

[Shri Naushir Bharucha]

cover any thing more than what is required. We want to know what difficulties are encountered in the actual enforcement of the provisions of the Bill.

Shri Kanungo: I can only say that he may wait for the first report. After going through the report, if he wants to place any suggestions before the House, he may communicate with me. We will see whether Government can collect this information and whether it is worthwhile collecting it and placing it before the House.

Regarding the other point by the hon. Member opposite about appeals, the right of appeal has been curtailed only in such cases where the decision of the Government is of an executive nature. Wherever there is an element of judicial nature, the right to appeal is always there. But, as a matter of policy, certain orders of Government are not appealable. It was thoroughly discussed in the Select Committee.

About the problematical question which was posted by Shri Panigrahi, I would suggest that he may consult a competent solicitor. I have nothing more to add.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

13.43 hrs.

CENTRAL SALES TAX (SECOND AMENDMENT) BILL

The Deputy Minister of Finance (Shrimati Tarkeshwari Sinha): Mr. Deputy-Speaker, I beg to move:

"That the Bill further to amend the Central Sales Tax Act, 1956, as reported by the Select Committee, be taken into consideration."

I had already explained to the House the important changes proposed to be made by the Bill at the time of moving the motion for reference to the Select Committee. I do not, therefore, wish to take the time of the House by recapitulating them now.

Shri V. P. Nayar (Quilon): When there is plenty of time, nobody wants to take time.

Mr. Deputy-Speaker: Those who usually complain should utilize this opportunity.

Shri V. P. Nayar: I never complain about time.

Shrimati Tarkeshwari Sinha: I would touch only a few changes made by the Select Committee and reply to some of the points raised by the hon. Members in their minutes of dissent.

In clause (2) of the Bill, the definition of "place of business" has been redrafted to include also the place of business of an agent where a dealer carries on business through such an agent. This would resolve any possible doubt in determining the State which could levy the tax in cases where dealers with one place of business in one State move goods to a different State through brokers or agents. In a minute of dissent an apprehension has been voiced that the definition of "place of business", as adopted, would result in taxation by two States of a single transaction of inter-State sale. I want to dispel any such doubt. In clause (8) of the Bill it has been clearly laid down that that State alone from which movement of goods commences would normally have jurisdiction to levy tax on that sale.

In clause (5), another important change has been made to the original draft Bill, and the scope of that amendment is fully explained in the report of the Select Committee, which has been already circulated to the hon. Members.

I would also refer to one other minute of dissent in which it has been suggested that the rate of tax on inter-State sales to unregistered dealers or consumers in other States should be fixed at 5 per cent instead of 7 per cent. But, as hon. Members are themselves aware, two types of transactions are contemplated in the Act, viz. (1) transactions between registered dealers of one State and the registered dealers of another, and (2) transactions between registered dealers of one State and unregistered dealers or consumers of another. In levying sales-tax on inter-State trade the main intention is to ensure that some revenue accrues to exporting States without raising unduly the burden of tax on consumers in the importing State. For this purpose, the rate of tax applicable on inter-State sales between registered dealers in one State and registered dealers in another is fixed at a nominal rate of one per cent. The importing State will be able to recover its own tax on the re-sale of goods by the registered dealer within its area.

But where transactions take place between registered dealers in one State and unregistered dealers or consumers in another, this low rate of tax will not be suitable, as it is likely to encourage the avoidance of tax. The dealers in the exporting State may set off intra-State sales as inter-State sales, thereby avoiding sales-tax of their own State. They may also, in collusion with the dealers in the importing State, encourage suppression of re-sale of the goods within the importing State, thereby avoiding sales-tax of the importing State altogether.

It is only to avoid evasion of the State sales-tax that it has been provided in the Act that transactions of this type should be taxable at the same rate which exporting States impose on similar transactions within their own territory. Such a provision existed in the principal Act itself.

But, unfortunately, due to the multifarious systems of sale-tax prevalent in the different States, it was found difficult to determine the rate of tax leviable on certain transactions. Instances also come to our notice that inter-State sales to registered dealers of other States suffer the tax of one per cent, while direct sales to unregistered dealers or consumers were not taxable at all. Thus, not only inter-State sales-tax, but also the sales-tax of the importing States were avoided altogether.

Normally, evasion of sales-tax was taking place when consumers or unregistered dealers of other States directly imported certain special goods like automobiles, radios etc. from out of the State dealers. The House might be aware that recently we advised the State Governments to adopt a scheme by which the State sales-tax on 15 subjects, such as automobiles etc., should be fixed uniformly at 7 per cent throughout India. It, therefore, follows as a corollary that under the Central Act too the rate of tax for a direct inter-State sale to a consumer should also be a uniform rate of 7 per cent. Quite apart from this consideration, even on other goods the rates of tax vary in almost all the States from 4 to 5 per cent., in respect of commodities imported from out of the State. Adding the incidence of Control sales-tax of one per cent, the ultimate incidence will work out to be at least 5 to 6 per cent. Taking all these factors into consideration, the rate of tax has been fixed at 7 per cent. Thus, a rate of 7 per cent for a direct inter-State sale to a consumer is quite reasonable. Our intention is to plug effectively the loophole in the evasion of State sales-tax.

The alternative higher rate provided in the Act will be of a very limited application to sales of certain special goods emanating from a State like Bombay, which imposes tax at the rate of 10 per cent on some of those items.

[Shrimati Tarkeshwari Sinha]

I may also bring to the notice of the House that the rate of 7 per cent. will not apply to direct sales of declared goods at all nor to the goods which are generally exempt under the Sales Tax law of the exporting State, nor to the goods which are taxed at rates lower than 1%. Besides, the State Governments have an overall discretionary power under section 8(5) of the Act to exempt or to reduce the rate of tax of 7% in suitable cases where they consider it expedient to do so in public interest.

As the House is aware, the Bill has been drafted after a long and detailed consultation with the State Governments and most of the recommendations of the State Governments have been incorporated in the Bill and they have been given due consideration. A Select Committee has examined the Bill also and has improved the Bill further by adopting certain minor amendments

With these words, I move

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Central Sales Tax Act, 1956, as reported by the Select Committee, be taken into consideration."

Shri Kadiyan (Quilon—Reserved—Sch. Castes): Mr. Deputy-Speaker, Sir, the hon. Deputy Minister has just now referred to some of the points raised in some of the minutes of dissent with regard to this Bill, but I regret that she has not referred to some of the other important points raised in another minute of dissent presented by Shri V. P. Nayar and Shri K. K. Warior. I feel that the points raised in that minute of dissent are very important.

According to this Bill, that has emerged from the Select Committee, newspapers are being exempted from the Central Sales Tax and it has been stated that according to item No. 92-A in List I of the Seventh Schedule of the Constitution, it is not

possible for the Central Government to bring the newspapers under sales tax, but I may point out that in item No. 92 of List I of the Seventh Schedule, it has been clearly pointed out that taxes on the sale or purchase of newspapers and on advertisements published therein can be resorted to by the Central Government.

Another objection has also raised and that, I understand, is that under article 269 of the Constitution it is not possible to have this tax. But when I look to article 269 of the Constitution, I find that there is clear provision for this tax. Under subsection (f) it is stated "taxes on the sale or purchase of newspapers and on advertisements published therein", but according to this article, i.e., article 269, there is only one condition that has been placed over this particular article, i.e., section (2). But that deals with the distribution of the proceeds of the taxes so collected between the States and the Centre.

Therefore, what I understand is that nowhere in the Constitution it is stated that newspapers cannot be taxed at all by the Centre so far as sales tax is concerned. I would, therefore, request that newspapers also, specially the chain papers which are making a considerable amount of profit every year, should be brought under the purview of this Bill.

There is one more point that I wish to submit in this connection and that is, especially after the introduction of the decimal system of coinage, that the newspapers have increased their price. I don't say that all the newspapers have enhanced their price, but some of the important papers have increased their price. Newspapers, which used to be sold formerly at 2½ annas, under the pretext of rounding off the value in naya paise, have increased their price to 16 nP. That means an increase of about half naya paisa per paper. That will bring a profit of a considerable amount so far as these important papers are concerned.

The other day the House discussed the Working Journalists (Fixation of Rates of Wages) Bill and several hon. Members pointed out how the owners of newspapers are making a plea of their inability to provide more wages to the workers. Several other hon. Members pointed out how this industry, at least some of the newspapers, is thriving. Therefore, there is no justification in exempting the newspapers from the purview of this Bill. Of course, I hope that the hon. Deputy Minister will answer this particular point.

I want to bring out only one more point and that is about the question of preventing large scale evasion of taxes. In our country, it is common knowledge that evasion of taxes takes place on a large scale. The other day the hon. Deputy Minister of Finance, I think, answering a question in the other House said that income-tax arrears have come to about Rs. 270 crores or something like that. There are innumerable ways by which big businessmen and other interested sections in the business community try to evade the taxes.

With regard to a particular item which can be brought under the purview of the Central Sales Tax, i.e., vegetable oils, evasion is going on unchecked. India being the biggest producer of vegetable oils, if the Government persists on transactions of vegetable oils, of course it will be a great source of income to our national exchequer, but it is told that here in this particular field, evasion is going on. How to prevent this evasion? One suggestion has been made in this minute of dissent that if the sales tax on vegetable oil is added on to the excise duty, this evasion can be prevented completely. I am of the strong opinion that such a change must be made so that our exchequer may get more money for meeting our requirements. These are the main points that I wish to bring out to the hon. Minister. I hope she will reply to my points and clear my doubts.

14 hrs.

Shri S. M. Banerjee (Kanpur): Mr. Deputy-Speaker, my hon. friend Shri Kadiyan has mentioned certain salient features referred to by Shri V. P. Nayar and Shri Warior. I need not touch those points. I have read with keen interest the minute given by Shri Chandak. I absolutely agree with him when he says that the Government of India must be aware that at present different rates of sales tax are charged on the same commodity in different States. Then he goes a step further and refers to the irregularities about sales tax. I have got this bitter experience of sales tax in the U.P. I remember the day I came to this hon. House. I have been asking the hon. Minister whether or not a uniform basis can be found for the application of sales tax in the various States. I may mention for information that Shri Lokanathan was entrusted with the study of Sales tax procedure and its structure in the Madras State. He has also suggested that in fairness, there should be a uniform sales tax in all the States. I do not know the reason—whenever we ask about this particular thing, we are told that it is for the States to accept this suggestion. Some time back, there was a conference of State Finance Ministers here in Delhi. Most probably this matter was also discussed, but no final decision could be arrived at. The only decision which was arrived at is that for 15 items, sales tax was to be levied on a uniform basis and that too at 7 per cent. My submission is that by not applying sales tax on a uniform basis, this particular action on the part of the State Governments and on the part of the Central Government has hit all the businessmen, especially the small businessmen in all the States. There is no reason why it should not be done, on a uniform basis. I fully agree with my hon. friend Shri Chandak when he says—he is one of the Members of the Select Committee—

“These irregularities can be prevented if the Central Sales Tax

(Shri S. M. Banerjee)

Act is made more comprehensive embracing all the items on which sales tax is charged and put a uniform rate in all the States."

I realise from the various statements and answers of the hon. Minister in this very House that it is a big source of revenue to our State Governments. That may be correct. Is it not a fact that the businessmen in the various States are suffering for lack of uniformity in sales tax? If this is an admitted fact and if the hon. Minister also agrees with it partially or wholly, may I submit humbly, why not accept this suggestion and levy sales tax on a uniform basis.

Another point which I wish to refer to is, what is the basis of this 7 per cent? Another Member of the Select Committee has stated that this should be reduced to 5 per cent—I think it is Shri Radha Raman. For this also, there is no sound basis. It is only said, we feel this is a good basis of levying a 7 per cent sales tax on 15 commodities. But, why have the other commodities not been brought under this uniform application of sales tax procedure? It is said that the State Governments have discretionary powers to reduce the sales tax. May I know from the hon. Minister whether any State Government has realised the difficulties faced by the various businessmen and whether in any State they have reduced the sales tax, whether they have used this discretionary power for reducing it? My information is that the State Governments have not done it. They may do if there is some advice. I do not say, something mandatory. There may be something recommendatory or some advice on behalf of the Central Government to the State Governments to see that the business community as such may not completely lose all faith on the sales tax procedures and there may not be more sales tax evasion. Because, I feel that the rigidity about certain rules and the not applying of it on a uniform basis have resulted in tax evasion. Our intention is to make

this system of realising sales tax a foolproof system wherein nobody is able to evade and evasion may come to an end. But, the fact is that there is income-tax evasion to the tune of crores of rupees, and there is sales tax evasion—I do not know; this may also be to the tune of crores if we consider India as a whole.

Then, about sales tax on food commodities—foodstuff—in the U.P., when food prices are going up, when 300 or 400 people in the Eastern districts of U.P. have died.....

The Deputy Minister of Labour (Shri Abid Ali): How many?

Shri S. M. Banerjee: Three hundred people. It may be 3 according to the hon. Minister....

Shri Abid Ali: Which place?

Shri S. M. Banerjee: This does not come under Labour Ministry. In the Eastern districts of U.P.

Shri Abid Ali: Which place?

Shri S. M. Banerjee: Deoria, Gorakhpur—Sir, this time should not be counted as I am replying—in the Eastern districts of U.P., 300 men. This was stated in the State Assembly and it was not completely denied by the hon. Minister there. My statistics may be wrong. It may not be 300; it may be 150. When food prices are rising so high in the U.P., there is sales tax on foodstuff. Could I not possibly suggest to the hon. Minister to see whether at least foodstuff can be exempted from the purview of sales tax? Is it not high time when our Government is trying so much to bring down the prices of foodgrains, that we should also consider the suggestion and see that there is no sales tax on foodgrains?

Then, about medicines, today Shri V. P. Nayar mentioned about the exorbitant price of certain medicines which the shop keepers are selling to the patients. There is no fixed price.

If some medicine is required for some epidemic, it can be sold at Rs. 13 even though it is worth only Rs. 3. Even after that, there is this sales tax on medicine. Therefore, there is a genuine request from all quarters, from all political parties in U.P., that at least these two things, medicines and foodstuffs, should be exempted from sales tax. So, my submission is, when we bring certain amendments to the Central Sales Tax Act, why not discuss the entire Act once for all, get the opinion of all political parties, of all shades of people, and then amend the Act in a way which is acceptable to all.

I do not think that every amendment is moved or brought with any bad motives. I welcome certain features of this particular Bill. But I must submit very humbly that after some time you will have to bring more amendments again. So, it is better that efforts are made to call a conference of all the State Finance Ministers, and at the same time invite all sections of people from this House itself, get their opinion and then some uniform basis or procedure or amendment should be brought to the Central Sales Tax Act. This will be very necessary in my opinion.

I want a specific answer from the hon. Minister as to why up to this time sales tax could not be applied on a uniform basis. This is a question which everybody asks and in U.P. it is 6½ per cent; not only that, it is multi-point in some States and single-point in some States. If you ask, they say there is no uniformity. Some eminent economists have recommended this, and Members of the Select Committee are recommending this. So, may I know from the hon. Minister whether in her reply she would also consider this matter, whether this question will be reviewed once for all to end the heart-burning of the small businessmen?

When sales tax was merged with excise duty, I welcomed it. That is very welcome because sales tax at the source point definitely avoids tax

evasion, and everyone in the country hailed that decision of the Government. In the same way, why cannot that be done on a uniform basis. If it is done, I assure the House and the hon. Minister that tax evasion will be less, because the small businessmen with all their honesty, just to avoid this jugglery and the complicated procedure of sales tax and to keep their body and soul together, do all sorts of tricks, not all with a bad motive. There are sharks in the country here and there, they do it, but the system and procedure of the sales tax and its non-uniform application have completely broken the backbone of the business community as a whole. That is why I wish the hon. Minister may throw some light on this, and I hope he or she will do it.

Shri Achar (Mangalore): I only wish to answer one point that was just now raised by the Kerala Communist Member with regard to sales tax regarding newspapers.

I really thank the Ministry and the Government very much for showing this mercy to these small papers especially.

The Member who supported the inclusion of newspapers also for sales tax evidently was thinking of only the barons of the fourth estate, but what is the position of the newspaper industry as a whole in the country? In fact, I referred to that when I was speaking on the Working Journalists (Amendment) Bill. The Press Commission has gone into this question elaborately and has come to the conclusion that more than Rs. 6 crores have been invested in this industry, and the income they are deriving is hardly Rs. 6 lakhs, not even one per cent. That is the position of the industry. We must not think of only a few big newspapers and then say they are making profits, have sales tax also on them. I would request the Members to consider the position of the industry as a whole, and especially of the smaller, the language papers. I would

[Shri Achar]

even draw the attention of the Member who raised this objection to their own papers I know in South Kanara how their organ is getting on.

Shri V. P. Nayar: We pay sales tax from the revenues. It is collected and paid.

Shri Achar: Yes, and so it is easily said. I know when the newspapers are sold, where exactly it is collected and how it is paid.

Apart from that, what is the position of this industry as a whole? Even considering the aspect of the question the hon Member has mentioned now, are the newspapers capable of passing on the tax to the subscriber? It is a conceded fact that they are not able. They are not able to raise the subscription even when the price of newsprint goes up. When that is the position, if sales tax is levied, can it be passed on to the consumer? With all respect I submit it will not be possible.

As I have pointed out, it is not a prosperous industry, and especially the small newspapers in the mofussil are in great difficulties, and they are closing one after another.

Shri V. P. Nayar: May I interrupt the hon Member? He seems to think that we have put in our Minute of Dissent for levying sales tax on all newspapers. If he would be kind enough to read it he will find we have only suggested that on the inter-State sale of newspapers with a circulation of about 10,000 the Centre may levy sales tax. Small newspapers do not have so much of inter-State sales I believe.

Shri Achar: Where the exemption limit will commence is a different aspect of the matter. Except probably a few of the bigger magnates, what is the position? Especially under the present conditions of a rise in the price of newsprint I would submit it will

not be fair to tax these newspapers, particularly as they will not be able to pass on this tax to the subscriber.

I am really very thankful to the Government for granting this exemption to the newspapers from sales tax.

श्री मूलचन्द्र दुबे (फर्रुखाबाद). उपाध्यक्ष जी, यह सेल्स टैक्स बहुत से मुल्को में लगा हुआ है और हमारे यहां भी ज्यादातर राज्यों में लागू है। पर इसमें इस बात की जरूरत है कि यह हर राज्यों में एक तरह का होना चाहिये। ऐसा मालूम होता है कि गवर्नमेंट तो इस बात की कोशिश कर रही है कि यह टैक्स हर सूबे में एक सा लागू हो मगर इसके लिये लोग राजी नहीं हो रहे हैं। फिर भी गवर्नमेंट को यह कोशिश है कि कोई ऐसी तरकीब हो कि वे लोग राजी हो सकें और सब जगह एक ही तरह का टैक्स लिया जाये।

इस सिलमिले में मैं यह बात खास तौर से कहना चाहता हू कि जो छोटे व्यापारी हैं उनको इस से बचाना चाहिये मैं आपके सामने एक छोटी सी मिमाल रखना चाहता हू। गल्ले के व्यापारी सालीम सालीस पचास पचास मन माल घोडो पर या और जानबरो पर लेकर बाजार में अपने गाबो से घाते हैं। अब घण्टा वह रोज ५० रुपये का भी माल लायें तो वह महीने में १५०० हो जायेगा और साल भर में दस हजार से ज्यादा का हो जायेगा। मैं चाहता हू कि इस किस्म के व्यापारियों को जो थोड़ा थोड़ा माल लेकर मंडियों में अपने घर से घाते हैं, या छोटे कार्तकार अपना अपना ब्र लेकर और दूसरी चीजें लेकर घाते हैं उनके ऊपर इस तरह का टैक्स आयद न हो, जो कि अभी आयद हो जाता है। सिहाबा कानून में इस तरह की तरजीम होने की जरूरत है कि जो लोग इस तरह का छोटा काम करते हैं यह टैक्स न लगाया जाये। इन लोगों के पास न कोई दुकान होती है, न कोई बड़ी कारख

रहता है जिससे वह ठीक ठीक हिसाब किताब एक सके। तो मैं गवर्नमेंट से वरखास्त करना चाहता हूँ कि इस में इस तरह की तरकीब कर दी जावे।

इसके अलावा, जैसा कि श्री मेरे एक बोस्त ने कहा, अनाज पर से कम से कम यह टैक्स हटा दिया जाना चाहिये, क्योंकि आजकल गेहूँ डेढ़ सेर का बाज बाज जगह बिक रहा है। मेरी कास्टीट्यूएसी फर्रुखाबाद से मेरे पास खबर आई है कि वहा गेहूँ डेढ़ सेर का बिक रहा है और कोई भी गल्ला सवा दो सेर से ज्यादा नहीं बिक रहा है। फिर भी अगर टैक्स लगाया जायेगा तो हमसे यह और भी ज्यादा महंगा हो जायेगा। गवर्नमेंट को यह देखना चाहिए कि जो फिजा आज उत्तर प्रदेश में, बिहार में और दूसरे कमी वाले इलाको में फैल रही है उसको देखते हुए इस टैक्स को गल्ले पर लगाना कहा तक ठीक होगा। निहाजा जो कारंबाई की जाये वह लोगों की सहनियत को ध्यान में रख कर की जाये और जहा तक अनाज का ताल्लूक है उस पर तो मेल्ल टैक्स न हो तो बहुत अच्छा हो और छोटे छोटे व्यापारियो पर तो किमी तरह भी टैक्स नहीं होना चाहिए। इतना ही मैं अर्ज करना चाहता हूँ।

Shri Naushir Bharucha (East Khadesh): It appears that in the heap of arguments that are being advanced from one side or the other, the major purpose of the Second Amendment Bill is being forgotten. Probably, the House is aware that the original Act which was passed ran into nine printed pages, and the Second Amendment Bill also runs into nine printed pages, which indicates that Government amendments are often as long as the original Acts. Why? That is so because the whole thing has not been thought out in one comprehensive measure and an Act enacted so as to cover all possible contingencies. Today, we are discussing the Second

Amendment Bill, and I can assure this House that perhaps in less than a year's time, the Minister will come forward with the Third Amendment Bill. Where the whole thing will end, we do not know.

Let us grasp the purpose of the principal Act, and then see what we are doing really means. It should be recalled that the original Act was passed because there was a Supreme Court judgment interpreting article 286 of the Constitution, under which the question arose as to the liability of a dealer to pay tax, and whether the State Government in one particular State could collect it or another State as well. As a result of that judgment, a peculiar position arose, and the dealers in Bombay State were required to be registered in Orissa or elsewhere in any other part of India where they happened to send their goods. Naturally, in order to prevent that difficulty, the original Bill was brought forward, that is, to avoid the difficulty in fixing the place of sale and also to avoid multiple sales tax.

The original Act of 1956, therefore, laid down the principles determining when a sale takes place. It is a very important legal point, namely, when a sale takes place, firstly in the course of inter-State trading, secondly, when the sale is deemed to have taken place outside a State, and thirdly, in the course of imports and exports. Then, the original Act laid down the principles for levy and collection and distribution of the tax. It declared certain goods as of special importance in inter-State commerce, and it specified the restrictions and conditions subject to which the State Legislature could impose sales tax on declared goods. But the original Act forgot one thing, namely that it did not provide the stage at which the sales tax on goods was to be levied.

Now, what is the scheme of the present Bill? The major purpose is to avoid multiple tax by levying sales tax at the first stage. With great res-

[Shri Naushir Bharucha.]

pect, I submit, that even now, that purpose is not achieved. The Bill as it has emerged from the Select Committee does not achieve what the amendment seeks to achieve.

The present Bill, clause 3 retains section 6 of the principal Act intact and adds another sub-section. Section 6 of the original Central Sales Tax Act reads thus. I might read it out, because it is necessary to understand it; otherwise, we shall be repeatedly coming forward for amending this Bill without achieving the purpose.

"Subject to the other provisions contained in this Act, every dealer shall, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, not being earlier than thirty days from the date of such notification, be liable to pay tax under this Act on all sales effected by him in the course of inter-State trade or commerce during any year on and from the date so notified."

This does not at all say at what stage the sale is deemed to have been concluded nor does it state at what stage the tax is to be levied. Now, improvement on this is sought to be made by the amending Bill. Let us see what the amending Bill says. Clause 3 which seeks to improve upon section 6, retains the whole of section 6 and then says that a new sub-section will be inserted, namely:—

"Notwithstanding anything contained in sub-section (1), where a sale in the course of inter-State trade or commerce of goods of the description referred to in sub-section (3) of section 8—

- (a) has occasioned the movement of such goods from one State to another; or
- (b) has been effected by a transfer of documents of title to

such goods during their movement from one State to another;

any subsequent sale to a registered dealer during such movement effected by a transfer of documents of title to such goods shall not be subject to tax under this Act:....".

subject to the provision that a certificate is produced. Let us see whether the idea that tax is to be levied at one particular stage is achieved by this or not. It is not achieved, because the new sub-section only says:

(a) "where a sale....".

(a) has occasioned the movement of such goods from one state to another."

And still we are left adrift as to when a particular sale has occasioned the movement of goods from one State to another, as I shall presently show by an illustration. Also, it only says:

"where a sale....

(b) has been effected by a transfer of documents of titles "

during transit. Then, it says that in such cases, the subsequent sale to a registered dealer shall not be taxed, subject to the necessary certificate being produced. All that the amending Bill says is that there shall be a tax at one stage only, but it does not say necessarily the first stage.

Let us take an illustration. Suppose a mill-owner of Bombay contracts in Calcutta, while he happens to be in Calcutta, for sale of goods at Madras. Then, apply this wording, and you find that the difficulty arises immediately. The operating part of the present amending Bill is:

"Notwithstanding anything contained in sub-section (1) where a sale in the course of inter-State trade or commerce of goods of the

description referred to in sub-section (3) of section 8—

- (a) has occasioned the movement of such goods from one State to another;”.

Now, from which State has the movement been occasioned? Would it be Bombay or the State of Bengal where the agreement was arrived at? We do not know. The result will be that Bombay State will claim tax saying that the principal office of the mill is at Bombay, and therefore the liability to pay is in Bombay. But the Bengal Government may say that the agreement has been signed in Calcutta, and therefore, the movement of the goods has been occasioned or started from Calcutta. Still, we do not know. As if this is not enough, the Select Committee has complicated the matter still further by providing a definition of the 'place of business'.

If we turn to clause 2 at page 2, we shall find that 'place of business' is defined as follows.

(dd) 'place of business' includes—

(1) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent; ...”.

What does this mean? Suppose, for instance, a dealer carries on business through an agent

It may be a commission agent or it may merely be a *muccadam* who does the work of forwarding and despatching, let us say, bales of cloth. Supposing even for convenience's sake, the goods are transhipped at one particular place, because transshipment is necessary, and the agent or *muccadam* has to see that the transshipment takes place properly, it is immaterial by what name I call him; he is my agent under this Bill. Therefore, I am deemed to have carried on business in that particular place of transshipment. For instance, goods have to be transhipped at Nagpur

while they are passing from Bombay to any other place. If I keep an agent to facilitate and look after the transshipment at Nagpur. I am deemed to carry on business at Nagpur also! So instead of simplifying the whole thing, we are creating more places of business. Therefore, the original complaint will come back that several States will say that the dealer is liable to pay sales tax in their States. I would ask the hon. Deputy Minister how she proposes to get over this difficulty.

Also, one thing is not clear to my mind Under the Contract Act, the property or the ownership in the goods passes on apportionment, if you apportion the goods to a particular party. In that case, the ownership of the goods passes on to the purchaser. Suppose a contract is entered into at one place—the goods need not be in that place—and apportionment takes place in another place. Which is the place for the purpose of determining the liability of the dealer? It is difficult to make this out.

It would appear to me that in the maze of arguments we are forgetting how the original Sales Tax Act came to be amended and we are also forgetting the major purpose which we seek to achieve by this amending Bill. Therefore, I have no doubt that the hon. Minister will come a third time for a third amendment of the Sales Tax Act

One of the difficulties in the administration of the Sales Tax Act is that the provisions are complicated. They cannot be rendered simple beyond a particular stage. Article 286 of the Constitution itself is very complicated. What is happening is that not even the officers, collectors and so on, know exactly what the provisions are with the result that each sales tax officer thinks that he should not come into trouble for not having charged the tax. So he tells the dealer: 'Whatever may happen to you in other States, pay the tax in this State' Whatever may happen afterwards, it does not matter to him. He is not concerned with what is going to happen to you

[Shri Naushir Bharucha]

in other States. This is because each sales tax officer seeks his own safety. If he taxes by mistake, refund can be given; but if he fails to collect tax, then he will be held liable.

It is the duty of this House to see that all these difficulties are eliminated. We are trying to bring amendments one after the other. It will perhaps interest the House to know that within 9 months of the passing of the first amending Bill, we have come for the second amendment. We will again have to come for the third. This thing has got to stop. Why? Because, apart from the complications it introduces into the Act, the complications in the administration from changing laws are so great that nobody understand exactly what is the position.

I might give an example. The Bombay Sales Tax Act was changed 9 times within 18 months because of changes that took place as a result of either the High Court holding that the entire Act was invalid or due to other circumstances. The position here is not much better than what obtains in regard to the Bombay Act.

Therefore, I would appeal to the hon. Deputy Minister and say that the whole question requires to be considered by a committee of lawyers. With very great deference, I submit that this is a question which requires to be considered only by a committee of lawyers. May be that merchants may come and tender evidence and express their views. The Bill as it has emerged from the Select Committee, I very respectfully submit, does not solve the major problem which it seeks to solve.

Dr. Melkote (Raichur): I have gone through the amendments and recommendations of the Select Committee. I feel that they are not sufficiently comprehensive.

Generally speaking, the matter that has been gone into has been with regard to the collection of sales tax

properly so that evasions may be avoided. But there are other larger questions which have not been tackled. The matter that has been tackled is with regard to the merchant selling his goods to the consumer and how after sale, collection of sales tax could be properly effected. But there are other matters; as one of the hon. Members pointed out, there is the larger question of uniformity of sales tax all over India. This problem bristles with plenty of difficulties because in each State the sale of the particular goods and the quantum thereof vary, and each State has to make a certain amount of collection in order to get sufficient money for its own exchequer. That is one of the reasons why the incidence of sales tax and the method of its collection—whether single-point or multi-point tax—vary from State to State, bringing in lots of difficulties.

For instance, sales tax with regard to bid, varies between Bombay, the ex-Hyderabad State or Andhra Pradesh and Madras in such a manner that business flew from one to the other and a lot of illicit transactions took place between one State and another. Now that sales tax is a Central subject, I felt that this problem of making it uniform so that business may not fly from one State to another would also be considered. But I see that no such problem is being tackled here.

But this is not the main point that I wanted to make. What I wanted to say was that the quantum of sales tax collection has to flow back—and to a large extent does flow back—to the individual State where the tax is collected. In this matter, I had occasion to speak elsewhere where I pointed out that to a large extent, States like Bombay, West Bengal and Madras collected plenty of sales tax because the principal offices were located there, though the consuming public were in different parts of the State in the interior like Punjab, U.P. Andhra Pradesh, Mysore and so on where the States do not have tolls. This is particularly so

in the case of goods that flow in from outside. These goods come into those ports and are subsequently sold in these places to the detriment of the different States.

Therefore, I felt that it should ultimately be the consuming public, that is, the States where these goods are consumed, which should benefit by the imposition of the sales tax. This aspect has not been tackled at all in this amendment. If it has been tackled, and tackled satisfactorily, the hon. Deputy Minister would satisfy me on that point.

I have nothing more to add. I just felt that if this aspect had not been tackled, it would be taken up by the Deputy Minister.

श्री ० रणवर सिंह (रोहतक) : उपाध्यक्ष महोदय, विक्री टैक्स

श्री स० स० बनर्जी : विक्री कर ।

श्री ० रणवर सिंह : विक्री कर ही नहीं। ऐसी भाषा बनाना चाहते हैं, जिस में बंगला भी आ जाये और हिन्दी भी आ जाये।

विक्री कर आज देश के लिए बड़े महत्व का टैक्स है और, जैसा कि मेरे पूर्ववक्ता महोदय ने कहा है, अगर हो सके, तो इस को ऐसे ढंग से ढाला जाय, जिससे देश के सब हिस्सों में उस का ठीक ठीक बंटवारा हो सके और उस को ठीक तौर पर लागू किया जाये। इस के अलावा भी मैं समझता हूँ कि इस देश में टैक्सेशन के जो प्रिंसिपल हैं, वे कुछ अलाहिदा अलाहिदा हैं। एक तो इनकम टैक्स है, जिसे हायरवेट टैक्सेशन कहा जाता है। उस के बारे में मैं यह कहना चाहता हूँ कि इस देश में वह ऐसे ढंग से लगता है कि ३,२०० और ४,५०० रुपये तक इनकम टैक्सेशन के लिए छोड़ दी जाती है। दूसरी तरफ़ कार्तकारों को लैंड रेव्यू के रूप में कई दफ़ा घाटे पर भी देना पड़ता है, चाहे उस के यहाँ कुछ पैदा

हो या न हो। पहले आर्थिक विज्ञान में इस बात की बहस हुआ करती थी कि लैंड रेव्यू रेन्ट है या टैक्स है। लेकिन आज वह ज़माना नहीं है। आज तो सब हिन्दुस्तानियों को बराबर का हक है। ज़मीन के मालिक या तो सब हैं या सरकार है। अब रेन्ट और टैक्स का जगड़ा नहीं हो सकता है। आज उसे टैक्स ही मानना होगा। अगर उसे टैक्स मानेंगे, तो फिर देश के सामने एक बड़ा भारी मसला आता है कि टैक्स के सिलसिले को दो ढंग का कब तक रखा जा सकता है। आन्ध्र प्रदेश की सरकार और असेम्बली ने एक बार सिफ़ारिश कर के भेजी थी कि दस रुपये तक कम लैंड रेव्यू माफ़ कर दिया जाय। इसी तरह पंजाब असेम्बली ने सिफ़ारिश कर के भेजी थी कि पांच रुपये तक का लैंड रेव्यू माफ़ कर दिया जाये। प्लानिंग कमीशन ने उन को सलाह दी कि आज के हालात में यह अच्छा मालूम नहीं देता। लेकिन मैं समझता हूँ कि शायद उन्होंने यह सलाह इस लिये दी थी, कि उन के ब्याल में कोई दूसरा ऐसा टैक्स न हो जो कि उस घाटे को पूरा कर सके। मैं समझता हूँ कि सेलज टैक्स लैंड रेव्यू की जगह ले सकता है और लैंड रेव्यू से जितनी आमदनी होती है, सेलज टैक्स को ऐसे ढंग से ढाला जाये कि सेलज टैक्स से उतनी आमदनी हो ताकि कार्तकारों को, जो कि इस देश का बहुत बड़ा अंग हैं, जो कि सन्तर फ़्रीमदी हैं, कोई गिला न रहे कि इस आज़ाद देश में भी उस के साथ सौतेली मां जैसा सलूक किया जाता है।

जहाँ तक इस अर्मेन्डिंग बिल का सवाल है, इस में इन बारे में कोई खास जिक्र नहीं है, लेकिन मैं इस मौक़े का पूरा फ़ायदा उठाना चाहता हूँ और कहना चाहता हूँ कि फ़िनांस मिनिस्ट्री

उपाध्यक्ष महोदय : पुरा फ़ायदा उठाइये, लेकिन नाजायज़ नहीं।

श्री ० रणवर सिंह : मैं समझता हूँ कि यह नाजायज़ नहीं है, क्योंकि कार्तकारों की

[श्री० रणवीर सिंह]

आबादी ७५ फीसदी है और उन में टैक्स देने वालों की बड़ी तादाद है। उन के हित के बारे में कहने का जिस वक्त भी मौका मिले अगर थोड़ी बहुत भी गुंजायश निकल सकती है, तो सदस्यों को कोशिश करनी चाहिए। इसी लिए मैं समझता हूँ कि हमारे विन मंत्रालय के लिए यह एक बहुत बड़ा सवाल है और उसी सवाल है और उस को हल करने का जो जरिया हो सकता है, वह सेल्ज टैक्स में मुनासिब तब्दीलियां कर के ही हो सकता है। इस कानून को तो पास कर दिया जाये, लेकिन मैं चाहता हूँ कि सेल्ज टैक्स की एन्क्वायरी के लिए जो कमेटी है, वह इस बात पर गौर करे कि किस तरह से सेल्ज टैक्स में तब्दीली की जाये कि उस के जरिये लैंड रेवेन्यू का घाटा पूरा किया जाये और किस तरह से लैंड रेवेन्यू के आउट-मोडिड सिस्टम को, जो कि ७५ फीसदी आबादी के लिये बोझा है, जल्दी में जल्दी खत्म किया जाये और उसकी जगह सेल्ज टैक्स ले।

Shrimati Tarkeshwari Sinha: Mr. Deputy-Speaker, Sir, many hon. Members have raised points, some of which I have already covered in my speech. But because they have been raised again I will take some time to reply to them.

One of the hon. Members has raised the point about newspapers—that they should not be exempted. He has mentioned a note of dissent given by two hon. Members of this House. But he himself has quoted item 92A of List I of the Seventh Schedule. I am quoting the same item for expressing the limitations in the matter. For levying tax on the sale or purchase of goods other than in the course of inter-State trade or commerce, as already mentioned by the hon. Member, powers are derived under item 92A of List I of the Seventh Schedule. The item reads as under:

“Taxes on the sale or purchase of goods other than newspapers,

where such sale or purchase takes place in the course of inter-State trade or commerce.”

That means that newspapers are completely out of the purview. Therefore, newspapers have to be excluded from the definition of “goods” and we have no authority or power to bring newspapers under this Bill because we have been barred by the Constitution. For levying taxes on newspapers, separate legislation has to be brought forward and that has to be brought under item 92, if necessary. I won't like to take the time of the House further because this does not come under the purview of the present Bill at all.

Another point has been raised that sales tax on many items should be replaced by excise duty. An hon. Member suggested that for making it a uniform rate of tax, the sales tax should be completely changed over into excise duty. I want to say here that, perhaps, the hon. Member has in mind what we have recently done in the case of sugar, cloth and tobacco where we have converted the sales tax into excise duty. He, perhaps, thinks that it is within our power to go on extending the scope and limit of that excise duty. That is not possible.

The subject-matter of Central sales tax at present is defined and a demarcation has to be made between the State and Central spheres of taxation on sale or purchase of goods. Under the Constitution the State Governments have got the power to decide the jurisdiction of the sales tax and they have been given full authority to levy sales tax. And, so, it is not in our power to go on indiscriminately levying the tax on sales or converting sales tax into excise duty. I think the hon. Member has forgotten this fact that this suggestion is completely beyond the scope or purview of the Bill. So, I do not think that that suggestion can be sustained here or considered.

Another hon. Member has suggested about the uniformity of the tax and

that 7 per cent is too high a rate and that while making this uniformity we should reduce the burden of the tax from 7 to some lower figure. He has also mentioned the names of the members of the Select Committee who have given a note of dissent in this matter

I have taken much time of this House to explain why we have made that 7 per cent. But I would like again to stress this fact that sales tax is a tax primarily on the consumption of an article and that Central sales tax is applicable to the cases of transactions only in the course of inter-State trade. In levying sales tax on inter-State trade, the main intention is to ensure that some revenue accrues to the exporting States without raising unduly the burden on the consumer in the importing State. For this purpose, to bring the uniformity which the hon. Member has mentioned, we have fixed the rate of one per cent for the registered dealer in one State and one per cent for the registered dealer in another State. It is only in the case of un-registered dealer that this difference has been made. While making this difference we have always kept in view the more important items, the declared goods as they are called. Already the consent of all the State Governments has been obtained for the uniform rate of tax. And as I said, sales tax is a State subject.

The Central Government can only make recommendations. We had a Conference of the Finance Ministers and there we discussed all these points and tried to recommend uniformity as much as possible. But because this source of revenue is so elastic and paying it is very difficult for the Central Government to convince or recommend to the State Governments to adopt what it would like them to adopt. The States are very zealous about their rights because this is one of their largest sources of revenue. So, we have our own limitations. I can assure the House that within these limitations under our Constitution, we have tried our best to bring rate of uniform sales tax over all

these fifteen items as a result of our deliberations

Shri S. M. Banerjee: The hon. Deputy Minister told us that the Central Government has recommended to the State Governments. May I know whether any State Government had accepted those recommendations?

Shrimati Tarkeshwari Sinha: Even the seven per cent that is going to be levied on unregistered dealer was discussed there. It was with the agreement of most of the States it was done. Some were levying a higher percentage and some a lower sales tax. After discussions, the most scientific basis that we could arrive at was seven per cent for unregistered dealers. I can say this with all clarity that this percentage has the consent and cognisance of all the State Governments. Therefore, the objection raised by two hon. Members of the Select Committee cannot be sustained on this account.

Another hon. Member has covered the whole range of State and inter-State sales tax. He doubted the intelligence of the Bills, the original as well as this draft Bill. He has given an assurance on my behalf to the House that I am going to bring another Bill very soon. I can assure the hon. Members that I am here to speak for myself and if I have to assure the House that I will come again with an amendment, I will myself give that assurance and he need not take the trouble of doing that on my account.

Shri Naushir Bharucha: The assurance is on my own account; not on her account.

Shrimati Tarkeshwari Sinha: But I can assure him this, that we have tried to study the pros and cons of sales-tax from all points of view and that is the reason why all the Finance Ministers came here and we had a conference and deliberated over all these issues. One of the purposes of sending this Bill to the Select Committee was also to bring out as much

[Shrimati Tarkeshwari Sinha]

clarity of ideas and thoughts as possible. And I hoped I would be able to satisfy so far as the simplification of this Bill is concerned almost all in this House; but as he is very famous for not being satisfied, I am satisfied of the fact that I cannot satisfy him.

He has raised some objections over clause 3. In clause 6 it is clearly mentioned that the State from which goods physically move—I should like that he marks these words 'physically move'—will have jurisdiction to levy the tax irrespective of the place where the sale is effected or a contract is signed.

Shri Naushir Bharucha: Where is 'physical movement'; there is no such thing.

Shrimati Tarkeshwari Sinha: For a lawyer of the eminence of the hon. Member, I think that is quite obvious, it is inherent in the whole clause 6.

Shri V. P. Nayar: A Minister of her eminence can do well also.

Shrimati Tarkeshwari Sinha: This was one of the points which took long deliberations and after all that we decided that it should be decided by the actual movement of the goods and not by any other condition. It has been clarified.

He has referred to another point about the place of business. Its scope has been widened in order to cover all contingencies that might arise in the minds of the hon. Members or the business people who do business have to pay sales tax. The place of business has been widened by making some additions in the amending Bill. It is defined to cover all contingencies where the dealers move goods from different States even though they have no established office. The hon. Member referred to this point but it is only for protecting and safeguarding that very point raised

by the hon. Member that we have widened the scope of the place of business in the amending Bill now before the House.

The question of double taxation does not arise at all and I do not think that I should elucidate the point any further.

There have been some points raised about the sale of foodgrains and medicines. There may be two opinions about it, that there should be no sales tax on food and medicines. They say so. I do not deny the justifiability of the thing but our scope is so limited that we cannot sort of press the States not to levy tax on foodgrains; these are completely State subjects and they can be exempted from taxation by the States alone. So, I do not think it comes under the purview of this Bill. I can inform the hon. Member that it is not always necessary that the States should accept all our recommendations. Sir, I have nothing more to add and I thank you very much.

Shri Tangamani (Madurai): The Law Commission has recently submitted a report about suitably amending the law relating to sales tax. May I know whether this amendment was brought in line with its recommendations? Or, is another amendment likely to come?

Shri Naushir Bharucha: May I also know whether she would give us an assurance that Government will not come with an amendment? I will be satisfied with that.

Shrimati Tarkeshwari Sinha: I can speak for myself and can give assurances on my behalf when it is necessary. It is not the duty or the business of the hon. Member to give assurances on my behalf.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Central Sales Tax Act, 1956, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: Amendments 1 and 2 have been tabled just now, both are out of order (Interruptions) I would draw the attention of the hon Member to article 110 of the Constitution and article 110(I)(a) refers to the imposition, abolition remission, alteration or regulation of any tax Then in article 117 he would see that if any reference is made to it, any law or amendment would require the sanction of the President It has not been obtained The hon Member, Shri Kodyan wants that taxes be levied even on newspapers That would be an imposition of a tax and therefore, the permission of the President is necessary

Shri V P. Nayar The point raised in the amendment is not that In the original Sales Tax Act, the words were not included This is an amendment which seeks to bring in the particular clause the word newspaper we want the status quo to be maintained

Mr Deputy-Speaker No The Bill is there and now an amendment is being moved The Bill seeks to impose certain taxes for which sanction has been obtained The amendment also must have permission of the President before the tax can be varied So, it is out of order Similar is the fate of the other amendment also There is also article 274(1) which says

No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "

15 hrs.

Shri V. P. Nayar: That is clear

Mr. Deputy-Speaker: There are no amendments I shall put all the clauses together The question is

"That clauses 1 to 12, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Cluses 1 to 12, the Enacting Formula Title were added to the Bill.

Shrimati Tarkeshwari Sinha Sir, I move

"That the Bill be passed"

Shri V. P Nayar rose—

Mr Deputy-Speaker We have to take up another item at 3 00 PM

Shri V P Nayar This may be held over

Shrimati Tarkeshwari Sinha No, no

Shri V P Nayar I want to speak

Mr Deputy-Speaker If there be no objection in taking up the other thing after ten minutes

Shri V P. Nayar Let the House sit for ten minutes more Sir because that is also equally important perhaps more important than this

Mr Deputy-Speaker All right Then this will be taken up next time Motion moved

"That the Bill be passed"

Shri V P Nayar Then I am on my legs Sir

15 02 hrs

CHAUDHURI COMMITTEE'S REPORT ON PORT AND DOCK WORKERS DEMANDS

Shri Asoka Mehta (Muzaffarpur) Sir I beg to move

"That the Chaudhuri Committee's Report on Port and Dock Workers' Demands and the Government's Resolution thereon published in the Gazette of India on the 21st July, 1958 be taken into consideration"

Sir, I am happy that when we take up this discussion of the situation that is today prevailing and is likely to develop in the ports and docks in our country, we have as the Minister-in-charge an old friend of mine about