

4. "That at page 4, for lines 16 to 19, the following be substituted, namely:—

"(2) For the purposes of sub-section (1), the export agency shall have the option to sell the whole or any part of the export quota in its custody at a price approved by the Central Government."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clauses 9 to 14 were added to the Bill.

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

SHRI A. M. THOMAS: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE CENTRAL SALES TAX
(SECOND AMENDMENT)
BILL, 1958

THE DEPUTY MINISTER OF FINANCE (SHRIMATI TARKESHWARI SINHA): Sir, I beg to move:

"That the Bill further to amend the Central Sales Tax Act, 1956, as passed by the Lok Sabha, be taken into consideration."

I would like to take this opportunity briefly to explain the important changes proposed to be made by the Bill. As hon. Members are aware, the Central Sales Tax Act was passed into law in 1956 and brought into effect on the 5th January, 1957. Taxes were levied by a notification with effect from the 1st of July, 1957. Earlier this year, the original Act was amended to include the State of Jammu and Kashmir within its purview.

Experience of the working of the Act has brought to light certain difficulties which it is the purpose of the present Bill to remove. The problem created by the working of the Act were discussed in detail by the officers of the Central Government with their counterparts in the States. Opportunity was also taken of the meeting of the State Finance Ministers last November to discuss these problems. A draft amending Bill was prepared in the light of these discussions and circulated to the State Governments for their comments. These comments have been carefully considered and a number of suggestions made by them have been incorporated in the Bill now before the House. The Select Committee to whom the Bill was referred by the Lok Sabha, has now further improved the Bill and the changes so made have been accepted by the other House.

[THE VICE-CHAIRMAN (SHRI P. N. SAPRU) in the Chair.]

I shall now proceed to mention the important changes which the Bill proposes to make.

One is that we are widening the definition of a dealer to include persons purchasing goods in the course of inter-State trade so as to secure for them the benefit of the uniform rates of taxation. Under the extended definition, mining industries, electrical undertakings and similar manufacturing units which are normally not

[Shrimati Tarkeshwari Sinha]
dealers in commodities but make large purchases from other States for the manufacture of goods for the generation of power and extraction of minerals, will receive the concession in the same way as dealers in commodities who are merely traders. Under the law as it stands, where the documents of title for goods passing in one movement from one State to another are transferred more than once, the tax is levied at each transfer. This is obviously not the intention; the correct intention is being clarified by making a provision that in such cases, that is to say, where there is only one inter-State movement of goods but more than one transfer of documents, the tax shall be levied only at one point that is to say, the first stage.

The Central Government and the State Governments frequently buy goods which would be in the course of inter-State trade. Obviously, since Government do not trade in these goods, they cannot be registered as dealers, but the benefit of the uniform rate of taxes on goods so purchased by them is now being given to them by a specific provision in the amending Bill.

We also discovered a lacuna in the rate structure of the Central tax. Under the law, the uniform rate of tax applies only to sales between registered dealers. In the case of sales by registered dealers in one State to unregistered dealers outside, the rate applicable is not the uniform rate but the rate applicable under the State law on similar sales within the State. These rates within a State vary widely and where there is either no tax or the tax is lower than the uniform rate of tax, there will be a tendency for a diversion of sales from registered dealers to unregistered dealers. Even otherwise, the existence of a diversity of rates in regard to a matter which is really outside the State field of taxation, is not desirable and some measure of uniformity is necessary. We propose accordingly to prescribe an average rate

based upon the existing diverse rates in the States, allowing any State which has a higher rate than this average rate to levy it. This average rate is proposed to be 7 per cent. I would mention that the States by and large were in favour of some form of standardisation and to many of them this would bring additional revenue as they retain the net proceeds of the tax collected by them under the Central Act. There has been some confusion in regard to the State entitled to collect and retain the tax. Ordinarily, this was the State in which the dealer had his place of business and from which the goods physically moved. But in certain cases where technical sale took place by the transfer of documents in a State other than that from which the goods moved, the latter State was theoretically entitled to collect the tax. But the question of where such sales took place was not easy to be determined. The position is now being placed beyond doubt by saying that the State from which the goods move is the State entitled to levy the tax. Subsequent sales between registered dealers are not taxed, but if there is a further sale by a registered dealer in another State to an unregistered dealer elsewhere, the State where the second sale takes place, will be free to tax it at the rate applicable to sales by registered dealers to unregistered dealers.

In connection with this proposed change, the Select Committee has enlarged the definition of place of business to include also the place of business of an agent where a dealer carries on business through such an agent. This will resolve any possible doubt in determining the State which should levy the tax, in cases where dealers having places of business in one State move goods from a different State through brokers or agents.

I now proceed to mention one or two less important matters covered by the Bill. Firstly, in regard to Himachal Pradesh and Tripura where there are at present no sales taxes, power is being taken to levy the Central Sales

Tax by means of rules. Secondly, we are providing for the compounding of the offences under the Act by the penal payment of the tax. Thirdly, we are including in the list of goods of special importance in the course of inter-State trade the three commodities on which sales taxes were replaced at the end of last year by additional duties of excise, the net proceeds of which accrue to the States. This is merely the transfer to this law of the provision already made in the law levying these additional duties in this behalf.

I should like to mention a few other changes before I conclude. The Supreme Court of India in their recent judgment in the case of the State of Madras Vs. Messrs. Gannon Dunkerley and Company (Madras) Ltd. observed that the State Governments were not competent to levy sales tax on indivisible work contracts, the main reason being that in such transactions no sale of goods was involved. As a sequel to that judgment, the Select Committee has decided to withdraw the benefit hitherto being extended to registered dealers to make purchases of goods intended for use in the execution of a contract, at the concessional rate of tax prescribed under the Act. By this change made by the Select Committee, the scheme of taxation under the Central Act would be in conformity with the States' competence to levy tax on works contracts. On goods declared as of special importance to inter-State trade, the Taxation Enquiry Commission recommended that the sales tax should be levied at the last stage irrespective of whether the goods are consumed in that State or exported outside, the rate of taxation depending upon this factor. This was embodied in Section 15 of the Central Sales Tax Act as amended in May, 1957. Certain States have experienced difficulty in amending their local laws to conform to this provision. The States preferred an arrangement under which they would select the point at which this tax should be levied subject to the condition that on goods sold to other

States, the Central tax alone would be levied and any tax collected earlier, refunded. This seems to us reasonable and we are making the necessary provision to secure this in the amending Bill. Sir, I move.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): Motion moved:

"That the Bill further to amend the Central Sales Tax Act, 1956, as passed by the Lok Sabha, be taken into consideration."

SHRI LALJI PENDSE (Bombay): Sir, I wanted to make a few remarks and suggest changes at two places. Sir, of all the taxes the sales tax is perhaps the most clumsy and complicated in operation. It differs from point to point—one point two points and multi-point at stages. It also differs from commodity to commodity and from State to State. At each point it increases the burden on the consumer but there is no provision to check the increase in prices. The present Bill affects so many technical definitions and corrects irregularities and all that. It only makes out one broad point and that is that it seeks to effect uniformity in the taxation on inter-State transactions. I am in favour of an excise duty at source replacing the present sales tax. It achieves economy in that you don't need to maintain so huge establishments and it relieves the merchants of the harassment that they experience at the sales tax offices. Care must be taken in considering the excise duty, that the States' revenues are in no way affected, because there is a sad story or tale of different States whose legitimate incomes have all been taken away and they are reduced almost to the status of enlarged municipalities. Our experience with the excise duty on tobacco, textiles and sugar is not disheartening and I don't see why a similar innovation is not made in connection with other commodities.

Now coming to the Bill itself, I have to record my difference with two

[Shri Lalji Pandse]

clauses—I refer to clause 2 (iii)(d). There it is said:

“(iii) in clause (o), after the words ‘does not include, the word ‘newspapers,’ shall be inserted.”

The provision is, and very rightly too, that newspapers must be included in the list of exclusions. But what do we mean by newspapers? We mean by newspaper that district agency which undertakes to educate and organise the people residing in that region or district. We do not mean such newspapers, such chain newspapers which are a flourishing industry, perhaps building up properties and making huge profits, laying golden eggs. We do not want them to be excluded from the orbit of the sales tax. May be perhaps they give us undue publicity or perhaps undeserved publicity to some of us and that is why we tend to be soft to them. I am definitely of the opinion that these chain newspapers which are a first-class trade going, must be brought under the purview of the sales tax Act.

Then in part (b) of sub-clause (2) of clause 5 you have the rate of 7 per cent suggested for unregistered dealers. Yes, some form of deterrent is expected, but I suppose from 3.2 per cent which is the general rate of sales tax to have jumped up to 7 per cent is disproportionately high and exorbitant, I will not say punitive, and it should be revised. In my opinion, it should not exceed 5 per cent. With these remarks, Sir, I support the Bill.

THE VICE-CHAIRMAN: SHRI P. N. SAPRU): The hon. Deputy Minister—Shrimati Tarkeshwari Sinha.

SHRIMATI TARKESHWARI SINHA:

Sir, two points have been raised by the hon. Member who spoke from there. One is about newspapers. Sir, as you yourself know, the levy of a tax on the sale of goods in the course of inter-State trade or commerce is

done under item 92 A of List I of the Seventh Schedule of the Constitution. That item reads thus:

“Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.”

Thus, there is a constitutional obligation on our part to exclude newspapers from the purview of the present Bill.

SHRI LALJI PANDSE: Not to protect vested interests.

SHRIMATI TARKESHWARI SINHA: I would like to have the same patience from the champions of patience there, to be shown to me. I have already explained the constitutional difficulty. That has nothing to do with any vested interest at all. Because we have this constitutional difficulty, we have specifically made this.

DR. R. B. GOUR (Andhra Pradesh): But you adopted socialism after passing the Constitution.

SHRIMATI TARKESHWARI SINHA: I do not think by bringing in newspapers into the purview of this measure, socialism or the socialist pattern is going to be accelerated or by the keeping off of the newspapers socialism is at all damaged. Our difficulty is, as I have explained, newspapers have, in the present context, to be excluded from the definition of goods and for taxing newspapers a separate legislation under item 92 is necessary. If hon. Members opposite are so anxious about it, let them bring in a private Member's Bill.

DR. R. B. GOUR: So that you may reject it.

SHRIMATI TARKESHWARI SINHA: But for the present the Government cannot do anything in the matter. The hon. Members opposite, if they so wish, can bring in a Bill to change

the Constitution, but the Government is bound down to the constitutional provision and we cannot bring in newspapers within the orbit of this Bill.

I do not myself think that is necessary. Most of the newspapers are language papers and they have small circulations within the State. So I do not think there is any benefit to be accrued by including them or in having a separate legislation to bring in newspapers within the purview of this Bill, in order to get revenue.

SHRI LALJI PENDSE: I justify the exclusion of these papers.

SHRIMATI TARKESHWARI SINHA: So I do not think it is necessary.

The second point that was raised was about five per cent. Well, as I said in my speech earlier, most of the State Governments have agreed to this provision of 7 per cent. because otherwise in such cases, the consumer may benefit but the State becomes loser so far as the revenue is concerned. But, I would like to clear this misunderstanding, that it is not going to affect the small shopkeepers at all. In any case these shopkeepers have to be registered dealers because of the penalty of the law. Under the statutory provision of the law the shopkeeper has got to register and the provision of 7 per cent is not going to affect the registered dealer or the consumer within the State. This provision of 7 per cent affects only the unregistered dealer and I think that is quite proper. Therefore I do not accept the suggestion of the hon. Member.

DR. R. B. GOUR: The hon. Member said "unregistered dealer".

SHRIMATI TARKESHWARI SINHA: I said "unregistered dealer". I did not know that the hon. Member opposite is hand of hearing also.

THE VICE-CHAIRMAN: (SHRI P. N. SAPRU): The question is:

"That the Bill further to amend the Central Sales Tax Act, 1956, as

passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): We now take up the clause by clause consideration of the Bill. There are no amendments proposed to clauses 2 to 12.

Clauses 2 to 12 were added to the Bill.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): There are no amendments to clause 1, the Enacting Formula or the Title of the Bill. Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRIMATI TARKESHWARI SINHA: Sir I move:

"That the Bill be returned".

THE VICE-CHAIRMAN: (SHRI P. N. SAPRU): Motion moved:

"That the Bill be returned."

DR. R. B. GOUR: Mr. Vice Chairman, I thought the hon. Deputy Minister would have certain intelligent remarks to offer in reply to the speech made by my hon. colleague, Shri Lalji Pendse.

SHRI V. PRASAD RAO (Andhra Pradesh): She made charming remarks.

DR. R. B. GOUR: Certain very important points were raised here. The first point is this. The sales tax has become a weapon for increasing the prices.

Sales tax is collected all right but not paid to the Government so that the two points that are very relevant in this regard are these: One is, how are you going to seek alternatives? We do not want to deprive you of the revenues accruing from the sales tax or the principle behind the sales tax. Therefore, we have suggested that you must find measures of simplifying the whole procedure. For example, he brought to your notice this question of the excise duty, because it is not possi-

[Dr. R. B. Gour]

ble to evade excise duty easily unless, of course, the officers who are in charge of the collection of these duties are hand in glove with the producers. Therefore, a very relevant point has been raised as to the revision of the whole thing, the building up of a proper machinery also in order to see that this evasion is avoided. Unfortunately, she said they are getting the revenues and I think it was a complacent approach towards the whole thing. In fact, sales tax is the one tax which is the most important one that is being evaded on a large scale; of course, the income-tax is there. She has to reply to this point. I do not know what was the point about the newspapers that she had to jump up and say "socialism is not going to suffer if newspapers are not taxed". She also said that the hon. Members are at liberty to bring forward a non-official Bill. Is it to give it an official axe that one has to bring forward a non-official bill? Tell me today that you accept the principle of it and then next Friday, the non-official Bill will be there on the Table. Why don't you say so? Accept the principle of the Bill that you want the necessary legislation empowering you to tax the newspapers. The Bill will then be produced. If she is not able to or her Department is not able to draft such a "difficult Bill," then we will help her by producing a non-official Bill. Regarding the Working Journalists Bill, the whole of the discussion centered round this fact that there are certain big newspapers in this country, that there are chains of newspapers, groups of newspapers which have developed themselves and grown into profit-making huge industrial concerns. Now, if an ordinary pan-shop has to face the sales tax, if an ordinary dealer has to face the sales tax, if rice and all other foodstuffs have to face sales tax, I do not understand why the "Hindustan Times", the "Times of India", "The Indian Express" should not face sales tax because these are profit-making newspapers, industrial concerns. Why do you want to exempt them?

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): How will you know whether one is profit-making or not.

Dr. R. B. GOUR: "A" class newspapers. The Wage Board itself has done it. You need not take the class two, three or four newspapers. At the same time, Sir, let me remind the hon. Deputy Minister. There are two Deputy Ministers and I do not know . . .

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): The hon. Deputy Minister in charge of the Bill.

Dr. R. B. GOUR: I do not know who is going to reply to the third reading because all of them are here. Anyway, let them know this point to which I want to draw their attention. The introduction of the naya paise made a spurt in the price of the newspapers, the big newspapers, not the district newspapers or the small newspapers. When they had to convert the price into the new currency, the small and the district newspapers converted two annas into 12 nP. not 13 nP. There are gentlemen who made it into 13. Price was raised to 16 nP. Let there be thorough understanding that we want the sales tax to be imposed on the A class newspapers. We do not want a single pie increase in the price. These people have already made huge profits out of the conversion from the old currency to the new one. I cannot understand this argument of taking shelter behind the Constitution and saying that we want to exempt all the newspapers. When you say that the rich have to be taxed, why not then tax the rich newspapers, the Class A newspapers as defined by the Wage Board? That is the simple point. I hope, Sir, she will accept some of the suggestions and I guarantee her, if she is unable to draft a Bill, to tax these newspapers, we will come to her rescue.

SHRI V. PRASAD RAO: Mr. Vice-Chairman, if you take the circulation figures of the big class A newspapers,

it comes to 3·2 million copies per day. In the name of rounding off the price of the newspapers, 2½ as. has been rounded off to 16 nP. When we take the daily circulation only of the A class newspapers, it comes to Rs. 5,000 per day. So, it is not as if we are asking the weekly or the daily papers having a circulation of a thousand copies or five hundred copies or a few hundred copies to be taxed. We are only raising this point that A class newspapers should be taxed. The hon. Deputy Minister, in answering, said that there are not many newspapers which are having inter State circulation but, may I point out to her that all the major dailies circulate in a number of States. Take, for instance, the holy of holies, our "Indian Express". It publishes from three centres.

THE MINISTER OF REVENUE AND CIVIL EXPENDITURE (SHRI B. GOPALA REDDI): Four.

SHRI V. PRASADA RAO: Four, I am sorry. Madura is one too. Even the single edition paper, "The Hindu", is circulated to the extent of a thousand copies in Delhi. I cannot understand how the Deputy Minister can assert here that the major dailies are circulated only in one particular State. Certainly, it is a small amount which you are going to impose and this need not be passed on to the consumers—it need not be passed on to the newspaper readers—because they are getting Rs. 5,000 daily in the name of rounding off and tomorrow, by squaring it off, they may probably get something more. We do not know. If the metric weight comes, they might get something more. It is not an impracticable step and it is not a small step giving you only a small amount by way of realisation, an amount not commensurate with the trouble. Certainly, the income is going to be a very sizable one and this can be taken from the newspaper proprietors. I am not going to repeat all that has been said before. I hope she will take up the suggestions properly.

DR. R. B. GOUR: She has not been properly briefed by the Secretariat.

SHRIMATI TARKESHWARI SINHA: Two hon. Members intervened at this stage. One hon. Member started with the presumption that I cannot understand the scope and the whole field of this measure. Well, I can reach my voice very well but I cannot reach my understanding and it is no fault of mine that I have not been able to make them understand the provisions of the Bill.

So far as this help for drafting another Bill is concerned, if he is not able to understand the present Bill at all, I do not have much hope that he will be a good help in drafting at all the further Bill, if any.

Sir, I had already pointed out about uniformity. I said that we are only responsible for inter-state sales tax. Sales tax is a subject in the State sector and because of the elasticity it provides to the State revenues, the State Governments are very jealous of their rights in regard to this tax. The Central Government can only come into the picture with their recommendations and advice. The States are not bound by that advice. It is within the jurisdiction of the States and, therefore, Sir, we have been trying our best to see that by our advice and recommendation they bring about uniformity as far as possible. Only after this, we could get them to select certain items of luxury goods on which they will be levying a 7 per cent. tax, a uniform rate and that will also be by our persuasion. From time to time, we keep on advising them and recommending to them. The only thing is that our jurisdiction is only that of a recommending authority, an advisory jurisdiction. We cannot go beyond a certain limit. So far as the newspapers are concerned, as I said earlier, I cannot reach my understanding to them. I have already explained this position. I do not know what extra brief he wants to have for his satisfaction. I do not know whether all the briefs of the Government of India

[Shrimati Tarkeshwari Sinha.]

I can ever satisfy him because he refuses to understand the constitutional provision. We are not barred by our own initiative; we were barred by the constitution. Now the 5 P.M. Constitution has to be changed to bring the newspapers under the purview of the Central Sales Tax Act. How the Deputy Minister dealing with the sales tax, or the Finance Minister, is responsible for that? I cannot understand how the hon. Member sitting opposite has made that charge.

Secondly, they have quoted certain figures. Well, I do not challenge those figures. But it cannot be possible that we can go on discriminating between a newspaper which has got all-India circulation or which tomorrow may have all-India circulation, while today it is confined to the State sphere. There are so many language newspapers which have only State circulation; there might be some which have circulation only in some districts. So if we really make a provision under law for any group or any sector of industry or any business, we cannot go on discriminating between newspaper and newspaper. We have to make one law for all. And how many newspapers can come into the all-India circulation list? I think it is a very negligible number. There are so many language papers which have not seen the face of the whole of India, and therefore, Sir, I cannot accept the suggestion.

SHRI BHUPESH GUPTA (West Bengal): It is 5 O' clock. We shall continue tomorrow, Sir. I am reminding you, Sir, of the Rules of the House.

SHRI AKBAR ALI KHAN (Andhra Pradesh): She is finishing.

SHRIMATI TARKESHWARI SINHA: I do not accept any of the suggestions made by the hon. Member.

SHRI BHUPESH GUPTA: Let us strictly follow the Rules of the House.

The House adjourns at 5 O'clock.

SHRI H. P. SAKSENA: Is the hon. Member within his rights to dictate to the Chair.

DR. R. B. GOUR: We cannot allow her to finish without replying to our questions.

SHRI BHUPESH GUPTA: The Business Advisory Committee never discussed it; neither the Chairman has given any direction as to when the House can sit beyond five. The House must adjourn at five.

SHRI AKBAR ALI KHAN: It is a very strange proposition that she cannot finish.

SHRIMATI TARKESHWARI SINHA: That is coming from the champions of liberation.

SHRI BHUPESH GUPTA: It is past five of the clock. We have been unauthorisedly sitting here for two minutes more. Neither the Business Advisory Committee nor the Chairman has advised on the extension of time. Therefore the House cannot sit beyond 5 O'clock.

THE VICE-CHAIRMAN: (SHRI P. N. SAPRU): The time for this Bill is one hour and thirty minutes.

DR. R. B. GOUR: Tomorrow we can continue. We should adjourn at 5 O'clock.

SHRI BHUPESH GUPTA: You cannot finish like that.

SHRI AKBAR ALI KHAN: We can request you, Sir, to extend the time by five minutes.

SHRI BHUPESH GUPTA: It cannot be. Our consent is not there; nothing of the sort, and it would be absolutely going against the Rules.

SHRI H. P. SAKSENA: Mr. Vice-Chairman, is the hon. Member within his rights. . . .

SHRI BHUPESH GUPTA: We have had no advice in the Business Advisory Committee under what circumstances and in what situation we should be agreeable to an extension of the time limit.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): I think I will agree with

Mr. Bhupesh Gupta. We will resume discussion on the Bill tomorrow.

The House stands adjourned till 11 A.M. on Tuesday, September 9, 1958.

The House adjourned at two minutes past five of the clock till eleven of the clock on Tuesday, September 9, 1958.