

[श्री प्रिय गुप्ता]

के बयान पर डिक्लेशन के लिये तो बे भिन्न भिन्न इनकम ग्रुप के पर कॅपिटा इनकम तथा कर्ज के आंकड़े भी उस के सामने रखें। उन्होंने सिर्फ एक्स्पेंडिचर के आंकड़े बतलाये हैं। ताकि सही जांच और बहस हो सके।

Shri Tyagi (Dehra Dun): We will do it. (Interruption).

Shri Priya Gupta: I am a junior Member and he is a senior Member. Why should he interrupt me?

Mr. Speaker: Order, order.

श्री बागड़ी: मेरा एक व्यवस्था का प्रश्न है। मैं अध्यक्ष महोदय, आप का ध्यान इस तरफ खींचना चाहता हूँ कि डाक्टर साहब ने अपने बयान के दौरान एक बहुत जिम्मेदारी की बात कही है कि उन के पास कितने ही धमकी के खतूत आते हैं, और इस सदन में भी यह बात आ गई। इसके बारे में आपने कोई जवाब नहीं दिया। जब सदन में यह बात आ गई है तो उस के ऊपर कुछ न कुछ तो आप को करना ही चाहिये। इसके बाद खास किसिम की बात...

अध्यक्ष महोदय: अगर वह सब आप मेरे पास भेज दें, तो जाँ कुछ मुझमें हो सकेगा वह करूँगा। कहने की जरूरत होगी तो बहूँगा और करने की भी जरूरत हुई तो वह भी करूँगा।

12.10 hrs.

APPROPRIATION (RAILWAYS)
 NO. 5 BILL*, 1963

The Minister of Railways (Sardar Swaran Singh): I beg to move for leave to introduce a Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the

service of the financial year 1963-64 for the purposes of Railways.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1963-64 for the purposes of the Railways."

The motion was adopted.

Sardar Swaran Singh: I introduce the Bill.

12.20 hrs.

CUSTOMS AND CENTRAL EXCISES
 (AMENDMENT) BILL—contd.

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri B. R. Bhagat on the 23rd August, 1963, namely:—

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

Out of the one hour allotted for this Bill, 5 minutes have been taken and 55 minutes are still there. Shri Kashi Ram Gupta.

श्री कशी राम गुप्त (अलवर): अध्यक्ष महोदय, मैं इस बिल का स्वागत करता हूँ क्योंकि यह केन्द्र की कर नीति के एकीकरण की तरफ एक बहुत अच्छा कदम है। किन्तु मुझे इस बात का सन्देह है कि इस बिल में जो शब्द "गवर्नमेंट" रखा गया है उसमें यह स्पष्ट हो सकेगा कि नहीं कि इसमें

*Published in the Gazette of India Extraordinary Part II—Sections 2, dated 26-8-63.

†Introduced with the recommendation of the President.

केन्द्रीय और प्रदेश सरकारें दोनों शामिल हैं। जहां तक मैं समझता हूँ, यः जो "गवर्नमेंट" शब्द है इसका अर्थ केवल केन्द्रीय सरकार हो सकता है और प्रदेश सरकारें इसमें सम्मिलित नहीं मानी जा सकतीं। इसलिए मैं माननीय मंत्री महोदय से निवेदन करता हूँ कि वह मेरी इस बात की तरफ ध्यान दें कि जो "गवर्नमेंट" शब्द है वः आगे जा कर अदालतों में उलझ न जाए और यही प्रदेश सरकारें इस सम्बन्ध में हाई कोर्ट तक न पहुंच जायें। इसलिए मेरा बार बार निवेदन है कि मंत्री महोदय इस "गवर्नमेंट" शब्द को स्पष्ट करें, और इस बिल में यह लिखना चाहिए कि "गवर्नमेंट" का मतलब केन्द्रीय और प्रदेश सरकारों दोनों से होता है। वर्तमान शब्द से यह नहीं जाहिर होता कि दोनों का इसमें समावेश होगा।

दूसरी बात मुझे यह कहनी है कि भूतकाल में यः अनुभव हो गया है कि प्रदेश सरकारें इन बातों में बहुत ही संकुचित दृष्टिकोण से सोचती हैं, और इसी कारण जब उन्होंने यह सवाल उठाया तो यह बिल लाना पड़ा। अब भी यह सम्भव है कि कितनी ही प्रदेश सरकारें इस कानून की अवहेलना करने का प्रयत्न करें। इसलिए मेरा सुझाव है कि वे इस बात का सर्वेक्षण करवावें कि भविष्य में जो प्रदेश सरकारें कुछ काम करने जा रही हैं, वः इसमें सम्मिलित होत हैं अथवा नहीं। जहां तक प्रदेश सरकारों का सम्बन्ध है अभी तक उन्होंने जो कार्य किए हैं उनको विभागीय तरीके से किया है और उनके लिए लिमिटेड कम्पनी नहीं बनायी हैं। जब तक यह नहीं होगा कि प्रदेश सरकारों को यः आदेश दिया जाए कि जो उनके उद्योग अभी चल रहे हैं या जो व भविष्य में चलाएंगी उनको कारपोरेट सैक्टर में लिमिटेड कम्पनीज बना कर चलाया जाए, तब तक वे सरकारें केन्द्रीय कर नीति में बाधा पहुंचा सकती हैं और उससे केन्द्रीय सरकार की आय में बाधा आ सकती है।

इस सम्बन्ध में मैं एक उदाहरण देना चाहता हूँ। और वः यः है कि जहां तक मेरी जानकारी है, जितने भी सड़क परिव न प्रदेश सरकारें चला रही हैं वे विभागीय तौर से चला रही हैं, उनको कारपोरेट सैक्टर में नहीं लाया गया है। इसका न केवल यह नतीजा हो सकता है कि भारत सरकार को इनकम टैक्स में नुकसान हों, बल्कि कुछ और तरीकों से भी केन्द्रीय सरकार के करों में फर्क पड़ सकता है। यह उदाहरण केवल इस तात्पर्य से दिया गया है कि जिससे मालूम हो कि जो कर निर्धारण की केन्द्रीय नीति है उस के बारे में प्रदेश सरकारों का रवैया क्या है, और वे कहां तक इसमें सहयोग देने के लिए तत्पर हैं।

मैं जानता हूँ कि अभी अभी जो राजस्थान सरकार अपने हाथ में परिवहन ले रही है उसमें भी यह प्रश्न उठा और यदि और प्रदेश सरकारें ऐसा करेंगी तो उनके सम्बन्ध में भी यह प्रश्न उठेगा।

मारी सरकार की जो नीति है उसके आधार पर भविष्य में प्रदेश सरकारें भी उद्योग धन्धे चलायेंगी और दिन पर दिन उन में बढ़ोतरी होती जाएगी और जब बढ़ोतरी होगी तो निश्चित रूप से नीति निर्धारित होनी चाहिए और उसमें प्रदेश सरकारें भी सम्मिलित हों यः देखा जाए। इसको देखने के लिए मेरा सुझाव है कि जिस प्रकार केन्द्रीय सरकार का विभाग प्राइवेट कम्पनियों के बारे में देखता है, उसी प्रकार इन सरकारी कम्पनियों और प्रदेश सरकार की कम्पनियों को भी देखे। जो चीजें उनको विदेशों से मंगानी हैं और उनके लिए जो लाइसेंस उनको देने हैं वे उसी आधार पर हों जिस आधार पर प्राइवेट कम्पनियों के होते हैं और उनमें कोई फर्क न हो। और अगर ये सरकारी कम्पनियां आंकड़े देने में आवश्यकता से अधिक देरी करें तो उनसे जवाब तलब किया जाए।

[श्री काशी राम गुप्त]

अन्त में मुझे यह निवेदन करना है कि प्रदेश सरकारों का यह तरीका बन गया है कि जो उनके अधीन म्युनिसिपल बोर्ड आदि हैं उनके कर्तव्य को वे नहीं देना चाहती और भारत सरकार की कर नीति में भी बाधा पहुंचाना चाहती हैं। यह बहुत संकुचित दृष्टिकोण है और इससे जाहिर होता है कि एकीकरण में वे कितनी बाधा देती हैं। अगर हम इन छोटे हितों की तरफ देखने लग जाते हैं तो एकीकरण समाप्त हो जाता है।

इन सब बातों को देखते हुए इस बिल के बारे में और कुछ कहने की आवश्यकता नहीं रह गयी है। लेकिन देखना यह है कि यह बिल केवल कानून बन कर ही न रह जाए इस पर अमल भी होना चाहिए, और इस के लिए केन्द्रीय सरकार का विभाग सजग रहे और वह इस बात पर न रहे कि प्रदेश सरकारें जो जानकारी देती हैं वह सही हैं, बल्कि उस विभाग को अपनी तरफ से उन विशेष उद्योगों की जानकारी प्राप्त करने का प्रयत्न करना चाहिए।

मिसाल के तौर पर मैं बतलाना चाहता हूँ कि मलाना में राजस्थान सरकार लिगनाइट उद्योग को अपने हाथ में लेने जा रही है। पहले यह विचार था कि माइन्स विभाग इस उद्योग को विभागीय तौर पर चलाएगा, लेकिन बाद में यह तैयार किया गया कि कम्पनी बना कर इसको चलाया जाएगा। यदि वह विभागीय रूप से चलाया जाता है तो वह सही कदम न होता। इसलिए इस सम्बन्ध में नीति निर्धारित करना आवश्यक है कि भविष्य में प्रदेश सरकारें जो उद्योग चलाएं उनको कारपोरेट सैक्टर में चलाएं और किसी किसी तरह न चलाएं।

Shri Warior (Trichur): Sir, I heard the arguments put forward by the hon. Deputy Minister of Finance while

introducing this Bill, but unless he has got more reasonable arguments, I do not know how I can support this amending Bill. From 1951 onwards till now the States enjoyed a concession in the customs and excise duties. Then what is the reason for having a sudden change introduced after twelve long years now? Why not let the States enjoy these concessions precisely for the reasons mentioned by the hon. Deputy Minister himself? He mentioned certain reasons for bringing forward this amending Bill but the very same reasons are against the introduction of an amending Bill like this.

Secondly, the States have not agreed to this. Some of the States have objected to the introduction of these new customs and excise duties on certain articles imported or produced by them. In the face of their objection the Central Government should have thought it wise to let these things go after convincing the States of the necessity for the removal of whatever anomalies there might be in the working of these concessions to the States. But that has not been done.

Thirdly, the revenue expected is quite negligible compared to the huge amount of customs and excise duties collected by the Central Government. It comes only to a few more lakhs of rupees, that is, Rs. 20 lakhs by way of customs duty and about Rs. 3 lakhs by way of excise duty. It is such a negligible amount. That means that the things which the States import on which customs duty is levied or the things which they produce on which excise duty is levied are of very little value and are ignorable from the point of view of the amount realised.

The only argument that the hon. Minister has got for it is that it is not unconstitutional. Quite true, it might not be unconstitutional and Government had also taken the precaution

of seeing that it was not unconstitutional. They had taken recourse to the advice of the Supreme Court and the Supreme Court has said that there is nothing unconstitutional in it and that it does not infringe the rights of the States. But that does not mean that this is to be allowed because the Central Government might be entitled to introduce this amending Bill. It should be seen whether there is any necessity for it and if there is absolutely no necessity for it, why should the Government all of a sudden take this legal opinion and, without even legal opinion, introduce such a measure if there is no necessity. The Constitution does not ask for an amendment of this sort. The procedure to be adopted by the Customs Act and Central Excises Act also do not call for such an amendment. Unless there is an absolute legal necessity for that, why should you bring forward such a measure which will be irksome? That is the most important point in the whole thing. With the introduction of this measure, the procedure adopted by the States now with regard to import of certain articles and also with regard to production of certain articles which were mentioned in the speech of the hon. Deputy Minister will become irksome so that they will not be able to do the things in time.

Then, there is another point also. As compared to the States, the Central Government is not having the same sort of imports and same sort of production. For instance, the Central Government is undertaking huge imports of machinery and such other things and the Central Government is also producing steel and some such commodities which are not actually..

The Deputy Minister in the Ministry of Finance (Shri B. R. Bhagat): They have to pay duty.

Shri Warrior: Yes, I know. The Central Government is importing a huge amount of material and the Central Government is also undertaking in the public sector huge factories for production and naturally the Central Government cannot lose money from the excise duty. That I can understand. But the duty is also coming to the Central Government. The Central Government has nothing to lose in it. Once the duty is imposed on the States, it is the Central Government which is receiving the customs duty or the excise duty. Rather, the States have to forego at least a smaller amount for this, the amount coming to the Central Government. So, there is a vast difference. Moreover, what are these imports? These imports are intended for milk supplies to the occupants or the inmates of the jails, for the training of people in shoe-making or some such thing. These are very very small items. One argument that has been put forward is that the State Governments are undertaking certain business with these things. Take, for instance, production of certain items for jails. It is well-known that it is the State Government that consume most of the things—they supply to jails—say, for example, milk supplies. Is it with the profit motive that they are doing it? No. I do not think so. The milk supply scheme is a very popular scheme undertaken by the Government in order to ward off so many malpractices, adulteration and such other thing indulged in by the private milk suppliers. It is not the scheme for the profit alone. It is not that the State Governments are making huge profits out of the milk supply scheme. In order to have a smaller plant or machinery for the milk supply scheme, should the State Government pay an amount of excise duty to the Central Government?

The only anomaly that has now been found out is that the State Governments are doing business along with private enterprise. Can they be put

[Shri Warior]

at the same level or in the same order? Can they be compared together? The private people have got so many advantages which the public sector has not got. As a rule, even in the highest sector of economy, like, coal or steel the private enterprises have got certain advantages over the public sector whether legal or illegal which the public sector have not got. More than that, the private sector can do away with much of the procedural drawbacks or difficulties which the public sector cannot do. So, we cannot compare any public sector undertaking, whether big or small, with the private sector undertaking. I say, more advantages legal advantages, financial advantages and fiscal advantages should be given to the public sector. The private sector can compete even otherwise in a cut-throat fashion with any public sector undertaking. Take, for instance, the milk supply scheme. If proper advantages are not guaranteed for the public sector milk supply scheme, the whole scheme will fail because the private sector has got so many advantages. Take, for example, the Delhi Milk Supply scheme itself. That had been the point of criticism here. Many had raised certain objections and many had pointed out certain anomalies in that scheme. But no private sector organisation comes like that under the limelight for criticism. Hence, Government should not think that giving certain advantages, either fiscal or financial to the public sector is anomalous to the entire mixed economy that they are following. That argument, I think, will not stand.

Further, some of these things are intended for educational purposes. Now, under the general concessions given by the Tariff Act, there are certain items which are now taken away or which are not included in the list of those articles on which customs duty should be levied. Now, if for getting those things for the educational institutions, the Central Govern-

ment is to be approached and the Central Government has to process all these things, then, I think, it will delay matters and that will be an impediment in the smooth working of the educational institutions. I do not think that this is an item which should be taken up now. The Central Government can carry on without amending this Act and the State Governments should be left alone in this matter. Unless there is some other cogent reasons some other very reasonable argument with the Government, I do not think we can support this Bill as it is.

Shri S. M. Banerjee (Kanpur): Mr. Speaker Sir, I have gone through the Bill and particularly the Statement of Objects and Reasons. The hon. Minister in his speech has explained to this House as to why this amendment is necessary. Naturally, there is some weight in the argument and, unfortunately, I cannot agree cent per cent with the contention of my hon. friend Shri Warior. The State Governments may feel some difficulty about it. But should they not be taxed or should they not pay customs duty or excise duty on certain goods which the Central Government is paying or even the private sector is also paying? Sir in the Statement of Objects and Reasons, it is said:

“The question whether customs and excise duties though levied in respect of goods, were taxation on property and as such when any goods were imported or exported, or produced or manufactured, by State Governments, they enjoyed exemption under clause (1) of article 289 of the Constitution was examined from the legal and constitutional points of view and the Government of India were, advised that such duties were not taxation on property. It was, therefore, proposed

that provision be made in the Customs Act and the Central Excises and Salt Act for the levy of import duty and excise duty on all goods imported or exported, or produced or manufactured, by State Governments, whether such import, export production or manufacture was in connection with any trade or business carried by the State Governments or not.

In view of the importance of the matter and the objections raised by the State Governments....."

Sir, it is because many State Governments raised objections that they should not be asked to pay the customs duty or the excise duty on such goods which they produce whether for purpose of internal consumption or for the purpose of export and import. My hon. friend Shri Warior mentioned certain very small items and he said that those items were not being imported for the purpose of having profits by the State Governments, but for social work which is necessary, say, for example, the supply of milk etc. I agree with such items. But what about the things in general? Once the State Governments are exempted, once the exemption clause applies to the State Governments indefinitely, I am sure that it will be not fair on the part of this Government to get the customs duty or the excise duty from the business houses and not from the State Governments for the items which they manufacture or which they export or which they import.

In view of the importance of the matter, objection was taken by State Governments. Then a reference was made to the Supreme Court under article 143 on the interpretation of article 289. The Supreme Court confirmed that the proposed provision would be consistent with article 289. Actually, this question was raised be-

cause there was a controversy which existed between the State Government and the Central Government. But now the Court has given its verdict and the Bill is brought forward.

Here I would request the Minister to kindly let us know whether this Customs Act or the Central Excise Act is likely to be amended further. We have demanded in this House that the Customs Act should be foolproof because big business houses are taking advantage of certain loopholes in the Act. I may not be misunderstood either by you or by the Deputy Minister if I refer to certain recent cases where big business houses have tried to dodge Government in so many forms. Naturally, this does not come strictly within the purview of this Act Bill. But I would like to offer my comments and get some opinion from the hon. Minister. I would like to know how many prosecutions are pending under the Customs Act, cases of big business houses who have tried to cheat Government in the form of under-invoicing. This has become a disease, a cancerous growth and it is affecting our revenues to a great extent. Recently, there were two or three cases of under-invoicing. One was in respect of Bird and Company.

Mr. Speaker: So far as asking how many prosecutions are there and so on were concerned, he was going on all right.

Shri S. M. Banerjee: I wanted protection from you. If I do not mention names, he will not reply.

Mr. Speaker: If he wants to refer to individuals or firms, he must give advance notice so that the Minister might be ready with the reply to those cases. Without that, he cannot adequately answer it and the case would go by default, and it would be an injustice to those firms. So I cannot allow it. He is a seasoned parliamentarian who knows the rules all right.

Shri B. R. Bhagat: Moreover, this concerns article 289, about the State Governments. They are not under-invoicing.

Mr. Speaker: He need not mention names.

Shri S. M. Banerjee: I am not mentioning names. For your information, I may say that questions on this were already answered.

Mr. Speaker: Then he might take out those questions and answers.

Shri S. M. Banerjee: It was a written answer which I could not .

Mr. Speaker: I cannot allow such references.

Shri S. M. Banerjee: Let him kindly let us know how many big business houses were recently prosecuted under the Customs Act, to what extent whether all of them have paid fines which run to the tune of Rs. 20—22 lakhs or some have refused. What action has been taken by the Central Government in the matter, whether they are facing prosecution or not. If he can, he might mention those cases; otherwise, I shall be satisfied if he mentions the number of cases.

Shri B. R. Bhagat: I am glad hon. Members have given support to this Bill. Whatever doubts have been expressed by the hon. Member who initiated the debate are, I think, more an illusion than doubts with real basis. Firstly, he said that State Governments should run their enterprises not as departments but on a corporation basis. He mentioned the case of transport corporations, and said it should be done on a commercial basis, either as a limited companies or as corporations, and not as departments of Government as some State Governments are doing. I think this problem is more serious in respect of the transport organisation in the States which started as departments and have continued so. We have been trying to persuade them to convert them

into corporations; some have done it, others are still not doing it. But we are trying and using whatever powers of persuasion we have. But we do not have the constitutional power to force them to do it. It is not desirable to force them to do it.

As for the definition of Government', he said it should be 'State and Central Government'. We have been legally advised that 'Government' includes both State and Central Government. So it need not be changed.

Then Shri Warior said that the reasons given by me for bringing in this Bill are not convincing enough. Probably he has not followed me. Whatever he said has no bearing on this point. He asked—if it was not necessary, why was it introduced in 1951? As I explained very clearly, when the Constitution was inaugurated, article 289 took effect providing that the property of the State Government should be exempt from taxation by the Union. Our constitutional experts gave the limited interpretation that customs and excise duties levied were taxes on property. Therefore, at that moment, we thought it prudent to exclude it. But in the last ten years, for various reasons, the State enterprises and undertakings are growing and they are coming in competition with various other undertakings. The Central Government is paying duties on the products of the latter undertakings, while the products of the State undertakings are immune from that. So we entered into consultation with State Governments. Some of them held the view that customs and excise duties came within the meaning of article 289. Therefore, under article 143, the President referred the matter to the Supreme Court. The Supreme Court gave the decision that duty can be levied. Therefore, we have come to the House with this Bill. It is perfectly constitutional and the rationale is very convincing. So I hope the hon. Member will rethink over this matter.

Then, he said it would be procedurally irksome to the States. That is

taking the argument too far, because the Central Government itself has a large number of enterprises in the public sector which are importing a large number of goods and paying customs. They are experiencing no difficulty absolutely. Why should the State Governments, whose business is much more limited than the Central Government, experience any difficulty? I think all these grievances are absolutely imaginary and illusory.

He again referred to business undertaken by the State Governments like milk supply schemes and said that they should not be burdened with this duty. The point is this, that the parent Act has provided certain exemptions for humanitarian work, public charities and things like that. If the milk supply schemes, which are commercial concerns, and things like that are not covered, they will have to pay duty on that. The case for exemption is in the parent law, and to say now that duty should not be levied is taking an extremely limited view of things.

As I said, the aim of the Bill is to remove an anomaly, and whether an enterprise is in the private sector or undertaken by the Central or State Government, they should all conform to the standard practice. He has said that it will increase the burden. Actually, it is a question of principle. To regularise it, make it a standard, uniform basis for all enterprises, this duty has to be levied. The principle involved was referred to the Supreme Court, on which they gave a ruling. Actually, in the case of the Central excise duty, the burden will be only Rs. 3 lakhs, and in the case of customs duty only Rs. 20 lakhs or so, for all the States, which is very inconsequential. Actually, even if there is a great burden, we should stick to the principle, but we are in the happy position that we serve a principle while the burden is also very little.

Therefore, from all points of view, the Bill should be acceptable, and I request the House to pass it.

Shri Kashi Ram Gupta (Alwar): One point has been left out, whether the States have been advised to have enterprises in future on a corporate basis and not on a departmental basis?

Shri B. R. Bhagat: I have fully replied. I have said I am trying to persuade them.

Mr. Speaker: The question is:

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

The motion was adopted.

Mr. Speaker: There are no amendments.

The question is:

"That Clauses 1, 2 and 3, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 1, 2 and 3, the Enacting Formula and the Title were added to the Bill.

Shri B. R. Bhagat: I beg to move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

MAJOR PORT TRUSTS BILL*

The Minister of Shipping in the Ministry of Transport and Communi-

*Moved with the recommendation of the President.