

Dispensations Granted to Companies regarding repayment of Deposits

3921. SHRI R. PRABHU: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) in how many cases the Department of Company Affairs have granted dispensations under Section 58(A) of the Companies Act to companies in respect of repayment of deposits;

(b) what are the terms and conditions under which such dispensations are given;

(c) how the Department monitors the enforcement of these conditions by the companies;

(d) whether any contraventions of the conditions imposed have been brought to the notice of the Government; and

(e) if so, whether Government have revoked these provisions in any case?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI P. SHIV SHANKAR): (a) Under sub-section (8) of section 58A of the Companies Act, 1956, the Company Law Board granted, upto February, 1981, extension of time in 34 cases for repayment of deposits accepted in excess of the prescribed limits.

(b) In addition to the specific conditions attached in any individual case, the general conditions subject to which such extension of time is granted *inter alia* are about prohibitions regarding further acceptance of deposits, declaration of dividends, making investments etc., and also about requirements regarding payment of arrears of interest within a specified period, regular payment of interest in future, etc.

(c) Each company, granted exemption or extension is required to submit a half-yearly returned duly certified by the Statutory Auditors indicating amounts due for repayment, repayments made and closing balance (with prescribed break-up) of such deposits for repayment. The Auditors are also required to certify that the entire interest due has been paid.

(d) No, Sir.

(e) Does not arise.

Failure of companies to repay deposits

3922. SHRI R. PRABHU: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether it is a fact that several complaints have been received against the failure of the companies to repay the deposits taken by them;

(b) if so, total number of complaints received during the years 1977-78 and 1978-79;

(c) in how many of these cases, the companies have retained the deposits in contraventions of the provisions of the Section 58(A) of the Companies Act and the rules made thereunder;

(d) in how many of these cases sub-section (5) of the Section 58(A) of the Act was invoked and the grievances of the depositors redressed; and

(e) what effective measures Government proposes to take to ensure timely repayment of such deposits by the Companies?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI P. SHIV SHANKAR): (a) Yes, Sir.

(b) The Registrars of Companies received 1522 complaints about non-payment of public deposits by non-banking non-financial companies during April, 1977 to March, 1978 and about 809 complaints during April, 1978 to March, 1979. This apart, during 1978, about 1100 complaints were also received in the headquarters of the Department of Company Affairs.

(c) and (d). Of the 83 prosecutions sanctioned upto 31st March, 1980 by the Department for violation of various provisions of section 58A and the rules made thereunder, prosecutions have been launched in 60 cases and the courts have imposed certain penalties in 7 cases. It is for the court to give necessary relief to the depositors under

the provisions of section 58A(5) of the Companies Act, 1956 while deciding the cases.

(e) There is no provision in the Companies Act enabling Government to compel companies to repay such deposits on maturity. Any failure to repay deposits by a company gives rise to a civil claim to the depositor who can seek appropriate remedy through a court of law. However, some recommendations made by the High Powered Expert Committee on this subject are presently under consideration of Government for affording better protection to the legitimate interests of depositors.

Show-cause Notice to Companies for Non-Registration under MRTTP Act

3923. SHRI R. PRABHU: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether it is a fact that the Department of Company Affairs have issued show-cause notice to several companies for their failure to register under the provisions of the MRTTP Act;

(b) the names of companies to whom such show-cause notices have been issued indicating the dates on which such notices were issued;

(c) whether it is also a fact that such notices were pending for several years undecided in many cases; and

(d) if so, what measures the Department propose to adopt to streamline the procedure in this regard?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI P. SHIV SHANKAR): (a) to (c). A statement giving names of undertakings and date of issue of default notices (referred to as show-cause notices in the Question) with regard to registration under Section 26 of the MRTTP Act as on 31st December, 1980 is laid on the Table of the House. [Placed in Library. See No. LT-2125/81].

(d) Wherever it appears to the Government, on the basis of the available information that Section 20 of the

MRTTP Act is *prima-facie* applicable to an undertaking which has not registered itself under section 26 of the MRTTP Act, a default notice though not mandatory is issued to it advising it to comply with the provisions of the Act. This is done so as to enable the undertakings to comply with the law. In reply to such notices, the concerned undertakings many times contest the basis of the facts relied upon by the Department and in other cases, they raise intricate questions of facts and law and interpretation of various provisions relating to interconnection, manner of computation of assets and certain other expressions used in the Act which require careful examination. Many parties take recourse to legal proceedings in various High Courts, and even Supreme Court of India. The examination of representations by the Companies sometimes involves collection and analysis of voluminous data relating to the shareholding pattern, management structuring, and other general functioning. Then again all such companies have to be given an opportunity for personal bearing in keeping with the principles of natural justice. All these factors contribute to delays. Even so, the procedures and functioning of the Department are constantly under review with a view to improve its efficiency.

गुजरात में तीसरा गैस-आधारित उर्वरक संयंत्र स्थापित करना

3924. श्री छोटू भाई गामित :

श्री मोती भाई आर० चौधरी :

क्या पेट्रोस्विम, रसायन और उर्वरक मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि गुजरात सरकार ने राज्य में एक गैस-आधारित उर्वरक कारखाना स्थापित करने के लिए केन्द्र सरकार से अनुरोध किया है;

(ख) यदि हाँ, तो उक्त प्रस्ताव पर भारत सरकार की क्या प्रतिक्रिया है और तत्सम्बन्धी व्यौरा क्या है ;