

VAT Bill passed in conformity with

12/09/02 SC determination - Choksy
D. Ne 005

Finance Minister K.N. Choksy told Parliament yesterday that the Value Added Tax Bill was duly passed in conformity with the Supreme Court determination which ruled on its constitutionality. He said that the requirement in the determination that only clause 2(1) of the Bill needs amending had been complied with.

The Minister was responding to a Point of Order raised the previous day by PA MP Dinesh Gunawardena where he stated that Parliament had passed the VAT Bill ignoring the determination of the Supreme Court.

The Minister said that in regard to Clause 20(6) which formed the subject matter of the Point of Order raised by the MP the Supreme Court clarified the matter by stating "No question of unconstitutionality was involved

here". Having thus clarified the matter carefully, the Court went on to record an amendment suggested by the Additional Solicitor General which related merely to matter of policy and not of constitutionality.

The Court thereafter further clarified its Determination in its concluding paragraph as follows "We have examined the provisions of the Bill and are of the opinion that, upon the suggested amendment being effected, the Bill and its provisions will cease to be inconsistent with the Constitution, we accordingly determine that upon amendment being given effect to, the provisions of the Bill will not be "inconsistent with Constitution.

The Minister noted that the reference in the above quotation was in the singular, Continued on page 10

VAT Bill... (Continued from page 1)

appropriately referring to "such amendment" ie in the singular and not in the plural thus reiterating that the only element of unconstitutionality was in respect of Clause 2(1).

Minister Choksy also told the House that prior to the debate on the second reading of the Bill he discussed the determination of the Supreme Court with the Hon Attorney General who himself was of the view that the only amendment necessitated by the determination was in regard to Clause 2(1).

"In doing so I was fully conscious of the fact that the Additional Solicitor General had made the suggestion for the amendment of Clause 20(6).

Minister Choksy said "whilst normally such suggestions made in Court are given effect to, the pre-

sent matter goes very much beyond normal instances in view of the fact that the subject matter involves the question of Constitutionality and a Bill before Parliament.

"It was therefore agreed to between the Hon Attorney General and myself that Parliament was not bound to make the amendment suggested to Clause 20(6) by the Additional Solicitor General, inasmuch as it was not part of the Court's Determination.

The Determination of the Supreme Court has thus been duly complied with after full consideration of the matter, and the Bill with the Amendment to Clause(1) made in the House was validly passed by Parliament.