

[Shri Sudhir Roy]

Starred Question No. 260 on 20-11-1986 is unfortunate, as the teachers' associations should be consulted at the time of the pay revision. The sooner it is done, the better it would be.

(viii) Need to provide financial assistance to the Government of Maharashtra to run the Cotton Monopoly procurement Scheme.

SHRI BALASAHEB VIKHE PATIL (Kopergaon) : The Government of Maharashtra is running Cotton Monopoly Procurement Scheme, which was cleared by the Union Government. They need financial assistance, as farmers are demanding rise in cotton prices and also hundred per cent payment of their produce at one time instead of payment in instalments.

Last year, the cotton prices were higher in Maharashtra than the Central Government's Support price. The Government put a condition that under the Maharashtra Cotton Procurement Scheme, cotton should be purchased at the support price declared by the Central Government and no extra price should be paid to the cotton growers. Somehow in the interest of farmers the Government of Maharashtra is running the Cotton Monopoly Procurement Scheme for the protection of the farmers—a condition laid down by the Central Government.

Financial assistance is badly needed by the Government of Maharashtra from the Union Government or the Reserve Bank of India. I would, therefore, appeal to the Government that a sum of Rs. 200 crores to Rs. 300 crores be given to the Government of Maharashtra by way of assistance immediately for payment to cotton growers. This would give substantial relief to the farmers. Otherwise, the unrest which is brewing in the State at present may become a law and order problem. I would, therefore, urge the Government that in the interest of public the Government may give a serious consideration for the solution of the problem.

13.57 hrs.

CUSTOMS AND EXCISE REVENUES
APPELLATE TRIBUNAL
BILL, 1986

[English]

MR. DEPUTY-SPEAKER : We will now take up Item No. 11.

THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE (SHRI
JANARDHANA POOJARY) : I beg to
move* :

“That the Bill to provide for the adjudication, by an appellate tribunal, of disputes with respect to the determination of the rates of duties of customs and Central excise on goods and to the valuation of goods for the purposes of assessment of such duties, in pursuance of Article 3238 of the Constitution and for matters connected therewith or incidental thereto, be taken into consideration.

As hon. Members are aware, Customs and Central Excise duties contribute about 80 per cent of the total tax revenues of the Central Government. Both these duties, have, thus, a vital role in augmenting the financial resources of the Centre. However, in recent years there has been an enormous increase in litigation relating to disputes with respect to the valuation of goods and/or the determination of the rate of customs and central excise duties for the purpose of assessment of such duties. As a result, the collection of very large amounts of revenue has been blocked.

In order to mitigate the serious problem of litigation and to bring about uniformity of assessment all over the country, it is proposed to set up a tribunal under Article 3238 of the Constitution to deal with appeals arising from disputes relating to valuation of goods and the determination of the rate of duty in the assessment of customs and central excise duties. With the establishment of this Tribunal,

*Moved with the recommendation of the President.

the jurisdiction of all courts the Supreme Court would be barred in matters relating to valuation and determination of the rate of duty in the assessment of customs and central excise duties. To start with, the Appellate Tribunal would be headed by a retired or serving Chief justice or judge of a High Court.

As present appeals from the orders of Collectors are submitted to the Customs, Excise and Gold (Control) Appellate Tribunal It is now proposed that as far as disputes relating to valuation and the determination of the rate of duty are concerned, the appeals from the level of Collectors will lie to the now Tribunal. Simultaneously the present jurisdiction of the existing Appellate Tribunal in regard to these matters would be taken away.

It is proposed that the new Tribunal will receive cases only in respect of disputes regarding rate of duty arising out of the Customs and Excise Tariff Schedules which were brought into force on 28-2-1986 and disputes in respect of valuation which arose on or after the same date.

14.00 hrs.

So far as the pending cases or new cases that may have arisen out of the old tariff schedules are concerned, the existing jurisdiction of the Customs, Excise and Gold (Control) Appellate Tribunal and of the High Courts would continue.

It is expected that the establishment of this Appellate Tribunal will reduce litigation and will also impart greater certainty in the administration of the customs and central excise duties.

MR. DEPUTY-SPEAKER : Motion moved :

"That the Bill to provide for the adjudication, by an appellate tribunal, of disputes with respect to the determination of the rates of duties of customs and Central excise on goods and to the valuation of goods for the purposes of assessment of such duties, in pursuance of article 323B of the Constitution and for matters connected there-

with or incidental thereto, be taken into consideration."

SHRI SRIHARI RAO (Rajahmundry) : I oppose the hasty manner in which such an important matter is being legislated. By this amendment, the Jurisdiction of High Courts is being removed without providing for any suitable or alternative remedy. By this the cost of justice to the citizens will increase while the speed will go down, because of concentration of benches of this appellate tribunal only in Delhi.

14.02 hrs.

[SHRI ZAINUL BASHER *in the Chair*]

It will be a very difficult and costly affair for the tax-payers especially small scale industries to travel from far flung areas to appear before the tribunal in Delhi. This, in a way, is an attempt to bypass the judiciary by the executive and the bureaucrats.

There is also no legal qualification or experience mentioned for becoming a member of the Tribunal. That shows that retired senior civil servants will also be appointed as members of this tribunal. This is one way of providing them with employment.

The term of office, according to this Bill, is three years. If there are legal and experienced people on the tribunal, they will not be able to do justice to the tax-payers in three years. So, their term of office should at least be five years. The Chairman of the tribunal must be from the judiciary and not any other retired officer.

To avoid delay in disposal of cases, three-member benches must be constituted. In case of any difference of opinion, that can be solved easily by a three-member bench. One member bench or two-member bench is not good.

Earlier, experienced employees of the tax payers could also appear before the tribunal. But according to this new Bill

[Shri Srihari Rao]

they would not allow experienced employees. They will allow only the legally authorised people. There should be provision for experienced employees to appear before the Tribunal because they have better knowledge of manufacturing items and can calculate the values better.

Tribunal should function under the Law Minister and not Finance Minister who is an interested party because this relates to the Law Ministry. This must function only under the Law Ministry.

Provision should be made for the seniormost judicial Member to discharge the function over the Tribunal. If a party is not able to attend the Tribunal his appeal should not be dismissed ex-parte because all the three benches will be set up only at Delhi. It is very difficult to attend on the same day. It is very difficult for the tax payer especially the small scale industries. That is why I request that they should allow them another hearing to appear in the case.

These tribunals should have the same powers of a High Court to interfere any case at any stage with the Central Excise Department. It is very easy to solve the problem of tax payers and also the Department.

If You go into the minute detail, the Finance Ministry is itself encouraging litigation because in the current year they issued 450 Notifications in Central Excise and 460 in Customs. Out of these 265 Central Excise and 270 Customs notifications were issued after the Budget. The issue of this type of notification after the Budget will change the calculation in the Budget.

If You want to give any Notification, You have to place all those things before the House. All the Members will participate in discussion on that. Then they will pass this. If this is done only after the Budget, as you issued 910 Notifications, which is not good, these cannot be discussed in the House.

This Year Government has announced export concession to the tune of several

hundred crores of rupees after the Budget. Previously in 1985-86 after the shipment after 120 days he could declare export items to the Government. But according to this Bill 120 days before exporting the items, he will have to file application. How can it be possible for the businessmen. They are busy and are worried about the items in market. Previously if he wanted to export any number of items he had to file only one application. But according to this Bill, suppose he has to export a thousand varieties of items; he has to apply on thousand application forms. So, practically it is not possible for him to do so. Also, this is very competitive in the international export market. As it is our exports may become competitive in the international market because a Pakistan rupee is just equivalent to 75 paise of the Indian Rupee, and a Bangladesh Taka is equivalent to 80 paise of the Indian rupee. We are facing stiff competition in the international market for most of our export items. Previously they were not taxing the export items, but now they are taxing the export items. So, how can they face the international market? That is a problem for most of our business people. I think you must thoroughly discuss it in the House Before that, I suggest that this Bill should be referred to a Joint Select Committee and should not be passed hastily and immediately.

SHRI SHANTARAM NAIK (Panaji) :
Sir, The Customs and Central Revenues Appellate Tribunal Bill 1986, is a good measure because recently the Central Government have decided to create special tribunals in certain matters to basically decrease the workload on High Courts wherein all sorts of matters come and remain pending. Therefore, in that light, these tribunals are a proper and right decision taken by the Finance Ministry. But may I, at the outset, inform the hon. Finance Minister that whenever tribunal are established, a territory like Goa is sometimes at a loss? I will explain to you how. As far as the Central Administrative Tribunal is concerned, earlier any aggrieved party could go to the Panaji Bench of the Bombay High Court established in Panaji, I mean any Goan who would like to have the jurisdiction of that Bench. But now the Central Administrative

Tribunals are established and a tribunal for Goa has been established at Bombay. So, as far as Goa is concerned, there is no speedy justice as far as that tribunal is concerned because earlier, the people could just go to Panaji and file a petition and get the justice. Now, by this central administrative tribunal, who are affected? Our Government servants who want justice in respect of their service matters etc. Now they have to go to Bombay. Of course, I have requested the Government and the Government assured me that the Bombay Bench will sit in circuit in Panaji. But a similar thing should not happen in this case. If you want to establish tribunals they must be established in each State and Union Territory--one tribunal at the outset and not by instalments. If you start establishing, say, four tribunals in the country for the time being, then people will be affected because those four tribunals govern the entire country and there will be distance problem. First you take the jurisdiction of the High Court; if the High Court is not available, then the tribunal. Therefore what I am saying is, as and when you bring this Act into force--this is a welcome measure--tribunals in all State Capitals and Union Territories Capitals must be established.

Secondly, Sir, there are certain procedural aspects. I would just take you to clause 13 of the Bill. Clause 13 says about the staff of the Appellate Tribunal. Now, sub-clause (3) of clause 13 says:

“(3) The salaries and allowances and conditions of the officers and other employees of the Appellate Tribunal shall be such as may be specified by rules.”

Here it is said, “as may be specified”. Normally, when you want to specify in the rules, the normal terminology used is “prescribed”, “as may be prescribed”. At one place, regarding the rules, regarding salaries and allowances and other conditions of services of Members of the tribunal, you have said, “as prescribed” by the Government. Here, you say, “as specified by the rules”. I do not understand why two things are there. I feel that it should be corrected.

Then, clause 18 (4) refers to payment of fee:

“(4) Every appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall except in the case of an appeal preferred by the proper officer or a memorandum of cross-objections referred to in sub-section (2) be accompanied by a fee of two hundred rupees.”

Now, this terminology “fee” is confusing. Instead, if parties are allowed to pay fee by way of affixing court fee, it would be better. Therefore, this word “fee” should be replaced by the words “court fee”. As you know, for depositing a challan in the treasury, it takes a lot of time. Court fee is very convenient. Therefore, it should be replaced by “Court fee”.

As far as procedure and powers of the Appellate Tribunal are concerned, they are mentioned in clause 19. It says:

“19. (1) The Appellate Tribunal shall not be bound by the procedure laid down in the Code of Civil procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Appellate Tribunal shall have power to regulate its own procedure, including the fixing of places and times of its hearing.”

What I am saying is that the procedure to be followed by this Tribunal must be prescribed by the Government. If you allow Tribunals to prescribe the procedure then each tribunal will prescribe the procedure in its own manner or the way it wants and there will be no uniformity. It is because you have given powers to it to regulate its own procedure. I would like to state that there should be uniform rule which each tribunal should follow so that there is uniformity. We give the powers to the tribunal and they shall prescribe their own procedure. This is a serious matter which should

[Shri Shantaram Naik]

considered for the sake of uniformity at least. Similarly, you will find in the clause it is mentioned : The Appellate Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure. This terminology should not be used. Normally, whenever the civil procedure is not made applicable for any statute, then it is said that provisions of civil procedure shall not apply. It is not that the Tribunal shall not be bound by the procedure laid down in the Code of Civil procedure. I do not know why it is put like this. These are the things though appear to be very minor, we should have some standard things in our legislation. Any person, with a little knowledge of law, reading it can find that there is something very much serious in this. There are other standard legislations also where the civil procedure is not applicable. But the terminology is not copied like this. A standard terminology is to be provided for.

Lastly I would say the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit conforming of modifying or annulling the decision or order filed against or may refer the case etc. etc.

Sub-Clause (2) says :

“The Appellate Tribunal may, at any time, within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed under subsection (1) and shall make such amendments if the mistake is brought to the notice, by the Collector of Central Excise or Collector of Customs, as the case may be, or other party to the appeal.”

Why does Collector etc. alone should be given powers? Any party to the appeal should be given powers to apply within four years to the Tribunal to modify that order. It should be at the instance of any party to the appeal. Four years are given. Any party to the appeal can make an application for modifying or amending the orders. Why do you say Collector or other party to the appeal only should move the appli-

cation? There may be intermediaries. Any party to the appeal can, within those four years, apply for modification or amendment of the orders. Such amendments should be carried on.

[Translation]

SHRI MOOL CHAND DAGA (Pali) : Mr. Chairman, Sir, the first question is why should there be a chance to make appeal in the customs and excise cases? That means that there is a shortcoming somewhere due to a need to appeal is felt. Has the hon. Minister ever thought why there is litigation? The reason is that the officers do not give correct decisions. Why do the Customs and Excise officers give wrong decisions? It is so because they are not satisfied with their service conditions. No recruitment rules have been formulated for them. Since 1951, there has been constant dis-satisfaction among them. No decision has been taken in the case of promotees. The question of fixation does not arise. Nothing is systematic. The people feel that once they become Customs and Excise Officers, they will have a good standing in the society because they will earn huge money. They know that the Ministers pay is nothing before them. At present the post of a Customs and Excise Officer is considered a lucrative one... (Interruptions)...it may not be so for all. A person is posted at the same place for years together of which he takes undue advantage. At the airports big smugglers operate and the same person remains posted there. I want to draw your attention towards one thing. You must have read and I have also read that the informers are rewarded. If I ask him about this aspect, he will not be able to reply. He has said that 4 per cent of the full amount will be given to the officer and 20 per cent will be given to the informer. I want to know from the hon. Minister the number of cases where you have given the rewards? There is one more question. You have increased the salaries of the High Court Judges which I think, amounts to crores of rupees. Salaries of the Supreme Court Judges too have been increased. There is one Tribunal which is already functioning.

[English]

“Already there is one tribunal.”

[*Translation*]

The need of enacting this law arose because you did not think on this aspect that you can set up more Tribunals. The Tribunal is already there and several cases are pending. You have allowed the lawyers. Now in the Tribunal also, the cases will keep pending for years together. What the lawyers are interested is how the cases can be kept pending for maximum time. Neither the High Courts nor other courts decide the cases expeditiously. Even after increasing the salaries, how much paraphernalia is required. You have mentioned an expenditure of Rs. 30 lakhs in it and who are the persons you will bring in it? They will be 62 years old elderly persons, who are exhausted. They will be appointed in Tribunal; they will not be able even to study the Tribunal papers. Why have you thought of appointing these people? Shri Janardhana Poojary is quite young and he has proposed the persons who will be appointed. Their sons and grand-sons are earning hands and you will be appointing such persons. On the one hand we are facing the problem of unemployment and on the other hand, you have provided that you will be appointing persons upto the age of 65 years. Do you know what is the need of the hour? Have the law-farmers realised that if persons of 65 years age are appointed, it will be incongruous with the need of the hour? When the hon. Members sitting on the other side forbid to do a particular thing, nothing happens. I do not know whether the hon Minister will amend it but as the Bill has been introduced, it will be passed. Kindly tell me how many cases are decided after the Tribunals are constituted? It is never stipulated that.

[*English*]

The Tribunal will take decision within a specified period.

[*Translation*]

One more Judge could have been appointed in the High Court and the cases could have been transferred to him. You have provided for a Tribunal with all the

paraphernalia. Now some of the hon. Members have started saying that this Tribunal should be set up at Trivandrum. You have not written specifically as to where this will be set up. Some other hon. Member may come up with the request that this should be set up in Goa because there are many excise cases there and large scale tax evasion takes place. There can be a plea for setting it up in Delhi or Lucknow. In this way you have kept every thing in the melting pot. My view is that there was no need to set up the Tribunal. In the Bill you have not specified the regions. You have simply stated that cases are increasing. The reason for this increase is that your Department is not efficient and your officers do not work honestly and with devotion. You work hard but they do not work honestly. Now what will happen after the cases are sent to it. Technical officers will be sent there.

[*English*]

There is one technical officer or Member...

[*Translation*]

Who will be the technical man? He will be a person from your Department who knows all about the manipulations. He will tell the remedy to all these manipulations to the Judge. And who will be the Judge? He will be 62 years old person. He will guide him and he will say, 'this is all right.' You have opened a new avenue for spreading corruption or to decentralise corruption. I am of the view that with the setting up of the Tribunal, cases will be further delayed. You have said that your revenue has increased much. You have given allurements to the people. You have done some work but informer will get his share and 4 per cent will be given to all the Customs Officers. You will give away 50 per cent of the total value. Does every man working in the Excise or the Customs work only on incentives? Your employees can work only with incentives. It should not be so. What I feel is that your purpose is not going to be fulfilled with the Tribunal you are going to set up. Therefore, do not

[Shri Mool Chand Daga]

constitute the Tribunal. It will be better if you increase the High Court benches and the number of the Judges. You may increase one or two Judges more. You are increasing the expenditure by establishing the Tribunal. My submission is this will entail more non-plan expenditure. I do not consider it proper.

[English]

SHRI THAMPAN THOMAS (Movelikara): This Bill, I may point out, is unconstitutional, it is *ultra vires* the Constitution, it is repugnant to certain provisions of the Constitution. Article 323B is the article under which this Bill is sought to be brought forward. There itself. I may point out, article 323B, sub-section (4) reads :

“The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.”

This has to be read with articles 226 and 227. Under article 226, the High Court has got powers to interfere in any matter relating to the Fundamental Rights—where a person can go to the Court,

Article 227 reads :

“Power of superintendence over all courts by the High Court..

“Every High Court shall have superintendence over all courts and tribunals throughout the territories to which it exercises jurisdiction.”

Therefore, if you read article 323B along with articles 226 and 227, you will find that the High Courts in this country have got jurisdiction over all Tribunals. I do not know whether the hon. Minister is aware of the case which went to the Supreme Court in the matter of Administrative Tribunal. In the matter of

Administrative Tribunal when the jurisdiction under articles 226 and 227 was taken away and when the matter went to the Supreme Court, the Supreme Court in an interim order directed this Government to keep that provision and subsequently Government had to bring an amendment to the Administrative Tribunal matter. Therefore, I would like to know when you are going to bring an amendment to this after having this Bill passed—if you have not looked into this provision. This is clearly unconstitutional, violative of the articles I have just mentioned and repugnant to the Constitution. You have no right to take away any of the guarantees given under the Constitution, under articles 226 and 227, to a citizen by saying, as you have done here, that all the powers of the High Courts are taken away, the jurisdiction of the High Courts is barred in respect of any such matter. The Government has no authority to say so. This is the decision of Supreme Court, and the Supreme Court decision is binding in a similar matter. Therefore, I say that this is unconstitutional. In the month of September, the full bench of the Allahabad High Court has said that there is no authority for the Government to take away the jurisdiction under articles 226 and 227. Therefore, my first submission is that this is unconstitutional and you have no authority to bring such a law taking away the jurisdiction of the High Courts.

Then I would like to come to the composition of the Tribunal. The very basic principle of jurisprudence is that a citizen and Government are equal in the eyes of law. But if you go through the Bill which has now been presented before this House, it appears that the citizen is at a disadvantage and the Department is at an advantage because there is a Tribunal which is constituted by two members; one is represented by the Department—the Department gives a member to decide a judicial matter—and there is another officer appointed from the judicial service or from among the High Court judges. There are only two members, of which one is a departmental man. Therefore, what happens is this. Here the complainant

himself becomes the judge. That is the very fundamental point. Our jurisprudence is totally against it. How can a complainant decide his own matter? The Department is a complainant in the matter of any excise duty or customs duty evasion. When a matter like customs duty evasion or excise duty evasion, a departmental matter, is to be decided, the complainant himself sits as a judge; then there cannot be any justice. So I say that it is very fundamentally against the jurisprudence of our country. I may point out that there is another very funny aspect. Our judicial system is controlled by the Ministry of Law and the Courts are totally under the control of the Supreme Court. The Supreme Court and the High Courts are having superintendence over the tribunals as well as lower courts. Here, it seems that the Finance Ministry is controlling these tribunals. It is a funny thing because this is brought in by the Finance Ministry (*Interruptions*)—The Administrative Ministry in relation to this tribunal is Finance Ministry, whereas in the matter of other cases if you look at the special tribunal constitution and other courts constitution, you can see that the Law Ministry is the administrative ministry in respect of legal forums and legal constitutions. Whereas in this matter the Finance Ministry is the administrative ministry as far as this tribunal is concerned. Therefore, my argument is that it is the violation of the jurisprudence, i.e., equality of a citizen and the Government before the law. So, it is fundamentally against the outlook of law of our country.

Mr. Daga has pointed out as to far what purpose this has been constituted—“30 years of experience as a senior man in the Department, having the position of a collector”. Has this Ministry somebody in its eyes to be appointed as a judge of this particular court? 30 long years, then out of this 10 years should be as a collector from the Department, it is very funny. Because 30 years of service now-a-day means—a person gets appointment after 35 years because of lack of job opportunities available in the country—65 years. Who is the man who is going to decide these things? He is deciding these things for

three years. So, he is completely ignorant about the administration of law and administration of justice which is a part of it.

In a matter where legal forum is constituted, the normal approach to the problem is that weightage is to be given for the legal forum. I suggest that instead of two members in the bench—one from the Departmental side and another from the Judicial side—let there be three members—two from the Judicial side and one from the Departmental side—in the matter of Lok Adalats and the Lok Pal or the tribunals which are constituted to check corruption. Even in the States that is the method followed.

In my State what is happening is that there is a court tribunal appointed to check corruption. There, two members from the judicial forum and one from the Government side are there. This will have a better equilibrium for the purpose of a decision in a judicial manner. Therefore, I suggest that instead of two members equally represented by the Department and the Judicial side, let there be three members—two from the judicial side and one from the departmental side—so as to help the bench to come to conclusion in these matters.

Then, the headquarters given for this body is only in Delhi and some few places. I would submit that at present people are having opportunities to get their case decided in almost all the State Capitals where there are High Courts, because these matters are also getting decided by the High Courts. But now that opportunity is denied. Therefore, what happens is that people will have to come to Delhi to get their matters decided. This will be a very difficult task.

I think this ministry has got an eye on certain people. Only lawyers can appear. The very funny thing is that at present in any tribunal a person who is authorised to appear can present the case. There are people who are, in the matters of customs and excise, able to present the case better

[Shri Thampan Thomas]

than a lawyer. Perhaps a Chartered Accountant will be better able to present the case because they are the people who are doing this. They are the specialised people who are practising in customs law. They may not be lawyers, having Bar-at-Law or BABL or having their designation as advocates. They are at present permitted to practise before the tribunals. But now in this Act that provision is taken away. Only lawyers can appear before it. It means that it will be a body for the Delhi lawyers, not lawyers throughout the country also, because the headquarters is only limited to Delhi and such places as they decide. At present, the High Court lawyers are getting it and the people who are authorised to appear by the party concerned can appear and present their case. The facility has been taken away now. Therefore, I submit that this will result in mis-carriage of justice.

Now I come to the provision for appeal. There is no provision for appeal. Under the Industrial Disputes Act when a decision is taken by the Industrial Tribunal there is a provision under that Act itself to go in appeal to the Supreme Court whereas in this case excepting special leave there is no provision for appeal. The decision of the Tribunal shall be subject to the final decision of the Supreme Court.

Now I come to the powers of the President and members of the Tribunal. That is also peculiar. Even a technical member can become president and administer justice. Normally a person having judicial experience is appointed as president in other tribunals but here anybody and even a technical member can become the president. This is also absurd.

So I submit that this customs and Excise Revenues Appellate Tribunal Bill is ill-conceived; against the provisions of the Constitution and also it has not looked into the various pronouncements made by the Supreme Court and High Court and it takes away the rights given under the Constitution. Therefore, a re-thinking in this matter is necessary.

[Translation]

SHRI HARISH RAWAT (Almora):
Mr. Chairman, Sir, from what Shri Thampan Thomas has said, it becomes very clear that our friends from the Opposition sometimes oppose a good measure for political purposes. So far as this Amending Bill is concerned, I feel there is nothing in it which is unconstitutional. These Tribunals are being constituted under the powers given in the Constitution. Moreover, it is the right of every citizen to get speedy justice. With these aims, the Tribunals are being constituted. So far as the question of cases is concerned, the Government would realise crores of rupees by way of revenue. That many is blocked in litigation for some or the other reason. The cases which are referred to courts remain pending for years. The private party has the capacity to influence the Government lawyers. It has been observed that mostly it is the Government which loses the cases. Certain loopholes are left due to which the cases remain with the Appellate authority. I feel that after the establishment of the Tribunals we will overcome this difficulty. As regards the question of setting up of Tribunals outside Delhi; it will not be a practical step. These should be set up in Delhi. The people whose cases are likely to come up before these Tribunals will be well-to-do people. I do not think that a demand should be made that like other ordinary courts these should be set up in different parts of the country. That will not solve any problem. In these Tribunals, such members should be included who are interested in protecting the interests of the Government and at the same time, want to dispense justice also. If we appoint only the superannuated persons primarily in order to accommodate them or those who are misfits in their Department, then the purpose for which these Tribunals are being set up will not be fulfilled. I want to submit to the hon. Finance Minister that in most of the customs and excise cases, big businessmen have their vested interest. Why do we lose in such cases, this should be enquired into. For whose weakness we lose the cases? If there is any loophole in our law or in the machinery it should be plugged. But we constantly lose the cases

which results in blocking of crores of rupees of the Government which otherwise can be utilised for the welfare of the people. I do not think any body will shower praises on us for this. The condition at present is that crores of rupees are blocked, which we could have utilised on welfare activities. After establishment of this Tribunal this shortcoming, though not fully, will be overcome to a large extent. That will be removed fully when we implement the provisions of this Act and try to remove the practical difficulties being faced by us.

[English]

SHRI A. C. SHANMUGAM (Vellore) : Mr. Chairman, Sir, on behalf of the A.I.A.D.M.K. I rise to welcome the Customs and Excise Revenues Appellate Tribunal Bill, 1986, brought forward in this august House by the hon. Minister of State for Finance, Shri Janardhana Poojary. Sir, it is a welcome feature that the Government is establishing an Appellate Tribunal to look into the disputes with respect to the determination of the rates of duties of customs, etc. It has been mentioned in the Bill that the retired judges would be appointed as Members of the Tribunal. In this connection, I would like to point out that the lawyers who are in the law field with a practice in the High Courts for the last 15 years or so should also be considered for appointment as Members in the Tribunal.

Now, with the appointment of the Tribunal the powers to consider appeals by the High Courts are taken away. Appeals can be made only to the Supreme Court of India. Moreover, in so far as the appointment of judges and Chief Justice of the High Court of the State is concerned, the Centre would consult the State Government before any appointment is made. But in these Tribunals the Members are directly appointed by the Central Government. I would therefore request the Government that they should consult the State Government concerned before the Members of the Tribunal are appointed. Sir, it has been stated that there will be one official included in the Tribunal as a Member. The

official will be from administrative side having the status and qualification of a Collector. My colleague, Mr. Thampan Thomas, has stated that two Members should be from the judicial side and one member should be from the administrative side. I welcome the Committee consisting of 3 Members, but I would stress that all the three Members should be from the judicial side and no one should be from the administrative side. The person coming from the administrative side will be knowing about the rules and regulations from the administrative angle and he will not be having the law background. He will not be showing any interest in the work nor he will have any patience to look into the cases from all angles.

Now, Sir, with the appointment of the Appellate Tribunal you are going to give powers to the people to go on appeal to the Supreme Court of India, but not to the concerned, High Courts in the States. I feel that it is not correct to take away the powers of the High Courts. In this context, I would like to draw the attention of the Government that there are already thousands of cases pending in the Supreme Court for the last 20 or 25 years. If the Tribunal cases are allowed to be filed in the Supreme Court only, then the Government will be increasing the number of pending cases in the Supreme Court. I would therefore appeal to the hon. Minister kindly to consider those aggrieved to go on appeal to the various State High Courts. This would also lessen the burden of the common and the poor people going all the way to the Supreme Court in Delhi. People living in Kanyakumari and those living in Bangalore would definitely face hardships in appealing to the Supreme Court because of the long distance and other difficulties they may have to face in a new place. I would therefore plead with the hon. Minister, Shri Janardhana Poojary, kindly to consider allowing the people to appeal to the concerned High Court in the State. This would definitely lessen the burden on the Supreme Court.

Another point, I would like to point out there is that in spite of raids and seizures, Government is not effective in so

[Shri A. C. Shanmugam]

far as action against the Customs officials is concerned. Sir, they are working people in foreign countries and after rendering services for about 20 of 25 years in abroad when they return to our country with their household things, the Customs officials, instead of helping them, give a lot of trouble in giving clearance. Sometimes their goods are confiscated and after a lapse of some months those goods are taken home by the customs officials themselves. In this way, the Customs officials have become rich. When the business people on the pretext of some reason or other go abroad every fortnight or every month and when they bring a lot of foreign goods for sale in the country, the Customs officials do not take cognisance of their actions and let them go with their foreign goods. But, at the same time, when persons go abroad once in five or ten years for sight-seeing purposes and when they come back with some small foreign goods, they are confiscated by the Customs officials. The Government should have a separate squad for catching the officials when they indulge in malpractice. Sir, I am sure the hon. Minister for Finance would look into the points submitted by me and do the needful. Thank you.

SHRI RAM SINGH YADAV (Alwar) :
Sir, I support the Customs and Excise Revenues Appellate Tribunal Bill, 1986. The Minister has brought this Bill with an intention to take all the cases pertaining to customs and excise revenue from the jurisdiction of the various High Courts and other Civil Courts, where these cases are pending. The idea is to have speedier justice because near about Rs. 2500 crores of revenue by way of customs and excise levies is still locked up in these cases. Therefore, the Minister brought forward this legislation so that there would be speedier justice in respect of all these cases.

Sir, I would like to submit to the hon. Minister that there should have been a specific provision on debarring the courts on the point of jurisdiction, which is enumerated in Sections 26 and 27. In Chapter V, Section 26 is as follows :

“26. On and from the appointed day, no court (except the Supreme Court) or the Customs, Excise and Gold (Control) Appellate Tribunal shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to matters in respect of which appeals would lie to the Appellate Tribunal under Section 14”.

Now, Mr. Minister, there will be concurrent jurisdiction. The Customs, Excise and Gold (Control) Appellate Tribunal also shall exercise the jurisdiction. You have defined it here :

“Customs, Excise and Gold (Control) Appellate Tribunal” means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under Section 12 of the Customs Act.”

This Tribunal also will exist even after the constitution of the present Tribunal being set up under this Bill. In that case some overlapping may be there with regard to the powers of both the Tribunal, i.e. the Customs, Excise and Gold (Control) Appellate Tribunal and the new Tribunal which is to be constituted under the present Act. Secondly, here in Section 27, you have not made it very specific as to what will happen to those writ petitions which are pending in the High Courts, whether they shall be transferred to the Appellate Tribunal or whether they shall be decided as they are in the various High Courts, in which they are pending because Section 27 speaks like that.

“Every suit, appeal or other proceedings pending before any court or other authority or the Customs, Excise and Gold (Control) Appellate Tribunal, immediately before the appointed day, be it a suit, appeal or other proceedings which would have been within the jurisdiction of the Appellate Tribunal, if it had arisen after such day, shall stand transferred on that day to the Appellate Tribunal :

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court.”

Only the question of appeal you have mentioned here. But what about those writ petitions which are pending in the High Courts. So far as jurisdiction of the writ petitions of Supreme Court is concerned, you have specifically mentioned that the Supreme Court shall exercise an enjoy the power of the petitions but you have not mentioned specifically about the writ petitions pending before the High Courts. I think the hon. Minister will make it clear in his reply as to what will happen to those writ petitions which are pending before the High Courts. After that, whether it will be entertained under Article 226 or not after the constitution of this tribunal.

Now Sir, so far as the other provisions of the Act are concerned. I may also draw the attention of the hon. Minister towards the definition of the Technical Member. Here you have proposed that for constituting an Appellate Tribunal, there shall be a President and there shall be Members who shall be known as Technical Member and Judicial Member. Now, you have defined the judicial member, but so far as the definition of the technical member is concerned, that is not the positive definition, but this is the negative definition. You have defined it.

"Judicial Member" means a Member of the Appellate Tribunal appointed as such under this Act, and includes the President who possess any of the qualifications specified in sub-section (2) of section 5."

This is all right I have nothing to say about this. But so far as this Technical Member's definition is concerned, it is like that :

"Technical Members" means a Member of the Appellate Tribunal who is not a Judicial Member within the meaning of clause (j)."

So you should have prescribed some sort of qualification for a Technical Member, as to who shall be a Technical Member. You say that who is not a Judicial Member, he shall be a Technical

Member and who does not possess the qualification of a Judicial Member, he shall be deemed to be a Technical Member.

You have not provided the positive qualifications of a Technical Member which was very necessary, as to what should be the training and what should be the experience and what type of man, you want to serve on this post.

These are my submissions and I hope the hon. Minister will also look into it and make it clear.

With these few words, I support the Bill.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : Sir, at the very out set, I am grateful to the Members who have participated in this debate and also for giving the concrete suggestions.

Sir, inside the Parliament and outside the Parliament, there have been statements saying that a large sum of money is locked up in the cases. In fact, it has been stated that the Government is sleeping over the matter and no action is being taken to collect these arrears and some stern methods should be used for collecting the revenues which are due to the Government.

Sir, I may bring to the notice of the august House that in the High Courts, so far as the customs and central excise are concerne, 10911 cases are pending.

15.00 hrs.

A sum of Rs. 1420.61 crores is involved in these cases. In the Supreme Court, 2720 cases are pending, and a sum of Rs 762.65 crores is locked up. There was representation that, in order to clear pending cases, we should come up with a solution. Not only that; it has been brought to the notice of Government that High Courts in some of the States have

[Shri Janardhana Poojarv]

given various decisions which have come in the way of the Administration, and also put trade and business into difficulty. Hence we have to find a solution. The tribunal which is proposed to be set up under this Bill is meant for having an appellate tribunal, which will deal exclusively with revenue matters.

Hon. Members are aware of the fact that our High Courts have to deal with so many matters, including revenue matters. As such, they are not in a position to give speedy justice. So, we have thought of coming before the House with this Bill, containing a proposal to set up an appellate tribunal. Hence I request the hon. members to keep the history behind the setting up of the tribunal in mind.

15.03 hrs.

[SHRI SOMNATH KATH *in the Chair*]

Here, I can tell the hon. Members that this is a measure for speeding up justice. In fact, it will help trade and business as also Administration, to have speedy disposal of cases which are pending in various High Courts.

Today, the resources have a vital role to play in our economy. They are required for developmental activities. As the hon. Member Shri Rawat pointed out, if revenue which is due to the Government, and through Government to the nation, is held up, it will create difficulties. In some cases, it has been brought to the notice of Government by Members of parliament, and even by people outside Parliament, that some businessmen play tricks and mischief, and deliberately go to High Courts, in order to avoid payment of duty—whether Customs, Excise or income tax. As such, Government should come up with a definite solution. If you kindly take into consideration all these aspects, it is in the interests of trade as also the Administration that we have a tribunal exclusively for

dealing with these revenue matters. With this objective in mind, we have come up with this Bill.

Coming to the point raised by hon. Members that the Benches of these tribunals should have three members, and out of these, two members are from the judiciary. I can tell the hon. members that here every bench will have two members and one from the judiciary. He will be a High Court Judge. Hence there will not be any discrimination and a judicious approach will be there in the benches.

Further I can tell the hon. members that here will be a technical member also and this member will have 30 years of experience with ten years experience as a Collector; and he will be a man of integrity and efficiency; and there will not be any room for any complaint; and we will see that when these people are appointed, they would be man of high integrity; and we have to place a certain degree of faith and trust in the administration; and let us see how it is going to perform its functions. If there is any deficiency to be found out, definitely we will come up with some solution to rectify it.

Coming to another statement that it will not be in a position to give speedier justice to all the people who are aggrieved. One thing I can say that another tribunal consisting of Secretaries is functioning; it is functioning at Delhi and it is giving justice to all the aggrieved people throughout the country. Here also I can tell the hon members that even though the Head Office would be set up in Delhi as in the case of CEGAT that will consider the demand of all the States. If they feel that there are not sufficient number of tribunals in the country to give or administer justice, here I can tell the hon. members that so far as we are concerned, at this juncture, we felt that it is sufficient to have three benches and it will be enough to give justice to all the people and also to have speedier disposal of the cases.

Now coming to another point raised by the hon. member Shri Thampan that we

shall not be in a position to face the Supreme Court and it will be declared as an unconstitutional Bill, I draw the attention of the hon. member to the fact that Article 323, clauses 3 and 4 take care of all the points raised by the hon. member. Also this Bill has been prepared by the Law Ministry recently and they can take care of all the points raised by the hon. member; and definitely I can assure him that if there is any deficiency found out, we will suggest remedial measures, if it is required.

I appreciate the concern expressed by the hon. member shri Thampan that we should come out with clear legislation and there should not be any deficiency. I also admire his thorough knowledge about constitutional points; and in fact, our Law Ministry has already taken care of this. Hence there is no room for any anxiety.

Coming to some of the other points raised by the hon. member regarding corrupt officers, some of the officers are corrupt and some of the officers are not working, we have taken already action against corrupt officials; and this is the commitment that has been given to the nation, by our Government that there will not be any room for inefficient and corrupt people. I hope that the hon. Members are aware of the action have taken. In fact, in the history of the revenue department we have created history in all the respects, so far as seizures are concerned, so far as the collection of revenue is concerned, and also so far as the action that has been taken against those corrupt officials is concerned.

Further we have waged a war against the black money and I can tell the hon. Members that this is one of the measures which can be taken against the black money and will not allow any person to avoid taxes by going unnecessarily to the courts and raising some technical questions even if they are not decided earlier by the same High Court or the Supreme Court.

So, this is the measure we have taken to see that the Government revenue is

obtained to the Central exchequer and that the amount is due to the nation for the developmental activities and that could be used for the welfare measures especially for the people who live below the poverty line.

Here some other points have been raised and I will answer when the amendments are being moved. Generally, I got the support from the hon. Members and particularly the hon. Members from our side have supported this Bill.

The first speaker from Andhra Pradesh has stated that this Bill should be referred to a joint select committee. This proposal is not acceptable to us. And we have drafted this Bill on the lines of the Bill that was drafted, as the hon. Member is aware of that, as the one for the Central Administrative Tribunal was drafted and it was passed by Parliament also. So, we are at parity with the provisions of the Central Administrative Tribunal and hence I do not think that there is any need for referring the Bill to the joint Select Committee.

With these remarks—I do not want to take much time of the House—I conclude my speech.

MR. CHAIRMAN : The question is :

“That the Bill to provide for the adjudication, by an appellate tribunal, of disputes with respect to the determination of the rates of duties of customs and Central excise on goods and to the valuation of goods for the purpose of assessment of such duties, in pursuance of Article 323B of the Constitution and for matters connected therewith or incidental thereto, be taken into consideration.”

The motion was adopted.

MR. CHAIRMAN : The House will now take up Clause by Clause consideration of the Bill.

MR. CHAIRMAN : The question is :

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

MR. CHAIRMAN : Clause 3 Shri Mool Chand Daga. He is not present.

The question is :

"That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

MR CHAIRMAN : Clause 4. There are amendments by Shri K. Ramachandra Reddy, Shri Mool Chand Daga and Shri D. B Patil. All the three hon. Members are absent.

The question is :

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

MR. CHAIRMAN : Clause 5. Shri Mool Chand Daga. Absent. Shri D. B. Patil Absent. Shri K. Ramachandra Reddy. Absent. The question is :

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

MR. CHAIRMAN : Clause 6-Shri K. Ramachandra Reddy not present. Shri D. B. Patil not present.

The question is :

"That Clause 6 stand part of the Bill"

The motion was adopted

Clause 6 was added to the Bill

MR. CHAIRMAN : Clause 7 -Shri D. B. Patil- not there. Clause 8- no amendment.

The question is .

"That Clauses 7 and 8 stand part of the Bill"

The motion was adopted.

Clauses 7 and 8 were added to the Bill.

MR. CHAIRMAN : Clause 9 Shri K. Ramachandra Reddy not present. Clause 10 no amendment.

The question is :

"That Clauses 9 and 10 stand part of the Bill"

The motion was adopted

Clauses 9 and 10 were added to the Bill

MR. CHAIRMAN : Clause 11- Shri Mool Chand Daga not present. Shri D. B. Patil -not present. Clause 12-no amendment. The question is :

"That Clauses 11 and 12 stand part of the Bill."

The motion was adopted.

Clauses 11 and 12 were added to the Bill

Clauses 13-(Staff of the Appellate Tribunal)

SHRI SHANTARAM NAIK : I beg to move :

page 5, line 44, -

for "specified by rules" substitute-
"prescribed" (1)

It is written in the clause that

"The salaries and allowanees and conditions of service of the officers and other employees of the Appellate Tribunal shall be such as may be specified by rules"

At one place you say 'prescribed' and at the other place you say 'specified'. The word 'prescribed' is better than 'specified.' Kindly examine this. It is only a question of substitution of words.

SHRI JANARDHANA POOJARY : The language of clause 13 is essentially based on the language of Section 13 of the Central Administrative Tribunal Act. It is on parity with that. You are a lawyer and you know that between 'specified' and 'prescribed', there is not much difference. Any way, let us see how it is going to function. So, it is not acceptable to us.

SHRI SHANTARAM NAIK : I seek leave of the House to withdraw my amendment No. 1 to clause 13.

MR. CHAIRMAN : Has Mr. Shantaram Naik leave of the House to withdraw his amendment No. 1 to clause 13 ?

SEVERAL HON. MEMBERS : Yes.

Amendment No. 1 was, by leave, withdrawn.

MR. CHAIRMAN : The question is :

"That clauses 13 to 17 stand part of the Bill"

The motion was adopted

Clauses 13 to 17 were added to the Bill

Clause 18 (Appeals to the Appellate Tribunal)

SHRI SHANTARAM NAIK : I beg to move :

Page 9, line 3, -

for "fee" substitute "court-fee"(2)

I am saying this by way of experience. If you insist on fee, the man will go to the bank, spend hours there and then gets draft or whatever it is. On the contrary, if you prescribe court fee, this much of botheration will be saved. Why do you not adopt this simple procedure ?

SHRI JANARDHANA POOJARY : The language of this clause has been taken from section 18 of the Central Administrative Tribunal Act. In fact, it has been functioning will. Let us see how it is going to function.

SHRI SHANTARAM NAIK : I seek leave of the House to withdraw my amendment No. 2 to clause 18.

MR. CHAIRMAN : Has Mr. Shantaram Naik leave of the House to withdraw his amendment No. 2 to clause 18

SEVERAL HON. MEMBERS : Yes

Amendment No. 2 was, by leave, withdrawn

MR. CHAIRMAN : The question is :

"That clause 18 stand part of the Bill"

The motion was adopted

Clause 18 was added to the Bill

Clause 19- (Procedure and Powers of the Appellate Tribunal.)

SHRI SHANTARAM NAIK : Sir, I beg to move :

Page 9, -

for lines 4 to 9, substitute -

"19. (1) Provisions of Code of Civil Procedure, 1908, shall not apply to the proceedings of the Appellate Tribunal except as is provided for under sub-section

[Shri Shantaram Naik]

(2) but the same shall be regulated by the principles of natural justice, provisions of this Act and by rules as may be prescribed." (3)

Sir, clause 19(1), as I have already explained earlier, says that: "The Appellate Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by.....". I would like to substitute this very clause in a different manner. I will not say "shall not be bound.....". These are the standard words. You can check any other legislation and see whether these are the standard words or not. I would like to substitute in this manner: "19 (1) provisions of Code of Civil Procedure, 1908; shall not apply to the proceedings of the Appellate Tribunal except as is provided for under sub-section (2) but the same shall be regulated by the principles of natural justice, provisions of this Act and by rules as may be prescribed." There should be no scope for regulations by its own procedure, etc.

SHRI JANARDHANA POOJARY : Sir, this Customs and Excise Revenues Appellate Tribunal is sought to be set up in pursuance of Article 323B of the Constitution. The Administrative Tribunal Act 1985 is enacted in pursuance of Article 323A of the Constitution which is similar to Article 323B. We find that there is no difference and hence it is not acceptable to the Government.

SHRI SHANTARAM NAIK : I withdraw amendment.

MR. CHAIRMAN : Has the hon. Member leave of the House to withdraw his amendment ?

SEVERAL HON. MEMBER : Yes.

Amendment No. 3 was, by leave, withdrawn.

MR. CHAIRMAN : The question is :

"That clause 19 stand part of the Bill."

The motion was adopted.

Clause 19 was added to the Bill.

MR. CHAIRMAN : Clause 20. Shri D.B Patil—absent. There is no amendment to clause 21. The question is :

"That clause 20 and 21 stand part of the Bill."

The motion was adopted.

Clauses 20 and 21 were added to the Bill."

Clause 22—(Conditions as to making of interim Orders,

SHRI SHANTARAM NAIK : Sir, I beg to move :

Page 10, line 11,—

for "injunction or" substitute—

"injunction order of dispensation under proviso to section 20" (4)

Sir, clause 22 is very simple. Please try to understand me for a while and if I am wrong, you can point out to me that I am wrong. Clause 22 says: "Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made...". Now, for instance, in clause 20 there is another thing known as 'dispensation order' which has not been referred to here at all. Clause 20 says: "...may dispense with such deposit subject to such conditions...". This dispensation order ought to have been mentioned in clause 22. They have mentioned "injunction" which is not mentioned in the Act. They have mentioned 'stay' which is not mentioned in the Act. The order actually mentioned in clause 20, namely, the order of dispensation, has not been mentioned at all here. Thus, whoever has drafted it, might have committed some mistake or some lapse. I am submitting something very sensible and the Minister

should accept it Even the Prime Minister said why good amendments should not be accepted.

SHRI JANARDHANA POOJARY : Sir, the expression 'interim order' of quite wide enough to take in such orders of dispensation of duty for penalty, which may be passed in terms of Provisions contained in clause 20. This amendment of the hon. Member is not acceptable to the Government.

SHRI SHANTARAM NAIK : I withdraw my amendment.

MR. CHAIRMAN : Has the hon. Member leave of the House to withdraw his amendment ?

SEVERAL HON. MEMBERS : Yes.

Amendment No. 4 was, by leave, withdrawn.

MR. CHAIRMAN : There are no amendments to clauses 23 and 24. So, I put clauses 22 to 24 to the vote of the House. The question is :

"That clauses 22 to 24 stand part of the Bill."

The motion was adopted.

Clauses 22 to 24 were added to the Bill.

Clause 25—(Orders of Appellate Tribunal)

SHRI SHANTARAM NAIK : I beg to move :

Page 11—

for lines 1 to 11, substitute

"(2) The Appellate Tribunal on its own motion or at the instance of any of the parties to an appeal, may, at any time within four years from the date of the order, with a view rectifying any mistake apparent

from the record, amend any order passed by it under sub-section (1); (5).

Provided that no order of amendment, under this sub-section, shall be made without notice to the parties to the Appeal."

I have said here specifically parties to the Appeal'. Your Section refers to the Collector of Central Excise and Customs—may move any application and the other party to the appeal to be heard, etc. etc. On the country, I am saying specifically 'any party to the Appeal' can approach.

SHRI JANARDHANA POOJARY : It is not acceptable.

SHRI SHANTARAM NAIK : I withdraw my amendment

MR. CHAIRMAN : Is it the pleasure of the House that the amendment moved by Shri Shantaram Naik be withdrawn ?

SEVERAL HON. MEMBERS : Yes.

Amendment No. 5 was, by leave, withdrawn.

MR. CHAIRMAN : Shri D. B. Patil is not present.

The question is :

"That clause 25 stand part of the Bill.

The motion was adopted.

Clause 25 was added to the Bill.

MR. CHAIRMAN : Clause 26. Shri Mool Chand Daga is not present.

The question is :

"That clauses 26 to 34 stand part of the Bill."

The motion was adopted.

Clauses 26 to 34 were added to the Bill.

MR. CHAIRMAN : The question is :

“That Clause 1, Enacting Formula, and Title stand part of the Bill.”

The motion was adopted.

Clause 1, Enacting Formula, and Title were added to the Bill.

SHRI JANARDHANA POOJARY : I beg to move :

“That the Bill be passed.”

MR. CHAIRMAN : The question is :

“That the Bill be passed.”

The motion was adopted.

15.28 hrs,

CUSTOMS TARIFF (AMENDMENT)
BILL, 1986

[English]

THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE (SHRI
JANARDHANA POOJARY) : I beg to
move :*

“That the Bill further to amend the
Customs Tariff Act, 1975, be taken
into consideration.”

Hon'ble Members of Parliament would recall that the First Schedule to the Customs Tariff Act, 1975 was substituted by a new Schedule based on the International Convention on the Harmonised Commodity Description and Coding System to bring about an internationally accepted system of Nomenclature (Harmonised System) through the Customs Tariff (Amendment) Act, 1985 which came into force on 28.2.1986. The Harmonised system provides a simple, precise and objective classification system.

Subsequent to the adoption of the aforementioned Convention, the Interim Harmonised System Committee in Brussels had finalised certain editorial-amendments to the Harmonised System mainly in the nature of verbal corrections. These amendments do not bring about any material change in the scope of legal headings in the Nomenclature. These changes are proposed to be incorporated in the First Schedule to the Customs Tariff Act through the proposed Bill.

The Bill also contains, as a measure of protection to domestic industry, proposals to raise the tariff rates of basic customs duties in respect of caustic soda in solid form to 200 per cent plus Rs. 1500 per tonne and on certain types of narrow woven fabrics to 300 per cent ad valorem. The effective rates of duties would be fixed through exemption notifications.

Sir, I move that this Bill may be taken for consideration.

MR. CHAIRMAN : Motion moved :

“That the Bill further to amend the
Customs Tariff Act, 1975, be taken
into consideration.”

Shri B. B. Ramaiah.

SHRI B. B. RAMAIAH (Eluru) : The Customs Tariff (Amendment) Bill 1986 which the hon. Minister has put up to the House is for harmonisation of the international rules and regulations. They have followed to some extent. But they have made some deviation in its effectiveness in different ways, wherever it is convenient to them from their point of view. Here I would like to say about the view points. The Tariff system which we are adopting is mainly intended to give protection to the development of this country. For example take the agricultural commodities. We are still importing huge quantities of edible oils when we can produce them in our country. If the tariff system works properly, it gives enough remunerative prices to the agriculturists in this country, which would have saved a lot of foreign exchange. The same thing happens to the exports of agri-

*Moved with recommendation of the President.