

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE CENTRAL EXCISE LAWS (AMENDMENT AND VALIDATION) ORDINANCE, 1982 (No. 1 OF 1982—Contd.)

II. THE CENTRAL EXCISE LAWS (AMENDMENT AND VALIDATION) BILL, 1982—Contd.

MR. DEPUTY CHAIRMAN: We now take up the Bill and the Resolution moved. They are open for discussion. A very small Bill. Let us pass it. Shri Nirmal Chatterjee, please say a few words.

SHRI JASWANT SINGH: I will not speak I have already spoken. But I want to clarify. If the intention of the Leader is also to conclude it today, up till what time do we sit, because in today's business there is the Assam Bill also? My submission both to the Chair and the Leader is that we will willingly cooperate with the Treasury Benches as far as the Assam matter is concerned.

SOME HON. MEMBERS: Tomorrow.

MR. DEPUTY CHAIRMAN: No. As we have told the Leader, we have to pass both.

SHRI PRANAB MUKHERJEE: We will have to pass because we are running against time. Let us pass both. (*Interruptions*). Just one minute. We will have to pass the General Supplementary that was passed in the Lok Sabha. Today in the Lok Sabha we passed that IDBI Bill. Some of these Bills have to be passed and only tomorrow we are getting as the official day; Friday will be a non-official day. Please co-operate and spend some more time because if we sit a little longer today, we need not sit too long tomorrow. So let us have a compromise.

SHRI SHRIDHAR WASUDEO DHABE: Sir, the Assam matter can be taken up tomorrow. (*Interruptions*).

श्री उपसभापति : छंटा मा विल ह ।

SHRI NIRMAL CHATTERJEE: Mr. Deputy Chairman, Sir, there is some time left till it is 6 P.M. But the point is what tomorrow....

MR. DEPUTY CHAIRMAN: You have four minutes to speak.

SHRI NIRMAL CHATTERJEE: Four minutes only?

MR. DEPUTY CHAIRMAN: That is the time allotted. More time is not available. One hour was allotted for the whole Bill (*Interruptions*). We have already spent one hour.

श्री शिव चन्द्र झा (बिहार) : वह कह गये हैं कि देर तक बैठकर पाम कर दीजिए ।

श्री उपसभापति : जितना टाइम है उतना ही देंगे ।

SHRI NIRMAL CHATTERJEE: You see, we are on a procedural wrangle.

MR. DEPUTY CHAIRMAN: Do not bring in that point.

SHRI NIRMAL CHATTERJEE: Now some time back our side, this side, was accused that we are raising the procedural question, the technical question, because we do not want that these 400 crores of rupees be deposited in the Public Exchequer; instead we are permitting the businessmen to have a large since of the cake. Now, Sir, as I heard the Minister pleading his case, it was surprising. Only a few days ago we discussed the Indian Customs Tariff Bill. Repeatedly the issue was raised that the provision in the Bill in a certain way favoured the businessmen and not the consumers, and no answer was given by the Minister on that occasion. Today we have heard from him that he was concerned about the consumers. In any case, he asked, why we should permit businessmen to get away with these Rs. 400 crores.

Now, Sir, the whole issue seems to be that a large sum of money of Rs 400 crores is at stake. Therefore, the Ordinance was passed. Now, it is obvious that in the course of time between the date of the Ordinance and the convening of the present session Rs. 400 crores would not have been lost, in which sense, Sir, it is less than truth that he has uttered. Rs 400 crores really was not involved.

I would not refer to the question — that has been raised in the other House — why the Excises Act and the Salt Act

[Shri Nirmal Chatterjee]

has been combined etc., because it has already been assured in that House that they were prepared to break away only nominally from the British days and that they were prepared to change the name of the Act and delete the word "Salt" but that they were prepared to break away only nominally.

But their concern for the resources is really touching. I have on different occasions mentioned about these things. You say that you are concerned because there is the resource crisis and that we should not allow these Rs. 400 crores to slip away from our hands. This is not even convincing, Sir. It was not found that you were as concerned on many other occasions when much more than this was escaping your net.

Now I simply want to draw your attention to this fact, apart from our general objections, that the excise duties and the indirect taxes, as has been pointed out already, impinge on the poor. Even the poorest cannot escape paying tax because of these indirect duties indirect taxes. We have repeatedly said this. And, there are studies and figures to say that if we move on—instead of moving he puts indirect taxes—if we change our attention to direct taxes, much more revenue can be collected. There is a recent study—I have mentioned that on another occasion—by Kabra, which has been published in the "Business Standard", which says that of the taxable revenue which could be collected, only 20 per cent is collected and 80 per cent is being evaded. This would be a case of avoidance, and that is a case of tax-evasion.

Then, Sir, if you are concerned about the resource crisis, which crisis is there, not only in terms of our deficits in the Budget. Only the other day the Minister said that we were going out for foreign assistance also for the reason that we did not have enough resources, not only that we did not have machinery, did not have the know-how, did not have steel, did not have the technology. Therefore, we go to the IMF, we go to foreign fund, we go

to multinationals so that the resource crisis which is creating deficit in the balance of payments is solved.

Let me point out to you, Sir, that the recent changes in the direct taxation in the last decade has added to regressive nature which is caused by the indirect taxes in economy. Everybody knows everybody admits, including the Finance Minister....

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI NIRMAL CHATTERJEE: What should I do?

MR. DEPUTY CHAIRMAN: Conclude now.

SHRI NIRMAL CHATTERJEE: I will.

MR. DEPUTY CHAIRMAN: Thank you very much.

SHRI NIRMAL CHATTERJEE: Sir, may I enter into a compact with you? I will stop before you ring the bell, but please don't ring the bell before I stop.

MR. DEPUTY CHAIRMAN: That is difficult

SHRI NIRMAL CHATTERJEE: What I was pointing out was that in the last 10 years....

MR. DEPUTY CHAIRMAN: Please don't refer to that. That is for the general discussion and when it comes, you can mention that.

SHRI NIRMAL CHATTERJEE: What do we discuss? Whenever any discussion on budget comes, we have to make a reference to that matter.

MR. DEPUTY CHAIRMAN: Tomorrow.

SHRI NIRMAL CHATTERJEE: Let me draw your attention to this fact that in the course of the last 10 years, the relief that has been given to the top layers of income-earners is much more than the relief that has been given to the lower levels who are liable to pay

income-tax And let me point out that in the course of these 10 years, despite the fact that you have reduced the income-tax rates from 97 per cent to 66 per cent, whereby you think you will be able to collect more taxes, the share of the higher income groups, who avoid taxes, has remained constant relative to those who pay taxes in the lower bracket. And in terms of taxable revenue, the amount that is not being paid, the amount that is being avoided in spite of the low rates of tax, runs into thousands of crores of rupees. Here the amount involved is only Rs. 400 crores. So, what I am unable to understand is that, on the one hand, you allow thousands of crores of rupees to get out of the exchequer and, on the other, you rush for an ordinance, even when a Parliament session is going to be called, in order to get not more than, say, tons of crores of rupees. I am bewildered as to what is the motivation behind it. It is not that we want that those people should get away with this amount. But we are surprised to see that although all of us are unanimous that they should not be allowed to get away with this amount of money, the ordinance method is being utilised which we suspect is just another indication of the Government's decision to bypass Parliament in its onward march towards more and more authoritarianism.

MR. DEPUTY CHAIRMAN: Thank you very much.: Tomorrow we shall hear you again. Now, Mr Morarka,

SHRI R. R. MORARKA: Mr. Deputy Chairman, Sir, the need of the present Bill has arisen because of the judgment of the Delhi High Court delivered on the 6th August, 1982, on a petition filed in 1979. May first point is that when this petition was filed in 1979, did the Government consult the Attorney-General at that time about the merits of this petition? If so, did the Attorney-General advise that there was nothing in this petition, and in spite of that the Delhi High Court has given this judgment? If, on the other hand, they did not consult him at all and they were sleeping over that, then the fault lies entirely with the Board of Central Excise and Customs for not taking action in proper time. Secondly, what

was the actual defect pointed out by the High Court in that notification which was issued by this Board? And has the Ministry fixed the responsibility for issuing such a defective notification? Now, I am not objecting to this Bill, nor am I objecting to this ordinance because since the High Court has given this ruling and since large revenues are at stake, to protect the public interest and public revenues, the Government had to take the necessary steps and they have taken them. And to that extent, it is all right. But it appears that this excise department is in the habit of issuing defective notifications. Now, Sir, in support of my point, I would like to quote two passages from the report of the Public Accounts Committee. In their 75th 6 P.M. report of 1981-82 the Public Accounts Committee said:

"By another notification issued by the Central Excise No. 15/79 dated 21st January 1979 one more category of raw material was added to the fourth proviso but the substantive part of the notification regarding the date of exemption from duty was omitted. Thus legally no duty exemption was permissible with effect from 21st January 1979. What is most surprising is the fact that although the notification issued on 21st January 1979 did not provide for any duty exemption to a specified product, the Central Board of Excise and Customs wrote to its field officers saying that the exemption was allowed to those products."

This is another instance where they issued a notification, a defective notification and because of that defective notification the Central Revenue suffered.

Then there is another instance. This also is reported by the Public Accounts Committee:

"It was brought to our notice in the course of the discussions held with the Customs and Central Excise authorities during study tours of the Committee that frequent amendments to the various notifications lead to a lot of confusion and misunderstanding both to the field officers and the assessee."

Instead of correcting such things, instead of taking the observations of the Public

[Shri R. R. Morarka]

Accounts Committee seriously, what do we find here? There is another big mistake putting at stake the revenue to the extent of Rs. 400 crores. I need not tell the House that Central Excise is the most important source of Central Revenue. Almost 50 per cent of the revenue we are collecting is from the Central Excise. To be exact, for the year 1982-83 we have provided for Rs. 8250 crores out of the total of about Rs. 17,800 crores of revenue. Now, there are only 23 excise items which would give you a revenue of Rs. 6774 crores. Therefore, the importance of excise administration cannot be underestimated.

Another point I want to make is that two years ago we removed the excise duty from unmanufactured tobacco and by removing that duty, we put about one million persons outside the excise net, and a large number of excise staff were rendered surplus. I would like to know what happened to that staff and what was the saving and to what extent the collection charges have gone down. Secondly, we have introduced a system of self-assessment. In this self-assessment also the staff required is much less. I would like to know from the honourable Minister what the saving is in the tax collection charges. What is his experience about the integrity of those people who have been given this facility of self-assessment?

Then I go to another point which is the last one but a very important one. That is about the excise duty evasion. The Government, I know, are concerned with this malady and they have entrusted the task of assessing the extent of evasion to an institution known as the National Institute of Public Finance and Policy. When they would make their report, I do not know. But I do hope that the Government would ask them to expedite the report. In 1981 alone there were 5257 cases of duty evasion and the amount involved was more than Rs. 50 crores. But out of these 5700-odd persons the prosecutions launched were 62. Now, even to those 62 what happened, we do not know. I hope

the Minister knows that and he would be able to tell the House to what extent these prosecutions were successful.

Now my final point is that the supervision and control of this Excise and Customs Board is very weak. Sir, the supervision and control of this Central Board of Excise and Customs is very weak. I do not want you to accept my word on this. I would again quote the Public Accounts Committee. The Public Accounts Committee has said this time and again and though you would not permit me to quote all the instances that they have cited. Let me give at least a few.

MR. DEPUTY CHAIRMAN: You can give the gist.

SHRI R. R. MORARKA: That will take more time. These are very brief. In the first instance, they have said:

After having examined a glaring instance of dismal performance of the departmental control, the Committee are not inclined to share the complacency of the Ministry over the present level of efficiency of the Department in coping the recurrences of evasion of duty. The Committee would, therefore, like the Central Board of Excise and Customs to improve the level of efficiency of the excise surveillance machinery.

There is another one. There the Committee says:

The Committee are perturbed to note that there had been 241 cases of similar nature in 20 out of 25 collectates involving an amount of Rs. 5.77 crores of duty in total. The Ministry of Finance appears to be complacent while assuring the Committee that with the introduction of production-based control, a modified form of self removal procedure, recurrence of evasion of duty by resorting to removal of goods without payment of duty could be effectively checked.

There is yet another observation by them, finally.

The Committee are astonished at the reply of the Ministry seeking to justify such patent lapses of the excise surveillance machinery in this case. On the basis of test audit results, it was rather presumptuous on the part of the Department to have concluded that the evasion of duty by assesseees was confined only to smaller limits.

I have got about 50 instances of similar quotations from the reports of the Public Accounts Committee which, for the information of the hon. Minister, I can give. But since we have no time for that and since I have already drawn on your generosity enough, I would like to conclude now. I do hope that the Minister give his serious and careful attention to the observations of our Parliamentary Committees, both the Public Accounts Committee and the Estimates Committee vis-a-vis the performance of the Board of Central Excise and Customs.

श्री उपसभापति : श्री हुस्मदेव नारायण यादव जी, आप अपनी बात तीन मिनट में समाप्त कर दें ।

श्री हुस्मदेव नारायण यादव (बिहार): श्री मन्दी मिनट तो खड़े होने में ही लगते हैं ।

उपसभापति जी मैं श्री जसवंत सिंह जी ने जो बात कही थी उसका समर्थन करते हुए सरकार का ध्यान इस ओर आकर्षित करना चाहूंगा । लेकिन ध्यान किसका आकर्षित करूँ क्योंकि मंत्री जी तो किसी बात को समझते ही नहीं हैं । उनको समझाना बेकार है । फिर भी मैं कह रहा हूँ । चूँकि हमारा यह कर्तव्य है कि हम देश की जनता को अपनी बात सुनायें, इस लिये देश की जनता को सुनाने के लिये कह रहा हूँ । मंत्री जी को सुनाने के लिये नहीं कह रहा हूँ । सर्कस कंपनी में कैसे कैसे लोग बहाल हो जाते हैं, इनको देखने से पता लग जाता है ।

मैं यह निवेदन कर रहा हूँ कि अभी श्री जसवंत सिंह जी ने कहा कि जो रिपोर्ट आई थी उस रिपोर्ट में बताया गया है कि अप्रत्यक्ष करों के कारण हिन्दुस्तान में गरीबों को भी कितना नुकसान उठाना पड़ता है । गरीबी की रेखा से नीचे रहने वाले जो लोग हैं, जो 15 रु० प्रति माह पर गुजारा करने वाले लोग हैं उनको भी 45 नये पैसे कर के रूप में देने पड़ते हैं । अर्थात् जो लोग 8 आने रोज में गुजारा करते हैं यानी एक प्याली चाय पीने को मजबूर होते हैं और उसी में अपना गुजारा करते हैं उनको भी कर देने पड़ते हैं । केवल एक प्याली चाय पीकर महीने में 29 दिन गुजारते हैं और 30वें दिन वे एक प्याली चाय भी नहीं पी सकते हैं वे भी टैक्स देते हैं । एक तरफ तो एक यह स्थिति है कि 30वें दिन उसका एक प्याली चाय पीने को नहीं मिलती है और दूसरी तरफ टाटा, बिरला, सिंघानिया, झुन्झुवाला आदि जितने लोग हैं वे करोड़ों-करोड़ों रुपया उत्पादन कर का नहीं देते हैं । उनसे यह सरकार टैक्स वसूल नहीं कर पाती है । इस कानून में संशोधन करके यह सरकार उनसे किस प्रकार से टैक्स वसूल कर पायेगी, यह भगवान ही जाने । क्योंकि कानून आप कड़ा इस लिये बनाते हैं मेरी राय में, कानून को थोड़ा कड़ा बनाओ और जो बड़े बड़े मेठ-सहूकार हैं, जो पैसा देने में कमजोरी करते हैं, तो आप कानून को इस लिये कड़ा बनाते हैं ताकि डर करके सरसों में से दो-चार बूंद तेल चू जाये । उनसे जन हित में टैक्स वसूल करने की जो बात है वह आपके इंटरेस्ट में है और इसलिये आप इस कानून को थोड़ा बहुत कड़ा कर रहे हैं ताकि उन पर कटाह लगाम लग रहा है । आप उनको डराने के लिये इस तरह के कानून पास करते हैं कि खबरदार बेटा अगर हमको समय पर पैसा नहीं दोगे

श्री हुक्मदेव नारायण यादव]

तो यह कटाहा लगाम लगा देंगे, यही आपका एक मात्र उद्देश्य है और दूसरा कोई उद्देश्य नहीं है।

दूसरी बात मैं यह कहना चाहूंगा कि विलासिता की सामग्री जो मानव के उपयोग के लिये है उस पर आप उत्पादन कर बढ़ा दीजिये जो लेकिन उपभोक्ता के लिये आवश्यक है उन पर आप उत्पादन कर शून्य करिये। विलासिता की जो सामग्री है, जो रेफ्रिजरेटर है, एयर कंडीशनर हैं, फ्रिज गाड़ी है, अम्बेसडर कार है, कितनी ही गाड़ियां हैं, हवाई गाड़ियां हैं, लिपिस्टिक, पाउडर ब्रेसरीज ये जितनी चीजें हैं, इन पर आप जितना बढ़ा सकते हैं उतना आप बढ़ाइये लेकिन जो सामग्री साधारण मानव के जीवन के लिए उपयोगी है, उन पर आप यह बन्द कर दीजिये। क्योंकि ऐसा ना करने से गरीबों को नुकसान होता है।

आखिरी बात मैं यह कहूंगा कि मुकदमों का शीघ्र निपटारा कराने के लिये मैंने एक प्रश्न किया था कि सैकड़ों-सैकड़ों मुकदमों कई वर्षों से पड़े रहते हैं कभी यहां, कभी वहां, कभी यहां, कभी वहां और जिस व्यापारी को कहीं और बचने का अवसर न मिलता हो तो कलकत्ता हाई कोर्ट उसके लिये है ही। बिरला लंदन में रहेंगे और कलकत्ता में एन्टीसिपेटरी बेल ले लेंगे। उनके लिये ही कलकत्ता हाई कोर्ट बना हुआ है। के. के. बिरला हैं लंदन में और एन्टीसिपेटरी बेल मिन गई कलकत्ता में। वह उनके लिये ही बना है। मेरा कहना है कि मुकदमों का शीघ्र निपटारा होना चाहिए और ऐसी अदालतें बनाई जाय जिससे कि अपराधी बच न पाये और न्याय जल्दी से जल्दी हो।

एक ओर निवेदन मैं यह करना चाहता हूं कि आय पर आप टैक्स लगाते हैं। लेकिन खर्चों को छोड़ते हैं। अगर किसी का 18 हजार रुपया ...

श्री उपसभापति : जब दूसरा बिल आयेगा उस पर बोलिये।

श्री हुक्मदेव नारायण यादव : मैं खत्म कर रहा हूं।

18 हजार रुपया उसकी आमदनी है सालाना। उस पर आपने छूट देदी। 19 हजार जब किसी की आमदनी होती है तो उस पर टैक्स लगा लेते हैं लेकिन 18 हजार के ऊपर 1 लाख तक जो पैसे वह बाजार में शराब में, सिनेमा में, जुए में, फैशन फुटनी में फेंक दे तो उस पर टैक्स नहीं लगेगा। आप टैक्स किस पर लगायेंगे? जो बचायेगा उस पर टैक्स लगाएंगे। इसलिये सब शराब पीकर फूंक जाओ, इस पर टैक्स नहीं लगेगा। इस लिये आप खर्चों को भी इस में लायें और उस पर भी कड़ाई से टैक्स लगायें।

श्री उपसभापति : श्री यादव। एक वाक्य बढ़िया कह दीजिये और समाप्त कर दीजिये।

श्री रामचन्द्र भारद्वाज (बिहार) : श्रीमन् मेरा प्वाइंट आफ आर्डर है।

श्री उपसभापति : उनका प्वाइंट आफ आर्डर सुनने दीजिये।

श्री रामचन्द्र भारद्वाज : मान्यवर, मेरा व्यवस्था का प्रश्न यह है कि अभी आदरणीय हुक्मदेव नारायण यादव जी ने मंत्री महोदय की ओर इशारा करते हुए कहा कि सरकस कंपनी में कैसे कैसे लोग बहाल होते हैं वह इनको देखने से पता चल जाता है, मैं समझता हूं कि ऐसी

भाषा का उपयोग या प्रयोग किसी भी माननीय मंत्री के लिये किसी भी सदस्य को करने का अधिकार नहीं है।

श्री उपसभापति : आप बिलकुल सही कह रहे हैं। इस तरह का आक्षेप इनको नहीं करना चाहिए था। (व्यवधान)

श्री रामचन्द्र भारद्वाज : क्या इस वाक्य को रिकार्ड से हटा दिया जायेगा ?
(व्यवधान)

श्री जसवंत सिंह : आप जो फरमा रहे हैं सही है। आपने जो फरमाया वह सही है। मैं हुक्मदेव नारायण यादव जी को बिठा रहा हूँ। हटाने की बात करेंगे तब दिक्कत पैदा होगी।

श्री सैयद सिद्दीक रज़ी (उत्तर प्रदेश) : सर, मेरा प्वांटेंट आफ आर्डर है। आपने जो फरमाया, मैं यह कहना चाहता हूँ कि पालियामेंट्री लेंगेज हो या न हो इसकी बात नहीं है। हो सकता है कि ये लफ्ज पालियामेंट्री लेंगेज की परिभाषा और डेफिनेशन में आते हों। लेकिन जो इंडीसेंट रिमार्क, ऐसा रिमार्क जिससे इंसिन्युअन का पता चलता है। तजलील करने का आभास होता हो:.....

श्री उपसभापति : मैं इसको देख लूंगा।

श्री सय्यद सिद्दीक रज़ी : पालियामेंट्री लफ्ज है या नहीं लेकिन मैं समझता हूँ कि इस किस्म की बात यहां पर नहीं कही जा सकती है।

श्री उपसभापति : मैं उसको देख लूंगा।

श्री सैयद सिद्दीक रज़ी : पालियामेंट्री है या नहीं यह बात नहीं और उसको हटाने की जो बात है वह भी अशोभनीय है। मैं चाहता हूँ कि जिन शब्दों का उन्होंने

इस्तेमाल किया है उनको उन्हें विद-ड्रा करना चाहिए और ऐसी परम्परा हाउस में कायम होनी चाहिए जिससे इस तरह के शब्द न कहे जा सकें।

श्री उपसभापति : मेरे ख्याल में इस तरह की बात नहीं कही। अगर इस तरह का कोई भाव होगा तो उसको ठीक कर देंगे।

SHRI SHRIDHAR WASUDEO DHABE: Mr. Deputy Chairman, Sir, this Bill has shown that the Government is wasting the time of the House. They have not gone to the Supreme Court. It was only the judgment of the High Court. They could have gone to the Supreme Court and got a stay order and this judgment could have been quashed. How is it that the judgment of the High Court is final? There is no reference in his speech that the matter was taken to the Supreme Court. Why was it not taken to the Supreme Court?

Secondly, Sir, they are amending the 1944 Act with retrospective effect. One of the taxes which has been mentioned here in, the 1944 Act is the salt excise duty. Now, this 'retrospective' is unparalleled. From 1944, they want the House to validate all the taxes. Therefore, Sir, I feel that proper and prudent advice has not been given to the Government. And a remedy which was easily available to them, they are not resorting to, and they came to this House by issuing an Ordinance. Where was the need for the Ordinance of 24th September? It is an abuse of power by the Government. When the Parliament was to meet in the first week of October, where was the need to issue the Ordinance? The judgment was given on the 6th of August. I can understand if they were saying that they were losing crores of money. If that was the position, the next day, they should have issued the Ordinance. The judgment was on the 6th. On the 7th they could have issued. I would like you also to convey this to the Government. We have always been criticising this Ordinance-making power of the Government. And the time has come that

[Shri Shirdhar Wasudeo Dhabe]

they must stop issuing the Ordinances. And the Ordinance should not be issued on the eve of a Parliament Session.

Lastly, Sir, we have raised a point of order and you have given a decision. It is a different matter. But this Law is labelled as a vague law in which no guidelines, no directions are given of what laws are being amended. Central Laws under the sun are amended. It is something very strange that the Finance Minister is doing. If the matter goes to the High Court again or to the Supreme Court, same decision will come and they will have to issue another Ordinance. In this situation, I cannot support the Bill.

MR. DEPUT CHAIRMAN: Dr. Adisesiah, do you like to say something? (Interruptions)

DR. MALCOLM S. ADISESHIAH
Sir, I shall be very brief. First, I rise to support the Bill because there is a certain urgency. That is why we are sitting so late. Between the 6th of August when the Delhi High Court issued this judgment and the 24th of September, when the Ordinance was issued, we have lost a certain amount. And if the Minister can give a precise figure, it will help the House to know how much we have lost.

Secondly, the Delhi High Court judgment which ought to apply only to Delhi area, I understand from him, can be applied to all over India because from outside Delhi many stay orders are coming. If his calculation is Rs. 400 crores, then his calculation is based on the all India figure.

Now, I support this Bill. I only say that I think there is need for a comprehensive reformed legislation which will take into account the following main points: One, to see whether we can reverse the present tax system which is increasingly regressive. When we became independent, 52.7 per cent of our total tax income came from direct taxes, from me and well-to-do people, whereas 47 per cent came from the indirect taxes, from the poor people. Today, it is reversed. Today, 74.35 per cent comes from

the indirect taxes and 25.6 per cent comes from the direct taxes. You can see first whether we can reverse this direction in which we are moving, the regressive direction. Secondly, we have too many taxes. We cannot follow various tax laws. There are basic excises, additional excises, special excises, cesses and so on. Therefore, some kind of simplification is necessary. Thirdly, I would like to suggest that in future reform, we move completely from the specific taxes we are levying except for petroleum. I think, that petroleum is a special case to *ad valorem* taxes which is only 70 per cent of the total taxes. Fourthly, I would like to suggest, as suggested by Mr. Jaswant Singh, that we move to applying the Jha Committee's recommendations for the VAT system.

Finally, Sir, I would like the Indirect Taxes Bill to be self-contained and not, as my friend, Mr. Morarka, said, dependent on a series of rules and notifications which are defective and which are incomplete and which we cannot follow. Nobody in Parliament can follow all these notifications. And, therefore, the Bill should be comprehensive.

With these suggestions for the future, I support the Bill.

SHRI GHULAM RASOOL MATTO:
I rise to support the Bill. There are two issues involved. First is that the Government money is being blocked by those who get stay orders. Second most important point is that the scrupulous and honest industrialists and traders who pay taxes regularly to the Government coffers are suffering because the people who pay less taxes, in a buyers' market sell their goods at cheaper rate than those who honestly pay taxes. I would humbly request the hon. Minister that he may issue orders right today to institute a legal cell under a Joint Secretary in his Department who should look after these cases, look to economic journals and other sources and if and when any such case comes up, effective measures are immediately taken so that such things do not recur. This is my first point and I would request the hon. Minister to do the needful.

Second point and the most important one is, as raised by others also, about multi-point excise duty and this multi-point taxation results in multi-point evasion also. I forcefully pleaded before the Jha Committee several years back and was successful in getting one-point taxation on one item, woollen and worsted yarn, and the result was that about Rs. 20 crores have been gained by the exchequer. I would request the hon. Minister to see that on all commodities there is one-point excise taxation rather than multi-point, because on every point there is room for evasion.

श्री शान्ति त्यागी (उत्तर प्रदेश) : माननीय उपसभापतिजी, मैं सेंट्रल इक्साइज लाज में जो संशोधन और वेलीडेशन का विधेयक है, उसका समर्थन करता हूँ। श्रीमन्, जब दिल्ली के हाईकोर्ट ने मोदी रबड़ लिमिटेड बनाम भारत सरकार के वाद में सरकार के खिलाफ निर्णय दिया तब इस बात का दरवाजा खुला और इस बात का मौका आ गया कि सरकार को अपनी आमदनी में से लगभग चार सौ करोड़ रूपए का बहुत बड़ा घाटा तुरन्त हो जायेगा, तो ऐसे वक्त में सरकार ने यह आर्डिनेंस जारी किया। मैं इस आर्डिनेंस का भी समर्थन करता हूँ और मुझे इस बात का अफसोस है और आश्चर्य है कि हमारे विपक्ष के माननीय सदस्यों से जो यहाँ पर अभी बोल चुके हैं, यह ध्वनि निकली कि वे आर्डिनेंस का विरोध कर रहे हैं और वह भी जनता के नाम पर तथा विधेयक का भी कर रहे हैं चाहे व्यवस्था का प्रश्न उठा कर करते हों। उन्होंने विरोध किया या उतमें अड़चन डालने की कोशिश की और वह भी राष्ट्र के नाम पर गरीब जनता के नाम पर, जबकि उन्हें तो इस बात की सराहना करनी चाहिए थी कि सरकार ने वक्त रहते हुए यह किया। मोदियों ने इस मायने में देश को और सरकार की आँखें खोलीं। वे हाईकोर्ट में गये अच्छा ही किया

क्योंकि तब इस बात के लिए मौका आया कि सरकार जहाँ और यह विधेयक पार्लियामेंट में पेश किया। हम इस आर्डिनेंस का वेलीडेशन भी यहाँ पर कर रहे हैं। और विधेयक पर भी अपनी राय दे रहे हैं, इसको पारित करने जा रहे हैं। इससे यह कहना कि पार्लियामेंट को नेगलेट किया गया यह बात भी वस्तुतः गलत है। मान्यवर, मैं यह भी कहूँगा कि सेंट्रल एक्साइज से बचने के लिए और उसकी राशि को चुराने के लिए हमारे उद्योगपति और बड़े बड़े व्यवसायी बहुत तरीके इस्तेमाल करते हैं। वे बहुत सी चीजों पर उत्पादन कर वसूल कर लेते हैं कन्ज्यूमर से और ग्राहकों से तथा उसको जमा करते रहते हैं। वह मल्टी प्लार्ड होत रहता है, उसके बाद कोर्टों में जाते हैं इस नाम के ऊपर कि इस चीज के ऊपर लेवी एक्साइज की नहीं होनी चाहिए थी और जो पैसा जमा हुआ है वह रिफण्ड कर दिया जाए। अगर कानून में संशोधन नहीं होता है तो कम से कम यह व्यवस्था जरूर हो जानी चाहिए कि अगर वह पैसा रिफण्ड हो तो कम से कम अगर कन्ज्यूमर के पास नहीं जायें, जिनका कि वह था, तो सरकारी कोष में वह जाये ताकि देश के डेवलेपमेंट और विकास में वह धन-राशि खर्च हो सके।

अंत में मैं आपके माध्यम से सरकार का ध्यान इधर आकर्षित करना चाहूँगा कि ये लूपहोल्स क्यों हो जाते हैं, कानूनों में जबकि इतने बड़े बड़े सरकारी अधिकारी कानून और कांस्टीट्यूशन के जाता अपने बेटा रखे हैं। इसलिए इसको भी इक्जामिन करना चाहिए कि कहीं न कहीं कोई नुक्स क्यों रह जाते हैं। तो ऐसा अगर कर लिया गया है कि 1944 का जो बड़ा ऐक्ट है सेंट्रल एक्साइज का और कस्टम्स का, इसमें से साल्ट निकाल दिया गया है, तो बहुत अच्छी बात है। यह तो देश की स्वाधीनता के

[श्री शान्ति त्यागी]

आंदोलन का नारा था, परम्परा थी और यह मांग थी। उसको आपने जो पूरा किया है, मैं आपकी तारीफ करता हूँ। तो इसमें इतना कर दीजिए कि इसको पूर्णतया एकजामिन करें और इसको फूल प्रूफ बना दें ताकि सरमायेंदारों को, और जो चोरी करना चाहते हैं एक्साईज ड्यूटी की, उन लोगों को कोई मौका ही न मिले हाई कोर्ट में जाने का, या कहां और जाने का और उनकी वचत भी न हो।

अंत में मेरा निवेदन यह भी है कि कुछ सेल्स टैक्स के स्ट्रक्चर को—हालांकि वह केंद्र का सवाल नहीं, राज्य सरकारों का सवाल है, इसको फिर से आप एग्जामिन करें और यह भी देखें कि उत्पादन शुल्क कारखाने में पैदावार पर लगाया जाए ताकि गरब आदमी इससे बच सके और जिसको देना चाहिए वह दे। वह चांजे-जो कि विलासिता की हैं, यह सही है कि उनके ऊपर आप ड्यूटी लगाइये। हमारे सर्व-साधारण हिन्दुस्तानी की—किसानों की, मजदूरों की जो आम जरूरियात हैं, उनको मुक्त रखिए जोकि सरकार का उद्देश्य भी है कि हिन्दुस्तान के साधारण आदमी का जीवन स्तर ऊपर उठे।

इन चंद शब्दों के साथ मैं इस बिल का समर्थन करता हूँ और मैं चाहता हूँ कि आप सब इसको अपना समर्थन दें। आपका शुक्रिया।

SHRI MADAN PHATIA: Mr. Deputy Chairman, Sir, I would be very brief and I would take just two or three minutes. I have expressed myself very strongly against the point of order which has been raised because, I feel very strongly against the Resolution, the Statutory Resolution,

connected with this subject. The reason is I feel, this Statutory Resolution is an open and naked espousal of the cause of big manufacturers at the cost of public exchequer, apart from being at the cost of the small consumers and customers.

I will just give, in a few words, the background and it is this. In 1974, the Central Government issued a notification under rule 8, framed under the Central Excise Act, by which the Central Government limited the excise duty payable in respect of various articles under the Central Excise Act. In 1978, the Finance Act was enacted and in that Act, the Finance Minister then, introduced special duties and his statement has been reproduced in the judgement of the Delhi High Court on the basis of which this particular Ordinance became necessary. I would just read a few lines from this judgement.

“In the speech of the Minister of Finance made on February 28, 1978, it was expressed that in view of the paramount need for mobilising resources for development, without creating fresh distortions in the tax structure, the Finance Minister proposed to levy a special duty at the rate of one-twentieth of the basic duty, basic excise duty, presently collected on each item in the central excise tariff. In doing so, the Finance Minister proposed to exempt coal, electricity and goods which were assessed under item 68. According to the Finance Minister, this measure would result in additional revenue of Rs. 214 crores on indigenous production.”

Hence, the object of this special duty was to provide for development funds and this special duty would bring to the public exchequer Rs. 214 crores. This Act was passed. Then, the litigation started. The litigation started on this point that whatever exemptions have been given under the notification issued under the Central Excise Act are of a nature which will override even the Finance Act. In other words, the notification issued by the Central Government under statutory rules would override the Finance Act which was passed by Parliament. On this basis, they

went to the court by way of a writ petition and they challenged the levy of special duty under the Finance Act of 1978. The result was that the courts granted stays to the tune of Rs. 214 crores. This writ petition was ultimately accepted.

This was not the only writ petition, but a large number of manufacturers came and obtained stays. The tragedy of it is that for the amounts which were to go to the public exchequer they obtained the stays from the High Court but they continued to recover these amounts from the customers and the consumers without any liability to refund these amounts if at any stage they lost the writ petition or if by means of this particular Ordinance, the Government comes forward to recover these amounts. So it was a case in which these big manufacturers sought to gain every thing. They sought to make profit at the expense of the small consumer, at the expense of the public exchequer. It is for this reason that this particular Ordinance has come and this particular Bill has also come. In fact, in a subsequent judgement where similar arguments were raised under the Customs Act, this particular case went up before another Bench of the Delhi High Court. The other Bench refused to grant the stay and also that particular Bench cast serious doubts about the correctness of this particular judgement. But that apart. Therefore, I submit that this particular Resolution which has been placed before this august House for consideration and the opposition which has come to this particular Bill and the Ordinance mean that the public exchequer should not touch the coffers of these big manufacturers which are full of the profits raised by these big manufacturers at the cost of the public exchequer and at the cost of the small consumers. Thank you.

SHRI SADASHIV BAGAITKAR: Then why did the Government not go to the Supreme Court?

MR. DEPUTY CHAIRMAN: Mr. Jaswant Singh, do you want to say anything in reply?

SHRI JASWANT SINGH: Ordinarily, considering the convenience of the House, considering the hour at which we are sitting and mindful of the sentiments of the House, I would not have exercised my right to reply and ordinarily we would have waited for illumination to emerge from the Treasury Benches. However, what we put across by way of a Statutory Resolution of disapproval of the ordinance has been misrepresented, has been twisted totally out of context of the parliamentary record of proceedings of today; therefore, I am compelled to set the record straight.

The Statutory Resolution of disapproval stands in my name and I stand by that Statutory Resolution of disapproval because we disapprove of governance by Ordinances. I am quite clear and I think I made it quite clear when I made my submission that my objection is to governance by Ordinances. On 6th August, the High Court rules. On 24th September—i.e. for one month, the Government is not mindful of revenue. Ten days before the Parliament was to meet, the Government comes out with an Ordinance. This was not the first time it has happened. We have had occasions to say this earlier also. And everytime the Government does it again we will still come forward and say the same thing. A government which resorts to Ordinance in the face of Parliament meeting is not a government which can possibly seek our approval by any means. And that is on record.

AN HON. MEMBER : Why is he being allowed to speak again?

SHRI JASWANT SINGH: I may elucidate. The reasons why I am given a chance to say what I have to say a second time is because I have a right to reply. There is a Statutory Resolution of disapproval standing in my name.

The question, Mr. Deputy Chairman, is—here, again, it is a matter of parliamentary record—that I started by saying that our opposition is to the Ordinance; our opposition is not to what this Bill or the

[Shri Jaswant Singh]

Ordinance attempts to effectuate. We certainly go along with that. But we do not go along with any government which will cut short the powers of Parliament by the instrumentation of Ordinance. Thank you.

SHRI PATTABHI RAMA RAO: Mr. Deputy Chairman, Sir, some hon. Members including Mr. Jaswant Singh have spoken on this subject. I am glad, by and large, many of them have supported this Bill. But one thing I must draw the attention of Mr. Jaswant Singh too. We have not delayed in issuing the Ordinance, but several difficulties were there. The judgement of the Delhi High Court was given on the 6th of August and then, immediately orally our Solicitor-General argued our case and asked for leave to appeal to the Supreme Court. The Judges wanted it to be given in writing. This meant that the opposition must be given an opportunity to file their objections. That way the procedural wrangle would go on. Finally, the Solicitor-General's advice was that if we wait like this it may take months because every day we were losing crores of rupees and several writs were coming up and stays being granted here taking advantage of this and so there was no point in waiting and he suggested that in consultation with the Law Ministry we issue an Ordinance and then, also, side by side, leave of appeal may be sought from the Supreme Court. It was done and the SLP has since been filed. Meanwhile if we did not issue the Ordinance, we would have lost much more. One fact makes it clear. So far, till date, 125 writs were filed after the judgment was delivered, within this short period, from all over, from outside Delhi also. That way, losing of crores of rupees of income would mean loss of revenue to the exchequer... (Interruptions)... Sir, the Mover of the Resolution was there with you and I thought I would wait. His main plank was that there was delay.

SHRI JASWANT SINGH: I apologise.

SHRI PATTABHI RAMA RAO: I want to tell him that there were certain

difficulties under which we could not issue the Ordinance earlier than we did, though we should have done it earlier. The point is, we had to consult the Law Ministry thereon and prepare this and do that and this was the earliest we could do it. As a matter of fact, unless this Ordinance was issued, we would have lost several crores.

SHRI SHRIDHAR WASUDEO DHABE: What about the Supreme Court appeal? Is it defective?

SHRI PATTABHI RAMA RAO: It is not so simple... (Interruptions)... Please do not disturb me. If you have to raise any doubts, you can raise them later on. Let me complete.

Sir, I may mention for the information of this honourable House that there is no Ordinance in the last one year except this. This was necessitated because of loss of revenue and it was so great that unless we did it, Government would have been losing very heavily and we cannot afford to lose revenue now. That is all I can say.

MR. DEPUTY CHAIRMAN: I shall first put up the Resolution to vote. The question is:

"That this House disapproves the Central Excise Laws (Amendment and Validation) Ordinance, 1982 (No. 1 of 1982) promulgated by the President on the 24th September, 1982."

The motion was negatived.

MR. DEPUTY CHAIRMAN: I shall now put the motion moved by Shri Pattabhi Rama Rao to vote. The question is:

"That the Bill to provide for the amendment of laws relating to Central Excise and to validate duties of excise collected under such laws, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill. There are no amendments.

Clauses 2 and 3 were added to the Bill.

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

SHRI PATTABHI RAMA RAO: Sir, I move:

"That the Bill be returned."

The question was proposed.

SHRI HAREKRUSHNA MALICK (Orissa): Sir, I want to inform the House so far as the lacunae are concerned... (Interruptions)... Don't worry. Wait.... (Interruptions)... Then I will take one hour if you behave like this. I am informing the House a very important thing. In Sikkim the Central Excise duty is not applicable. Because of this lacuna, the industrialists and businessmen are treating this as a hide-out and we are losing Excise duty to the extent of Rs. 60 crores. It is so much so that some concerns are manufacturing, packing and processing and exporting from the mainland in fake names to Sikkim. The bogus factories should be sealed and these concerns should be suspended. And there too let the Central Excise duty be applied so that we do not lose.

MR. DEPUTY CHAIRMAN: The Minister can note it and look into the matter. The question is:

"That the Bill be returned."

The motion was adopted.
 1435 LS—11.

I STATUTORY RESOLUTION SEEKING APPROVAL OF ISSUE OF GOVERNMENT OF ASSAM NOTIFICATION No. PLA-906/82/125 DATED 30TH SEPTEMBER, 1982.

II. THE ASSAM APPROPRIATION (NO. 3) BILL, 1982.

MR. DEPUTY CHAIRMAN: We shall now take up the Assam Resolution. Let them move it. Please move the Resolution first.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI NIHAR RANJAN LASKAR): Sir, I beg to move the following Resolution:—

That in pursuance of sub-section (2) of section 2 of the Essential Services Maintenance (Assam) Act, 1980 (41 of 1980) as ended by the Essential Services Maintenance Act, 1981 (40 of 1981), this House approves the issue of the Government of Assam, Political (A) Department, notification No. PLA-906/82/125, dated the 30th September, 1982, declaring the following services to be essential services within the State of Assam for the purposes of the Essential Services Maintenance (Assam) Act, 1980 (41 of 1980):—

(i) All services in any establishment or shop dealing with the essential commodities declared as such by the Government of India under the Essential Commodities Act, 1955 (Central Act No. 10 of 1955) from time to time and licensed under the Assam Trade Articles (Licensing and Control) Order, 1982, dated 22nd June, 1982 and the Assam High Speed Diesel Oil (Distribution and Control) Order, 1981 and Assam Paddy and Rice Procurement (Licensing and Levy) Order, 1981; and

(ii) All services in any establishment or shops of appointed dealers which include the wholesaler and re-