

**39**

**STANDING COMMITTEE ON FINANCE**

**(2010-11)**

**FIFTEENTH LOK SABHA**

**Ministry of Finance  
(Department of Financial Services)**

**THE REGULATION OF FACTOR  
(ASSIGNMENT OF RECEIVABLES) BILL, 2011**

**THIRTY NINTH REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**August, 2011/ Bhadra, 1933 (Saka)**

**THIRTY NINTH REPORT**

**STANDING COMMITTEE ON FINANCE  
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**(FIFTEENTH LOK SABHA)**

**Ministry of Finance  
(Department of Financial Services)**

**THE REGULATION OF FACTOR  
(ASSIGNMENT OF RECEIVABLES) BILL, 2011**

*Presented to Lok Sabha on 30 August, 2011  
Laid in Rajya Sabha on 30 August, 2011*



**LOK SABHA SECRETARIAT  
NEW DELHI**

**August, 2011/ Bhadra, 1933 (Saka)**

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## **COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2010-11**

**Shri Yashwant Sinha - Chairman**

### **MEMBERS**

#### **LOK SABHA**

2. Dr. Baliram (Lalganj)
3. Vacant\*\*
4. Shri C.M. Chang
5. Shri Harishchandra Chavan
6. Shri Bhakta Charan Das
7. Shri Khagen Das
8. Shri Gurudas Dasgupta
9. Shri Nishikant Dubey
10. Shri Bhartruhari Mahtab
11. Shri Mangani Lal Mandal
12. Smt. Jaya Prada Nahata
13. Shri Rayapati Sambasiva Rao
14. Shri Magunta Sreenivasulu Reddy
15. Shri Sarvey Sathyanarayana
16. Shri G.M. Siddeshwara
17. Shri N. Dharam Singh
18. Shri Manicka Tagore
19. Dr. M. Thambidurai
20. Shri Anjankumar M. Yadav
21. Dr. Kavuru Sambasiva Rao\*

#### **RAJYA SABHA**

22. Shri S.S. Ahluwalia
23. Shri Raashid Alvi
24. Shri Vijay Jawaharlal Darda
25. Shri Piyush Goyal
26. Shri Moinul Hassan
27. Shri Satish Chandra Misra
28. Shri Mahendra Mohan
29. Dr. Mahendra Prasad
30. Dr. K.V.P. Ramachandra Rao
31. Shri Y.P. Trivedi

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\* Nominated to this Committee w.e.f. 28.01.2011 vice Shri Y.S. Jagan Mohan Reddy, ceased to be a member of the Committee on his resignation from Lok Sabha.

\*\* Shri Sudip Bandyopadhyay, MP ceased to be the Member of the Committee w.e.f 12.07.2011 consequent upon his induction to the Union Council of Ministers

## INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Thirty-Ninth Report on 'the Regulation of Factor (Assignment of Receivables) Bill, 2011'.

2. The 'Regulation of Factor (Assignment of Receivables) Bill, 2011' introduced in Lok Sabha on 24 March, 2011, was referred to the Committee on 29 March, 2011 for examination and report thereon, by the Speaker, Lok Sabha under rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from the Ministry of Finance (Department of Financial Services).

4. Written views/memoranda were received from the IFCI Factors Limited, New Delhi, Indian Banks' Association (IBA) and Shri Sangeet Shukla, Retired Deputy Managing Director, SBI.

5. The Committee, at their sitting held on 29 July and 18th August, 2011 took evidence of the representatives of the Ministry of Finance (Department of Financial Services).

6. The Committee, at their sitting held on 29 August, 2011 considered and adopted the draft report and authorised the Chairman to finalise the same and present it to the Parliament.

7. The Committee wish to express their thanks to the officials of the Ministry of Finance (Department of Financial Services) for appearing before the Committee and furnishing the requisite material and information which were desired in connection with the examination of the Bill.

8. The Committee also wish to express their thanks to the IFCI Factors Limited, New Delhi, Indian Banks' Association (IBA) and Shri Sangeet Shukla, Retired Deputy Managing Director, SBI for placing before them their considered views on the Bill in the form of memoranda.

9. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

**New Delhi;  
29 August, 2010  
07 Bhadra, 1933(Saka)**

**YASHWANT SINHA,  
Chairman,  
Standing Committee on Finance.**

## REPORT

### Background

Purchasers of goods and services are often delaying the payments, therefore, resulting in working capital problems for the suppliers, particularly the smaller ones. Many Industrial and Commercial Undertakings, especially the Micro, Small and Medium Enterprises (MSME) Units continue to suffer delays in payment or non-payment of their dues by other enterprises. A specific Act called “The interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993” made it mandatory for the buyer to pay to the Small Scale Industry promptly, failing which he is required to pay interest to the supplier. However, the Act was repealed by the Micro, Small and Medium Enterprises Development Act, 2006 after the substantive provisions of the Act of 1993 were suitably incorporated in the said Act of 2006. The Micro, Small and Medium Enterprises Development Act, 2006 also did not improve the situation of delayed payments to MSME. Factoring is one of the important mechanisms to address issues of resource constraints, delayed payment from buyers of goods and services and receivable management for the MSME Sector.

2. In India, there is no consolidated legal framework with specific provisions covering all aspects of factoring transactions. This could be attributed, to a large extent, to the absence of demand from business community, and the resultant absence of pressure on the legal system to consider appropriate change and innovation. Most of the factoring companies abroad also provide factoring services on 'without recourse' basis (without recourse factoring means the factor has no recourse to the supplier or assignor if the factored debt turns out to be irrecoverable). However, in India the factoring services are offered by majority of the companies, including those in public sector, mainly on 'with recourse' basis (with recourse factoring means the factor has recourse to the supplier or assignor if the factored debt turns out to be irrecoverable). The reasons for this could primarily be attributed to the inadequate legislative protection in the country in favour of these services. Currently, factoring activities,

like other modes of financing, have to operate within the existing laws such as the Indian Contract Act, the Indian Sale of Goods Act, the Transfer of Property Act etc.

3. The Reserve Bank of India (RBI) constituted a Study Group in 1988 under the chairmanship of Shri C.S. Kalyansundaram, former Managing Director, State Bank of India for examining the feasibility and mechanics of starting factoring organisations in the country and making recommendations regarding its theory, constitution, organisational set up, scope of activities and other related matters. The Committee had noted that inadequacy of working capital finance with its attendant liquidity problem has been one of the major stumbling blocks in the viable running of small scale industries (SSI) units and factoring for SSIs could be mutually beneficial to both factors and SSI units.

4. Pursuant to the acceptance of some of the recommendations of Kalyansaundaram Committee, RBI identified some banks to set up their subsidiaries for factoring operations. Accordingly, SBI Factors and Commercial Services Pvt. Ltd (SBIF) and Canbank Factors Limited (CFL) were established in 1991 as subsidiaries of the State Bank of India and the Canara Bank, respectively. Apart from the two companies mentioned above, a few players have also entered into the field of factoring viz., Export Credit Guarantee Corporation of India Ltd., IFCI Factors Ltd., Small Industries Development Bank of India, Standard Chartered Bank, The Hongkong and Shanghai Banking Corporation Ltd. In addition, a few Non-Banking Financial Companies (NBFCs) have also started factoring services.

5. The Hon'ble Prime Minister announced setting up of a Task Force to formulate an agenda for action within a period of three months after deliberations with all stakeholder, after meeting the representatives of 19 prominent MSME Associations to discuss matters impacting the growth of MSME sector. Several important issues were highlighted by the MSME Associations including shortage of credit, need for a focused procurement policy, prompt payment of MSME dues, simplification of labour laws, formulation of a one-time

settlement policy, etc. to strengthen the MSMEs and remove bottlenecks in their development.

6. The Task Force constituted 6 Sub-Groups on the major areas of concern for the MSME sector, namely, credit, marketing, labour, exit policy, infrastructure/ technology/skill development and taxation. A separate Sub-Group was constituted to look into specific problems relating to special package for North-East and Jammu & Kashmir.

7. The Task force made many recommendations for enhancing the flow of credit to MSMEs. The Task Force also recommended that workable legal options should be developed for the securitisation of *trade credit receivables* and for the promotion of *factoring services*.

8. In the year 1985, the Committee appointed by the Government for reviewing the working of the monetary system had in its report provided several directions, with respect to future shape of financial sector reforms and made various recommendations in relation thereto. The Committee had inter-alia advocated bringing in stricter credit discipline and reduction in the importance in the cash credit, greater resort to financing of working capital through loans, bills, and receivables. Various other committees were set up to review the state of financing in the country, and some of them, including the Vaghul Committee on Money Market Reforms (1987) made references to the need for introducing factoring in India.

9. The report of the S.P. Gupta Group (Study Group on Development of Small Enterprises, 2000) recommended that in order to mitigate the post sale problems of SSI there is a need to encourage bills culture without recourse to SSI. In this context, Government of India be requested to help creating conducive climate for development of factoring services through appropriate policy prescriptions/legislative changes to ease the problems relating to stamp duty, registration fee, assignment of debt etc. A Task Force comprising Govt./RBI/SIDBI should be appointed to look into these problems. The provisions of Delayed Payments Act should be extended to factors.



10. Report of the National Commission on Enterprises in Unorganised Sector, 2009 recommended that Innovative financing instruments such as factoring, venture capital, credit rating, and a single multipurpose Swarojgar Credit Card for the unorganised sector on the pattern of Kisan Credit Card with a limit of up to Rs. 10 lakh may be introduced.

11. In view of the above, the Central Government decided to enact a legislation relating to factoring services and introduce a Bill titled as “The Regulation of Factor (Assignment of Receivables) Bill, 2011”, to provide for and regulate the assignment of receivables by making provision for registration therefor and rights and obligations of parties to contract for assignment of receivables and for matters connected therewith or incidental thereto. Factoring service is one of the important mechanisms to address the issue of resources management for the Micro, Small and Medium Enterprises Sector. The Regulation of Factor (Assignment of Receivables) Bill, 2011, provides for a mechanism for assignment of receivables of the industry to a ‘factor’ and the payment of consideration by the ‘factor’ to the industrial unit.

## The salient features of the Bill

12. The Regulation of Factor (Assignment of Receivables) Bill, 2011, *inter alia*, provides,—

- (a) for the process of assignment of receivables due and payable to any assignor (being any enterprise or medium enterprise, micro enterprise or small enterprise as defined in clauses (e), (g), (h) and (m) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006, respectively engaged in any business activity) by any debtor, to any factor, being the assignee, by an agreement;
- (b) that the debtor shall have the right to notice of assignment and till the notice is given, the assignee shall not be entitled to demand payment of the receivable from the debtor;
- (c) that the liability of the debtor shall not be discharged unless he makes the payment due on an assigned receivable to the assignee;
- (d) that the assignor would be the trustee of assignee for any payment received which is due on an assigned receivable;
- (e) that if the assignor of receivables is a micro or small enterprise, the liability of the debtor to make payment on assigned receivables shall be subject to the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 with regard to delayed payments of receivables;
- (f) for regulation of the factoring business;
- (g) for empowering the Reserve Bank to issue directions, call for information from the factor and prohibit the financial institutions from undertaking factoring business, if the factor fails to comply with the direction given by the Reserve Bank;
- (h) that the rights and obligations of the debtor cannot be changed without the express consent of the debtor;

- (i) that any breach of contract with the debtor by the assignor shall not entitle the debtor to recover from the assignee any sum paid by the debtor to the assignor or the assignee;
- (j) provides for compulsory registration by the factor of every transaction of assignment of receivable with the Central Registry to be set up under section 20 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 within a period of thirty days from such assignment or from the date of establishment of such Registry, as the case may be, subject to payment of such fee as may be prescribed and provides that the particulars of transaction would be entered into the Central Register kept at the Head Office of the Central Registry;
- (k) for penal provisions in cases of certain default or contravention of the provisions of the proposed legislation.

13. The Regulation of Factor (Assignment of Receivable) Bill, 2011 was introduced in the Lok Sabha on 24 March, 2011 and referred to the Standing committee on Finance by the Speaker, Lok Sabha on 29 March, 2011 for examination and report thereon.

14. The Committee received memoranda/suggestions regarding the Regulation of Factor (Assignment of Receivable) Bill, 2011 from Indian Banks' Association, IFCI Factors Limited, Shri Sangeet Shukla, Retired Deputy Managing Director, State Bank of India & Ex CEO, SBI Global Factors Ltd. The Committee also took oral evidence of the representatives of the Ministry of Finance (Department of Financial services) in connection with the examination of the Bill.

15. The Committee note that in India since there is no consolidated legal framework with specific provisions covering all aspects involved in factoring business, the Government has proposed this Bill to support the establishment and operations of efficient and viable factoring organizations. Earlier, instead of making a specific law for this purpose, the Government relied on two legislations namely the Interest on Delayed Payments to Small Scale and Ancillary Undertakings Act 1993 which was repealed by the Micro, Small and Medium Enterprises Development Act, 2006. Both the Acts aimed at improving the situation of delayed payments to MSME but failed to achieve their objectives. The Committee observe in this regard that the Government has taken an unduly long time for introducing the present Bill since RBI accepted the recommendations of the Expert Group headed by Shri C.S. Kalyansundarm (1988) to bring forth a legislation on factoring more than two decades ago. Even after taking such a long time to introduce the Bill, the Government have not done due diligence and in-depth study on the subject suggesting that wider consultations were not held before formulating the proposals. After the Committee pointed out several infirmities, the Ministry at evidence stage agreed to rectify the same. The Committee now hope that the present legislation with these modifications will serve the desired purpose to address the issue of resources management for the Micro, Small and Medium Enterprises Sector. They also desire that the Administrative Ministry should be made responsible in respect of delayed payment from PSUs to MSMEs. Hence, they recommend this Bill for enactment subject to such modifications as spelled out in the succeeding paragraphs.

## **Definitions**

16. The Committee during the course of oral evidence pointed out lack of clarity in the present Bill as well as its title. The title of the Bill viz. 'The Regulation of Factor (Assignment) of Receivables) Bill, 2011 seemed to give an impression that there exists a law on factors and the Bill is proposing to regulate them. Moreover, in the Hindi Version of the Bill the word 'Adhatia' has been used as translation for the "Factor" which also creates a doubt that the proposed bill will create an intermediary / middleman between the Micro, Small and Medium Enterprises (MSME) and the buyers of MSME products and particularly in agricultural operations.

17. When asked to clarify, the Ministry in a written note stated as under :

"At the outset it may be stated that Factor is not an agent or Adhatia for sale of goods. Factor steps in only after the goods/services are sold. He is not concerned with sale which will continue to be done by MSMEs as per their existing practices. However, a specific exclusion about sale of agricultural produce by farmers to Adhatias will be included in the definition of "factoring business" under clause 2(j) of the Bill. Further to declare specific exclusion of Adhatia from the scope of the Bill, the word "factor" will be used as such instead of the word "Adhati" in the Hindi version of the Bill also.

The Bill defines a Factor as a "Non-Banking Financial Company" as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934. Clause 4 of the Bill further provides that provisions of Chapter III-B of the RBI Act, 1934 relating to NBFCs shall apply to Factors. In terms of definitions contained in section 45-I of the RBI Act, 1934, Non-Banking Financial Companies (NBFCs) are not permitted to carry on, inter alia, following business activities :

- (i) agricultural operations; and
- (ii) the purchase or sale of any goods (other than securities) or providing of any services.

Since factors are NBFCs governed by the RBI Act, 1934, such Factors cannot undertake any agricultural operations or purchase or sale of any goods. In view of this position Factors, as non-banking financial companies cannot act as agents for sale of goods including agricultural produce.

However, a specific exclusion about sale of agricultural produce by farmers to Adhatias will be included in the definition of “factoring business” under clause 2 (j) of the Bill by inserting Explanations as below.

Explanation (1) :

For removal of doubts it is hereby declared that factoring business shall not include any activity as commission agent or otherwise for sale of agricultural produce or goods of any kind whatsoever or any activity relating to the production, storage, supply, distribution, acquisition or control of such produce or goods or provisions of any services other than factoring services.

Explanation (2) :

For the purpose of this clause the expression “agricultural produce” shall have the meaning assigned to it under clause (a) of section 2 of the Agricultural Produce (Grading and marking) Act, 1937 (Act of 1937), and the expressions “commission agent” and “goods” shall have the meanings assigned to them by and explanation (ii) below clause (i) and clause (d) of section 2 the Forward Contracts (Regulation) Act, 1952 (Act 74 of 1952).

18. The Ministry further added as under :

“Factoring is purchase of receivables with or without recourse to the business entity selling the receivables. Such transactions can be undertaken by any person under the general laws of contracts and transfer of property. If such activity / business of purchase of receivables (Factoring) is undertaken by a company such business is treated as business of financial institution as defined in clause (c) of section 45 -1 of the Reserve Bank of India Act, 1934. Any company engaged in business of financial institution which includes factoring business is required to obtain registration from RBI as Non-Banking Finance Company and such companies are already subject to regulatory law namely Chapter III-B of the RBI Act, 1934. The present Bill seeks to segregate NBFCs engaged in factoring business and make the proposed law applicable to the business of factoring but at the same time clause 4 of the Bill provides that provisions of Chapter III- B of the RBI Act, 1934 shall continue to apply to such NBFCs save as otherwise provided in the Bill.

It is a settled principle of law that only after a law is enacted can there be any scope of specifying a regulation of under that statute. As such the name of the Bill is being changed to “The Factoring Regulation Bill, 2011.”

19. The Committee are happy to note that in order to remove ambiguity and to give clarity to the Bill, the Ministry of Finance (Department of Financial Services) have acted upon the suggestions of the Committee and agreed to include the modifications and changes in the Bill appropriately pertaining to the short title and definitions. The Committee are of the considered view that the proposed new name viz. the Factoring Regulation Bill will dispel the needless confusion of a non-existent parent Act. The replacement of the word 'Adhatia' by 'Factor' also, will allay the doubt that the proposed Bill deals with mechanism/agency which is different from Commission agents engaged in sale and purchase of agricultural produce. The Committee recommend that these modifications should be suitably incorporated in the Bill.

**Exemption of factoring business from Stamp duty :**

20. Indian Banks' Association (IBA), IFCI Factors Ltd. and an expert in their memoranda suggested that one major impediment in the development of the factoring business is multiple stamp duties which are payable on document of assignment of receivables. Such stamp duty varies from State to State and on account of high rates of duty and very low margins available to the Factors renders assignment of receivables non-viable. In order to make the law effective and encouraging growth and development of the factoring transactions it is necessary to exempt document of assignment of receivables from Stamp Duty. Similar exemptions have been given under Central Laws enacted by Parliament in the past. One example of such exemption of Stamp Duty is Section 8C of the Indian Stamp Act, 1899 which was inserted by the provisions of Warehousing (Development & Regulation) Act, 2007.

21. The Ministry in their written submission on the above said suggestion stated as follows :

“Although many experts (including Kalyansundaram Group) have recommended that to make factoring economically viable, it is essential that assignment of receivables in favour of a factor is exempted from stamp duty, we have not made any explicit provision in this Bill. We are proposing to exempt factoring transactions from stamp duty by moving an amendment to the Indian Stamp Act, 1899 as part of a comprehensive exercise to amend that law. However, it is possible to amend the Indian Stamp Act, 1899 through a schedule to the present Bill”.

**22. The Committee note that despite specific recommendation of the Expert Group headed by Shri C.S. Kalyansundaram, the Government has not made any explicit provision in the Bill in this regard. The Committee are convinced that to make factoring economically viable, it is essential that assignment of book debts is exempted from stamp duty. They are happy that the Government has agreed to this view of the Committee and has proposed to bring an amendment to the Indian Stamp Act, 1889 through a schedule to the present Bill. The Committee find that as two Central Acts are being amended by way of the schedule appended to the Bill, the amendment with regard to the stamp duty may also be added in the schedule.**

### **Pricing of Factor Services**

23. Provisions of the Bill are silent regarding the amount of commission or discount charged by the factor to the MSME.

24. When asked about the need to stipulate a ceiling on the charges the factor would recover from the MSME in the proposed Bill, the Ministry in a written note submitted as under “

“The amount of commission charged or discount charged by the factor to the assignor (Micro and Small Industries) would depend upon the bilateral



contact between the two and the level of competition in the market. The rate of commission or discount would depend on the risk perception of the factor and business relations between the two parties. The regulator, RBI has moved away from administered rate of interest regime for financial products. Therefore, any suggestion to administratively determine the rates would not be in line with the existing policy”.

**25. The Committee have been informed by the Ministry that it would not be feasible to administratively determine the rates/fees/commission chargeable by a factor on the ground that RBI as the regulator has moved away from the regime of administered rates of interest. The Committee are, however, not convinced with this reply, as this is not in harmony with the policy to promote and protect MSMEs. As the Committee believe that unregulated factor pricing will only lead to exploitative practices, they would recommend that a suitable guidelines on pricing should be issued by the RBI with a view to safeguarding the interest of the MSMEs and to reduce their financial costs. In this context, it may also be emphasized that since factors will be competing with banks in financing receivables, the rate charged by them should not be made higher than that charged by banks. From a larger perspective the Committee would like the Government to ensure that this legislation actually promotes factoring business as a facilitator of MSMEs rather than making it yet another exploitative middleman.**

**Inconsistency between Clauses 8 and 18 in respect of determining responsibilities of all parties to the factoring assignment –**

26. Clause 8 reads as follows :

“Any assignee of a receivable shall not be entitled to demand payment of the receivable from the debtor in respect of such receivables unless notice

of such assignment is given to the debtor by the assignor or the assignee along-with express authority in its favour granted by the assignor”.

27. Clause 18 reads as follows :

“If the assignor commits any breach of the original contract with the debtor, such breach shall not entitle the debtor to recover from the assignee any sum paid by the debtor to the assignor or the assignee”.

28. A doubt has arisen that the two clauses are inconsistent to each other regarding determining responsibilities and powers of the parties to the factoring assignment.

29. When the attention of the Ministry was drawn to the contradiction in the above said clauses, the Ministry in a written note stated as under :

“The Bill has been prepared to judiciously determine responsibilities of all parties to the factoring assignment. As a matter of debtor protection, it has been provided in Clause 8 that the debtor shall have the right to notice of assignment and till the notice is given, the assignee shall not be entitled to demand payment of the receivable from the debtor. However, since the factor (assignee) is not a party to the bilateral contract between assignor (as a supplier of goods or services) and the debtor (purchaser of goods or services), the deficiency on the part of the assignor towards the debtor should not affect the rights of the factor (assignee), who has purchased the financial asset (receivables of the seller) without knowledge of this deficiency and has acquired rights to recover the receivable from the debtor and any sum received after the assignment even with the assignor is kept in trust for the factor. So, the inter-se relations of the three parties involved in the factoring business are fixed in an objective manner.

The object of this provision is to provide finality to the transaction of assignment of receivables. If any disputes between the Debtor and Assignor (MSME) are allowed to be raised against the Assignee, there will be no certainty about the payment made to the Assignor by the Factor and to the Factor (Assignee) by the Debtor. While no claims can be made against the Factor (Assignee) the Debtor can claim any losses on account of defective goods or short supply from the Assignor. To remove any doubts such a provision can be added by way of explanation to clause 18 of the Bill”.

**30. The plain reading of these two clauses provides that the debtor is responsible to make payment to the factor (assignee) only when the**

notice has been issued to him either by the assigner or the assignee. But Clause 18 is silent about his (debtor) rights in case there is a breach in the original contract by the assigner. The Committee are happy that the Government has agreed to insert an explanation to Clause 18 with a view to remove any ambiguity with regard to debtor's protection. The Committee desire that the necessary amendment may be brought forward in this regard.

### **Clause 32 - Rule making powers of the Central Government**

31. Clause 32 of the Bill provides that the Central Government may make rules in respect of the matters specific in the said clause. Sub-Clause (2) (a) specifies as follows :

“The form and manner in which the transactions of assignment of receivables in favour of a non-banking financial company shall be filed and the fee for filing such transaction under sub-section (1) of Section 19”.

32. In this regard, Indian Banks' Association in their written submission suggested that :-

“In clause 32 (2) (a) the words ‘Non-Banking Financial Companies’ need to be changed to the word Factor”.

33. The written comments received from the Ministry of Finance (Department of Financial Services) on the above said suggestion stated as follows :

“This suggestion is accepted as the registration of transaction of assignment in favour of a ‘factor’ is to be filed with the Central Registry. A factor may be a non-banking financial company or a statutory corporation”.

**34. The Committee find that the word ‘non-banking financial companies used in the clause restricts the scope to the ‘non-banking financial companies, whereas the factor includes in its ambit other**

statutory corporations besides non-banking financial companies. The substitution of 'factor' in place of 'non-banking financial companies' will enlarge its scope and include all the constituents that comes under the purview of definition of factor. The Committee find that the Government has agreed to make necessary amendment in this regard. The Committee, therefore, desire the Government to substitute 'non-banking financial companies' by 'factor' in clause 32(2)(a) of the Bill.

New Delhi;  
29 August, 2010  
07 Bhadra, 1933(Saka)

YASHWANT SINHA,  
Chairman,  
Standing Committee on Finance.

**MINUTES OF THE TWENTY-SECOND SITTING OF THE STANDING COMMITTEE ON FINANCE (2010-11)**

The Committee sat on Friday, the 29<sup>th</sup> July, 2011 from 1100 hrs to 1715 hrs.

**PRESENT**

**Shri Yashwant Sinha** – **Chairman**

**MEMBERS**

**LOK SABHA**

2. Dr. Baliram (Lalganj)
3. Shri C.M. Chang
4. Shri Gurudas Dasgupta
5. Shri Nishikant Dubey
6. Shri Bhartruhari Mahtab
7. Shri Mangani Lal Mandal
8. Dr. Kavuru Sambasiva Rao
9. Shri Manicka Tagore

**RAJYA SABHA**

10. Shri S.S. Ahluwalia
11. Shri Raashid Alvi
12. Shri Moinul Hassan
13. Shri Satish Chandra Misra
14. Shri Mahendra Mohan
15. Dr. Mahendra Prasad
16. Dr. K.V.P. Ramachandra Rao

**SECRETARIAT**

1. Shri A. K. Singh – Joint Secretary
2. Shri R.K. Jain – Director
3. Shri Ramkumar Suryanarayanan – Deputy Secretary
4. Shri Kulmohan Singh Arora – Under Secretary

**Part I**

**(1100 hrs. to 1130 hrs.)**

2.    **XX**                    **XX**                    **XX**                    **XX.**  
      **XX**                    **XX**                    **XX**                    **XX.**

**Part II**  
**(1130 hrs. to 1300 hrs.)**

**WITNESSES**

**Ministry of Finance (Department of Financial Services)**

1. Shri R. Gopalan, Secretary
2. Shri Rakesh Singh, Additional Secretary
3. Shri Alok Nigam, Joint Secretary

**Ministry of Micro, Small and Medium Enterprises (MSME)**

Shri Amrendra Sinha, Joint Secretary & DC

**Indian Banks' Association (IBA)**

Shri M.R. Umerji, Chief Legal Advisor, IBA

**IDBI Bank**

Shri R.M. Malla, CMD, IDBI Bank

**Small Industrial Development Bank of India (SIDBI)**

Shri Sushil Muhnot, CMD, SIDBI

**Reserve Bank of India (RBI)**

1. Smt. Archana Mangalagiri, General Manager
2. Shri S.S. Barik, General Manager

3. The Committee heard the representatives of Ministry of Finance (Department of Financial Services) in connection with examination of 'the Regulation of Factor (Assignment of Receivables) Bill, 2011'. The major issues discussed during the briefing included, definitions clause, regulation of factors, powers of RBI to regulate factors, assignment of receivables, liability and principle of debtor protection, registration of certain assignments of receivables transactions, exemption of factoring transactions from stamp duties, incorporation of suggestions/recommendations made by the Study Group headed by Shri C.S. Kalyansundram in the proposed Bill. The Committee also drew the attention of representatives of Ministry of Finance (Department of Financial Services) to contradictions in the various provisions of the Bill. The Chairman directed the representatives of Ministry of Finance (Department of Financial Services) to furnish replies to the points raised by the Members during the discussion within ten days.

The witnesses then withdrew.

**Part III**  
**(1400 hrs. to 1715 hrs.)**

**WITNESSES**

4.    **XX**                    **XX**                    **XX**                    **XX.**  
      **XX**                    **XX**                    **XX**                    **XX.**

The witnesses then withdrew.

**WITNESSES**

5.    **XX**                    **XX**                    **XX**                    **XX.**  
      **XX**                    **XX**                    **XX**                    **XX.**

A verbatim record of the proceedings was kept.

The witnesses then withdrew

The Committee then adjourned

## MINUTES OF THE TWENTY-THIRD SITTING OF THE STANDING COMMITTEE ON FINANCE (2010-11)

The Committee sat on Thursday, the 18<sup>th</sup> August, 2011 from 1600 hrs to 1715 hrs.

### PRESENT

**Shri Yashwant Sinha** – **Chairman**

### MEMBERS

#### LOK SABHA

2. Shri C.M. Chang
3. Shri Harishchandra Chavan
4. Shri Bhakta Charan Das
5. Shri Nishikant Dubey
6. Shri Bhartruhari Mahtab
7. Shri Rayapati Sambasiva Rao
8. Dr. Kavuru Sambasiva Rao
9. Shri G.M. Siddeshwara
10. Shri Manicka Tagore

#### RAJYA SABHA

11. Shri Moinul Hassan
12. Shri Satish Chandra Misra
13. Shri Y.P. Trivedi

#### SECRETARIAT

1. Shri A. K. Singh – Joint Secretary
2. Shri R.K. Jain – Director
3. Shri Ramkumar Suryanarayanan – Deputy Secretary
4. Shri Kulmohan Singh Arora – Under Secretary

### **Part – I** **(1600 hrs. to 1630 hrs)**

#### **WITNESSES**

#### **Ministry of Finance (Department of Financial Services)**

1. Shri D.K. Mittal, Secretary
2. Shri Rakesh Singh, Additional Secretary
3. Shri Alok Nigam, Joint Secretary

#### **Indian Banks' Association (IBA)**

Shri M.R. Umerji, Chief Legal Advisor, IBA



3. The Committee took further oral evidence of the representatives of the Ministry of Finance (Department of Financial Services) on 'the Regulation of Factor (Assignment of Receivables) Bill, 2011. After examining the replies furnished by the Ministry on the queries raised by the Members during their sitting held on 29 July, 2011, the Committee expressed their satisfaction that the Ministry at their behest has agreed to incorporate modifications in the Bill as suggested by them. The representatives of the Ministry further clarified to the queries raised by the Members.

The witnesses then withdrew.

**Part II**  
**(1630 hrs. to 1715 hrs)**

**WITNESSES**

4.    **XX**                               **XX**                               **XX**                               **XX.**  
      **XX**                               **XX**                               **XX**                               **XX.**

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

The Committee then adjourned

## **Minutes of the Twenty Fourth sitting of the Standing Committee on Finance**

The Committee sat on Monday, the 29<sup>th</sup> August, 2011 from 1500 hrs. to 1600 hrs.

### **PRESENT**

**Shri Yashwant Sinha** – **Chairman**

### **MEMBERS**

#### **LOK SABHA**

2. Dr. Baliram (Lalganj)
3. Shri C.M. Chang
4. Shri Nishikant Dubey
5. Shri Bhartruhari Mahtab
6. Shri Rayapati Sambasiva Rao
7. Shri Magunta Sreenivasulu Reddy
8. Shri Manicka Tagore
9. Shri Anjankumar M. Yadav
10. Dr. Kavuru Sambasiva Rao

#### **RAJYA SABHA**

11. Shri S.S. Ahluwalia
12. Shri Vijay Jawaharlal Darda
13. Shri Moinul Hassan
14. Shri Mahendra Mohan
15. Dr. Mahendra Prasad
16. Shri Y.P. Trivedi

#### **SECRETARIAT**

1. Shri A. K. Singh – Joint Secretary
2. Shri R.K. Jain – Director
3. Shri Ramkumar Suryanarayanan – Deputy Secretary
4. Shri Kulmohan Singh Arora – Under Secretary

2. The Committee took up the following draft Reports for consideration and adoption:-

- (i) The Regulation of Factor (Assignment of Receivables) Bill, 2011; and
- (ii) The Pension Fund Regulatory and Development Authority Bill, 2011.

3. The Committee adopted the draft reports at (i) and (ii) above with some modifications/changes as suggested by Members. The Committee authorised the Chairman to finalise the Reports in the light of the modifications suggested and present these Reports to Parliament.

The Committee then adjourned.