

MR. SPEAKER : The means that achieve the end are the best means.

CENTRAL EXCISE TARIFF BILL ADDITIONAL DUTIES OF EXCISE (TEXTILES AND TEXTILE ARTICLES) AMENDMENT BILL

AND

ADDITIONAL DUTIES OF EXCISE (GOODS OF SPECIAL IMPORTANCE) AMENDMENT BILL

(English)

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : Sir, as hon. Members are aware, the Central excise duty is now levied at the rates specified in the First Schedule to the Central Excises and Salt Act, 1944. When the Central Excises and Salt Act was brought into force in 1944, the First Schedule comprised only 11 items. Since then, the number of tariff items has increased to 137. The levy, which was selective in nature, to start with, became omnibus in 1975 when the residuary tariff item No. 68 was introduced. Barring a few items like opium, alcohol etc. in regard to which the Central Government has no jurisdiction to levy excise duties, all other manufactured goods now come under the scope of the levy.

The growth of the Central Excise Tariff over the years, has not been a process of steady evolution. To some extent it has grown in a haphazard manner without following any set principles. This has led to some disputes relating to classification of goods for the purpose of levy of excise duty. The Government had felt the need for a review of the Central Excise Tariff, so that the areas of conflict between the taxpayers and the tax collectors could be reduced. With this purpose, in pursuance of the Budget speech of the then Finance Minister in 1984, a Technical Study Group on Central Excise Tariff was appointed by the Government. One of the tasks assigned to the Group was to formulate a new Central Excise Tariff which should bring about greater alignment with the customs tariff and other related schemes of classification, which

are in force today, as also to consider whether the Central Excise Tariff which now forms part of the Central Excises and Salt Act, 1944, could be enacted as a part of a separate Central Excise Tariff Act.

12.24 hrs.

(MR. DEPUTY—SPEAKER *in the Chair*)

In the international field under the auspices of the Customs Cooperation Council, Brussels, a new nomenclature was evolved for international trade and statistical purposes. The Council has evolved after deliberations at the level of world experts in customs matters and with the active assistance of the International Chamber of Commerce and other international trade bodies like the GATT, a convention described as the Harmonised Commodity Description and Coding System done at Brussels on 14th June 1983.

The Technical Study Group had detailed discussions with the trade interests as also with the departmental officers over a period of one year. The Group has since submitted its report on the 30th September, 1985. Copies of the report are available in the Library of Parliament. A revised Central Excise Tariff forms part of this report. The Group had considered various options before recommending the revised Central Excise Tariff. It has been observed that the Harmonised System of Nomenclature contains about 5,000 tariff entries much more than what we have in the excise tariff today. The enumerations are sometime specifically oriented towards goods which are internationally traded by advanced countries only. Some of the chapters of the Harmonised System of Nomenclature are unduly long or short for the purpose of the Central Excise Tariff. More significantly, the concept of "manufacture", which is important for the Central Excise levy, has to be dovetailed in the Tariff and goods which are not excisable have to be kept out of its scope. The new tariff, which the Study Group has recommended, is based on the International Convention on the Harmonised Commodity Description and Coding System. It has also recommended that there should be a separate Central Excise Tariff Act and the new Central Excise Tariff should form part of it, instead of its being part of the Central

Excises and Salt Act, 1944, as is the case now.

The proposed Central Excise Tariff as contained in the Central Excise Bill, 1985 is generally patterned on the tariff recommended by the Technical Study Group. However, the tariff has been more closely aligned to the Harmonised System of Nomenclature, by suitable amendments. Some chapters, particularly the later chapters, have been patterned fully on the basis of the Harmonised System. The scope of chapters in which the nomenclature has been divided is broadly the same as in the chapters having the corresponding number in the Harmonised System of Nomenclature. In the headings, departure has been made where necessary on the consideration of the fact that our manufactures are not varied or as sophisticated as requiring very detailed sub-classifications. The classification will also be covered by a set of interpretative rules for facilitating such classification. This tariff would have several advantages : —

- (a) The nomenclature is based on an internationally accepted nomenclature, in the formulation of which all the relevant factors—technical and legal—have been appropriately taken into account.
- (b) The Section and chapter notes and the incorporation of rules of interpretation would limit the areas of dispute.
- (c) The nomenclature would provide a detailed statistical base, ideally suited for computerisation, which would help in policy formulation.
- (d) The products manufactured within the country would get covered under a definite heading. The classification problems that arise out of an omnibus residuary non-descript Tariff Item 68 covering all goods not elsewhere specified would thus be eliminated.
- (e) Separately, legislative action is being taken to align the customs tariff on the basis of Harmonised System of

Classification. With the introduction of the proposed Central Excise Tariff, the charging of countervailing customs duty on imports would be greatly facilitated, in view of the broad 2-digit correspondence between the Central Excise Tariff and the Customs Tariff.

The proposed tariff provides the scheme for purposes of levy of central excise duty and with the nomenclature for classification only. It is not intended to bring about any change in the existing rates of duty. If there is any unintended change in the rate of duty from what is now in force these will be corrected before bringing this Tariff into force. This legislation is not being brought into force immediately. It is likely that the introduction of this tariff may, by and large, be synchronised with the financial proposals of the Government in the Finance Bill, 1986. This would give sufficient time for the departmental officers and the trade to become conversant with the new tariff nomenclature. For this purpose, it is proposed to *organise seminars on the new Tariff* throughout the country. If during the discussion in these seminars any unintended hardship is noticed or suggestions for further improvement of the tariff emerge, these would be considered for appropriate action within the broad framework of the Harmonised System and given effect in the Budget Session of Parliament.

In the Central Excise Tariff Act, a new provision is proposed to be made in Section 3 under which the Government will be given powers to enhance the rate of duty through notification in certain circumstances. The increase of duty will be subject to certain limits. Such powers will be exercised only in emergency circumstances. Notifications bringing into force such increases would be subject to approval by Parliament. As Hon. Members are aware, such powers are available in the Customs Tariff Act regarding protective duties and export duties, and on the Central Excise side also, these powers are needed to correct any imbalance in budgetary provisions that might arise out of trade practices or legal pronouncements.

[ Shri Janardhana Poojary ]

Since the existing Central Excise Tariff as contained in the First Schedule to the Central Excises and Salt Act, 1944 is proposed to be replaced by the Central Excise Tariff Bill, 1985 it is necessary to carry out consequential changes in the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 because the entries in the schedules to these two Acts are based on the existing Central Excise Tariff.

MR. DEPUTY SPEAKER : Motions moved :

“That the Bill to provide for tariff for Central duties of excise, be taken into consideration.”

“That the Bill further to amend the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 be taken into consideration.”

“That the Bill further to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957 be taken into consideration.”

MR. DEPUTY SPEAKER : Now Shri Srihari Rao will speak.

SHRI S. JAIPAL REDDY (Mahboobnagar) : I am on a point of order. I will make a submission. I welcome the Bills for they are apparently based on recommendations of the Experts Committee.

MR. DEPUTY SPEAKER : What is the point of order you are raising, you tell me.

SHRI S. JAIPAL REDDY : The Committee reports are available in the Library. These Bills were made available to us on Saturday morning. On Saturday and Sunday library was closed. If we are to make any meaningful contribution, how can we do so without reading those reports? Are we to put our blind seals? I am not objecting to the Bills. Apparently these are welcome and apparently they are based on the recommendations of the Expert Committee. But

we have not been able to take a look at that Expert Committee report which, according to the Minister, is available in the library.

MR. DEPUTY SPEAKER : Shri Srihari Rao to speak.

SHRI S. JAIPAL REDDY : The Minister should react.

MR. DEPUTY SPEAKER : Nothing. What can he do ?

SHRI S. JAIPAL REDDY : I do not understand. It is ramming the Bill down the throat of Parliament. Even if it is a welcome Bill, it cannot be rammed down like that.

MR. DEPUTY SPEAKER : If it is already in the Library, you could have referred whether it is coming or not; how can I... ?

SHRI S. JAIPAL REDDY : We do not even know that the report was available in the library. And the fact that they would introduce the Bill on Monday was made known to us on Saturday morning.

MR. DEPUTY SPEAKER : Saturday morning ?

SHRI S. JAIPAL REDDY : That is true. The Library was closed on Saturday and Sunday. How can we study? What do we know ?

MR. DEPUTY SPEAKER : Regarding this, on 12th itself it was circulated that Bills are going to come. The Bulletin already circulated that bills are coming. In the 12th Bulletin itself, it was already circulated that Bills are coming.

SHRI S. JAIPAL REDDY : But the copies of the Bills are not available. They were made available only on Saturday. We welcome the bills. But, as Members of Parliament, we must know what the Bill is about.

MR. DEPUTY SPEAKER : You could have asked on Saturday itself. They would have opened the library.

SHRI S. JAIPAL REDDY : They do not open the Library on Saturday.

MR. DEPUTY SPEAKER : The Library is open on Saturday. You should have availed of that opportunity at that time. You cannot say that it is closed.

SHRI S. JAIPAL REDDY : In that note circulated to us, it was not made clear that the Experts Committee Report was available in the Library. Now the Minister in his statement has made that known.

(Interruptions)

MR. DEPUTY SPEAKER : Only you are raising this matter.

(Interruptions)

SHRI S. JAIPAL REDDY : The House cannot be taken for granted.

MR. DEPUTY SPEAKER : Your submission is wrong submission, I tell you. In the Circular itself it is already mentioned. for your convenience I am reading :

"In this context, the above bills, a few copies of each of the following document received from the Ministry of Finance has been placed in the Parliament library for reference by the Members."

It is already mentioned. You cannot raise it.

SHRI S. JAIPAL REDDY : I am referring to the Expert Committee's report.

MR. DEPUTY SPEAKER : It is mentioned in the circular...

SHRI BASUDEB ACHARIA : We are referring to the Expert Committee's report.

MR. DEPUTY-SPEAKER : Mr. Srihari Rao. You can proceed.

SHRI S. JAIPAL REDDY : You cannot find out anything from the Bills.

MR. DEPUTY-SPEAKER : Please take your seat. It is mention in the circular. You can see it.

[Translation]

\*SHRI SRIHARI RAO (Rajamundry) : Mr. Deputy Speaker, Sir, I am happy that the Central Excise Bill has been brought forward at long last. I welcome it. In fact it should have come long before. Never the less, though late, it has now been introduced in the House for which I congratulate the Government. When this Act was passed in the year 1944, only eleven items were included in the list. But today the list contains as many as 137 items. Similarly the revenue from the excise duty was only 68 crores of rupees during 1950-51 which has now gone up to Rs. 9814 crores. The collection through excise duty was only 17% of the total tax collection which has now gone up to more than 50%. But Sir, as many as 15000 cases have been pending before the various courts of the country and an amount of Rs. 1000 crores or so has been locked up in these litigations. The Central Excise and Salt Act had too many loopholes which enable the business men to take the matter to court at the slightest instance. The loop holes in the existing Act is the main cause for so many litigations. Since there is no uniformity and harmonious coding system excise inspectors were adopting different yardsticks to assess the tax. Their assessment varied from place to place on similar type of items. This led to many a litigation in the part. Businessmen had made use of this defect to approach the court and get a stay. That is how more than Rs. 1000 crores have been held up with the businessmen. Consumers are paying the tax. The tax amount is being collected from the people duly and promptly but not being remitted to the Govt. Thus Govt. is being deprived of its tax collections due to the manipulations of big businessmen and company owners. These very business men collect the tax from the poor consumers but avoid paying the same to the Govt. by challenging the assessment on various grounds. They go to court and courts order stay without any delay. I am not challenging the courts' decisions and it is not my intention to do so. The loopholes in the existing Act are the main reason

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\*The speech was originally delivered in Telugu.

[ Shri Srihari Rao ]

for the granting of so many stay orders. Because of these loopholes, the assessment which is now being done, is not uniform and very from case to case though they are of similar nature. So the big businessmen go to court and challenge the assessment and get a stay or injunction. They reopen the cases and thus avoid remitting the tax which they had already collected from the poor consumers. As a result of it, neither the Govt. nor the people are getting any benefit out of the imposition of these taxes. Only big business men and industrialists are deriving benefit out of it. So I am happy that the Government, realising this defect, has long lost, come out with this Bill before this House to plug this loophole and hence I welcome it. Now there will be an uniformity and a standard yordstick will be adopted throughout the country in assessment and will give few chances for litigations. Sir, faster computerisation will help very much in bring the uniformity in assessment throughout the country. I take this opportunity to request the Minister to computerise the entire system as fast as possible so that the litigations can come to a naught immediately.

In many cases the extra duty imposed decades back remains the same even today. In 1931 when one gallon of motor spirit used to cost one rupee, the extra duty imposed on it was  $3\frac{1}{2}$  paise per litre. But today when the gallon of the petrol costs about Rs. 51 the additional duty remains the same. So there is no increase in the income as far as the States are concerned. The amount thus collected is hardly sufficient to maintain roads and bridges etc. Hence this additional duty should be increased proportionately so as to benefit the States.

Sir, it is regrettable that the Central Govt. is trying to snatch away items from the purview of the sales tax and impose excise duty on them. Thus the Central Govt. is trying to snatch away even the paltry benefit that may accrue to the State Govts. through Sales tax. By doing so the Central Government is trying to enrich its coffers and make the financial position of the State Govts. weaker. It is a great

in justice. Already the financial position of State Govts. is in a very bad shape. By this step of the Central Govt., their economic conditions will slide down further. The Central Govt. is trying to take away all the resources of State Governments one by one. This is not proper. In order to improve the financial position of the States the Centre must increase the percentage of the amount it pays as their share. States should get a greater share in the collection of central taxes. It is unfortunate that the Central Govt. is still paying the same percentage or share in Central collections as it used to pay during 1944. Now the income through excise duty has gone up from 17% to 50%, the share payable to State Govt. must also go up in the same proportion. The ratio payable to the States must be directly proportional to the collection of the amount. Now what is happening is that the States have no powers to collect money because every duty or tax is in the hands of the centre and they are forced to beg from the Centre for financial help whenever they are in distress. But instead of helping the States, the Centre is turning them away. I want to give you an example as to how shabbily the Centre treats the State Govts. Andhra Pradesh has suffered unprecedented drought followed by a cyclone this year. The Govt. of AP has requested the Central Govt. for an immediate assistance of Rs. 600 crores. But the Central Govt. had given only Rs. 35 crores and washed off its hands. This paltry amount of Rs. 35 crores was too negligible an amount to meet the unprecedented situation. It was too small an amount to tide over the crists. So the present position is such that the entire revenue collected through taxes is flowing into the Central exchequer, and the states are left with no resources whatsoever and are at the mercy of the Centre. The pleas for assistance by State Govts. are being turned down by the Govt. at Delhi. This is a great injustice and hence I request the Central Govt. to provide due share to the State Govts. out of the collection of Central taxes. The ratio of their share should be increased so that their financial position improves. This is my request to the Hon. Minister and I hope he will honour it.

Sir, I take this opportunity to plead for the exemption of customs duty on items which are meant for public use. There should not be any delay in granting exemption on such items and should be cleared immediately by the customs. If there is any delay in clearing such items many voluntary institutions face many hardships in service the people. To give you an example, Kakinada Municipality imported a fogging machine recently. The machine was necessary to reduce the menace of mosquitoes and to improve public health. Import of this machine was cleared earlier by the Govts. The machine arrived and is still lying at port awaiting the exemption of customs duty. I have already sent letters to the Health Minister Mrs. Kidwai and our Finance Minister Shri V. P. Singh in this connection. Sir, the machinery which is meant for public utility should not be delayed the exemption for a long time. There are many Municipalities in the country which are suffering the similar fate. Now it is more than 8 or 9 months. Exemption has not been accorded so far by the customs. Meanwhile the health of the people in that area is deteriorating due to the increased mosquito menace. Not only that, the Municipality had to pay a large amount as demurrage to port authorities. Municipality is an institution of the people. It is a loss suffered by not only the municipality but also by the people. It is a sheer wastage of public money. So any item which is meant for use of the public should be promptly exempted and cleared by the Govt. Of course, a circular was issued to this effect some time back. But it is not being implemented. Due to the non-implementation of the circular Kakinada Municipality had to suffer. I request the Govt. to effectively implement it and see that duty is removed on such items.

I appreciate the fact that our Ministers Shri V. P. Singh and Sri Janardhan Pujari are working hard to tone up the Finance Ministry. I congratulate them and wish them success. But I want to bring to their notice the harassment to which the people are subjected to at the lower rung of the staff in the Finance Department. We, the Members of Parliament too have received several

complaints from the public about the harassment by officers at the lower level in the Department of Finance. The cases once closed by inspectors or other lower officials are being reopened without any rhyme or reason by their successors without any information to the party concerned.

Finally such tax cases are taken to court for decision. This is how the harassment is going on at the lower level in the excise and other wings of the Finance Department. The Finance Department is losing the goodwill of the people on account of it. Now I am happy that the two Ministers in-charge of Finance Portfolio are doing their best to weed out such corrupt officials. But this is not sufficient. You should take action against more and more such officials to cleanse the Department. By doing so, not only the department becomes corruption free, but also received more revenue. The Central Excise collection will go up. The Govt. must take action against the corrupt businessmen too. The rod should not be spared in their case either. At the same time Govt. should encourage them to adopt honest methods by giving more incentives. So I pleaded for the carrot and stick policy on all those who are concerned. There should be punishment and there should be incentive also for the honest ones whether he is an officer or business man. There should be a change in the attitude of officials also. The change in the attitude should appear at the root level. Only when such changes take place, the Act will be implemented sincerely and the Govt stands benefited. by it

Sir, I want to take this opportunity to raise one more important issue. Many of the factories like sugar and textile mills in the country are located in one State while their head offices are located in some other State. The people, where the factories are located suffer air and water pollution, congestion of roads etc., but the benefit accruing through various taxes go to other State where their headoffices are located. Thus the States where the factories are located. Stand to lose while the States where head offices of those factories are located stand to gain. The States where the factories are located suffer in every way.

[ Shri Srihari Rao ]

So, I request the hon. Minister to review this policy. The assessment should be carried out in the same States where the factories are located. The assessment should not be done where their head offices are located. All the amount collected through various taxes should go to that State only. It is proper justice that the people who suffer should get benefit also. Moreover if the assessment is carried at the place where the factory is located, there will be less scope for manipulation. So Sir, I earnestly appeal for assessment at the place where the factories are located and see that the taxes go to those States only.

[English]

MR. DEPUTY SPEAKER : This problem is there in my constituency also. The factories are at one place and their head offices will be in some other towns. The revenue will go only to the place where the head office is located. That is the problem.

SHRI SRIHARI RAO : This is the position everywhere in the country.

MR. DEPUTY SPEAKER : I am narrating my experience to the Minister. I think he knows the problem too well.

[Translation]

SHRI SRIHARI RAO : So, Sir, I request that the assessment should be done at the place where the factory is located. The share in the taxes must go to that State only. It should not go to the States where the so called head offices are located. It is in the fitness of the things that people who bear the brunt like water and air pollution should also get the benefits. I am making this request repeatedly with the hope that hon. Minister will take steps to remove this anomaly.

Sir, the present ratio of the amount payable to States as their share out of the control excise collections must be increased. The Govt. should not stick on to the old ratio. Now the States do not have many

financial resources. Hence they require more amount from the Centre. They are facing many hardship on account of their difficult financial position. States are like legs while the Centre is the main body. If the legs are weak, they cannot withstand the burden of the entire body. Hence they should be stronger. Similarly the economic position of the States must have to be made stronger. So, in order to strengthen the economy of the State, I request the hon. Minister for Finance to delete some items from the list of the excise duty and include them under States tax. This way the centre can help the States to strengthen their economy.

(Interruption)

[English]

MR. DEPUTY SPEAKER : Let him speak. Why has he go to to Sarkaria Commission.

(Translation)

SHRI SRIHARI RAO : So some items have to be taken out of the purview of central excise and bring them under the purview of States tax.

Sir, there should be the same yardstick for similar kinds of goods if we are to remove disparities in assessment of duties. The uniformity and harmonious codification will eliminate litigations. It is also necessary that the classification and the items mentioned under them should be very clear. If it is done there will be little scope for any litigation. The arrangement should be foolproof. There should not be any scope to take the matter to courts. So, this Bill should be studied more thoroughly and necessary changes to make it fool proof should be made. Now more than Rs. one thousand crores are held up on account of litigation. Not only that amount can be collected if fool proof arrangements are made, but the Govt. would also get more income in future.

One again supporting this Bill wholeheartedly I conclude my speech.

[English]

SHRI HAROOBHAI MEHTA (Ahmedabad) : Mr. Deputy-Speaker, Sir, I rise to welcome the Bill. There was a long-felt need for the rationalisation of the tariff of central excise and this will be met by making this law. In fact, there were several ambiguities in the tariff that was found in the First Schedule of the Central Excise and Salt Act, 1944, in connection with various items. Moreover, various items contained in the tariff had become the subject matter of plethora of litigations in the years past and as a result on account of interpretational difficulties or otherwise, a huge amount of Central Excise came to be logged in the litigation. The classification as found in the Central Excise and Salt Act, 1944 was different from what was applicable in the matter of customs duty. Sometimes, we also found that the classification as per the tariff of Central Excise, Salt Act, 1944, was not quite in consonance with the Brussels nomenclature. Therefore, the present tariff was fully very useful in the interpretation thereof. Therefore, this Bill is welcome. However, I have some suggestions to make.

It has been stated that with the elaborate classifications it will not be necessary to provide for any residuary tariff items. I am not quite sure because due to the ingenuity of the manufactures who sometimes make profit only by evasion of duty and hired talents of lawyers to lend them some assistance in finding out some way some products may not be founded to be included in any of the specifically enumerated items in the present proposed tariff also. Therefore, the Government may well consider whether it is still not necessary to make provision for a residuary item so that if a product is not found on interpretation to be included in any of these specifically enumerated items, at least some residuary item can be there so that the Government can charge excise duty on the products which are not according to the manufacturer and as may be found by the court, included in any of the items specifically enumerated. The ingenuity of the brain is unlimited and apart from the ingenuity of the talents, our technical expansion might bring out new products come out and even the sources of products

may be new one and it may not have been contemplated at the time of framing the tariff rules. Therefore, the Government may still consider whether it is not necessary to add residuary item so that no product will go tax free only on account of non-provision for the same in the tariff rules.

Sir, the Central Excise duty is an indirect duty and it is intended to be passed on to the consumers. However, there certain anomalies arise on account of the approach of the manufacturers. They collect the Central excise duty from the buyers. They then often challenge levy in the courts. The courts go into it and examine it and if they find that the Central excise duty paid by the manufacturer to the government by way of Central Excise is not valid or is not legally tenable, then the court passes decree directing the Government to refund the tax amount collected to the manufacturer. There is no provision in the Central Excises and Salt Act 1944 and also in any other Act to the affect that since that the amount so collected from the buyer and paid to the Government does not belong to the manufacturer the same should not be refunded to the manufacturers in the event of that recovery being declared as illegal. Should not that amount be paid back to the original buyers? The money belongs to the buyer and he has paid to the manufacturer. The manufacturer is only a collecting agency in the context of indirect taxation. However, if the court passes a decree in favour of the manufacturer, there is nothing in the Central Excises and Salt Act 1944 to prevent this unjust enrichment. Undoubtedly, Government has been arguing in the court and sometimes successfully to deny the refunded to the manufacturer. In Gujarat there was some litigation. In Baroda there is a manufacturing unit called New India Industries producing Agfa Camera under the licence of the concerned company of West Germany. Agfa Camera was sold, duty was charged from the buyer and paid to the Government.

The Central Government argued before the Gujarat High Court that the amount paid by the manufacturer was not a money which belonged to him and that it was collected from the buyers. Then the assessee concerned relied on Section 72 of the

[ Shri Haroobhai Metha ]

Contract Act. The Contract Act provides that if any money is recovered by mistake, it has to be refunded, it has to be restituted. There is a provision for restitution in Section 72 of the Contract Act. What does the restitution mean? It means that the money should go back to whom it originally belonged. Anson, a famous English authority on contract law has stated that restitution in Contract Act means restitution to the original owner., but the interpretation of the Central Act given by the Supreme Court was to the effect that the money had to be refunded to the manufacturers. When the assessee succeeds in showing that a certain tax recovered was illegally, levied, the money should go back to the manufacturers; that was the interpretation given by Supreme Court as early as in 1959. It was in the Kanayalal's case. The matter has been agitated from time to time and in 1975 in D Cavasji's case, the Supreme Court pointed out that this was an anomaly. Unlike the United State, the United Kingdom and Australia, our courts are taking the view that even a mistake of law gives right to restitution of money. What does mistake of law mean? Suppose a tax has been levied and one company goes to the court. For example, in 1972, the Calico Mills challenged in the Gujarat High Court, the validity of duty on blended yarn and the Court decided in their favour. In such a case, all other textile units or companies producing the same product go to the court after and state such declaration of the court that they had been paying excise duty all along under a mistake of law e.g. Calico Mills case, that mistake was found in 1976 and other companies stated, that they were entitled to refund of the duty paid. The Supreme Court held in D. Cavassis', 1975 that even if it is 100 years hence the Government is bound to refund the money. Limitation starts from the date of discovery of mistake of law. The manufacturer collects the duty along with the price of the goods from the buyer. There is no mistake taking place in collecting the duty from the buyer. They have their own legal experts. There is no mistake in collection by manufacturer. Everybody is paying the duty voluntarily. But then if some company succeeds in the court, all other companies

also file their petitions of the plea of mistake of law and obtain a decree for refund. The Government argued in the Afga Camera case of Baroda that the Company should not be paid the refund. The High Court was pleased to direct that it was not obligatory for the civil court to pass a decree of refund in such matter and that it was permissible for the court to mould the relief keeping in view the circumstances of the case. And in view of this fact, the High Court declined to give a decree in favour of the manufacturers.

The second case above mentioned also arose in the Gujarat High Court, The Calico Mills challenged the duty on blended yarn in 1972. The tariff provision was ambiguous at that time; cotten yarn was provided, silk yarn was provided, but the blended yarn was not provided for, the question of interpretation of tariff require a different approach. This question should be approached in a manner which should be consistent with the interest of the nation. The courts should also be aware that the money paid as tax comes from the buyers and is spent by the Government in the interest of the public. If the Government collects the Central Excise or any other duty, it is spent for the public by way of expenditure as sanctioned by the Parliament. If after years, the levy is found to be illegal and the court directs the Government that it should pay back, is it not detrimental to the public interest? Unfortunately, this canon of interpretation does not find favour with many courts. In the blended yarn case filed by vaccine mills pursuant to the Calico case qudiament, the Government of India argued that the duty on blended yarn had been collected by the manufacturers from the buyers. They paid it to the Government by way of taxation. Now the recovery is illegal, but that does not mean that the manufacturers are entitled to refund. Section 72 of the Contract Act provides for restitution. Restitution means payment to the original owner. The money was not received from the pocket of the manufacturers, but it was collected from the buyers and paid to the Government. Therefore, if anybody is entitled to restitution, it is the original buyer, the consumer, and certainly not the manufacturer. The Gujarat High

Court in the blended yarn case undoubtedly proceeded on the basis as conceded for the Government of India that in view of the earlier judgement of the Gujarat High Court given Calico Mills case the duty on the blended yarn was illegal, so far as the law laid down by the Gujarat High Court is concerned.

An appeal against the calico case judgement is already pending in this regard before the Supreme Court. Of course, that is a different matter. The Civil Courts had granted a relief of crores of rupees and issued decrees in favour of the manufacturers. The High Court however set aside the decrees and said that the amount in question should not be refunded to the manufacturer. Though the recovery was illegal. The amount should be retained with the Govt. and should be utilised to give benefit to the consumer.

MR. DEPUTY SPEAKER : Mr. Mehta, would you like to continue your speech ?

SHRI HAROOBHAI MEHTA : Yes Sir.

MR. DEPUTY SPEAKER : Then you may continue after Lunch. We will adjourn for Lunch and reassemble at two.

13.01 hrs.

*The Lok Sabha then adjourned for Lunch till Fourteen of the clock.*

*The Lok Sabha re-assembled, after lunch, at Six Minutes past Fourteen of the Clock.*

[MR. DEPUTY SPEAKER *in the chair*]

[*English*]

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 (TEXTILES AND TEXTILE  
 ARTICLES) AMEND-  
 MENT BILL

AND

ADDITIONAL DUTIES OF EXCISE  
 (GOODS OF SPECIAL IMPOR-  
 TANCE) AMENDMENT BILL

MR. DEPUTY SPEAKER : Mr. Mehta, you may now continue your speech.

SHRI HAROOBHAI MEHTA : Sir: I was on the question whether money or any amount collected by way of tax should be refundable to the manufacturers in the event of the recovery there of being found illegal in the context of the nature of the incidence of a tax like Excise or Customs, which is an indirect one. I was pleading for the position that it should not be refundable to the manufacturers, because money had been collected. Unfortunately, the manufacturers are utilizing Section 72 of the Contracts Act. The position in Australia, United Kingdom and America is that money paid by a mistake of law is not refunded. But in India, the courts have taken a different approach. In 1975, Supreme Court had drawn the attention of Parliament to this. I am referring to D. Cavasji case of 1975. The Supreme Court said:

“A tax is intended for immediate expenditure for the common good, and it would be unjust to require its repayment after it has been in whole or in part expended, which would often be the case, if the suit or application could be brought at any time within three years of a court declaring the law, under which it was paid, to be invalid ..”

The Supreme Court, therefore, considers this to be unjust, but thinks that according to Section 72, under the existing law, it is helpless. Therefore, in paragraph 12 the Supreme Court says:

“The task of writing legislation to protect the interest of the nation is committed to Parliament and the legislatures of the States. We are referring to this aspect only to alert their attention to the present state of law.”

So, the Supreme Court has alerted Parliament as early as in 1975. I would like to know from the Government whether, during these ten years, Government has made any exercise to consider whether an amendment of Section 72 of the Contracts Act or Central Excise and Customs Act can remedy the situation. Now at least two judgements of the Gujarat High Court have strengthened the hands of the Government by accepting the Government's argument that this money

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coming as it does from the buyers, should not be refunded to the manufacturers. So, what prevents Government from amending the Central Excises and Salt Tax Act 1944 and Customs Act as also Section 72 of the Contracts Act so as to provide that indirect taxation will never be refundable to the manufacturers, assesseees or the dealers as the case may be ? This is what I have to say on this aspect.

That is one aspect of it.

SHRI MOOL CHAND DAGA : What do you want to propose ?

SHRI HAROOBHAI MEHTA : I, therefore, propose that the Government should come out with an amendment in section 72 so as to provide by adding the words, 'Otherwise than by way of a purported payment of a Tax.'

Once that is done in section 72, then the tax amount will not be repayable under section 72. Then section 72 should also be amended by providing that only mistake of fact should be covered; and that mistake of law will not be covered. Under the Central Excises Act and Salt Act and Customs Act, it should be provided that in the event of any excise dues or custom dues being held illegal by court, that should be refundable either to the consumer in particular or in general or they should be invested in a trust to be operated by the Government in the interest of the consumer. That will help three situations : (1) Government will not be required to pay or refund the amount. (2) In any case, the consumers who have paid the tax amount will get the benefit. (3) Litigation will be discouraged. Manufacturers are only interested in litigation against excise due or custom due or sales tax due or if they are to get money back to themselves. The money which does not belong to them, is to be refunded to them. This is an unjust enrichment. Therefore, this has to be discouraged.

Parliament has amended the Central Excise Act many times. Tribunals have been set up. It has been provided that an appeal from the Appellate Collector's order will lie

with the Central Excise and Gold Control and Custom Tribunal. Unfortunately, there is no provision even in the Central Excise and Salt Act as amended for excluding the jurisdiction of the High Court. Therefore, today, High Courts are entertaining petitions after petitions though there are tribunals set up. I wrote to the government drawing their attention that we should do something to exclude the jurisdiction of the High Court. The reply was very strange. The reply was that it might necessitate an amendment to the Constitution. I had to draw the attention of the Minister of State for Finance to Article 323B of the Constitution, which specifically providing for power of the Parliament to exclude the jurisdiction on of the High Court under Article 226 and even the Supreme Court under Article 32 when special tribunals have been set up. The constitution has given powers to us and we should make use of that power. Therefore, the jurisdiction of the High Court should be excluded so that unnecessary litigations can be avoided. The Prime Minister mentioned in October that large amount of revenue is bogged down in litigation. I am sure that the Finance Minister will also bear testimony to this that about Rs. 2,000 crores of central excise and custom duty are bogged down in the court litigation. Why don't you move a simple amendment in the Act to exclude the jurisdiction of the High Court under Article 226 and the Supreme Court under Article 32 which we are empowered to do.

There are certain situations of course where something should be done to help the manufacturers also. Sometimes different interpretations are made on the tariff items in different collectorates. It also happens on the judicial side. After all, every statutory authority, may be a Custom Collector, may be an Excise Collector, has to exercise his judgment independently. Therefore, one tariff item may be interpreted in one manner in Gujarat and the same tariff item may be interpreted in a different manner in Bombay: The Bombay collectorate might interpret it in favour of the manufacturer making it non-taxable or taxable at a lesser rate and the Gujarat Collection may interpret it in a manner attracting higher rate of duty.

Now, this creates an anomalous situation. A manufacturer in Gujarat has to pay central excise at a higher rate because of the interpretation prevailing there where as a manufacturer in Bombay may be free to pay central excise at a lower rate, though the law is the same, but since interpretations are different. So, in these situations, a Gujarat manufacturer will suffer because he is losing in competition. Such situations should not be allowed to continue forlong. Some provision may be made to the effect that whenever there are two interpretations prevailing in the matter of traff items, a direct reference to the Central Excise Board or to the Tribunal should be provided instead of going to the Appellate Collector and then going to the Tribunal. This will obviate an anomaly prevailing on account of different interpretations.

The Central Excise Law is strict, but that is not enough. Why should we not go in for making it more powerful? After all, to pay tax is a duty to the nation, and if a manufacturer does not pay it in time, either by virtue of a stay order or otherwise. If there is delay in payment of central excise dues or custom dues, they must be asked to pay interest at a deterrent rate. Whenever it is actually paid or recovered, day after when the court injunction is released, they should be asked to pay, with a special rate of interest. Otherwise, there is a vested interest in delaying the litigation. You just file a petition, you get a stay. After five years, the High Court declares that the law is valid, that the recovery is valid. At that time also the amount is paid without any special interest and during that time he would have spent the tax amount collected from the buyer for his business.

Therefore, a special rate of interest should be levied from manufacturers or assesseees who delay the payment of excise duty for whatever reasons. And, let us put more sharp teeth in Central Excise and Salt Tax. Let us make the punishments more deterrent. In fact, all economic offences should be non-bailable and there should be a provision for that.

Several days ago the Government, the Central Director of Revenue Intelligence

successfully made some raids on a very well-known reputed—reputed in the sense understood in the present society group of companies. There was a large scale violation of the FERA and the Central Excise Act. It was detected. Some people were arrested, and they were produced in the court. Forthwith, on the same day they got bail. What impression would the public get? If in a country which is wedded to ushering socialism, people who are found to be PRIMA FACIE guilty of such offences, unrobing large scale violation of foreign exchange regulations, tax laws and they are let off by the court on the same day, on bail or in whatever name, may be does it carry a very good picture about the enforcement of our economic laws in the eyes of the public? Unfortunately, a section of the Press also did not support the Government. Several political workers also tried to support the group of companies. Does it make any difference if the head of particular company (Kirloskar) is a close relation of a top leader of Janata Party.\*\* What difference does it make? Why should a special treatment be given to him? Some political leaders may make public statements lamenting the raids and the so called treatment given to the offenders concerned. After all, the Excise department has to work; they have to collect the revenue. Merely because, he happens to be a big gun—does it make any difference, after all or happens to be related to a top leader of the Janata Party they cannot leave him.

I must take this opportunity to congratulate the Government and particularly the Directorate of Revenue and and Intelligence for detecting such violations of important legislations like the FERA and Central Excise, etc. And, the national Press and ethos of public cultivated to encourage the efforts to detect the offences. And, they are criticising the efforts. Some dignitaries also cut jokes at the cost, of the concerned Government department in the context of these raids. For reasons of propriety I will not name them. But I am sure that some people and a section of the Press are trying to mobilise their strength, to prevent the Government from mopping up the revenue by enforcing the laws.

\*\* Not recorded.

[ Shri Haroobhai Mehta ]

I, therefore, welcome this Bill with the expectation that the Government will further tighten the machinery of recovery of excise and customs duties.

SHRI ANANDA PATHAK (Darjeeling): We are told that the Central Excise Tariff Bill has been introduced as per the recommendations of the Study Group on Central Excise Tariff which recommended adoption of a detailed central excise tariff based broadly on the system of classification derived from the International Convention on the Harmonised Commodity Description and Coding System.

If it is intended to rationalise direct taxes further and to realise more taxes from the monopoly houses, big companies, big manufacturers, it is all right. But if these additional duties at the rate of 15 per cent on the basic excise duty on all essential commodities would cause increase in the prices of essential commodities which are required for day to day life of the people, in that even we cannot support that, as the capacity of the people to pay any more additional taxes has already reached the saturation point. Therefore, it should be clarified whether this excise duty under the purview of the direct taxation, would be levied on the big companies, big manufacturers or monopoly houses or would go to plunder the pocket of the common man who is already suffering.

I also want to know from the Minister whether the Government should be able to collect taxes from big manufactures, producers and big houses as the incidents of tax evasion are rapidly growing and the black-money is still playing havoc in our country.

It is stated that additional excise duties in lieu of sales tax are being presently levied on certain items. There is a provision for allocation and remittance of a share of sales tax to the State Governments. I want to know whether in this case also there is such a provision or not. I also urge upon the Central Government that higher allocation of funds be made to the State Governments from the collection of excise and sales tax.

[Translations]

SHRI GIRDHARI LAL VYAS (Bhilwara) : Mr. Deputy Speaker, Sir, I welcome the Central Excise Tariff Bill, 1985 and other Bills. These Bills have been brought to fix the excise rates on those items which had not been codified under Central Excise. I want to bring to your notice, and as has been said in the Statement of Objects and Reasons also :

[English]

“The Central Excises and Salt Act, 1944 originally provided for only 11 items. The number of Items has since increased to 137. The levy, which was selective in nature, to start with, acquired a comprehensive coverage in 1975, when the residuary Item 68 was introduced.”

[Translation]

In this way with this Bill all the items brought under this Head will bring revenue to the Government in a definite way. During the past 5 years we have examined many a time Central Excise and Customs Department and have found that assessments are not done properly and under-assessment is resorted to due to collusion. During internal audit these things are pointed out and Department is asked to find out the officer responsible for it and to recover the money from him. In this way the assessing authorities have been causing losses to the tune of crores of rupees to the Government exchequer every year. Now that you have fixed separate excise duty for separate items, they will not have the right to interpret in their own way. Consequently, the Government will be benefited in a big way as all the Collectorates will levy uniform excise duty. The Government has thus taken a major step which will increase its income.

My second submission is that in the second paragraph they have codified on the basis of International Law. In this, they have said :

[English]

“...system of classification derived from the International Convention on

the Harmonised Commodity Description and Coding System (Harmonised system) with such contractions or modifications thereto as are necessary to fall within the scope of the levy of central excise duty. The Group has also suggested that the new tariff should be provided for by a separate Act to be called the Central Excise Tariff Act."

[Translation]

The Group has studied the different norms adopted by different countries in the matter of levying Excise Duty and has submitted its recommendations. The Government has studied all these things and have presented proposals. This will go a long way in favour of the Government.

[English]

The tariff suggested by the Study Group is based on an internationally accepted nomenclature, in the formulation of which all considerations, technical and legal, have been taken into account.

[Translation]

These are the aspects which have been kept in view while drafting the Bill. The Government used to suffer a huge loss as these aspects had not been kept in view earlier. The big manufacturers used to go to the courts and as a result of this the Government's income stopped. The cases used to remain undecided for years together and due to delay in deciding the cases the flow of income was adversely affected. You have presented this Bill keeping in view all these aspects. Now the number of disputes will come down and also, in the disputed cases the decision will be announced at an early date. This will result in quick and increased income to the Government. As the preceding hon. Member has stated, Government's revenue to the tune of about Rs. 2,000 crores has been held up in this litigation. Arrears for years have become overdue and the cases are not decided for many years. One thing more I want to say and earlier also I had said this that advocates appointed by you in such cases are not upto the mark and are, therefore, unable to plead in a proper manner. You appoint the

advocates from the list already prepared whereas the capitalists appoint very good advocates who plead their cases in a better way. Your department appoints inferior and the least paid advocates and as they are paid less, they do not plead the case properly. Consequently, the Department has to suffer huge losses. Therefore, it should be ensured that the Department prepares a panel of lawyers who can help in stopping the losses to the Government and who can plead Government cases properly and are able to get the decision in Government's favour. Unless you appoint advocates of good calibre in the panel, the Government's income will go on declining constantly. Therefore, there is imperative need to look into this aspect.

In one of the provisions you have provided :

[English]

"It would bring about considerable alignment between the customs and central excise tariffs and thus facilitate charging of additional customs duty on imports equivalent to excise duty."

[Translations]

If you levy higher excise duty on a particular item and if import duty on that very items is lower, the imported one is bound to be sold cheaper. The same item will sell at a higher price due to higher excise duty on its manufacture and will, therefore, have few buyers. With this end in view, the provision which you have made that the excise duty will be levied in such a way that it does not affect the indigenous manufacturer and item thus manufactured indigenously is sold cheaper as compared to the imported one is a big step to save the indigenous industry. Many people will be benefited under this scheme.

Similarly, there is another provision under which the government under Residuary Powers can raise the central excise duty if they feel that the excise duty on a particular item is low. The government can use this power at any time and raise the excise duty. This is also a commendable

[ Shri Ananda Pathak ]

step and the government will be benefited a lot from it.

The attempt made in this Bill to make this legislation uniform is also praiseworthy. This will increase your customs tariff and at the same time reduce legal complications. The big manufacturers who did not want to pay excise duty to the government under the cover of legal procedure will have a hard time now. This will result in a better system. This step is also very commendable.

I want to say a few words, especially, about the assessment on which maximum benefit is taken. You have posted Assistant Collectors and Inspectors in different States who deal with different industries. The officials of your Department have managed to stay on at one place for a long time as a result of which they develop close connections with those very industries. It results in a big benefit to the industries and a substantial loss to the exchequer.

This is true that you have recently conducted raids and have unearthed evasion worth crores of rupees from the companies like the Kirloskars and have also instituted cases against them. Just now, one of the hon. Members was saying that our law was so flexible that even a big offender who was sure to be punished got himself bailed out. Not only that, a big partner did not even go to the courts for seeking bail and got himself released on surety at his house. The person whose money has such a vast influence on law has nothing to fear. When your law is not properly enforced on a millionaire, how do you hope to recover the dues legally from such a person. Our law should be so stringent that even the richest of the rich dare not indulge in such offences. The poor men cannot manage to get themselves bailed out even within two years, whereas the millionaire got a bail the same day. The mighty owner of this company got himself released on surety at his own residence and was, therefore, not required even to go to the court for seeking a bail. Such a flexible law is a big malady in our system. You have to pay your attention especially to this aspect.

You should make the provisions for punishment more stringent so that stern action could be taken against such economic offenders who cause loss worth crores of rupees to the exchequer. This will prove deterrent to the offenders in future.

At the same time, I also want to say that many of the economic offenders apprehended by the government have also opened a number of companies in foreign countries. They divert money from the country and buy new companies with that money there and are thus duping the government of custom and excise. You should pay attention towards this aspect also. The Kirloskar case which has been made public is not the only case of its kind; there are many other companies which carry on business abroad, divert money to the foreign countries, buy assets and buy companies there. The money is diverted from here and the shares are purchased there and a huge profit earned. So, they adopt these means and as long as our government do not take stern action against these people, they are sure to prosper. As our communist colleagues were saying that there are only 18 to 20 big business houses in the country whose wealth is constantly growing and this is so because our official machinery does not take any stern action against them and they are not awarded deterrent punishment; it shows favour to them, their money plays a big role. All these things play big role and it is because of this that no stringent provision has so far been made against them. Therefore, I want to draw your attention that if you want to have a proper system, if you want to collect taxes, excise and custom duty in full, you will have to take stern action against such officials who are hand in glove with these big capitalists. They are supposed to be competent and honest officers, they do not go in for sycophancy of big people and all of them keep annoyed with such officers. Such officers are transferred and posted at odd stations to embarrass them whereas those who are sycophants and help big people get benefits and are given posting of their choice, such officials give undue advantage to the millionaires and also become millionaires themselves in the process. Proper watch needs to be kept on such people. Strict action is required not

only against big capitalists but also against such government officials who connive with them so that neither they could take undue advantage themselves nor help others to take any undue advantage. It is very essential to evolve such a system whereby they do not accumulate wealth themselves but help in the realisation of the tax which has been evaded. It is in this connection that I continue drawing attention of the government to the fact that as long as concerted efforts are not made to root out corruption, the country cannot make progress. Merely making speeches does not help, taking action against them can only help. Do not spare such people who are found indulging in such things, and take proper action against them. In big centres like Bombay and Ahmedabad which yield huge excise duty and custom, only selected competent and honest persons should be posted so that collection of duty could increase manifold and the increase in government revenue could be used in proper implementation of economic programmes. The resolve of our Prime Minister to remove corruption, to make the economy of the country strong and to economically uplift the poor can be fulfilled only when such people are punished. The entire system will function properly if a check is put on these people. With these words, I support this Bill.

\*SHRI R ANNANAMBI (Pollachi) : Hon. Mr. Deputy Speaker, on behalf of my party the All India Anna Dravida Munnetra Kazhagam, I rise to support the Central Excise and Salt (Amendment) Bill, 1985, the Customs (Amendment) Bill, 1985, the Central Excise Tariff Bill, 1985, the Additional Duties of Excise (Textiles and Textile Articles) Amendment Bill, 1985 and also Additional Duties of Excise (Goods of Special Importance) Amendment Bill, 1985. I take this opportunity to say a few words also.

Our Hon. Minister of State for Finance cannot refute my contention that the excise duty evasion is the prime source of black money in the country. During the past three, four days, we come across in the newspapers about the raids conducted on

some MRTP companies for excise duty evasion. Kirloskar Companies have evaded excise duty to the tune of several hundreds of crores, M/s Fedder-Lloyds in the capital city of Delhi have evaded excise duty to the tune of Rs. 23 crores. Similarly, many prominent film producers of Bombay have cheated the Government of several crores of rupees by evading excise duty. Sir, it is worth mentioning here that the excise duty is levied at the gate of factories when the produced goods are being removed. Unless there is collusion from the side of Excise Inspectors, there cannot be this kind of large scale excise duty evasion. I take this opportunity to suggest that deterrent and stringent action should be taken against the Excise Inspectors and other officials indulging in malpractices, in the same intensity and degree of action as is now being taken against the manufacturers evading excise duty. Only then the Government will be able to augment their excise revenue.

Sir, after last year's Budget the Government gave excise duty concessions on many items. But the manufacturers have not passed on this benefit to the consumers, by reducing the price of manufactured goods. On the other hand they have increased the prices of goods. For example, though the Government reduced the customs duty and excise duty on rubber, the tyre manufacturers have not reduced the price of tyres. On the other hand they have increased the price of tyres three or four times during this period. In the international market the tyre prices have fallen steeply. If we import tyres, then the imported tyres can be sold at 50% less than the price of indigenous tyre. Sometimes I am unable to appreciate the process of thinking of the Government of India. The Government gives so much incentive for imports that the producers take undue advantage of the same. For example, the Government have put under OGL the import of synthetic rubber and also the natural rubber. The tyre manufacturers import both these commodities at depressed prices in international market and stock them here. But they are not inclined to reduce the price of tyres. In fact, they resort to excise duty evasion and also do not hesitate to hike the tyre prices. Last year the Supreme Court in its judgment stated that there is no

\* The speech was originally delivered in Tamil.

[ Shri R. Annanambi ]

relationship with the post-manufacturing expenses and the excise duty. The tyre manufacturers owe to the Government some Rs. 800 crores. I want to know the steps that have been taken by the Government for recovering this sum of Rs. 800 crores from them.

I would refer to one or two related issues here. Our exporters and imports have devised many devious ways to cheat the Government from payment of proper rate of customs duty. They show less prices in the Bill of lading and pay reduced excise duty. After importing they sell them at fancy prices. The Customs officials are not aware of the current prevailing international market prices of these commodities being imported. Naturally they pass on these false bill of ladings. I suggest that the Customs officials should be given all the information about the prevailing international market prices of commodities being imported. Then only the customs duty evasion can be checked to some extent.

Sir, presently there is only a sum of Rs. 2500 given as free allowance for us when visit foreign countries. After that there is graded customs duty according to the value of product which we bring. Because this is a meagre amount, we are tempted to take recourse to many underhand dealings for bringing some foreign items. I suggest that this free allowance of Rs. 2500 should be increased to Rs. 5000, so that we are not inclined to adopt unauthorised ways.

Because of pending cases in the Courts, the Government has been deprived of Rs. 2000 crores in excise duty. This much money is being utilised by the producers. I demand that the Government should bring forward a legislation prohibiting reference of excise cases to Courts.

The Comptroller and Auditor General in his Annual Report gives instances of excise duty evasion and also the collusion of the concerned officials in them. The Public Accounts Committee of this House examines this Report and gives valuable recommendations to the Government for curbing such

collusion from the officials. But the Government have not been taking appropriate action on these recommendations. The failure of the Government in implementing the recommendations of PAC is evident from the recent raids conducted by the Department and the revelation of huge evasion of excise duty. This could not have been done overnight. This has been going on for years. I want that the Government should take immediate action on the recommendations of PAC so that these things could be put an end to.

In conclusion, I would suggest that the excise department staff should be given better salary and other fiscal incentives so that they do not succumb to extraneous influences leading evasion of excise duty. With these words I conclude my speech.

(English)

PROF. N. G. RANGA (Guntur) : Mr. Deputy Speaker, Sir, the translation from Tamil to English is very good.

SHRI G. S. BASAVARAJU (Tumkur) : Sir, it is really fine.

SHRI R. ANNANAMBI : I am grateful to you for giving me this opportunity to say a few words on these important Bills. The successful implementation of these provisions will swell the public revenues, which in turn could be used for ameliorating the misery of our people.

(Translation)

SHRI SHANTI DHARIWAL (Kota) : Mr. Deputy Speaker, Sir, I rise to support and welcome the custom (Amendment) Bill, The Central Excise Duty and Salt (Amendment) Bill, The Central Excise Duty and Tariff Bill (Suspension of Proviso to Rule 66), The Additional Duties of Excise (Textiles and Textile Articles) Amendment Bill, The Additional Duties of Excise (Goods of Special Importance) Amendment Bill and the Bill relating to Suspension of Proviso to Rule 66 moved by the hon. Finance Minister in the House for consideration.

This is a big step forward for rationalisation of direct taxes, especially for increasing

the Revenues and for simplification of economic laws and regulations. The present day industrialists have evolved a number of ways for evasion of Excise Duty and under the cover of a number of rules, they go to the courts and withhold the payment of excise duty worth crores of rupees from being paid into the exchequer thereby not only causing loss of revenue but involving the government in unnecessary litigation.

Earlier, there was anomaly in Tariff and Salt Acts. I once again welcome this Bill which has been brought forward to remove such lacunae. The people used to evade excise duty by taking advantage of many loopholes. These being indirect taxes, the general public did not know about these tax evasions and billions of rupees remained irrecoverable due to litigations. These amendments are expected to bring about a definite improvement in the situation.

The broad examination made and the suggestions given by the Central Excise Duty Tariff Technical Study Group are really commendable and the amendments introduced by the hon. Finance Minister in the House in pursuance of their suggestions are praiseworthy. Many anomalies which existed before classification are now being removed through these amendments. In the absence of classification, the manufacturers and others had to face many difficulties. Therefore, a need was being felt for a long time that the items of the same category should be classified together and the list of this Bill be made more detailed and comprehensive, which is now being done through these amendments.

Mr. Deputy Speaker, Sir, what is needed today is that fundamental changes should be made in the entire tax structure and uniformity should be brought in it. We should collect all taxes on production and sale at a single point where goods are manufactured. All kinds of taxes should be collected along with the excise duty at the point of production. For instance, the entire country is agitated on the issue of sales tax. The machinery employed for collection of this tax has become a den of corruption throughout the country. Tax worth crores of rupees is evaded in con-

nivance with tax officials. Due to different rates of sales tax prevalent in different States, trade is adversely affected and as a result of this different price for the same commodity is charged in different States. This is also causing hardship to the consumers. Especially, the petty traders are supposed to maintain different registers, fill up a number of forms and complete other formalities and thus they have to face a number of difficulties. Besides, they also earn the displeasure of the officials of the Department. All these factors hit the consumers economically. We had promised to abolish sales tax in the States and the time has now come to abolish sales tax in the States. Hence, I welcome all these amendments and request the hon. Finance Minister to introduce a system under which all taxes are collected at a single point with a view to bringing about uniformity in the tax structure. At the same time, a new legislation should be enacted to abolish sales tax from all the states. Besides, stringent regulations should be framed for economic offences so as to speed up tax assessment and recovery.

(English)

SHRI V. S. KRISHNA IYER (Bangalore South) : Mr. Deputy Speaker, we are now discussing three Bills simultaneously which are being brought forward by the hon. Finance Minister out of turn.

I only wish, it may be repetition, that Government is technically correct in bringing these Bills today. But they should have also considered the practical difficulties of the Members. Now, most of the Members go to their Constituencies during week ends. However, at least in future, when such important legislation is brought before the House, sufficient notice must be given for the Bills to be brought forward.

So far as this legislation is concerned, I am not opposed to this.

I would only like to make a few observations with regard to the three legislations.

This is based on the recommendation of the Technical Study Group on Central Excise which was set up by the Government

[ Lhri V. S. Krishna Iyer ]

in 1984. This legislation was necessary. We were also demanding that the excise duties should be streamlined, modernised and rationalised. Almost all the Members were demanding that there should be rationalisation. To that extent, we certainly welcome this Bill. In the Statement of Objects and Reasons, the Minister has said that, by and large, the Bill seeks to preserve the existing tax structure.

There is one more point which should not be forgotten. In the same Bill, that is, Central Excise Bill, there is a provision to give power to the Government to enhance the tariff wherever it deems necessary under emergent circumstances of the State. Here I feel this particular Clause is really dangerous. It is very difficult for the Parliament to give such unbridled power to the executive.

I would like the hon. Finance Minister to specify the circumstances which will warrant such enhancement. Why does the Government want such powers? After all, Heavens will not fall if it is brought through legislation. It may be even through Ordinance.

So I am particularly opposed to that particular provision which gives power to the Government to enhance the tariff whenever they want by mere notification.

In the Clause, it provides that the Notification can be placed before the Parliament. We know that is my experience of the past one year—no notification will be discussed here. It will be placed before the Parliament unnoticed many times unless a Member is very very alert to try to have a debate on that. But generally it does not happen. Under this particular Clause, why does the Government require that power? I am not convinced about it. It would request the hon. Finance Minister in his reply to specify the circumstances under which Government requires such power.

The Central Excise is really a Kalpa Vruksha so far as Central Government is concerned. If I am not wrong, I think, nearly 50% of the revenue come through the

indirect taxes. I remember in one of the statements.

SOME HON. MEMBERS : 80%.

SHRI V. S. KRISHNA IYER : I am subject to correction. I remember in one of the statements, the Finance Minister has stated that this indirect tax which was only Rs. 182 crores in 1948 has risen to Rs. 18,000 crores in 1984-85. I do not know this year what it will be. Of course, the Finance Minister can state it. This indirect tax or excise duty will take the entire population of the country into its net. Coming to direct tax, income-tax, if I am correct, 4 million out of 76 million, are required to pay the income-tax. Only limited percentage will pay the income-tax. But so far as Excise duty is concerned, it will hit almost every person. It is a Kalpa Vruksha for Government. So, it is very necessary that such an excise duty should be administered effectively.

All these years since 1948, I find that there has been haphazard increase in the excise duty. There is no system, whenever they want they could amend the Schedule and increase it. In one of the reports it is stated that there are more than 15,000 cases still pending in the courts involving more than Rs. 1,000 crores. One Hon. Member said that it was Rs. 2,000 crores. I do not know whether he got the figures from the report or from the newspapers. The Hon. Minister must say what is the amount involved in such cases. The confusion is caused by this ad hocism. When enhancements are made in a haphazard manner and there are collections, the parties are forced to go to courts and many of them obtain stay. I rally welcome this measure which is for rationalisation and which is, at the same time, a comprehensive Bill. I would, however, like to make one or two suggestions.

Hon. Member from CPI has also pointed out this. What is ignored here in fixing up the excise duties is the consumers' interest. The consumer is a forgotten man in this. We must safeguard the interests of the consumers. There is that there is no coordination between the State Governments and the Central Government while fixing up the

excise duty so much so the raw material is taxed, the input is subjected to excise levy and the finished product is also subjected to excise levy. In addition to that, the State Governments - after all, they have to survive - levy octroi, entry tax, sales tax, etc. What will happen is that all these taxes will be added on to the cost of the finished product. So, what will be the effect of these taxes on the consumer - that should be borne in mind. What I would suggest is that there should be coordination between the State Governments and the Central Government while fixing up the excise duties on several items and even when there is enhancement. There may be some practical difficulty for the Central Government in doing it, but still I feel that in the interest of the consumers it is absolutely essential.

Another point which I would like to make is this. It is not at all necessary to increase the excise duty, it is not at all necessary to impose any new tax, provided the existing taxes are collected effectively and honestly. And this has been proved by what has been going on for the past one year. Almost every day we read in the papers - and we are happy about it - about unearthing of excise duty evasion, income-tax evasion, etc., involving crores of rupees - not lakhs but crores. The way in which black money is generated is reflected on these evasions which are now being unearthed by the Government. We have been seeing what is being done in the last one year. Raids have been conducted on the premises of several top people, including Maharajas, the people who have exploited the poor all these years, the people who have squeezed the blood of the poor. We welcome this. In this connection what I would like to know from the hon. Finance Minister is this. They have raided various premises and seized documents and other things in the last one year. But what will be the ultimate result, what will happen, that should come to light. I would request the Hon. Minister to tell us how many raids have been conducted in the last one year, how much money has been unearthed, what is the action taken against those, etc. This evasion does not take place because of the self-effort of the person who evades. It is done with the connivance of the officials. Unless the officials connive,

it is impossible for the manufacturer or producer, whoever it may be, to evade the tax.

In this connection I would like to draw the attention of the Hon. Minister - the ADMK Member also has mentioned - to under-invoicing of imported articles. One instance has been brought to the notice of by no less a person than the Rashtrapati himself in Mysore - the Hon. Finance Minister must be knowing - where he had gone to inaugurate a ball-bearing factory. There was a lot of under-invoicing. I referred to the Finance Minister the paper-cutting in respect of that, and I have got a reply saying that the Government has been taking effective action to safeguard the 15.00 hrs. interests of the Ball Bearing manufacturers, but that is not punishment are you going to impose. What is required is what give to those people who are involved in this? Evasion of tax is a national crime, that must be made known to all people, whoever it may be.

Not only in this case, we have been seeing in the newspapers recently that there has been under-invoicing of imported articles. There are a number of such cases I would request the Government to look into it.

Then I will come to the important point with regard to the Additional Excise Duty on Special Items Bill which you have brought today. You have already encroached on the financing powers of the States. You have done it sufficiently. You have taken away the rights of the States with regard to sugar, textile fabrics, woollen fabrics, silk fabrics. Please don't encroach any further on the finances of the States. You know that the financing and taxing power of the States are very much limited under the Constitution. That is why the States have been demanding that they should have financial autonomy. They want more financial powers because they should survive. If India is to survive, the States have to survive. That fact should not be forgotten in the federal set up.

I heard one or two members saying that sales tax must be taken over by the Centre. We, particularly in Karnataka, I am sure

[ Shri V. S. Krishna Iyer ]

Tamil Nadu also, are very much opposed to it. On the other hand even with the powers that are already taken, we urge upon the Government of India to see that more percentage is given to the States. It is particularly so on the items which have been taken over by the Centre recently.

I would like to make one more point which is not very much relevant to this Bill. That is regarding the Consignment Tax. The State Chief Ministers in their conference five years ago had urged upon the Central Government to bring a legislation regarding Consignment Tax. West Bengal, Karnataka, Andhra Pradesh every State had given notice. The Chief Minister of Andhra Pradesh had spoken with very great anxiety and he was also angry. That shows the position of the States. I would like to appeal to the Finance Minister that let not anybody, be it an MP or MLA, interfere with the tax collection authorities, particularly those who are engaged in anti tax evasion wing. They should be given a free hand. Let law take its own course.

I am glad that many of the officers have been demoted or removed from the service and that Finance Ministry has been streamlining the administration. Please see that only honest persons, persons who are known for their integrity are put in charge of this important task. Then only our finances will improve. I am glad that on the eve of a long term fiscal policy, this legislation has cropped up. My only grouse is that sufficient time could have been allowed. In principle I have no objection Sir,

[Translation]

SHRI MOOL CHAND DAGA (Pali) :  
Mr. Deputy Speaker Sir, I am unable to comprehend this voluminous Bill. It would have been better, had it been referred to the select committee. It is the duty and responsibility of our presiding officers to examine such Bills. After going through this Bill, I feel that we are not doing justice to the people.

If one goes through section 3 of the Bill, one would find that it envisages more powers

to Bureaucrats by the Parliament. If the Bill is passed, the bureaucrats will have ample powers to levy taxes or increase excise duty if the upper limit exceeds the ceiling or is more than 50 per cent.

It has been observed under the subordinate legislation that the power of taxation is sometimes delegated to the executive.

[English]

“Where, in respect of any case, the Central Government is satisfied that the duty leviable thereon under Section 3 of the Central Excises and Salt Act, 1944 should be increased and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette direct an amendment of the Schedule to be made so as to substitute for the rate of duty specified in the Schedule.”

[Translation]

There was always an upper ceiling for levying excise duty under the Excise duty Act. Shri Janardhana Poojary used to lay on the table of the House one legislation every evening in that respect. But now there will be no need for it. Now those powers have been delegated to the subordinate officers and the executive. I feel that these powers should not have been delegated to them. I strongly oppose the delegation of power to them. The Government says that they will get it approved. On page 2 it states :

[English]

“Every notification under this Act shall be laid before each House of Parliament.”

[Translation]

When Parliament will re-assemble after two or three months, this Bill would automatically become statutory legislation after the expiry of seven days. In this way the Parliament is going to delegate its powers to the executive and the subordinate officers. It will go on record that when the Deputy

Speaker was presiding, this Bill was passed. (Interruptions) You may request the hon. Minister to reconsider it and refer it to the Select Committee. Heavens will not fall if it is referred to the Committee. They will be legally empowered to increase excise duty in an arbitrary manner without assigning any reason. There will be none to challenge them. That is why I had drawn your attention to section 3, as it is not justified. The revenue from excise duty amounts to Rs. 11,000 crores but it is a drop in the ocean, because it is only one per cent of the total revenue. What are the reasons? You are well aware of the reasons behind it.

The hon. Members of both the sides would appreciate that the Finance Ministry has ensured that all are equal before law. Howsoever rich a person may be, if he is a culprit he will be punished and they have been punished. The list carries many big names, but I do not think it proper to mention their names here. Shri Indrajit Gupta will give in writing the names of big industrialists and tax evaders who have been put behind the bars. One fails to understand as to why this Bill is being rushed through, when the changes in excise duty have been included in the fiscal policy that has been formulated and is expected to be presented in the House on the 19th? It would have been better if more thought was given to such a comprehensive Bill before introducing it.

This Bill contains section 68 and it has not been deleted. The Bill seeks to impose 12 per cent duty on every item. Section 68 has not been deleted. Those commodities which were not taxed earlier will have to pay 12 per cent tax. Everything will be taxed. I would like to submit that people of the country are fed up with sales tax these days, but the Government always takes the plea that the States do not agree to its abolition. I feel that as we believe in democracy and supremacy of the will of the people, the Government should take immediate steps to abolish sales tax and levy excise duty in its place to eradicate corruption. The States have agreed on certain items. What is the cost of production per tonne of cement or sugar? If 100 bags are cleared from the factory, only 50 are

registered. Big officials of the excise department are involved in it. Yesterday somebody had said that there is a nexus between corrupt officials and leaders and it is very difficult to throw the yoke of 'Inspector regime'. I would, therefore, request the Government to abolish sales tax. Secondly, the sales tax rates are also not uniform in all the States. If it is one in Rajasthan, it is another in J & K. Kindly save the people from the harassment.

There are many good things in the Bill. I came at ten O'clock in the morning, otherwise I would have gone through it in detail. I think that the hon. Minister might have also been given this Bill in the morning and asked to present it in the House. I agree that the hon. Minister of State for Finance is hard working and dynamic, but excise duty has different interpretations and that is why over 24,000 legal cases regarding excise duty are pending today. It is the whims and fancies of the tax collector to impose excise duty or to exempt anybody from it. I was going through page 167, and I would like the hon. Minister to clarify the difference between tube and pipe. If excise duty on one item is 9 per cent, it is 20 on another item and still more on the third item. I have this dictionary with me and the nomenclature of tariff given therein is as follows :

[English]

British Tariff Nomenclature :

"Copper tubes and pipes have many industrial applications (e. g., in cooking, heating, distilling, refining and evaporating apparatus) and are used in buildings for domestic and general water and gas supplies. Copper alloy condenser tubes are widely employed in ships and power stations because of their strong resistance to corrosion particularly salt water."

Then they say that they have the same meaning.

[Translation]

The meaning has been differentiated. If the meaning of tubes and pipes is seen under

[ Shri Mool Chand Daga ]

British tariff, then it has a different meaning here. Every item has been brought under the Bill and who will interpret it? It will be done by Collectors, Assistant Collectors and other officers and it would lead to harassment to the people. Laws continue to be formulated and nobody understands them. The Government which frame lesser number of laws and implement them effectively is said to be the efficient Government. The more the laws, the more the people suffer. Legislation regarding narcotics has been enacted, but the policeman himself is not aware of it and questions everybody whether it has come in force. The law enforcer himself does not know about the law. The Bill is voluminous and it is very difficult to go through it in such a short time. If one goes through Gita it will take five years and here in the Parliament this Bill would be passed within three hours. Shri Janardhana Poojary will reply at the end and the Bill shall be deemed to have been passed. Mr. Deputy Speaker. Sir, it will also go on record that this Bill had been passed under your Chairmanship.

[English]

MR. DEPUTY SPEAKER : We have given three hours for this.

SHRI MOOL CHAND DAGA : But there is no time to go through the Bill. We had discussed the University Grants Commission (Amendment) Bill partly and that was not completed. We were naturally thinking that that Bill will come for discussion. But this Bill came for discussion instead of that.

[Translation]

You will pass this Bill, but who will implement the interpretation you want to introduce in it. You have said that it will come into force in a year or one and half year i.e. in 1986. If it is so, why is there so much hurry in passing it. You could have sent it to the Select Committee and experts could have been called there to give their well-thought of suggestions. What would have happened in two or three

months, Budget session would be convened after two months and you could have got it passed in that session and could have done justice to the people. You thought that with the enacting of the law, everything will be alright. Of all the laws being enacted by you, the maximum difficulty arises in interpretation of the laws concerning Excise Duty. Many persons are not well educated and they feel difficulty in understanding them. Your laws should be in simple language and these laws should be published in all the regional languages. The manufacturers, small entrepreneurs and other people do not know the law and get entangled in them. They have only one remedy and that is to bribe the inspector. They say "Take the money, we do not know any law." Now you will enact this law. I have seen many of its items. Now who is going to enterpret what has been writtin in the law. You have not explained the items anywhere. These should be fully explained.

[English]

It has not been explained in so many words.

[Translation]

— that such and such expression carries such and such meaning and interpretation. But like other Bills, this Bill will also be passed. But, Sir, I feel that it will be better to refer it to the select committee before you make it a law. Shri Janardhana Poojary himself can refer this Bill.

You have rung the bell and have given the signal that I should move it. It will be better if Shri Poojary himself moves it. That will be more beneficial to the people.

[English]

SHRI INDRAJI GUPTA (Basirhat) Sir a few days ago when replying to the discussion on the Demands for Supplementary Grants, the hon. Finance Minister, if I am not mistaken, assured the House and the country that in the next Budget, the weightage given to indirect taxation in the total revenue mix would be sought to be reduced. This was an indication

which has been widely welcomed in the country because everybody knows that the burden of indirect taxation, as it has grown over the years, has been primarily responsible for the tremendous rise in prices, especially of many commodities which are articles of mass consumption. Also these indirect taxes now constitute the major portion of the tax revenues of the Government and I think the percentage that is attributable to excise duties alone is somewhere between 65 to 70. On the other hand, the weightage given to the direct taxation has been going down. So, generally speaking except for a small section of people in this country, the overwhelming majority of people have always been eager that there should be some relief given to them in the weightage of indirect taxes. The Finance Minister, if I did not misunderstand him, gave some hint like that. We do not know what his long term fiscal policy is going to be and we do not know what the budget proposals, a couple of months hence, are going to reveal. But indirect taxes are the real hub or I should say, the excise duties are the real hub of the structure of indirect taxation and these three Bills taken together, in my opinion, do not bear out that assurance which I think the Finance Minister gave.

That is why I am feeling rather disturbed and I share the apprehensions expressed just now by Shri Daga that it is not such a simple matter as through this is simply meant to codify and bring all the excise duties into one single piece of legislation so that it will be quite clear to everybody concerned and that there will be no confusion and so on and so forth. If it were only a technical move like that, I would welcome it. But I do not think that it is as innocent as that. Mr. Daga himself has correctly pointed out that this Central Excise Tariff Bill right in the very opening clauses 3 (1) (a) 3 (1) (b) and so on has made it clear that the Bill is seeking to give powers to the Central Government nowhere to decrease or to reduce the taxes but only to increase the taxes. If they want to take powers, they should take both the powers. If you want to decrease any excise duty on any particular commodity,

it has to come to the Parliament for its approval. But the powers being taken or being sought here, are solely powers at increasing the rates of excise duty, by notification.. In the Statement of Objects and Reasons also, it is stated thus:

“Government will have the power to enhance the rates of duty specified in the Schedule through notification in certain circumstances. Such power will however, be exercised only in emergent circumstances...”

What is the meaning of emergent circumstances, I do not know. There is one continual emergent circumstances, and that everybody knows—I also admit it. That is that the country is suffering from a severe crisis of resources. Government can always plead that there is a sufficient emergent circumstance to justify future increases in the rates of excise duties, so as to bring more revenue to the Government. So, I think that further enlarging of the net of excise duties will certainly mean further burdens on the general section of people, because the whole trouble, as adequately pointed out here by several speakers on the other side, is that excise duty is a peculiar thing in which it is not that the man suffers only as a consumer. He is actually the man who is paying the tax. He is paying the duty. It is not paid by the manufacturer. It looks as though it is a duty which is levied on the manufacturer, the producer of the product or of the goods. But it is not. There is no provision in our system that at least those producers or manufacturers who can absorb the increased rates of excise duty--because of the high profitability of those industries e.g. certain specific industries which are showing very high rates of profit for a considerable period of time and which are declaring high rates of dividend and so on, and which certainly have the capacity to absorb an extra rate of excise duty--should be made to bear that, without passing it on to the consumer in the form of higher prices. But is there any such arrangement in our system? There is not. So, the manufacturer is passing on the entire burden of excise duty to the consumer by way of increasing the prices

[ Shri Indrajit Gupta ]

So, the consumer gets the doubtful benefit not only of having to pay a higher price; but really he is in the other category also. He is the actual payer of the tax. So, I think these pieces of legislation are really quite conservative in the sense that there they seem to indicate that the Government is determined to go along the same lines which they have been pursuing all this time. The philosophy behind the Budget that we had a few months ago was also like that. The philosophy of that Budget was that you should spare the rich. That means huge reduction given in direct taxes, in corporate taxes, in personal taxes, so that these people who are a very small fraction of our entire population, should be permitted to keep more money with them instead of paying taxes not paying them by evading them. They should be left with enough money, which Government will persuade them to invest for productive purposes; and the burden of taxation therefore, in terms of indirect taxation, will be on the common man. I am afraid that these Bills, although they claim to be only enabling Bills giving certain powers to Government and codifying the existing pattern of excise duty, they all point in the same direction, viz. towards further increase in the rate of excise duty, and no where giving any kind of relief.

Then I have some general points to make, I do not know if, in the course of this debate, the Minister will bother to go into these questions. There seems to be no distinction in the rates of excise duties between those articles which are articles of mass consumption which affect that vast bulk of the consumers in this country-- I mean people who are less well off, in the lower income brackets and so on-- and articles which are luxury items.

There should be a conscious distinction; there is a discrimination. Even you find here a huge number of food articles which are not spared: a few articles have been spared. At least excise duty rate in some of the cases is nil. In future, it may be increased. But there are also a large number of food articles which are having to pay

excise duty; and these articles are expected to be consumed by the general public including, say, about 200 to 300 million people who are already existing below the poverty line and who have no consuming capacity or purchasing capacity. Anyhow, so, I think you should tell us whether in future-- I do not expect you to spell out anything in specific terms-- the trend of your taxation policy-- you would care to make any distinction in the rates for the benefit of the common man between those articles which go into day-to-day consumption, essential consumption and those articles which are really by any definition can be called luxury items.

Then there is a question of input. There are some articles which are actually inputs for other goods, producing other goods. There also there are inputs for goods which are articles of mass consumption. There are goods which are inputs for items of luxury consumption. So, we expect the government, on the basis of some well--thought, at policy, to make proper distinction between these different articles. There is a limit beyond which you cannot go. For example, if you go on raising excise duty - I understand a particular industry is making very high profit. Take the tea industry. The tea industry in recent years is making fabulous profits. Tea prices all over the world went into a tremendous boom. Prices of tea have gone up tremendously. Tea companies have been making huge profits. Government naturally thought that there was a good time to put up excise rate. It fetches them a good amount. But who is paying that? The man who drinks the tea, he is having to buy tea at prices which have gone up proportionately to the excise duty. Companies do not pay a single pie as excise duty. They collect it from the consumer in the form of higher prices and then they are supposed to deposit it with the government. Now, if this goes beyond a certain limit, it compels ordinary people, who cannot afford these prices to take to the consumption of inferior quality of tea. The sale of inferior quality of tea for domestic consumption in this period has gone up very sharply, because people simply cannot afford to pay prices which are being asked for tea.

Even in a tea shop where you buy a cup of tea, the prices has gone up very sharply, but the ingredients of that tea, if they are analysed, I think nobody feel like drinking that tea perhaps. I do not know of what stuff it is being made of. That is the only thing which is available because excise duty has made drinkable tea beyond the reach of the common man. This is very bad from every point of view, for the health of ordinary people and so on.

Another classical example I can give to the Minister. The metal containers which are made by various companies, the tin containers which are used in packing food articles, tinned fruits, tinned vegetable, tinned fish, which are also getting us a lot of earning by export, a few years ago, was found that if you import these metal cotainers from Taiwan, then the cost here to the processor, to the food processing industry is much less than for metal containers which are manufactured by companies here. So, they took to importing these metal containers from abroad because excise duty rate on the domestically produced metal containers were so high that the food processor found it chaper to buy metal containers from abroad by importing them from outside. I know some companies here manufacturing these metal containers had to close down; they were closed down for months together, years together. So one has to take a balanced view of the limit beyond which you cannot push this thing in the name of simply collecting revenue.

Then, many Members have referred to the question of widespread evasion of excise duties also. I do not know what the Government is going to do for tightening up their mechinery for this. I welcome these recent raids and things which are going on. I do not know whether they are meant for some symbolic purpose or whether you are really serious about it. Because, tremendous opposition is now growing among the people who are affected and so many speeches are every day being delivered by reputable gentlemen who are Chairmen of Chambers of Commerce and so on and so on, expressing horror and so on, on this kind of raids on the houses and residences and

offices of big people who have got big names in the world of industry. "This kind of thing should not be done, it is sheeking, how can you dare to do things like this. A gentleman like Mr. Kirloskar, a gentlemen like the Chairman of Orkay mills, or somebody else. It is not done in a decent society, to touch reputable gentlemen like this.

I am very happy but I am a disreputable fellow, as you know. I am only wondering whether the Government will follow up this kind of a thing by some kind of a deterrent action. Well, I presume you have carried out these raids on the basis of PRIMA FACIE evidence that huge evasion is going on, on foreign exchange and all that, which is a crime. It is correctly said, that these people are criminals who defraud the country like this of crores and crores of revenue. If you are serious about it, then you have rightly started these actions but some sort of deterrent action should be there; then I congratulate you, which I very seldom do, but I hope you will pursue it and will not yield under the pressure which is mounting up from various Chambers of Commerce and all that.

AN HON. MEMBER : You have agreed not to name the names of the persons ?

SHRI INDRAJIT GUPTA : I do not want to mention the names. But I would like to know, as somebody else has asked, what ultimately happened to these cases, these raids that take place, so much stuff is found, so many papers are recovered, and files are taken away and all that, ultimately nobody knows what happens in the end to these cases.

PROF. N.G. RANGA : We will also forget !

SHRI INDRAJIT GUPTA : I just want to mention some specific methods—I think—that we all know about, about the payment of excise duty, and evasion. I mean assessment, not payment,—payment is never done by them, payment is done by the consumer, but it is only their assessment, I am talking of.

[ Shri Indrajit Gupta ]

First of all, there is one method which was followed for a long time, I do not, whether that is still being followed. There is a licensing capacity. Now, that licensing has been relaxed very much and those people who had surplus capacity they have been told "if you can go on producing up to the limit of your capacity there are no restrictions" and so on. But many people had more capacity than they were supposed to have. Suppose, he had been allowed to set up a plant with—let us say—one thousand machines and actually he has installed 1,500 machines. Then, in his return to the Government he is showing production only on those one thousand machines. And the extra production on the other five hundred machines does not figure in his return at all and that extra production on those five hundred machines is being disposed of in the black market at black market rates and that income is never shown in any books of the company and therefore no excise duty also is accruable to the Government. I do not know how such things pass the vigilance of inspectors and other people but this has been going on for a long time.

Then there is a system of BENAMI selling agent. The primary manufacturer shows that he has sold all his stock to some selling agent and he sells to the selling agent at a price which is shown in his books is a fairly low price. And then the selling agent is selling at a much higher price, and the excise duty is not being charged at the point of sale by the selling agent but at the point of manufacture by the manufacturers. Actually, the profits from the sale are all accruing ultimately to the manufacturer but he is getting away with it because he does not show the real price and he is being charged at a much lower excise duty.

Then, Sir, there is another thing which is rampant at present in the country, and I think the Government is fully aware of it. According to the law every article has to have stamped on it the maximum permissible price. You know that, An absolutely fictitious stamping is going on !

A small thing, I will tell you. Most of the people and I think most of the Hon.

Members in this House are not smokers. I think you do not smoke also. It is good for your health. But I am a smoker, I am a moderate smoker. You cannot buy a packet of cigarettes because all the small cigarette sellers have gone on a kind of protest strike. I may be permitted to show you this packet. I am not laying it on the Table. First of all I may tell you that I have also switched over to smoking very cheap cigarettes because I cannot afford my usual brand. It has gone up almost double in price. Perhaps, I am poisoning my lungs by smoking these inferior types of cigarettes. But even here what is stamped is maximum price Rs. 1.70. When I buy it from the cigarette shopkeeper, he charges me Rs. 2.50. that means 80 paise more than what is stamped here. It is a packet of 10 cigarettes. That means, 8 paise per cigarette he is charging more.

**MK. DEPUTY-SPEAKER :** But there it is written excise duty and something else extra.

**SHRI INDRAJIT GUPTA :** Excise duty is already paid on it. When you ask the shopkeeper as to why he is charging 80 paise more, he says: does the company give it to me at Rs. 1.70 ? The company is supplying to him this thing in bulk and it is taking from him Rs. 2,30. He says that this 60 paise extra he has to pay to the company in cash. They do not show it in any books even. Big companies are doing this. I do not what to name those companies. Big reputed cigarette manufacturers in the country are doing this all the time. They are supplying to their dealers at inflated price - much above the stamped price. And the Government like a very good boy is collecting excise duty at the stamped price. The extra amount is paid by the shopkeeper in cash to the company and the consumer at the end is having to pay fantastically high prices which have no bearing at all on anything.

Anyway, I do not want to take more time on this because this Bill does not go into all these things. It is only giving the Government the power to increase the duties and excise duties whenever it considers to be.

so warranted and it justifies it by what is called emergent circumstances. I do not know what those emergent circumstances are. And the evasion of excise duty, I am sure, will continue because somebody has said that the ingenuity of these people is immense and they can resort to all sorts of dilatory tactics in the courts and so on. All I wish to say is that this, as a first small stepping stone to this long awaited new fiscal policy, is very disappointing altogether. It does not give any confidence to anybody that the Finance Minister's assurance given the other day about reducing the total weight of indirect taxation in the total tax structure, is going to be carried out. Here all the indications are the opposite: So I cannot find myself very enthusiastic in supporting this Bill. I cannot support it, because its implications are quite serious. I would just plead with the Government that they should not satisfy themselves by just codifying all these duties in one place. Even there I wish to point out that they have said that effective rates of duties fixed under exemption notifications have also been incorporated. Every now and then you know that notifications are issued giving exemptions. Here it is claimed that in the now codified bill all those exemptions and everything will be included, so that everybody can see the structure as a whole and understand it. But then it adds: However, the effective rates of duty in certain case, as for instance, exemptions granted on fulfilment of certain conditions, would still be provided through exemption notifications issued under the Central Excise Rules". It means that what you have written earlier about there being no residuary tariff left and all that obviating the need for having a residuary tariff item, that is not so. In actual fact the residuary item will continue because you continue to have the powers of giving exemptions in future by the method of notifications.

Finally, I must join other Members here in expressing my disapproval of the way that a Bill like this is being rushed through Parliament. You are always saying that you have got three hours' time, we can speak and all that, but we are not just some kind of automated robots - this is the age of automation, that is why I am saying we are not some kind of automated robots - that the moment

a huge Bill like this is suddenly brought on the agenda, and even the rules are waived so that it can be brought without giving the normal time and all that, we are requested to make a proper study of a Bill of this type and to give our considered views on this. I think this is a way of slighting the importance of the parliament and should not be done in this fashion at all, and I object very strongly to that.

SHRI PIYUS TIRAKY (Alipurduars) .  
 Sir, I oppose this Bill because the burden of this Bill is certainly going to fall on the consumers. The companies which are supposed to pay the excise duty, are not going to pay a single pie from their pocket and the entire burden will be passed on to the consumer. The number of items being covered are mentioned in this Bill. Typewriters, smoking pipes and even a small item like ball-point pens, are also not exempted from the purview of this Bill. These small things are also being covered under excise duty. So, the entire community and the poor people will be effected by this Bill. This Bill has been brought forward in the name of realising the excise duty from the manufacturers themselves, but we have the experience that no law can catch big people in India because there is a saying that every house has got two doors, one front door and the other back door. What is the back door meant for? It is meant to escape if any trouble comes.

MR. DEPUTY SPEAKER : That is an emergency exit.

SHRI PIYUS TIRAKY : It may be emergency gate or a gate to escape at the time of arrival of some trouble. Even if the laws made by Parliament on excise duty are kept in the whole of Parliament House, perhaps the space will not be enough to keep all of them. Then how can even the executives, those who are supposed to implement those laws, go through all these things? These exploiters, the tax evaders, know it very well that the police officers or those who are to execute those laws, do not exactly know what these laws say. So, they put some section of the law and go to the court. It is a money making factory for the lawyers, Even the lawyers do not understand the laws

[ Shri Piyus Tiraky ]

that we have made in the Parliament. So, if they fail at the lower court, they go to the High Court and then to the Supreme Court, and everything is nullified. When even the lawyers cannot understand what exactly the law is, it is very difficult for a Member of Parliament to understand in a very little time and then to give his consent to the laws that are coming before him. The Parliament has become like a factory where everyday some new laws are coming up but nobody knows what the law is and for whom it is meant. In such conditions, it is only the public and the poor people who will be very much harassed because they do not know what the law is. I would, therefore, advise the Government to bring forward a Bill whereby all the laws should be minimised so that the common people should understand what the country's law is and they should act accordingly, and the executive and the officers should also understand what for they are meant.

This is only a practice. I doubt even the Minister is capable of explaining everything and executing it also. Those who are paying taxes, are the persons who are suffering the most. Since I come from Tea-garden areas, I will speak of excise duty on tea, which is very much regularised there. That is paid in the factory itself before it comes to the market. So, there is no evasion of any excise duty in tea so far as I know. I will quote from the National Harold to show how much tea contributes to the national exchequer. It says:

"The tea industry contributes about Rs. 1,600 crores per annum to the National Income and yearly Rs. 750 crores to our foreign exchange earnings. It also provides over Rs. 60/- crores to the National Exchequer by way of excise duty."

But what is the condition of the tea gardens? Are tea gardens meant merely for taxation? Taxes are levied also to plough them for development purposes and particularly those which are weak and backward areas. But it is not done in this case. Even Shrimati Indira Gandhi included the welfare

of the tea-gardens and its workers in her 20-point programmes where it is mentioned that tea-gardens and the Tea-garden workers are a great asset for the national income and excise duty and for the national economy as a whole. But, here I would like to point out that their income is the lowest in India. The literacy in this sector is one per cent and odd and in some places it is zero per cent. While we claim all have equal right in the matter of education and eradication of illiteracy, these poor people, who contribute so much in the matter of taxation, in excise duty and in foreign exchange earnings, are living in the worst conditions. I would like to ask the hon. Minister to see that people from whom you mop up the most are provided with something so that this sector develops, particularly when more and more of surplus labour is coming in this area. In fact, greater number of auxillary industries are needed in this sector. You should not mop up taxes merely with the intention of re-investing them in Bombay and Calcutta. These backward areas also need Government's attention. Now, a feeling is developing that those who evade taxes are the most intelligent and happiest people in India and those who are sincere and hardworking and are paying taxes regularly are the stupid people and are suffering the most. What is our culture? The present culture seems to be that those who do not work are the most civilized and honoured people in the society. Those who keep two or three servants are considered respected people. Similarly, those who cheat others are respected more. In that way our culture has changed totally. A feeling has developed that if you cheat one hundred persons at a time you are a small man compared to one who cheats one thousand persons at a time. He is more respected. In such a situation this law will not work and nobody will come in your clutches.

Tea industry is one industry from where you are getting large amount of money by way of taxation and foreign exchange. Surplus labour is there in every tea garden. These surplus labour are the tribal people and the scheduled caste people. Your programme for the development of scheduled castes and scheduled tribes is enormous. Why don't you put your money there for their

development and give employment opportunities to these people? You should put the representatives of the labourers in the management and its working. They will show you the way how to realise or get your taxes. The workers are very much sincere and working for the welfare of the country as a whole and for their own benefit; they will take lot of interest in the day-to-day management. If you do that, you will get all the taxes which you have levied and the law and order problem will also be okay. Therefore, my humble request to you on this Bill is this. It is beyond the capacity of even a pleader to give his consent in such a short time. I got time to go through the Bill only for a day. I join with other Members who have objected to this Bill because it will be an item of oppression to the common man and the consumers. With these words I conclude.

[Translation]

SHRI M. SUBBA REDDY (Nandyal) : Mr. Deputy Speaker, Sir, this Bill is going to hit the common people. Now, through this Bill Govt. is trying to impose excise tax on items which hitherto were covered by Sales tax. As a result, the State Govts. are going to lose the revenue further and become more dependent on the Central Govt. for their survival. It is injustice. Though the Central Govt. is collecting more and more through these taxes by expanding the list of items, it still continues to pay the same amount to the States which was fixed decades ago as their share in the revenue. Now the Govt. have increased the duty on items like tea and coffee which are used by common people. But nothing out of this amount goes to the States. The financial position of the States is not sound. It is like rubbing salt on the wound. At present they have no avenues left with them to collect the money necessary for their developmental activities. The States are so poor that they are not in a position to pay the salaries of their employees. In such a situation, it is not proper on the part of the Central Govt. to take away whatever remained with them I request the Central Government to realise the plight

of the State Governments and come to their rescue by increasing their share in the taxes collected by the centre.

Sir, I am happy to note that the present Finance Minister is doing his best to contain smuggling operations in the country. The efforts of the Government to bring the tax evaders to book is also noteworthy. But we do not know how much amount is still hidden and how much amount is still expected to be collected. Sir, in my political career which spans three decades. I held various positions ranging from Sarpanch to that of Minister. So with this background of vast experience I can say that only three categories of people are indulging in tax evasion. The first category consists of traders who are the persons who evade tax. The second category of persons are Govt. employees who misguide the traders and tell them as to how to avoid the payment of tax. The third category is the judiciary. I have a lot of regard for our judiciary. Yet it is playing into the hands of unscrupulous traders by granting them stays and injunctions without even hearing the other party. The courts grant stay the moment the application is moved. They do not bother to hear the other side. Now the entire process of imposing taxes by the Government and successful evasion of those taxes by certain unscrupulous people is proving to be an exercise in futility. Though the number of taxes have gone up, the amount collected has not gone up, I am revealing this fact out of my own experience. The Govt. employees are playing their part by misguiding and helping the traders to avoid taxes. Judiciary is coming into the picture by granting stays on mere application. This is how the whole procedure of tax collection is going on without fetching a single paisa to the Govt. The result is that the poor and common people are, forced to shoulder the burden of taxes. Many of the articles mentioned in the Bill are not luxury items which are used by zamindars and rich people in our society. They are the items which are consumed by the people. Now one has to pay more for his cup of coffee, Just now Shri Guptaji was mentioning that middlemen are getting 60 paise on a cigarette pack only. Another important thing to note is that there is no proper machinery to look after tax collections

\* The speech was originally delivered in Telugu.

[ Shri M. Subba Reddy ]

At present there are Vigilance Cells functioning in various States. But they are not effective. Before the vigilance people step in the goods are sold in black market thus avoiding the payment of any tax. Moreover, it is better if the tax is imposed and collected at one point only. Now, the sales tax is being collected at various levels. Wholesale merchants collect the tax and later when it goes to retailer again he collects the tax. Even a vendor does not hesitate to collect the tax from the consumer. So a consumer is made to pay tax at various levels so it should be avoided and there should be proper machinery to check it. It should be known to all how much amount is going to be paid as tax and at which point it is going to be collected. The Govt. should proceed in this direction.

[English]

MR. DEPUTY SPEAKER : One information I am passing on to the House At 5 O' clock they are going to tape up 7th Plan document for discussion.

[Translation]

SHRI M. SUBBA REDDY : So, Sir, the collection of sales tax must have a fool proof arrangement. Now, though the Govt. is going on imposing taxes, no effort is being made to collect them effectively. If you succeed in collecting tax arrears, there will not be any need to impose new taxes. There are many States in the country which have more than Rs. 100 crores as arrears. There are many defects in the arrangements that are now being adopted to collect the taxes. If the Government succeeds in collecting the entire tax arrears, then the need to go for deficit budgeting can be very easily dispensed with. There will be enough money to complete our ongoing project without resorting to borrowing. So what I say is that these defects have to be eliminated first. Sir, I had been in politics for the past 30 years. It is no use imposing taxes without proper machinery to collect them. It is useless. The rich are growing richer and the poor are becoming poorer.

The present taxation system is helpful only to the rich but not the poor. The articles on which Centre collects tax, are also being taxed by the State Govt. This policy of dual taxation is breaking the back of common man. Instead, it is better the Centre allots an increased quota out of its tax collections. If it is done, there will be scope for the States to progress. Moreover a healthy atmosphere of mutual trust and cooperation between States and the Centre will develop. Also, steps must be taken to make the law stringent, so as to prevent the businessmen to toget a stay on a silly pretext. Now courts are granting stay the moment the petition is filed. It is affecting the collection of taxes, The Govt. should try to bring forward a bill to make it's Icompulsory to vacate the stay in a month time. The Finance Minister should take steps in this direction. The recent raids and arrests have proved the fact that it is always the and rich. who evades the tax. It is the big fish which escapes the net of tax. The raids conducted on Kirloskar Companies is a case in port. So while allowing the big fish to escape the net, you are trying to catch hold of the ordinary people. Tax is being imposed on items like tea and coffee etc. I want to cite one more example, in Kurnool there is one of paper mill. The cost of production of one tonne of paper is around Rs. 550. But the same paper is sold in in black market for Rs. 1100/- per tonne. So, is the Govt. able to tax the extra money of Rs. 550/- per tonne which they got by selling the paper in black market ? No this has been going on before our very eyes. So what I want is that all loopholes in the present taxation should be plugged properly. If the Govt. succeeds in doing so, there would not be any necessity for new taxes. Already our Finance Minister has taken certain steps in this direction and I am happy about it. Now the Government is taking steps to control black marketing. But black money cannot be controlled until the ceiling on urban property is imposed. People in the urban areas earn crores of rupees since there is no ceiling on urban property. Gold is being smuggled into this country from the Gulf countries.

Nobody knows where it is going. In some cases people hide the gold in the earth so as to avoid tax. After cyclones, we hear the stories of gold appearing beneath the layers of earth. So, the Govt. should keep a watch on these valuable items. The Govt. should have a special staff to check all these activities and enforce laws vigorously. Then only the circulation of black money can be contained. If the circulation of black money goes up the prices of the commodities will spiral up and hit the common man. Few days back some business man approached me and sought my support for importing textiles and ghee etc. Just imagine how much money we will lose by way of foreign exchange if we allow such imports. These business men will stock such items and dispose them off after creating artificial scarcity. So, what I want to say is that the activities of such businessmen should be curbed. These selfish people are trying to exploit the society for their own ends. The Finance Ministry should keep a watch on the activities of such people. Poverty can also be rooted out of her land. There will not be any necessary to impose tax on poor people. Now slowly the direct taxes are being done away with and in their place indirect taxes are being imposed. It is not proper to tax a poor man's cup of tea. The Govt. can impose tax on the items like cigarettes which are used by rich people. It will also help in improving the health of the people for it will reduce the incidents of deadly diseases like cancer. But items like tea and coffee are used by very poor people. Even an agricultural worker takes a cup of tea and then goes for work every morning. The agriculturists also suffer very much on account of this wrong taxation policy. They will have to pay more labour charges to the agricultural worker. So I request the Government to consider all these things thoroughly before imposing any tax. It should be examined thoroughly where to tax and how much to tax and whom to tax. After considering these thoroughly the Govt. should improve tax on the people. I want the hon. Minister to examine the whole policy thoroughly. Finally I request the hon. Minister to

remove tax on the items which are used by common people.

Sir, I thank you very much for giving me this opportunity and conclude my speech.

[English]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHANA POOJARY) : Mr. Chairman, Sir, at the very outset, I thank the hon. members for extending their cooperation in consideration of these Bills. Even though an objection has been raised in the beginning itself saying that the Bills are being rushed, the hon. Members have cooperated in the discussion. In fact, the Bill has been studied by the hon. Members who have taken part in the discussion.

It is a very simple and comprehensive Bill so far as the classification of the excise duties is concerned and also for identifying the goods which attract the duty. Except the first two pages, the other pages replace the Schedule and it is a new Schedule that has been incorporated in the Bills. Otherwise, it is a very simple Bill which we can see.

In the year, 1984 when the former Finance Minister made a Budget speech, he has stated then that:

"With the phenomenal increase in Central Excise revenue from about Rs. 100 crores in 1953-54 to about Rs. 10,100 crores in 1983-84, the Central Excise tariff has also substantially grown. I think it is time to make a comprehensive review of the tariff as it has developed over the last three decades with a view to rationalising it. We should require a detailed study which can best be done only by a Technical Study Group. I propose, therefore, to appoint such a group."

In pursuance of that assurance, a Technical Group as the Study Group has been appointed and they have submitted the report in the month of September, 1985

[ Shri Janardhana Poojary ]

and the Government has come out with this comprehensive Bill so far as the Central Excise tariff is concerned.

As you are aware, items 1 to 67, in the earlier Central Excise and Salt Act specify the goods which attract the duty.

So far as the Item No. 68 is concerned, it does not spell out the nature of the goods which attract the duty. Item 68 covered all the items which were not covered by items 1 to 67. It was the position.

Item 67 attracted more than 1,000 items. But they were not specified in the Schedule.

Now by this Bill, we have spelt it out and also we have clearly indicated the goods which attract duties which were covered under item No. 68 earlier. So, there is no complication now here.

This is a very simple Bill. It clearly indicates and also show that these are the goods which attract the duty. So, I may be permitted to say that even though this Bill has been brought in the last week of the Session, it is not rushed through.

Why the rule has been suspended ? I may be permitted to say, that we have got Bill No. 202. This is the basic Bill. Other Bills are the consequential Bills. Because of the change in this Bill, we have to bring the change in the other Bills. Bill No. 201 and Bill No. 204, and take them for consideration along with this Bill, We have requested the Parliament, by bringing Motion under Rule 388 to suspend the proviso to rule 66. That is the only intention. The hon. Members have also welcomed this. I am grateful for the cooperation given by the hon. Members even from the Opposition side. It is an aid or assistance not only for the officials but also for the manufacturers to identify the goods which could be brought under the Schedule, which attract duty. Now the ambiguity has been cleared, the confusion has been taken away, and we have

clearly stated in this Bill that these are the items which attract the duty, So, there cannot be any mischief that could be played by the officials. By this we are eliminating corruption also. We are also telling the manufacturers that here are the items, here are the products here are the commodities or goods which could attract duty, and according to that they could pay,

My further submission would be that, under this Bill, there is an arrangement for grouping of the goods also. So, by this method also we are avoiding confusion, we are avoiding ambiguity. This is the provision in a nutshell which I submit before the House.

A point has been made whether the long-term fiscal policy is going to be announced and what will be the effect of this long-term fiscal policy. I think, that point has been made by hon. Member Shri Indrajit Gupta. Here I would request the hon. Members to bear with us for a few days more: we are going to announce this long-term fiscal policy on the 19th of this month, in this Session only, and hon. Member Shri Indrajit Gupta can study whether we are going to do anything better for the consumers or whether we are going to encourage the industrialists only; that could be found out when the long-term fiscal policy is announced in this House.

It has been stated that we have taken action against the culprits who have evaded customs and excise duties and other taxes, who are responsible for creating black money in this country. Our commitment has been clearly spelt out. Our hon. Prime Minister, when he took charge as Prime Minister of this country, has promised that, so far as black money is concerned, we are going to take action against the tax-evaders. Not only that, more revenues are going to crop up. He has also committed to the nation saying that he is going to give an efficient administration and a clean administration. Now you can see whether that has been fulfilled or whether this is only a false promise given to the nation. Now coming to the figures,—what has been the performance of this Government this year, you can

see—, the budget estimates in respect of customs for the current year are Rs. 8,166 crores and upto November, 1985, we have been able to collect Rs. 5,741 crores; in the case of Central excise, the budget estimates were Rs. 12,227 crores and the collection upto November, 1985, is Rs. 8,128 crores; in the case of income-tax and corporate tax, the budget estimates were Rs. 4,816 crores, we have been able to collect upto November 1985, an amount of Rs. 2,158 crores. The increase in Customs that could be compared with the collection of the last year is Rs. 1,423 crores. With regard to the Central Excise Collection, the increase is Rs. 1,133 crores. So far as the Income Tax and Corporate Tax are concerned, the increase is Rs. 404 crores. In the total performance, the increase, when compared to the figure that has been collected upto November 1985 with the figure of 1984, is about 23%.

It has never happened. It is the history which has been created. It is because of the steps taken including the steps that have been referred to by the Hon. Members. The cumulative effect of this is the more mobilisation of revenue. What will be the effect of it? When we collect more revenue in the form of Union Excise Duty and also in the form of Income Tax, 85% of the Income Tax collection would go to the States and 45% of the Union Excise Duty would also go to the States. So, more funds will go to the States.

If at all we succeed in getting about Rs. 3,000 crores then I think, we make more funds available for the States also. The States would also be benefited.

Now coming to the big people who have violated the Customs Act, the FERA Act and other Acts, an apprehension is made out that further follow-up action will not be there, action would not be taken. We have made it very clear to the nation that we are not going to spare anybody and nobody is above the law. If at all anybody violates, whether it is 'A' or 'B', whether he is in political sphere or in any other sphere, he would not be spared and action would be taken. It is very clear from the action that has already been taken. We are not going

to spare not only the persons who have violated the law, but also not spare the persons who have colluded with the tax evaders. Even action has been taken against the officials who were having connivance with those people and whose integrity was in doubt.

The nation is aware of these figures; the figures are before the nation. The nation is also aware of the fact that the Government has taken action against these officials.

About action to be taken against some of these people who claim that they are big people, if there is any violation, as I have said, in some of the cases you will come to know. I think, it will be brought before the nation when we are going to meet in the next budget session. Before that we will be in a position to know about some of the people. The Hon. Members have made a point that big fish should be brought under this net. It is the intention of the Government and we appreciate fully the point that has been made out by the Hon. Members.

I am very much overwhelmed by the contribution that has been made by the Hon. Members. The entire House has raised the voice saying that no person who has violated the law should be spared and stern action should be taken. We will keep it in mind. We are grateful to the Hon. Members for extending their cooperation in so far as the identification of these people who have been violating the laws of the land is concerned.

Sir, at the cost of repetition, I can assure the Hon. Members, there need not be any confusion or doubt about this aspect, that we are going to take action against those people and if at all there are any persons in this country particularly officials who are colluding with these people, the persons who have been violating the laws of the land it could be brought to our notice and we are going to take action without yielding to any pressure either from any industrial group or Chambers of Commerce or political sphere or from any other area. We are not going to yield to any pressure. The Government is seized of the matter. The Government is determined to take action against such

[ Shri Janardhana Poojary ]

elements. In the meantime, I request the hon. Members, resources are required for development activities. It is not sufficient that Central Government should only take action. It should percolate to the grass root level and the State Governments should take action in their local administration. Then there will be impact in the entire country that the Government of India and the State Governments have taken a serious view of this matter and they are going to give strong administration to the nation.

As far as resource mobilisation is concerned the hon. Member from Andhra Pradesh made the point that if you are going to tighten the administration definitely there will be more collection and it is the result of the steps that have been taken. I fully agree with that view. There also so far as sales tax and excise duty are concerned if there is any evasion the State Governments also should take steps in order to mobilise more funds.

Coming to the arrears of revenue, namely pending court cases, so far as excise is concerned about 15000 cases are pending in various courts and more than Rs. 3000 crores are blocked. A suggestion has been made by an hon. Member saying that more competent lawyers should be appointed and they should be given sufficient remuneration. I would like to submit that we have taken steps. Competent lawyers have been appointed. Lawyers who are not listed on the panel have also been engaged and paid more in order to give effective representation in the court of law. I am requesting the judiciary also to take note of the anxiety of the nation to clear the cases which are pending in various courts.

Shri Indrajit Gupta made the point as to why we are going to have more emergent powers for raising the duty. Shri V. S. Krishna Iyer also made that point asking for the reasons for incorporating this provision thereby empowering the Central Government to have more powers. When there is short-fall and you are not going to reach the budget estimates then in such circumstances we are going to resort to these powers which are

being made available under this Clause. In the existing laws there is provision for reducing the tax. Only maximum ceiling has been put in the Schedule. Now, that provision is there. We have been taking advantage of it. Wherever we wanted to reduce the tax we could do that without coming to Parliament and only a notification had to be placed before the House. Likewise we have got powers now under Clause 3. This will be used only in emergent cases. It will be used only in the interest of the nation and not against the interest of the nation. Rule 8 of the Central Excise Rules permits for reducing the duties and there is no power so far available to us to increase the tax. So, this clause 3 is an enabling one. Thereby we are getting the power to increase the tax.

Now, coming to the incentives, the hon. Member has asked me whether there are any incentives for these officials for doing excellent work. Here also I may point out that we have got the reward system for the excise collection. After all the officials who are working in this Department have to face the risk and naturally when they are working under difficult circumstances, we have to give them reward and provision for giving reward is also there. Not only that. Whenever it is brought to the notice of the Government that there are corrupt officials, inefficient officials, when they are having connivance with the industrialists who have violated the regulations, we have taken action against such officials. At the same time, I am bringing to the notice of the hon. Members of this House, that if there is vexatious raid, *mala fide* raid, then for that a provision for taking action against such people is there. Last time, I brought to the notice of the House and today also I have stated that the Revenue Department has done a marvellous performance. Mr. Indrajit Gupta, had congratulated me for the excellent work. Our officials who have been working in our Revenue Department, who are working day-in and day-out taking risks, are entitled to get all praises. I thank the hon. Members for giving such compliments to the Revenue Department and in fact they deserve that. I am grateful to the hon. Members for patting those officials who are intelligent officials, who are honest and efficient officials, who

433 *Central Excise Tariff Bill : AGRAHAYANA 25, 1907 (SAKA) Bill ; and Addl. Duties of 434*  
*Addl. Duties Excise (Text. Excise (Goods of Spl.*  
*and Text. Articles) Amdt. Importance) Amdt. Bill*

are responsible for this marvellous performance. I take this opportunity to compliment these officials.

Sir, I have already stated that it is a very simple Bill and the two other Bills Nos. 201 and 204 are consequential Bills. I have nothing more to add to this. Therefore, I commend that the Bills be passed without any resistance from the hon. Members. I once again thank the hon. Members particularly, Mr. Jaipal Reddy for not offering any resistance and I am sorry to note that he was not finding sufficient time to make his contribution. I hope he would do it at some other time.

MR. CHAIRMAN : The question is :

“That the Bill to provide for tariff for Central duties of excises, be taken into consideration”.

*The motion was adopted.*

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

MR. CHAIRMAN : The question is :

“That clauses 2 to 4 stand part of the Bill.”

*The motion was adopted.*

*Clauses 2 to 4 were added to the Bill.*

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

SHRI JANARDHANA POOJARY : I move :

“That the Bill be passed”.

MR. CHAIRMAN : The question is :

“That the Bill be passed.”

*The motion was adopted.*

MR. CHAIRMAN : Now, we will take up other two Bills.

MR. CHAIRMAN : The question is :

“That the Bill further to amend the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, 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.*

*Clause 1, the Enacting Formula and the 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.*

MR. CHAIRMAN : The question is :

“That the Bill further to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957, 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 clauses 2 to 5 stand part of the Bill”.

*The motion was adopted.*

*Clause 2 to 5 were added to the Bill.*

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

SHRI JANARDHANA POOJARY : The  
question is :

“That the Bill be passed”.

MR. CHAIRMAN : The question is :  
“That the Bill be passed.”

*The motion was adopted*

MOTION RE : SUSPENSION OF  
PROVISO TO RULE 66.

*(English)*

THE MINISTER OF STATE OF THE  
MINISTRY OF COMMERCE (SHRI  
KHURSHID ALAM KHAN) : On behalf  
of Shri Arjun Singh, I beg to move :

“That this House do suspend the  
proviso to Rule 66 of the Rules of  
Procedure and Conduct of Business in  
Lok Sabha in its application to the  
motions for taking into consideration  
and passing of the Agricultural and  
Processed Food Products Export Deve-  
lopment Authority Bill, 1985 and the  
Agricultural and Processed Food Products  
Export Cess Bill, 1985 in as much as  
these are dependent upon each other.”

MR. CHAIRMAN : The question is :

“That this House do suspend the  
proviso to Rule 66 of the Rules of Pro-  
cedure and Conduct of Business in Lok  
Sabha in its application to the motions  
for taking into consideration and passing  
of the Agricultural and Processed Food  
Products Export Development Authority  
Bill, 1985 and the Agricultural and  
Processed Food Products Export Cess  
Bill, 1985 in as much as these are depen-  
dent upon each other.”

*The motion was adopted.*

16.39 hrs.

AGRICULTURAL AND PROCESSED  
FOOD PRODUCTS EXPORT DEVE-  
LOPMENT AUTHORITY BILL

AND

AGRICULTURAL AND PROCESSED  
FOOD PRODUCTS EXPORT CESS  
BILL

*[English]*

THE MINISTER OF STATE OF THE  
MINISTRY OF COMMERCE (SHRI  
KHURSHID ALAM KHAN) : On behalf  
of Shri Arjun Singh, I beg to move :

“That the Bill to provide for the  
establishment of an authority for the  
development and promotion of exports  
of certain agricultural and processed  
food products and for matters connected  
there with, be taken into consideration.”

“That the Bill to provide for the  
levy and collection, by way of cess, of a  
duty of customs on the export of certain  
agricultural, and processed food products  
for the development and promotion of  
their export and for matters connected  
therewith, be taken into consideration.”

It is proposed to establish an Authority  
for the development and promotion of the  
export of certain agricultural and processed  
food products. I suppose, I shall be stress-  
ing the obvious, if I emphasise the import-  
ance of these items in our export basket. It  
is a known fact that at present the share of  
agricultural items in export is only 25 per  
cent of our total exports, while the prospects  
are enormous. Therefore, it is necessary  
that we should make special efforts for pro-  
moting the export of these products.

At present the Processed Foods Export  
Promotion Council looks after the export  
of these products. It is a fact that the  
Council does not have any statutory backing