (AMENDMENT) BILL

[*English*]

MR. SPEAKER: Now we take up the other Bill at Serial No. 8. The Minister may move the Bill for consideration.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI RAMESHWAR THAKUR): On behalf of Shri Manmohan Singh, I beg to move\*:

"That the Bill further to amend the Central Excises and Salt Act, 1944 and the Customs Act, 1962, be taken into consideration."

MR. SPEAKER: Motion moved;

"That the Bill further to amend the Central Excises and Salt Act, 1944 and the Customs Act, 1962, be taken into consideration"

Shri Kasi Ram Rana - not present

Shri D.P. Pal - not present

Shri Sriballav Panigrahi - not present

Shrimati Geetha Mukherjee.

SHRIMATI GEETA MUKHERJEE (Panskura): Mr. Speaker, Sir, at this hour, I do not want to go into all this. I only want to make one complaint to you and then I want clarifications from Dr. Manmohan Singh.

The complaint is that Dr. Manmohan Singh assured on the floor of the House, he will be discussing with me about my proposals, which he did not. I would have brought a privilege motion against him but I refrain from bringing it. But he should answer all my points raised in my proposal.

As far as the clarification is concerned, I have no objection to the Bill.

The only point that I want to understand is what is the machinery to really implement this Bill because this is a very well-intentioned Bill. We have so many well-intentioned Bills without implementing machinery.

My query is what is the implementing machinery contemplated by the hon. Finance Minister. We would like to know this.

The Central Excise and Customs laws (Amendment) Bill, 1991 is being discussed now.

MR. SPEAKER: There is nobody to speak on this.

*(Interruptions)*

MR. SPEAKER: I called out the names and nobody was paying attention.

*(Interruptions)*

MR. SPEAKER: I will repeat.

*(Interruptions)*

MR. SPEAKER: Shri Bhagwan Shankar Rawat can speak on this Bill now.

*[Translation]*

When I called your name, you were not present here. Anyway, you may speak now.

18.48 hrs.

*[SHRI SHARAD DIGHE in the chair]*

PROF. RASA SINGH RAWAT (Ajmer): Mr. Speaker, Sir, the Central Excise and Customs Laws (Amendment) Bill, 1991 has been brought by the hon. Finance Minister. A discussion has been going on in India since long for realising the custom charges from the importers and producers and making refund of its claim. Whether they have any right or not. In fact the custom duty is paid in order to save the consumer from being exploit and on the goods being imported. Thereafter, they seek permission from the Government for its refund. In the meantime of customs duty etc. is paid by the importers and producers that is charged from the customers, when it is charged from the customers, the whole burden falls on the customers. When the Budget is presented by the Central Government, various taxes are imposed. When various taxes are levied, the importers and producers pay the customs duty and the excise duty. When Finance Appropriation Bill is brought, after the presentation of the Budget, most of the taxes are reduced. After this announcement refund of the amount which was paid as customs duty or excise duty is sought and people make higher claims.

But it takes a long time during which tax so imposed is realised from the consumers and it results in loss to consumers. So this wrong practice should be stopped as manu-

[Prof. Rasa Singh Rawat]

facturers or industrialists or importers corner all the profit. A handful persons control the amount of lakhs or crore of rupees of excise duty or custom duty. The customer has to suffer because he has to purchase things from the market daily. He has to purchase goods on the price fixed by the shopkeeper. According to this law a person who wants to take refund of the custom duty, excise duty or any other duty, deposited by him will have to prove that he has actually paid the excise duty etc. and he has not passed on the burden of the duty to the consumers and has not taken a single paisa from them. Only then he will be entitled to take refund. One who wants to take refund would have the responsibility to submit all relevant documents failing which the amount to be refunded would be distributed among the consumers.

This issue was raised during the regime of previous Government and the Public Accounts Committee had also gone into the question as to how the amount of crores of rupees taken refund by producers and importers which was earlier realised from consumers by them should be refunded to the consumers. This amount does not reach them. How it should reach them? A case came into light where in 1989, 105.56 crores rupees of excise duty and custom duty were refunded to some persons and public undertakings or to some other big institutions. That amount of millions of rupees was distributed among importers or manufacturers and when this issue came to light the then Minister of Finance Shri Madhu Dhandavate had to give clarification. The public Accounts Committee clarified that the amount collected as customs duty from the manufacturers or importers or consumers should reach the genuine persons while refunding it. How this amount should reach the right people? What system should be evolved for this purpose? The Government has decided to set up Consumers Welfare Fund. It has been provided in this amendment that if there is any such amount whose major part has not been claimed or whose there is no claimant or

whose claimant has failed to submit relevant documents, then that unclaimed amount will be deposited in Consumers Welfare Fund. It will be used to benefit or to provide relief to the consumers. The Consumers Welfare Fund has been set up with this object in view.

Last time billions of rupees were recovered in the form of Central Excise and Customs duty which were distributed bad all knows the way it was distributed and misused. The officers were blamed of misappropriating the funds. So my demand is that there should be a proper inquiry regarding the money meant for the beneficiaries and whether they received it or not. I would like to know it from the hon. Finance Minister.

Secondly, some rebate and concession is given in various taxes before this Finance Bill is passed. I have got the information that Defence Ministry alone had to bear the loss of Rs. one crore as excise duty. On the one hand our Defence Ministry is going to make some cut in the budget, whereas there is a need of more budget for defence forces for the security of our borders and at the same time if heavy amount of money is being misused by few people and not being utilised properly it is detrimental to the interests of the country. I believe such people are traitors. Thus the bungling of Billions of rupees in the past should be scrutinised and the whole amount should be deposited in the consumer Welfare Fund which is being constituted, so that the consumer is benefited from the fund. Essential commodities are not available to the consumer in the market or he does not get other things. The Shopkeeper says that so and so tax has been levied, excise duty has been levied and they are charging money indiscriminately. Something in this regard should also be mentioned in the Bill clearly about the price and excise duty on a particular commodity so that the consumer is saved from such a big loot and if it is paid by the purchaser then the producer and importer should have no right to receive that amount. And in future when the Budget is passed it should be followed by passing of Appropriation Bill. Meanwhile, if there is bungling every year, I would request

the hon. Finance Minister to make certain additions and alterations while presenting the Appropriation Bill in the days to come. Most of the people would misuse the provisions of the budget presented by you. They will try to exploit these figures and earn through unfair means. Through efforts should be made to prevent such practices. If there is a deduction in the amount, the amount of savings realised from them should reach to the consumers, otherwise the money may be deposited in Consumer Welfare Fund by which the consumers would get some relief. Arrangements should be made to utilise this amount for providing consumer items to the consumers at cheaper rates and it may be used for the defence of the country.

With these words, I honour the sentiments which the Central Excise and Customs Law (Amendment) Bill, 1991 has been presented, but all the same I demand that it may be properly scrutinised. Because last time it was the rule of Janata Dal and prior to that Congress was in power and Late Rajiv Gandhi had stopped it. But after that there had been payment of Billions of rupees. It happened during the tenure of previous Government also. All these things may be enquired into and the money may be deposited in the Consumer Welfare Fund.

[English]

SHRI SRIBALLAV PANIGRAHI (Deogarh): Mr. Chairman, Sir, I rise to support this Bill—the Central Excise and Customs Laws (Amendment) Bill, 1991.

But, I wonder why there has been such delay in bringing forward such a Bill till today. The Public Accounts Committee, as we understand, has been recommending such measures to be taken for the last more than two decades.

SHRI CHANDULAL CHANDRAKAR (Durg): Better late than never.

SHRI SRIBALLAV PANIGRAHI: The Public Accounts Committee has been making such recommendations in its reports

since 1968-69. Therefore, there is no controversy about this Bill.

19.00 hrs

It should be passed unanimously. But, at the same time, I would request the hon. Finance Minister to have a fresh look at different laws of his Ministry and also come forward with corrective measures, as early as possible. When in some States, in the sales tax law, such clauses were there and they were plugged much earlier, then, how was it that the Government of India took such a long period to come to this conclusion that injustice is being done. Let us go to the very roots, so that those tax payees are taxed properly and they are not required to pay the tax in excess. Again, the question of refund will be coming. It also complicates the situation to some extent.

In our system, it is very difficult to find out sometimes, when such undue tax is realised from the common consumers. The buyers or the consumers are common consumers. The buyers or the consumers are the common people and they are quite at a large number, spread over the entire country. It is not paid back to them. When there are large or big customers, for instance, in the case of sale of a motor car, one can locate the purchaser - the customer - and it can be paid back to him, if anything is excess in payment. But, as I said, in respect of so many goods, where a large number of common people are the customers, they are not getting it back. By and large, ours is a country of poor people. Therefore, my submission to the Government, through you Sir, is: let them have a fresh look at it and let them evolve a system, so that minimum of the higher side or undue taxation is realised, because refund is really a complicated matter.

When there is such a difficulty to find out the exact consumer or consumers, then a new fund will have to be created - Consumer Welfare Fund. The rules, of course, will have to be framed afterwards. But, while framing the rules, they should be very careful about

[Sh. Sriballav Panigrahi]

it. In our system it is more misused than properly used. Certain amounts are collected from certain sections, from certain areas. But if there a specific procession is not provided then, a considerable amount from this fund will be spent somewhere else for benefit of certain types of other consumers. It should be avoided.

I will conclude after giving one more suggestion. Recently, when our hon. Prime Minister had visited Germany, while talking to various sections - even he had a meeting with the leading industrialists of Germany - there was a question put to him. It was said that in India you have liberalised so many things; you have gone for a liberal policy, industrial policy and all those other things; many restrictions have been lifted but, still the business community and the industrialists are required to do a lot of paper work, they have to submit so many returns and even the small traders are required to maintain records etc., naturally, this aspect should not be lost sight of.

Also, when the Parliament is in session, very often, we find our hon. Finance Minister or his Minister of State almost coming daily before the Parliament, to table some of the notifications, rules etc relating to his Ministry. It is a very complicated system. So many rules and regulations are there and also it will go on changing. Therefore, a fresh look should be given and efforts should be made to minimise these things and to simplify the procedure also for the benefit of small sections of people.

With these words, I support the Bill. As I said, this Bill is non-controversial and of course, it is intended to correct the situation which was prevailing since long.

MR. SPEAKER: Before I call upon the hon. Members to speak, I would like to inform them that it was decided in the meeting yesterday that items 8 and 9 will be taken up together for discussion because the same points would be made on both the Bills. So, if you agree.....

SHRI NIRMAL KANTI CHATTERJEE (Dum Dum): Whoever may have suggested that these two Bills are of similar nature.....

MR. SPEAKER: It was not only suggested; but it was agreed upon.

SHRI NIRMAL KANTI CHATTERJEE: Whoever may have agreed to this may not have been within their senses. These two Bills are of entirely different scope and type. So you can request us that we cut short our speeches. But please take up one after the other. For God's sake, don't tie them up together.

[Translation]

SHRI MOHAN SINGH (Deoria): Yes, it is possible. That is a fact. Therefore Mr. Speaker, Sir, we may pass these bills in a minimum time permit. But suspect matter 2 both the bills in different.

[English]

MR. SPEAKER: At least you don't repeat the same points while speaking on both the Bills.

AN HON. MEMBER: We will be brief.

MR. SPEAKER: Not only brief; but you will not repeat the points and speak relevance.

SHRI NIRMAL KANTI CHATTERJEE: We don't guarantee that!

MR. SPEAKER: You don't guarantee relevance!

SHRI NIRMAL KANTI CHATTERJEE: This House has a tradition of not guaranteeing it!

MR. SPEAKER: Nirmal Kantiji, do you want to speak on this bill?

SHRI NIRMAL KANTI CHATTERJEE: I wanted to speak; but we have another speaker. I will speaker afterwards.

**MR. SPEAKER:** Please don't decide the sequence sitting over there. Let me decide it.

**SHRI NIRMAL KANTI CHATTERJEE:** Do you want us to surrender all our rights?

**MR. SPEAKER:** You have to; otherwise the House cannot run according to the sweet will of every Member.

**SHRI NIRMAL KANTI CHATTERJEE:** Sir, it may surprise you that I will consume very little time of the House.

This unjust enrichment was there since 1970s. The Last Public Accounts Committee was chaired by Shri Santosh Mohan Dev. Almost all the ruling party members of the Public Accounts Committee of that time have been inducted into the Cabinet now. So they know it.

The issue was very simple. Why it was not decided earlier is because one supposes that there was a nexus among politicians, administrators and the manufacturers in terms of excise. The procedure was also very simple. For the manufacturer - I don't know whether to use the expression "in collusion" - the Assistant Collector will impose a duty which later is to be considered as a duty which is higher than normal. On that basis the manufacturer will add the price plus the duty and pass it on to others. After the lapse of some time, he will come back to the same Assistant Collector to claim a refund of the excess he has paid and this was normally granted.

This was considered to be unjust enrichment because the excise duty has been passed on to subsequent stages of circulation of that commodity. Why a decision could not be taken for such a long period in this regard is because so many finance Ministers have in the mean time come and gone. Shri Pranab Mukherjee was there; many Congress ministers were there; other ministers were also there. The nexus was very strong. Partly also - I don't know whether that also is a consequence of the nexus - the law Minis-

try was seldom unambiguous about its opinion. I think Shri Santosh Mohan Dev will agree with me.

The Public Accounts Committee was unanimous despite a little kind of bitterness that such a law is feasible and such a law should be there in our statute book. There is no difference of opinion on that. Therefore, is our full support on this. The only spanner I want to give is this. Chapter II-A says that there should be indication of the amount of duty in the price of goods, etc., for the purpose of refund and crediting certain amounts to the fund. The recommendation that a fund be there was partly due to the judicial pronouncements. It was also the Public Accounts Committee's view that since the ultimate bearer of the burden cannot be identified, therefore, it is wise to have a central fund for some good purpose.

Now this provision that he be asked to mention the part of excised duty which he is absorbing and the part which he is passing on is of an enormous nature. I will illustrate by simple arithmetic without going into any algebra. Suppose the excise duty - special excise duty or any other duty - is only five per cent. A very simple thing could be that he raises the price of the commodity itself by six per cent. And the excise duty after the rise of six per cent would be the amount. If the same five per cent goes, it will be approximately six per cent. Then, he will say that he is not passing on anything at all or only one per cent so that he will come back to claim the refund. This is the least that is involved in this provision about which I should warn the Finance Minister if it has escaped his notice or if he is too much trusting the manufacturers or his department. If it were not there, I am sure a good deal of Comptroller and Auditor General's report would not come at all. If the manufacturers and the Assistant Collectors were sure that nothing can go back to the manufacturers, such things should not be there at all. Henceforward, the only kind of cases that will flood the Excise Department would be short levy cases, not excess levy cases. There is no doubt about it. Short levy cases will be there. Because of

[Sh. Nirmal Kanti Chatterje]

short levy, he will try to claim and there will be adjustment. Because of short levy, there will be advantage and then there can be adjustment. I warn the Minister of State also who was in the Public Accounts Committee. He knows. I will just request him to reconsider whether this provision is a necessity in legal terms. If not, it is better to do away with this. With these words, I support this Bill.

[Translation]

**SHRI GIRDHARI LAL BHARGAVA** (Jaipur): Mr. Speaker, Sir, I want to make a submission on an issue which has been often discussed here. This issue is the bone of contention since 1986-87. When Shri Madhu Dandavate was the Finance Minister, this issue came up for discussion and it was stated that excise duty worth Rs. 1300 crore would be refunded to industrialists. The relief in excise duty does not reach the consumers. The amount is refunded to the companies but the benefit does not reach the consumers and that is why it is illegal transfer of money.

The Public Accounts Committee recommended introduction of a Bill to check this illegal transfer of money. Now according to this Bill the money would be returned only in case the company has not charged from the consumer or the retailer. Many writ petitions against this system are pending in the Supreme Court. An amount of about Rs. 88 crore 43 lakh has been refunded from April to June this year but the number of those who have been refunded money voluntarily and those under Court's orders is still not clear. From 1986-87 to 1989-90 about Rs. 1018 crore 89 lakhs have been refunded. There is a provision in clause 11 of the Excise Act that if a wrong figure has been filed, the amount would be refunded to the consumer. This figure comes to about Rs. 300 crore and any such cases are pending with the Supreme Court. All right we agree that a Consumer Protection Fund would be set up and it would take care of the welfare of consumers, but the Bill is not clear as to how the Fund would

be created and how it would benefit the consumers. The hon. Minister deserves congratulations for bringing forward a Bill which was pending since 1986-87 but so far it is not clear as to how it would benefit the consumers in general. The definition of Consumer is very wide. How would the common consumer be benefited through this measure? The hon. Finance Minister should bear this in mind while replying to the Debate. I mean to say how much would be credited to this Consumer Protection Fund since Shri Madhu Dandavate has put a ban on it. The hon. Minister should categorically state while replying to the Debate as to how the funds would be utilized.

**SHRI MOHAN SINGH** (Deoria): Mr. Speaker, Sir, I had also given notice for an amendment but it was not allowed as my name did not catch your eye. My aim was not to move the amendment but to express my views and happiness in welcoming this Bill. The idea was mooted by the ousted Janata Dal Government and this Bill has been brought forward in that context. Besides, can we not find a method through which the consumer is not forced to bear the burden of extra taxation. If they have to pay the excise duty, that should be deposited in the Consumer Protection Fund or some thing of this sort should be evolved. But how it would be done or how would the funds be utilized, is not clear in the Bill. The manufacturers and producers' self interest was involved in getting the refund of the money and that is why they fought the cases in High Court and the Supreme Court. Do you think the Consumer too would be capable enough to fight cases to get refund of his money. The Bill seeks to make some arrangements to look into such cases through the Divisional Assistant Collectors. But the problem is that these officers are already overburdened with work and they are not able to cope up with their own work. It is difficult to say at this stage whether they would be able to execute the scheme properly. I would like to know the way in which cases of dispute between the manufacturers and the Custom and Central Excise Department regarding the classification of products and their price would be

dealt. The details about legal and technical procedures to be followed have not been laid down anywhere. Therefore my suggestion is that efforts should be made to ensure that the consumer does not pay extra duty under any circumstance. If this cannot be done then a simple procedure must be found out to enable him to get refund of his money through the Consumer Protection Fund. Besides provision must be made so that the consumer is benefited through this Bill. It would be better if the Parliamentary Consultative Committee attached to your Department deliberates on this Bill and constitutes a sub-committee to evolve a simple procedure which could benefit the consumers and then bring forward a comprehensive Bill to this effect. I think it would prove to be more effective. With this suggestion I welcome the Bill and thank the hon. Minister for it.

[English]

SHRI BOLLA BULLI RAMAIAH (Eluru):

The hon. Finance Minister has introduced a Bill on the Central Excise and Salt Act, 1944. The principle underlying the Bill is very good but certain problems may arise while implementing the provisions.

The concept of undue enrichment naturally appears glaring on the face, in respect of indirect taxes like Customs, Excise and Sales Tax, but the actual tax payer, viz. the manufacturer, the importer or the trader as the case may be will understand the confusion more practically than the persons who try to make politics out of small issues and situations.

Every tax statute does carry a provision for making good the short collection or refunding the excess collection which is a fundamental ingredient of a tax law for the reason that any imposition of tax is bound to result in disputes which would either enhance or reduce the duty liability than the one that is levied and paid at the actual payment of tax. In other words, a tax statute without the mechanism for realisation of the short collection or refunding the excess collection would make the act itself lifeless and ineffective.

Indirect taxation does not mean payment of tax by the consumer himself. The fact that the gross price includes the element of taxes does not necessarily mean that the entire tax has been paid by the consumer since the manufacturer might also have sold the product at a loss by not covering even the cost of production and taxes. In such cases, a part of the tax already paid to the revenue is borne by the manufacturer himself and all the tax is not paid or incurred by the consumer.

It is wrong to presume that every trader necessarily sells all his goods for profit only as the concept of cost of production should be treated as the sum total of the cost of raw-materials, the cost of operation and tax which nevertheless is covered in many cases. In respect of the goods sold by the public sector and some private sector units, it is more evident as they consistently incur losses and the sale price is less than cost of production.

Now, as per this amendment, it becomes necessary as the central excise carried an existing condition that the refund claim should be filled within a period of so many months with the full details of the proving the particulars that the burden of excess duty paid by the manufacturer has been passed on to the consumer or not. It is just impossible in its practicality to pass on the proportionate benefit to the actual consumer because for most of the consumable items, the actual consumer cannot be identified or the actual consumer cannot be the same person who has initially paid and the department has no mechanism to ensure such distribution. Hence the allegation of undue enrichment is not sustainable with success as it causes complex problems to the manufacturer. Government has to find out a mechanism to meet the problems that may arise while implementing the provisions.

With regard to introduction of new Section 11D and the modifications to the present Section 11C of the Central Excise Act, I must submit that it will add to the manufacturers' existing problems. Since the amendment to Section 11C is interlinked with the amendment to Section 11B, similar problems will



[Sh. Bolla Bulli Ramaiah]

arise in practical implementation.

That is the reason why, it is a very well established thing to put it in a separate clause, such as a welfare fund. But the problems that will arise while implementing it should be properly taken care of by the Finance Ministry. I hope he will look into all these aspects and consider all the problems that may arise at the time of actual implementation.

[*Translation*]

SHRI BHOGENDRA JHA (Madhubani): Sir, I would like to draw the hon. Finance Minister's attention towards some points. One point is regarding irregularities in the collection of customs duty. Last year when I visited Jeddah in Saudi Arabia, I came to know that a number of 'Hajis' living there were unaware that their name were being used to smuggle goods into India. This is a regular feature. The staff at the Indian consulate show their helplessness because according to them, no action is taken on information sent by them to Bombay. This means that some officials of the Customs Department work in connivance with the smugglers. I too belong to an area that lies on the country's border. Large-scale smuggling takes place in Raxaul, Madhwapur, Jayanagar and Dheodha. When we launch an agitation to check this practices, those who bring such goods in small quantities for their own use are apprehended whereas the big-time smugglers who can give bribes go scot-free. No action is taken against the latter. The Customs department is responsible for this. So I request the Government to take stringent measures in this direction.

Secondly, people should know where the goods which come by air are available so that they avoid clandestine methods to get such goods. The Excise Act of 1944 which was framed by the British Government has not been changed till now. The Cr. P.C. was changed in 1974 and a number of other laws were changed but this was not changed. For

example the Salt Excise Act. Mahatma Gandhi launched the Salt Satyagraha in protest against the salt tax laws. The Bill before us is an amendment to that Act. Can't we make salt tax-free? It is not a big thing but a question of national sentiment and it is also a question of basic necessity of the people. It is not a major source of income for the public exchequer. Salt item should be deleted from this Act with a view to provide relief to the people. We should do everything possible to contribute to the national movement launched by Mahatma Gandhi.

There is another important matter regarding excise duty. Crores of rupees are due as tax arrears and no concerted step is being taken to recover the arrears. Some cases are pending in courts, barring a few people among the defaulters, all black-marketers. The Government is so handicapped that it cannot recover these arrears. Every year, new taxes are introduced. We are facing an economic crisis because crores of rupees due to the Government are lying with the tax-evaders. Therefore, I request the Government that a Bill should be brought in the current session and if necessary an Ordinance be issued to recover the arrears of taxes over the last 2-3 years. So that tax-evaders may realise that the law/Act has some force behind it and the Government also can do something against the defaulters. So the laws should be strictly followed. This impression should not be there that laws are meant for the poor only and there is nothing for the affluent and the tax-evaders.

With these words, I conclude.

SHRI DAU DAYAL JOSHI (Kota): Sir, this matter has been pending since 1968. It has been taken up for discussion time and again but no action has been taken by any Government. In the last session, an allegation was levelled directly against the former Finance Minister, Shri Dandavate even though he was not present in the House. Later, he refuted the allegation and presented the whole matter before the Public Accounts Committee. In its assessment the Public Accounts Committee. In its assess-

ment the Public Accounts Committee had severely criticised Revenue Officials and the Revenue Secretary... \*... Now this Government has woken up to this fact and proposes to take some positive steps... (*Interruptions*)...

MR. SPEAKER: Names of officials should not be mentioned.

SHRI DAU DAYAL JOSHI: The Public Accounts Committee has alleged that the former Finance Minister kept the matter pending for eight months and did not take any effective action. I request the hon. Finance Minister to look into the recommendations of the Public Accounts Committee and the charges made by it against various officials. This law which is in force since 1968 has some lacunae which need to be removed. Consumers in India are a harassed lot and there is no protection for them. Today, the hon. Minister said that a fund would be created but to what extent will this fund be able to provide relief. I think everyone is aware of the amount of expenditure incurred by each department. Excise duty evasion has become common these days. Big industrialists regularly evade excise duty. When the Government takes stringent action to recover excise duty dues, the people go to court. Many such cases are pending in the Supreme Court for a long time.

Sir, while bringing the Bill, the hon. Minister may please take stock of the number of the number of cases relating to his department pending in the Supreme Court. I regret to say that I have evidence to prove that lawyers of the Government cannot match lawyers like Palkiwalas etc. of rich people... (*Interruptions*) Even today, there are cases pending in the courts for the number of years.

I request the hon. Minister to turn his attention to the corruption in his department. Steps must be taken to provide relief to the consumer.

[*English*]

SHRI M. RAMANNA RAI (Kasargod): Sir, I rise to support the Bill. The aspect regarding unjust enrichment was discussed sufficiently in the Ninth Lok Sabha also. On the basis of the discussion, rightly the Public Accounts Committee come to the conclusion that some loopholes are there and they should be plugged.

This Bill, I presume, is to that effect. Of course, nobody should be allowed to make unjust benefit or nobody should be allowed to exploit the poor people; that is there. But the question is how to remedy it.

As per this Act, a consumer's welfare fund is to be established because all the money that is otherwise going to big people, coffers should be diverted to this fund. Now, my doubt is How this fund - though the name is a consumer's welfare fund - is going to the real benefit of the consumers? May be in rules that are going to be framed, this thing will be made clear. Anyhow, I believe, the Government, while framing the rules, will make the necessary arrangements. So, without going into the details regarding demerits and merits of this Section, I support the Bill.

[*Translation*]

PROF. PREM DHUMAL (Hamirpur): Mr. Speaker, Sir, I support the spirit behind the Central Excise and Customs Duty (Amendment) Bill 1991. I was listening to earlier speakers with rapt attention. After going through the objectives of the Bill I would like to point out to the hon. Minister of Finance, that the provisions of Bill should be treated as a temporary measure just as the present Budget is meant for a few months only. The hon. Minister of Finance must go into the genesis of the report of PAC on unjust enrichment. What is unjust enrichment? As long as the Government does not know the necessity of excise refund, the consumers cannot be benefited by the provision of the Bill. Therefore, I request the Government to

[Prof. Prem Dhuma]

simplify the procedure of central excise duty.

I would like to cite an example. Once excise duty rates were revised by 15 per cent. Many small manufactures could not understand for days the implications of revision of excise duty by 15 per cent and continued to know at the doors of chartered accountants for full knowledge of the revision of excise duty by 15 per cent.

Sir, if the old slabs of excise duty are examined afresh, then it will be found that the basic policy of excise duty is wrong. I urge the Government to conduct a study before the presentation of next Budget. If the procedure is simplified then the question of refund will not, at all, arise and the consumers will directly get the benefits. I do not know the criteria the Government would like to follow while constituting a Consumer Welfare Fund. Committee headed by Shri Santosh Mohan Dev did a good job by detecting scandals, but the solution sorted out to benefit the consumers will not be fully successful. It will get entangled in red-tapsim. Till the money remains in the coffers of the Government, it won't unjustly enrich anyone, but the Central Government. Therefore, I urge the hon. Minister of Finance, who takes interest in such matters, to conduct a comprehensive study on the subject. As per existing rates of excise duty small manufacturers are not in a position to maintain records of excise duty and when the time to levy excise duty comes, the small entrepreneurs bifurcate their units. Units are multiplied but the production does not increase. The Government is no way benefited by this.

Sir, the Government must take note of the high rise in the rates of raw materials. The Government will definitely admit that there has been a steep rise in the rates of raw materials after the presentation of this Budget, but there has been no revision in the limits of excise duty by the Government. Evasion of excise duty will again start. Because of the complicated and confused rates, the benefits will not really pass on to the consumers.

In the name of benefits the consumers' unjust enrichment' is being withdrawn from the manufactures, but is not being passed on to the consumers and is being pocketed by the Government. Till the rules are simplified and reframed how will the benefits trickle down to the consumers?

Suppose that today I buy a commodity in the market at the enhanced excise duty rates and after that the manufacturer is not refunded the enhanced excise duty.

[English]

How do that amount reach me as a consumer?

It will never. Therefore, I suggest that there is a need basically for changing the rates and the slabs of central excise duty so that they become simple and directly the consumer gets the things at cheaper rate at the time of buying. It cannot be given to him after you create a fund for that and then find out who was the man, who has paid much more than what he should have and then start refunding. This is not going to help.

[Translation]

I again appeal that till the basic central excise duty rates are revised, the consumers are not going to be benefited. The Government must revise the slabs of units for increasing revenue from excise duty from the industry. The Government may revise these for one year on an experimental basis. Exemption from excise duty can be given for 5 per cent or 10 per cent production and after that excise duty at the rate 15 per cent may be levied on total output if it exceeds the exemption limit. Earlier the raw materials were available at Rs. 30 per kilogram. Cost of raw materials has since increased. As such the entrepreneur will be constrained to multiply his units. On the one hand the Government wants to check 'unjust enrichment' on the other hand, it would suffer losses due to multiplication of units.

Therefore, I suggest that if central ex-

cise duty rates are reduced and excise procedure is simplified by the Government, then there will be no need to bring forward any further legislations on the subject.

With these words I appreciate the intentions of the Government with which it has brought forward this Bill for the benefit of the consumers. Once again I request the Government to reduce the central excise duty rates.

THE MINISTER OF STATE OF THE MINISTRY OF STEEL (SHRI SONTOSH MOHAN DEV): Mr. Speaker, Sir, I do not want to make a speech. I would just convey my thanks to the Finance Ministry and to the Law Ministry... (*Interruptions*)

MR. SPEAKER: You are as well responsible for it.

SHRI SONTOSH MOHAN DEV: When the report was submitted, there was a doubt whether it will come into existence. Our guidance and request was that within six months, this should be done. Sir, now this has been done within six months.

I congratulate the Finance Ministry and the Law Ministry for the action they have taken in this regard.

MR. SPEAKER: You are congratulating yourselves.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI RAMESHWAR THAKUR): Honourable Speaker, Sir, we are really grateful to the hon. Members who have participated in the debate and have made a number of valuable and constructive suggestions.

Sir, almost all participants have appreciated the contents of this Bill broadly and also the stand of the Finance Minister for having brought this Bill in fulfillment of the commitment made by the Finance Minister in his speech as well as our commitment to the suggestion made by the Public Accounts

Committee in their report to bring this Bill within six months.

Shrimati Geeta Mukherjee appreciated the contents of the Bill and she enquired about the machinery to implement this Bill. We assure the hon. Member that, in the existing organisation, in the Department of Customs and Excise, we will take a special care by framing the rules particularly for the Consumer Welfare Fund and shall ensure that there will be no difficulty in regard to the implementation of the provisions of this Bill. We will try our best to implement the contents of the Bill in letter and spirit. We will also see that no harassment is there to any consumer or any producer or anybody who will be effected by the provisions of this Bill.

Some Members have made very valuable suggestions that we should simplify and rationalise the provisions of the Bill. The hon. Finance Minister has said that along with the policy to make structural changes in the economic policy, industrial policy and the trade policy, efforts are now on way to make substantial change in the direct and indirect tax laws which include customs and excise laws, to simplify them.

It was rightly pointed out by Bhogendra Jhaji that we have got the name of Custom and Salt Act. Certainly it is not befitting and we will take care of the suggestions made about the name and also about the contents of the law and shall try to make them as simple as possible, as rational as possible so that the disputes are minimized and those who are effected - the manufacturers, importers, consumers as well as the assessing officers - have no difficulty in implementing the law in future.

There was a general point in regard to the complication that we get by issuing notification every month, every week and sometimes daily. I would like to assure the hon. Members that as per the decision of the Finance Minister and our Ministry, now there is no such system of issuing notifications every day, every week or even every month. The decision is primarily to have notifica-

[Sh. Rameshwar Thakur]

tions to give effect to the provisions of the Budget and may be in very important and urgent cases some notifications may be there - may be half-yearly but very rarely, but no regular notifications will be there.

Shri Rasa Singh Rawat: has been good enough to ask about various aspects. To day in his own words:-

[Translation]

He says that it could be certified that tax had not been recovered from the buyer. Now let me deal with the term 'buyer' which has been provided in the Bill. This Bill provides that the producer will have to evaluate the actual cost of production, the sale price and the tax to be paid. All these details will have to be furnished to the Government and then the Tax department will calculate the tax to be paid by the producer. In order to avoid that the producer does not grab the tax amount, he will be asked to deposit the same with the department in advance. Now we will treat the claim submitted by the producer as final without sending it for adjudication. The money deposited by the producer is actually not the money which was collected from the consumers. In this case, the money deposited by the producer will be refunded to him. Now the tax amount which the producer will collect from the consumers would be deposited by the producer will be refunded to him. Now the tax amount which the producer will collect from the consumers would be deposited in the Consumer Welfare Fund. While framing rules for the fund, various suggestions that have been made by the hon. Members would be considered. At the same time, it would be seen whether the duty collected from the consumers could be refunded to them. If this scheme does not prove practical, the Government would enact laws which would prove beneficial to the consumers. It has been asked as to why the amount that was collected earlier has not been transferred to the Consumer Welfare Fund. This happened earlier because the

law to this effect has not been enacted. That is why the Public Accounts Committee recommended for enacting a law. The Government will strictly follow this law to utilise the extra that was collected in a wrong manner. But there is no provision to utilise the money which has already been collected. Efforts will be made to implement the scheme with retrospective effect. We will make all endeavours to ensure that the above amount is also deposited in the Consumer Welfare Fund. Shri Chatterjee said that

[English]

nexus between the manufacturers as well as the collecting authorities and so on. He is a very knowledgeable person. We have already appreciated his contributions to the PAC and in fact it was one of his suggestions about the Consumers Welfare Fund which we have established. But the question is that there may be some weakness in the system. But, so far, we have got a very bright and good officer, may be some weaknesses are there, We will try our best to ensure that the taxes which are due are paid to the Government, refund should go to the consumers refunds which can not be given to the consumers, will go to this fund. These efforts will be made. As regards his clarifications, we will take care as has already been explained under Sections 11. They will have to explain what is the price, what is the duty and, therefore, there will be no difficulty and as you said they will be merged together. They will have to explain it because it has to be approved by the Department in advance.

Similarly, there were other successions. Let me assure the hon. Members that their suggestions will be duly considered and we will take full advantage of their suggestions. We are grateful to them for their whole-hearted support to our Bill and this Bill will be a historic Bill.

MR. SPEAKER: The question is: "That the Bill further to amend the Central Excises and Salt Act, 1944 and the Customs Act, 1962, be taken into consideration".

*The Motion was adopted*

*(Interruptions)*

MR. SPEAKER: The House will now take up Clause by Clause consideration of the Bill. There are no amendments. The question is:

MR. SPEAKER: Whether the Bill should be passed or not, I would like to congratulate Mr. Dev and the Ministers in the Finance Ministry and the Members of the Committee for making a good recommendation, and not only making a good recommendation but turning it into a law also.

*"That Clauses 2 to 15 stand part of the Bill".*

SHRI NIRMAL KANTI CHATTERJEE: My request is that let this be the turning point.

*The Motion was adopted*

*[Translation]*

*Clause 2 to 15 were added to the Bill*

MR. SPEAKER: The question is:

"That clause 1, the enacting formula and the long title stand part of the Bill".

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Speaker, Sir, I would like to submit that the hon. Minister made an announcement that Consumer's Welfare Fund would be constituted. However, it has not been made clear as to when it would be constituted. Will it remain as an announcement only or a particular time will be fixed during which the said Welfare Fund would be constituted?

*The Motion was adopted*

*Clause 1, the Enacting formula, and the Long title were added to the Bill"*

MR. SPEAKER: The Minister may now move that the Bill be passed.

SHRI. RAMESHWAR THAKUR: Sir, I beg to move:

"That the Bill be passed"

SHRI RAMESHWAR THAKUR: Mr. Speaker, Sir, immediately after this Bill is passed, announcement in regard to setting up of Consumer Welfare Fund would be made. In fact, the proposal to constitute the fund is being accepted legally along with the Bill and there would be no delay in it. It will be implemented properly. I express my gratitude to the Chairman and the members of the Public Accounts Committee who have done a commendable work.

MR. SPEAKER: The question is:

"That the Bill be passed".

*[English]*

SHRI NIRMAL KANTI CHATTERJEE (Dum Dum): Sir, just one clarification I want to ask. This is one of the rare occasions when the recommendations of the PAC have been heeded to by the Government. One of the difficulties that we discussed in the PAC is that more often than not the recommendations of the PAC do not reach the political path of the execution. I draw your attention in particular to this witness of the functioning of the Parliament itself that... *(Interruptions)*.

MR. SPEAKER: The question is:

"That the Bill be passed.."

*The Motion was adopted*

MR. SPEAKER: I have to bring to your notice that at this stage this thing is not discussed.