

Seventeenth Loksabha

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Title: Combined discussion on Statutory resolution regarding Disapproval of Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 (Ordinance no. 9 of 2020) and Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020 (as passed by Rajya Sabha) (Statutory Resolution - Withdrawn and Government Bill - passed).

माननीय अध्यक्ष : आइटम नंबर – 18 और 19 को एक साथ लिया जाएगा

***m01**

SHRI ADHIR RANJAN CHOWDHURY (BAHARAMPUR): Sir, I beg to move:

"That this House disapproves of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 (Ordinance No. 9 of 2020) promulgated by the President on 5 June, 2020."

माननीय अध्यक्ष : माननीय मंत्री जी, क्या आप बिल पर कुछ बोलना चाहती हैं?

...(व्यवधान)

माननीय अध्यक्ष : माननीय मंत्री जी, अब आप बिल को मूव कीजिए ।

...(व्यवधान)

***m02**

THE MINISTER OF FINANCE AND MINISTER OF CORPORATE AFFAIRS (SHRIMATI NIRMALA SITHARAMAN): Sir, I beg to move:

“That the Bill further to amend the Insolvency and Bankruptcy Code, 2016, as passed by Rajya Sabha, be taken into consideration.”

माननीय अध्यक्ष : प्रस्ताव प्रस्तुत हुए :

“कि यह सभा राष्ट्रपति द्वारा 5 जून, 2020 को प्रख्यापित दिवाला और शोधन अक्षमता संहिता (संशोधन) अध्यादेश, 2020 (2020 का अध्यादेश संख्यांक 9) का निरनुमोदन करती है।”

और

“कि दिवाला और शोधन अक्षमता संहिता, 2016 का और संशोधन करने वाले विधेयक, राज्य सभा द्वारा यथापारित, पर विचार किया जाए।”

माननीय अध्यक्ष : श्री अधीर रंजन चौधरी जी।

...(व्यवधान)

***m03**

SHRI ADHIR RANJAN CHOWDHURY: Sir, first of all, I took a serious exception to the way one after another Ordinances are being promulgated on the pretext of COVID-19 pandemic. Yes, our Constitution has the provision for promulgation of Ordinances. But I would

suggest the Government that the promulgation of Ordinances should not be taken as a rule; rather, it should be considered as an exception. But what I am afraid of is that this Ordinance-savvy Government is, on one pretext or the other, resorting to promulgation of Ordinances. That is why, I have put my disapproval. The purpose of the Ordinance on IBC is that it is weakly constructed with minimum logic and a lot of grey areas, and discouraging to the healthy recovery and restructuring practices and at the same time, leaving loopholes for debtors. It is nothing but to patronize their preferred corporators. The worst casualty of this Ordinance is the MSME sector. Section 10A can be absolutely a nightmare for the corporate creditors. When such a loose exit is created for the escape of debtors, the burden will shift to the creditors and they would not be having anyone liable. MSMEs are very strong contributors to the GDP as well as employment. There are around 120 million people working in MSME sector. These MSMEs usually lend their services to large corporate. The IBC framework is the resort of MSMEs in case of insolvency or bankruptcy. Until last year, MSMEs were hugely benefited by the IBC framework. The data on recovery of debt through IBC framework is Rs. 1.52 lakh crore. At this moment, the suspension of IBC can be a huge blow to the MSMEs of our country, especially in cases with exemption of defaulters from liabilities under section 10A. If a system with protection and safeguards for MSMEs is dissolved in favour of specific corporate debtor, the Government is answerable to 120 million people working in this sector.

18.00 hrs

It is because on the one hand the Government is serving half-baked cookie called *Atmanirbar Bharat* and forcing them to take more loans, and on the other hand they are removing their safety net against exploitation. Can Government ask themselves what have they done to create more through MSMEs? What is the Government's achievement in last six months? This is high time that the Government should do an introspection. I would simply narrate four concepts which need to be stressed.

First one is the maximisation of value of assets. Quoting Mr. Shardul Shroff, who is the Executive Chairman of Insolvency and Bankruptcy Practices, maximization of value of assets can be either revival or liquidation of the corporate debtor, to put its assets to best possible economic use. It is important to have both the options available for preserving the best value of assets. Instead, what we witness is the suspension of IBC framework for a significant period of time. By suspending the whole framework, we are eliminating our options of asset maximisation. This is in conflict with the very concept of assets maximisation.

Secondly, it is the concept of entrepreneurship which is severely hurt. If MSMEs are discouraged by withdrawing protection mechanism against risks, what is the signal that the Government intends to give to the new investors? The Bill says:

“For any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date.”

Now, the Government says that the validity of this amendment is one year. But after one year, the Government can come again with an Ordinance saying that it is the necessity of the hour. Where should we go then? The economy is already dying. This second amendment will be the last nail on the coffin. Why should investors invest their money when there is no guarantee that there will be protection against any chances of losing money? The Government has already been suffering from trust deficit. Hon. Minister will certainly agree with me on this point.

Third point to stress on is the availability of credit. The remaining gross NPAs are acting as a barrier for accessing the credits. The gross NPAs are about to hit 15 per cent in this financial year. The credit lending is one of the toughest

decisions to make in the current context.

Fourth and the most important concept is the balance of interest of all stakeholders. This is classic failure in balancing the interest of all stakeholders. There are five points to understand how this Bill is incapable of catering to the interest of stakeholders.

1. It prohibits resolution even in cases where that may be the best way to preserve the value of assets.
2. It removes the option of a debtor to avail of the insolvency process for restructuring, when the debtor is at the best position to understand whether the company will undergo a crisis temporarily or permanently.
3. This also eliminates the option for debtors to approach for restructuring.
4. With the permanent exemption of defaulters during the mentioned period, this is against the interest of the creditors.
5. With this amendment, the corporate debtor gets permanent waiver from defaults during the specified period. But what about the other kind of debtors in our country? There are individuals such as farmers as well as small firms who are waiting for their waiver. The farmers are committing suicides, and the corporate loans are getting waived off. This is discrimination within the classification of debtors.

In short, this Bill does not safeguard any of the stakeholders who actually need support during the pandemic, such as individuals, MSMEs, who actually struggle and lose their livelihoods. Instead, the Government is saving the

corporate debtors.

According to Kroll's annual Global Fraud and Risk Report of 2017-18, India figures among the top three countries globally for every category measuring fraud vulnerability in this survey.

Madam, 89 per cent of respondents in Indian organisations are saying that they had experienced a fraud incident in the previous 12 months, compared with just 68 per cent in 2016. India's 89 per cent stands higher than the world average of 84 per cent. In the last two years India's numbers jumped from 68 per cent to 89 per cent. Internal financial fraud (85 per cent) and IP theft, piracy and counterfeiting (80 per cent) were also significantly higher than the global averages of 52 per cent and 56 per cent respectively.

The Government wants to enhance the atmosphere to establish ease of doing business. This is what the world expects from us. But this is not fructifying. This perception would not change with the hon. Prime Minister's foreign visits, but will change when the Government does substantially something to address this issue.

18.06 hrs

(Shrimati Rama Devi *in the Chair*)

Now, the Government is clearing corporate debtors through backdoors under provisions of Section 10A when financial frauds are sky-rocketing and it stands much above global average. The question is, if the Government does not want to hold the debtors accountable, ultimately who will do it?

An analysis of the March quarter data from TransUnion CIBIL suggested that lenders had filed 1,251 cases to recover Rs 24,765 crore. The All India Bank Employees Association in July, 2020 has come up with a list of 2,426 wilful defaulters and their amounts add

up to Rs. 32,700 crore. The Bill will contribute even more to this as this leaves the room open for intentionally defaulting. Before allowing any more room to wilful default, our demand is that the Government should bring back our people's money which are already with the defaulters. Our country requires Rs. 65,000 crore and the Government is looking for selling Public Sector Undertakings one by one.

Whenever an Ordinance is introduced, the hon. Finance Minister always says that it is urgent and that the Government will bring Bill when the Parliament will be in Session. Why is this urgency? The urgency should be aimed to save lives. But actually, now, the urgency is to save the wilful defaulters. The provisions for this was included in the Ordinance, which was promulgated on June 5. Will the hon. Finance Minister hold the responsibility of intentional default caused from 5th June to 20th September? It is important to reiterate that the urgency was to pave a way to escape from intentional defaulting.

Again, for your convenience, I would like to cite some figures before you regarding the status of applications for initiation of CIRP. In the event of a default, creditor or debtor can apply to the National Company Law Tribunal for initiating a CIRP. But what is the record of CIRP? The provisions of the Code in relation to CIRP came into force on December 1, 2016. As of June, 2020, CIRP has been initiated in case of 3,911 applications. Out of these, 2,108 CIRPs are yet to be completed. Of the 1,803 CIRPs completed, 955 resulted in liquidation. The resolution plan was approved in 250 cases, that is only 14 per cent, and 598 cases were closed by appeal, review, settlement or withdrawal, that is, 32 per cent. The Insolvency and Bankruptcy Board of India noted that in cases of CIRPs, resulting in liquidation in about 73 per cent cases, the economic value of the corporate debtor had already eroded significantly before they were admitted into CIRP. In these cases, assets are average valued at less than 5% of the outstanding debt amount.

I will give you figures. In the year 2016-17, 37 applications were admitted, but liquidation was zero and 36 applications were pending at the end of the period. Till 2020-21, out of the total 3911 applications that were admitted, about 598 applications were appealed/reviewed/settled/withdrawn. The approval of resolution plan was only 250. The liquidation was only in 955 applications and the total applications pending at the end of the period, was 2,108. This is the performance under your leadership. It is absolutely poor and a dismal performance.

Now, I come to time taken for the completion of CIRP. This is also very alarming. The Code provides for time-bound resolution of insolvency. The Committee of Creditors must approve a resolution plan and the resolution process must be completed within 180 days. This may be extended by a period up to 90 days if the extension is approved by the NCLT.

The IBBI noted that average time taken for completion of 955 liquidation cases is 312 days. Average time taken for completion of 250 cases in which resolution plan was accepted is 423 days which is mindboggling. As of June 2020, of the 2108 CIRPs yet to be completed, 1094, which is 52 per cent, have continued for more than 270 days. The number of CIRPs was 1094 exceeding 270 days. From 180 days to 270 days, the number of CIRP – 539; 90 days to 190 days, the number of CIRP – 402; and in 90 days, the number of CIRP – 73 and the total is 2108.

As regards initiator of CIRP, the Code allows the creditors as well as the corporate debtor to initiate the CIRP. The Code classifies creditors between financial and operational creditors based on the type of liability owed to them. As of June, 2020, of 3911 CIRP applications admitted, 1961 applications were initiated by financial creditors, *i.e.* 50 per cent; 1690 applications were initiated by operational creditors, *i.e.* 43 per cent and 260 applications were initiated by the corporate debtor himself which is only seven per cent.

As regards recovery of claims under the CIRP, in 250 cases where resolution plan was accepted, the debtors owed Rs.4.71 lakh crore on aggregate. Out of this, creditors could recover Rs.1.96 lakh crore (42 per cent). The IBBI noted that the value of assets of these 250 corporate debtors was only Rs.1.03 lakh crore when they entered CIRP. Hence, the value recovered is a ludicrous 191 per cent of the realisable value. In 952 cases where liquidation was initiated (data not available for other three), the debtors owed Rs.5.3 lakh crore to creditors on aggregate. The IBBI noted that these 952 corporate debtors had assets valued at Rs.0.38 lakh crore when they entered CIRP.

As of June 30, 2020, only 88 corporate debtors have been completely liquidated. These 88 debtors together had outstanding claims of Rs.11,512 crore. The assets of these 88 debtors valued at Rs.181 crore when they entered CIRP and Rs.192 crore was realised through liquidation of these companies, *i.e.*, 1.7 per cent of total claim.

Madam, this is the performance of your Ministry. Again, I will highlight other issues when my next turn comes.

***m04**

डॉ. निशिकांत दुबे (गोड्डा): धन्यवाद, सभापति महोदया ।

मैं अभी कांग्रेस के वरिष्ठ नेता अधीर रंजन चौधरी साहब को सुन रहा था और मुझे लगा कि शायद पार्लियामेंट में वे कुछ अच्छी बातें या सही बातें इस देश को बताएंगे, लेकिन जिस तरह से कांग्रेस हमेशा...* बहाती है, आज भी वही हुआ। यह आईबीसी एक ऐसा कानून आया, जिसने इस देश में एक अलग प्रकार का माहौल खड़ा किया, क्योंकि जब वर्ष 2004 से लेकर वर्ष 2014 तक इनकी सरकार थी और इन्होंने जिस तरह से इस देश को परेशान किया, इस देश के बैंकिंग सिस्टम को परेशान किया कि पूरा देश, पूरी जनता, कम से कम गरीब जनता कभी इनको माफ नहीं करेगी, क्योंकि बैंकों के सारे के सारे एनपीए इन्हीं की देन है और इनसे रिकवरी नहीं हो रही थी। जब माननीय मोदी जी ने चार्ज लिया, तो देश जो है, एक कहावत है, हमने लखनऊ की एक कहानी पढ़ी थी, “कि नवाब वाजिद अली शाह का जमाना था और लखनऊ विलासिता के रंग में डूबा हुआ था” पूरे के पूरे बैंकिंग सिस्टम में, जितने भी क्रेडिट इन्होंने दिए थे, वे सारे के सारे डिफॉल्ट हो गए थे। लगभग 14 लाख करोड़ रुपये का एनपीए हमारे सामने मौजूद था। इस तरह की इकोनॉमी ये छोड़कर गए थे।

महोदया, दीक्षित दनकौरी की एक बड़ी अच्छी शायरी है कि :

“न मांझी, न रहबर, न हक में हवाएं,
है कश्ती भी जर्जर, ये कैसा सफर है?”

आप यह समझें कि प्रधान मंत्री मोदी जी ने जब चार्ज लिया तो कुछ था ही नहीं। आप यह समझिए कि जिस नाव के सहारे इस देश को आगे बढ़ाना है, उस नाव में भी इतने छेद थे कि वह कब डूब जाएगी, यह लोगों को पता नहीं था। उस वक्त यह आई.बी.सी. कानून आया। अधीर दा अगर आई.बी.सी. की दो मिनट के लिए बड़ाई कर देते तो मुझे बहुत अच्छा लगता। लेकिन, कांग्रेस का स्वभाव है कि ...* करते चलो, ऐसा सिस्टम पैदा करो। हम सभी सांसद यहां बैठे हैं। इन्होंने राजीव गांधी विद्युतीकरण योजना दी कि हमने सभी गांवों में बिजली लगाने का फैसला किया है। उस समय 9 किलोवाट और 16 किलोवाट के ट्रांसफॉर्मर्स लगते थे। वे सब जल गए। अमीरों को बिजली जलाना है, गरीबों को नहीं जलाना है। अमीरों ने खुद धन लगाकर बिजली लगा ली। उसी तरह से, मैं आपको बताऊं कि रिकवरी के लिए जो कानून

था, उसमें कुछ चीजें मैं सदन के सामने लाना चाहता हूं कि इस आई.बी.सी. के आने के पहले काँग्रेस की पॉलिसी क्या थी? ऐसी क्या-क्या चीजें थीं, जिनके माध्यम से बैंक्स रिकवरी कर सकते थे?

सभापति महोदया, एक लोक अदालत का सिस्टम था। लोक अदालत के माध्यम से आप रिकवरी कर सकते हैं। यहां पर पिनाकी मिश्रा साहब बैठे हैं। ये एक बड़े वकील हैं और ये इस तरह के केसेज में लगे रहते हैं। आपको आश्चर्य होगा, मैं वर्ष 2018 का डेटा दे रहा हूं, यदि बैंक को 100 रुपये की रिकवरी होनी थी तो केवल पाँच रुपये की रिकवरी हुई। 5.3 प्रतिशत रिकवरी लोक अदालत के माध्यम से हुई। क्या काँग्रेस को यह कानून चाहिए था? ये दूसरा कानून डी.आर.टी. लेकर आए। आपको यह जानकर आश्चर्य होगा कि डी.आर.टी. ने तो और भी गजब कर दिया। यदि बैंक को, क्रेडिटर को 100 रुपये की रिकवरी करनी है तो उसके माध्यम से उसकी रिकवरी हुई - केवल 3.5 प्रतिशत, केवल तीन रुपये। क्या इस देश को यह चाहिए था?

ये जो तीसरा कानून लेकर आए, वह था सरफेसी एक्ट। सरफेसी एक्ट की रिकवरी 14 प्रतिशत थी। मैं सदन को बड़ी गम्भीरता के साथ बताना चाहता हूं कि यह जो आई.बी.सी. कानून वर्ष 2016 में आया, इसकी रिकवरी रेट है - 42.5 प्रतिशत से लेकर 45 प्रतिशत। क्या इस कानून में जो बातें चल रही हैं, उसके लिए हम लोगों को इसकी मदद करने की आवश्यकता नहीं है?

अब ये कोविड-19 की बात कह रहे हैं और कह रहे हैं कि आप यह ऑर्डिनैस क्यों लेकर आए? कोविड-19 के कारण क्या हुआ, यह पूरे देश ने देखा। बाप, बेटे से अलग हो गया। यदि किसी के बाप की मृत्यु हो गई तो उसका बेटा उसे जलाने तक नहीं गया। यदि घर में कोई बीमार हो गया तो वह वहां भी नहीं गया। पूरे देश की यह हालत है और पूरी दुनिया की यह हालत है। पूरी दुनिया में संबंध खत्म हो गए। ग्लोबल वर्ल्ड खत्म हो गया। यदि आज कोई लंदन, अमेरिका जाना चाहता है तो वह जा पाएगा या नहीं जा पाएगा, यह भी एक बड़ा सवाल है। आप पूरे देश में किस तरह के माहौल में जी रहे हैं? उसमें माननीय प्रधान मंत्री जी, माननीय वित्त मंत्री निर्मला सीतारमण जी और हमारे मित्र अनुराग ठाकुर साहब यदि कोई अच्छी चीज लेकर आ रहे हैं तो उसमें भी आप कह रहे हैं कि ऑर्डिनैस क्यों आया? ऑर्डिनैस की आवश्यकता क्यों नहीं थी? एक तरफ माननीय प्रधान मंत्री का उद्देश्य लोगों की जान बचाना था और दूसरी तरफ उनका उद्देश्य उनका पेट भरना था। तीसरी तरफ, उनका उद्देश्य यह था कि किस तरह से रोजगार पैदा करें। पूरी दुनिया में क्या हो रहा था? पूरी दुनिया इकोनॉमिक फ्रंट पर चार चीजों से लड़ रही थी। लॉकडाउन में

केवल हिन्दुस्तान में ही नहीं, बल्कि पूरी दुनिया में सारी दुकानें और फैक्ट्रियां बंद हो गई थीं। उसके कारण क्या हुआ? अभी ओ.ई.सी.डी. की रिपोर्ट आई है कि पूरे विश्व में इस साल कम से कम 5 प्रतिशत बेरोजगारी बढ़ने वाली है। क्या बेरोजगारी को दूर करने के लिए कम्पनियों को बचाने की आवश्यकता नहीं है?

दूसरी बात यह है कि जो इंटरनेशनल ट्रेड का कॉस्ट है, वह करीब 25 प्रतिशत बढ़ने वाला है। उसके बढ़ने का कारण यह है कि बॉर्डर्स सील्ड हैं। पूरी की पूरी इकोनॉमी सील्ड हो गई है। आज भी इन्टर स्टेट मूवमेंट में सभी लोगों को परेशानी हो रही है। यदि इन्टर स्टेट मूवमेंट में परेशानी है तो वर्ल्ड वाइड और जगहों पर भी परेशानी है। इसलिए उसकी 25 प्रतिशत कॉस्ट बढ़ने वाली है। उसी तरह से, पूरा का पूरा पर्यटन उद्योग, चाहे वह होटल हो, चाहे सिनेमा हॉल हो, चाहे टैक्सी वाले हों, रिक्शा वाले हों, ठेले वाले हों, सभी के सभी बेरोजगारी की हालत में हैं और पूरी दुनिया में इस सेक्टर को कम से कम 75 प्रतिशत नुकसान होने वाला है।

महोदया, जो सबसे महत्वपूर्ण बात है, वह यह है कि ऐसा कोई भी देश नहीं है जहां जी.डी.पी. लॉस नहीं है। पूरी दुनिया में जो विकसित देश हैं, जैसे यू.एस.ए. है, यू.एस.ए. ने अपनी इकोनॉमी में 2 ट्रिलियन डॉलर दिया। उसी तरह से चीन ने दिया। यदि आप सारे कानूनों की बात करेंगे तो मैं आपको बताऊंगा कि यूनाइटेड किंगडम ने इस पर पूरा मोरेटोरियम लागू कर दिया कि जब तक कोविड-19 का मामला चल रहा है, वहां 31 दिसम्बर तक पूरा मोरेटोरियम होगा। जर्मनी ने इंसॉल्वेंसी और सभी क्रेडिटर्स राइट्स में छः महीने के लिए संशोधन कर दिया। रोमानिया ने इस कानून को 16 मार्च से स्थगित कर दिया।

उसी तरह से न्यूजीलैंड में हुआ है। मैं आपको बताऊँ कि जितने भी देश हैं, उन सभी देशों ने इस तरह का कानून लागू किया। भारत को क्या करना चाहिए था, भारत ने सेक्शन-7, 9 और 10 में संशोधन किया। उसने संशोधन यह किया कि जो फाइनेंशियल क्रेडिटर्स हैं, या जो ऑपरेशनल क्रेडिटर्स हैं, या जो कॉर्पोरेट डेबटर्स हैं, इन सबों के बीच में किस तरह का सामंजस्य लाया जाए। यदि मान लीजिए कि आज कोई कंपनी अगर इन्सॉल्वेंसी में जाती है, हमने आपको बताया कि हम 45 परसेंट तक उससे पैसा रिकवर कर पाए हैं। आज जब पूरी इकोनोमी ठंडी हो गई, किसी के पास कोई पैसा नहीं है, न ही फॉरेन के कोई इन्वेस्टर्स यहाँ आने के लिए तैयार हैं, न ही इंडियन इन्वेस्टर्स यहाँ आने के लिए तैयार हैं, बैंकिंग सिस्टम में कोई काम करने के लिए तैयार नहीं है। उसको यह पता नहीं है कि यदि हम इस कंपनी को ले लेंगे तो कोविड-19 के बाद वह चल पाएगा या नहीं चल पाएगा, वह इस तरह से काम नहीं कर पाएगा। क्या आपको लगता है कि हम 100 रुपये की चीज इन्हीं की तरह डी.आर.टी. और सरफेसी एक्ट लगाकर पाँच रुपये में बेच दें? आपको ध्यान होगा कि इसी पार्लियामेंट ने मार्च के महीने में इन्सॉल्वेंसी एक्ट में एक बड़ा संशोधन किया था। हमने यह सोचा था कि इस इन्सॉल्वेंसी एक्ट से, आप जो कह रहे थे कि 270 दिन लगेगे, किस तरह जल्दी से सुविधा मिल जाए, किस तरह लोगों को रोजगार

मिल जाए, वह सारी व्यवस्था सरकार ने की थी। जिस तरह से यह सिचुएशन पैदा हुई, उसमें भारत सरकार के पास किस तरह की चीजें मौजूद थीं। आप जो सी.आर.पी. की बात कर रहे हैं, इस देश में एक बड़ा ही घटिया तरह का माहौल चल रहा है। वह माहौल यह है, अभी आपने देखा होगा कि एक प्रोफेशनल कंपनी में इस तरह के प्रोफेशनल आर.पी. नियुक्त करते हैं। आप जो सी.आर.पी. की बात कर रहे थे, उसके यहाँ रेड हुआ। उस रेड में जिस तरह का पता चल रहा है, वह भारत सरकार के लिए एक बड़ी सोचनीय बात है। आप क्या सोचते हैं कि उनको अधिकार देकर यदि सेक्शन-66(8) संशोधन नहीं करते तो वह आर.पी. किसी भी कंपनी को किसी भी तरह से बेच सकता था। क्या आप कंपनी को लिक्विडेशन में ले जाना चाहते हैं?

यदि एनसीएलटी के माध्यम से आई.बी.सी. कोड के अलावा, यदि यह लिक्विडेशन में चलता है तो मैं पूरे सदन से पूछना चाहता हूँ कि लिक्विडेशन में कंपनी को कितना पैसा मिलता है और कितनी वापसी होती है? लिक्विडेशन का जो लेवल है, वह 8, 9, 10 परसेंट से ज्यादा हो ही नहीं सकता है। क्या आप यह चाहते हैं कि इस कानून में संशोधन नहीं हो और कंपनी लिक्विडेशन में चली जाए। आप कैसेस की बात कर रहे थे, इस आई.बी.सी. कोड में क्या हुआ?

सभापति महोदया, मैं आपके माध्यम से अधीर रंजन चौधरी साहब को बताना चाहता हूँ कि यह सेक्शन-7 में लिस्ट होने के पहले इस देश में 27,000 ऐसे कैसेस थे, जिनके लिए सेक्शन-7 लागू करने का मौका ही नहीं मिला। उसके पहले ही कम से कम 2 लाख करोड़ रुपये की रिकवरी इस सेक्शन के कारण हो गई। सेक्शन-7 के आने के बाद जब सेक्शन-9 में जाने की बात आई तो उसमें से 12,000 ऐसी कंपनीज़ हैं, जिनकी सेक्शन-9 के पहले ही पूरी रिकवरी हो गई। उसी तरह से सेक्शन-10 में लगभग 140 ऐसी कंपनीज़ हैं, जिनसे सेक्शन-10 लागू होने के पहले ही रिकवरी हो गई। यह इतना बढ़िया एक्ट है और उस एक्ट में जो यह मॉरेटोरियम है, वह यह है कि उसके कारण कंपनी बचेगी, लोगों का रोजगार बचेगा, बैंकों का पैसा बचेगा। यह जो आप एमएसएमई की बात कर रहे हैं, इसके बारे में आप जनता को गुमराह कर रहे हैं। एक करोड़ से नीचे के जो लोग हैं, वे किसी भी आई.बी.सी. के दायरे में आते ही नहीं हैं। उनके लिए आर.बी.आई. में, या कम्प्रोमाइज फॉर्म्यूल के तहत कई एक कॉर्पोरेट लॉ में ऐसे कानून हैं, जिनके माध्यम से वह अपनी रिकवरी कर सकते हैं।

अंत में, मैं अपनी एक बात कह कर अपना भाषण समाप्त करूँगा। इन लोगों को माननीय मोदी जी के ऊपर तथा इस देश की हिन्दू सभ्यता एवं संस्कृति के ऊपर कोई फेथ नहीं है। मैं अभी येरूशलम गया था। येरूशलम में तीन रिलीजन्स हैं। उसके बाद मुझे एजिप्ट भी जाने का मौका मिला। यदि हम यहाँ कहते हैं कि गाय हमारी माता है, हम उसका दूध पीते हैं, गाय को मत काटिए तो लोगों को लगेगा कि यह हिन्दू धर्म की बात है। मैं सभी से कहता हूँ कि एजिप्ट के उस कैरो के म्यूजियम को

देखना चाहिए। वहाँ जो ममीज़ हैं, उसमें गाय का फोटो बना हुआ है। उसमें वे कहते हैं कि गाय मेरी माता है, जबकि वह पूरा का पूरा इस्लामिक कंट्रीज हैं। येरूशलम में अल-अक्सा मस्जिद है। लोग कहते हैं कि वहाँ मोहम्मद साहब आए थे और उनको कुरान मिला था। उसके बाद वह एक पत्थर पर आए और बाद में स्वर्ग चले गए, या जहाँ भी भगवान जाते हैं। मेरे कहने का मतलब है कि जिस धर्म में उनकी आस्था है।

उसके ठीक 300 फीट नीचे ज्यूज़ आज भी माथा पटकते हैं और कहते हैं कि यहां मेरे गॉड हैं और उस गॉड के लिए वे यहां जाते हैं। उसी तरह से यहां ईसामसीह का क्रूसीफिकेशन हुआ। फ्राइडे को क्रूसीफिकेशन होता है और संडे को केवल 15-17 लोगों को ही पूरी दुनिया में वे मिलते हैं। वे कहते हैं कि यह धर्म है। कोई भी उस धर्म के ऊपर क्वैश्चन नहीं करता है कि ज्यूज़ ऐसा क्यों कहते हैं, मुस्लिम ऐसा क्यों कहते हैं और क्रिश्चियन ऐसा क्यों कहते हैं? लेकिन भारत में हमेशा चर्चा होगी कि अयोध्या में राम पैदा हुए, वह तुम बताओ, मतलब आस्था का सवाल है। उसी तरह से पूरे देश में जनता का विश्वास माननीय मोदी जी के ऊपर है। ये वही ताकतें हैं, जो राम का इतिहास पूछने की कोशिश करते हैं। जनता के विश्वास को डिगाने के लिए ये इसी तरह की बातें करते हैं। मिस्टर मोदी में आस्था है और मिस्टर मोदी जो भी काम कर रहे हैं, वे देश को बनाने का काम कर रहे हैं। छोटे से लेकर बड़े लोगों को कैसे बचाया जाए, कैसे इस कोविड 19 से रक्षा की जाए, उसके लिए मैं सभी से आग्रह करूंगा कि आप इस कानून का दिल खोलकर समर्थन करिए। इन्हीं शब्दों के साथ, जयहिंद, जय भारत।

***m05**

SHRIMATI PRATIMA MONDAL (JAYNAGAR): Madam Chairperson, I thank you for allowing me to speak on the Insolvency and Bankruptcy Code (Amendment) 2020.

The spread of Corona virus pandemic across the globe followed by subsequent lockdowns has adversely affected business operations across the world. This has further increased the pressure on the distressed Indian markets, MSMEs and other small-scale business operations. In order to provide relief to these sectors, assistance through amendment of certain laws were obviously the need of the hour but not the ones like amendment to IBC, 2020. This is so because it is a classic example of good intentions but bad drafting. It has been done in a hurried manner and thus, will reap sour fruits in the future.

The main bone of contention in the Ordinance, and now the Bill, is the conflict between the main provision and the proviso in the Bill. I say so because Section 10A states that no application for initiation of Corporate Insolvency Resolution Process under Sections 7, 9 and 10 of IBC shall be filed for any default (not just COVID related but any default) occurred on or after 25th March, 2020, for a period of six months. This period can be further extended by a notification up to a maximum of one year.

Again, a proviso to Section 10A states that no application under Sections of 7, 9 and 10 shall ever be filed for initiation of CIRP for defaults occurring during the said period which is occurring between 25th March, 2020 and 24th September, 2020. Now, if the intention of the Bill is to suspend the insolvency proceedings temporarily, then there is no requirement for providing the perpetual suspension in the proviso but the language of the proviso seems to put an exemption forever for defaults committed during the exempted period. The conflict between the main Section and the proviso must be corrected immediately to avoid further confusion.

The Supreme Court in *J.K. Industries Limited versus Chief Inspector of Factories and Boilers* held that, in some cases, a proviso may be an exception to the main provision though it cannot be inconsistent with what is expressed in the main provision. If it is so, it would be ultra vires of the main provision and struck down. As a general rule, in construing an enactment containing a proviso, it is proper to construe the provisions together without making either of them redundant.

I would humbly request the Minister to provide clarification on this matter because at one point, we may even assume that it speaks of what the hon. Minister had said that COVID 19-induced defaults will be kept outside the purview of the Code but the Bill nowhere mentions COVID 19-induced default.

Thus, perpetual suspension of default is absolutely unjustified.

Secondly, Madam, the amendment to Section 66 of IBC 2016 also offers an easy way out for the promoters, directors, partners of the defaulting corporation or company, putting the creditors money at risk because now they can escape their liability, and wilfully default the payment of dues without being held accountable for the default, resulting in accumulation of debts and increased financial burden.

Thirdly, Madam, the suspension of Section 10 of IBC 2016, that is, voluntary insolvency application by the corporate debtor takes away the autonomy of the company under financial distress to restructure its debt. It would increase the distress of the company, further diminishing the value of its assets.

Fourthly and finally, Madam, the Bill is not particularly concerned with small scale industries or MSMEs as it does not have any special insolvency resolution framework for MSMEs under section 240A of the Code, as was announced under the *Aatma Nirbhar Bharat Abhiyan* reforms. Though, the notification dated 24th March, 2020 was intended to benefit the MSMEs, it is not in line with such intention because MSMEs will not be entitled to initiate any action until the threshold of Rs. 1 crore is crossed, which is very unlikely to happen. Thus, the main purpose seems to be providing mere ease to the infrastructural and capacity constraints around the NCLT, and to discourage large volumes of applications filed for initiation of CIRP. ...(*Interruptions*)

I would like to end by saying that all these confusions could have been avoided if the definition of default under Section 3(12) of IBC would have been amended for a period of six months to a maximum period of one year, instead of making amendments to Section 10 and Section 66. Thank you.

***m06**

SHRI BALASHOWRY VALLABHANENI (MACHILIPATNAM): Madam, I thank you for giving me an opportunity to speak on this very important and crucial amendment brought in view of Corona pandemic in the country.

It is welcome that the Bill seeks to temporarily suspend initiation of the Corporate Insolvency Resolution Process (CIRP) under the Code, and is proposed to extend it for one year, if necessary. So, I, on behalf of my Party, YSRCP, welcome this move. The changes are good, and it will help strengthening of Code for better implementation.

The proposed amendments were announced by hon. Finance Minister as a part of her announcements made under the AatmaNirbhar Bharat Package. Madam, with your permission, due to very limited time, I will quickly make my points and request the hon. Finance Minister to look into them and take necessary steps for further strengthening of this Code.

Madam, my first and basic point is that there are some resolutions which are genuine and perfect in all respects. But some dishonest people or companies challenge and take them to higher courts through silly petitions. It is not just such people, but even there are advocates trying to delay the proceedings through unfair means.

Madam, such actions are blocking the money of successful bidders deposited in Escrow Accounts. So, how is the Ministry planning to tackle such issues?

My second point is, why can the banks not allow the original promoters to participate in bidding wherever forensic audit is clear on them, if they are genuine parties? I think, it is definitely possible because the promoters know the actual strengths of the unit. I am requesting the hon. Finance Minister, through you, to look at this option so as to reduce the losses to Banks.

My third point is about the availability of Insolvency Professionals. Earlier, when companies were facing problem in getting CSR professionals, the Corporate Affairs Ministry started some courses or programmes to give training. But now, we are having problem in getting Insolvency Professionals. So, will the hon. Finance Minister consider starting some training programme or course to train them? I would request the hon. Finance Minister to explain this.

Finally, with regard to clogging of cases before 27 NCLTs, there are nearly 11,000 cases under IBC and 9,000 cases related to the Companies are also pending before the NCLTs. The number of cases is going up and so, resolutions are delayed. When we are asking for increasing the number of benches of NCLTs, the hon. Minister is silent. So, I would like to know as to how the Minister is going to solve this problem.

With these observations, I conclude my speech.

माननीय सभापति: श्री हेमंत पाटिल - उपस्थित नहीं ।

श्री चन्द्रेश्वर प्रसाद जी ।

***m07**

श्री चन्द्रेश्वर प्रसाद (जहानाबाद): माननीय सभापति जी, आपने मुझे दिवाला और शोधन अक्षमता संहिता (दूसरा संशोधन) विधेयक पर बोलने का मौका दिया है, इसके लिए बहुत धन्यवाद ।

कोरोना के कारण लोन नहीं चुकाने की वजह से डिफॉल्ट करने वाली कंपनियों की संख्या बहुत अधिक हो गई है । मेरे संसदीय क्षेत्र जहानाबाद सहित बिहार राज्य की कई कंपनियां शामिल हैं । कोरोना वायरस के कारण वक्त की मांग थी कि तत्काल कोई ठोस कदम उठाया जाए, इसलिए अध्यादेश का तरीका चुना गया ।

हम सब जानते हैं कि इस साल जून, 2020 में सरकार ने एक अध्यादेश के जरिए आईबीसी में कुछ बदलाव किया था। आईबीसी अध्यादेश कोरोना महामारी से पैदा हुए अभूतपूर्व संकट के कारण लाया गया था। इस संशोधन के बाद कोविड-19 की महामारी से जिन्होंने डिफाल्ट किया है, उन्हें कर्ज देने वाले बैंक्स और कंपनियों को कोर्ट में नहीं घसीट सकते हैं। आईबीसी से तात्पर्य है कि अपना कारोबार चलाने के लिए बैंक से यदि किसी ने कर्ज लिया है और लोन नहीं चुकाने की वजह से उसे डर है कि कहीं आईबीसी के तहत कार्यवाही न हो जाए तो इसका इंतजाम सरकार ने कर दिया है। मैं इसके लिए सरकार को बहुत धन्यवाद देता हूँ। यह अध्यादेश मजबूरी में डिफाल्ट करने वाली कंपनियों को राहत देने वाला था और इसके विधेयक बन जाने से कर्ज लेने वालों एवं कंपनियों को और राहत मिलेगी और काफी फायदा होगा

मैं आदरणीय प्रधान मंत्री जी को धन्यवाद देता हूँ कि उन्होंने बिहार को बहुत सौगात दी है और आगे भी देंगे। मैं इस विधेयक का समर्थन करते हुए अपनी बात समाप्त करता हूँ। धन्यवाद।

***m08**

श्री पिनाकी मिश्रा (पुरी): माननीय सभापति जी, आज हमारे मित्र निशिकांत जी स्पीच देकर हाउस से चले गए, उन्होंने कहा कि अच्छा होता अगर इस तरफ से दो शब्द आईबीसी की प्रशंसा में बोले जाते। मैं कहना चाहता हूँ कि आज से नहीं, बल्कि हम पहले दिन से इसकी प्रशंसा कर रहे हैं और यह हाउस भी हमेशा से इसकी प्रशंसा करता आया है। यह देश को स्वर्गीय अरुण जेटली जी की देन है। मेरे हिसाब से उनकी मंशा के अनुसार काम करने से बहुत अच्छा रिजल्ट कई जगह आया है। सबसे बड़ी बात है कि कहीं ऐसा न हो कि हम प्रशंसा में इतने लीन हो जाएं कि आगे का रास्ता भूल जाएं।

Madam Chairperson, there is no question that an ordinance was required. A moratorium was required because these are extraordinary times. Other countries, as Mr. Dubey pointed out, have also given similar moratorium. So, there is no question that this was absolutely in order. Therefore, an ordinance was also in order.

I just need one quick clarification from the hon. Minister because the Statement of Objects and Reasons of this Bill mentions that the relief is for companies affected by COVID-19. The difficulty is, the actual text of clause 2 makes no such linkage. It suspends initiation of CIRP for all defaults arising during the period. This is very important because there is a permanent prohibition on CIRP for defaults during this period. Therefore, perhaps, this goes further than was necessary.

The reason I can tell you is this. The GST shortfall to States, has been calculated at Rs. 2.35 lakh crore, and the Government's own assessment is that, of this, only Rs. 1.38 crore is COVID-19 related or 'act of God' related. Therefore, it is possible for the Government to identify and differentiate between the COVID-19 defaults and the related defaults.

So, I feel that perhaps the Government needs to clarify on this because Germany, for instance, has required companies to prove that they were liquid as of 31st December, 2019 before they can go ahead and claim any kind of moratorium. So, this is a very important point.

Madam, more importantly, I would just depart from the actual contents of the Bill itself, which cannot be taken exception to. Let us not forget that tinkering with the objects and the Sections of the Act is really the nuts and bolts. You are either tightening some nuts or loosening some screws. The superstructure of this entire edifice is the NCLAT and the NCLTs. That is the infrastructure, which will take this Act forward, which will decide whether this Act is a success or not.

Today, unfortunately, for many months now, there is no full-time Chairman of the NCLAT. The Chairman, NCLAT, is the captain of the ship. He is the one, who is supposed to guide the NCLAT as well as the NCLTs all over the country. Without a full-time Chairman, NCLAT, this is not possible. I cannot understand -- when so many eminent Judges have retired over the past several

months and years -- why the Government cannot find one suitable person to take over as Chairman, NCLAT, who can give direction and purpose to this Act?

As my friend Mr. Dubey said, how difficult it is to get a date. Only I know that you have to beg and plead to get a next date of hearing because the courts are so choked up; they are chock-a-block, full. Therefore, what Mr. Adhir Chowdhury said, and the only part of his statement, which I genuinely empathise with, is that when you are taking 300, 350, 400 and 450 days for a resolution, that is not a resolution; that is not what this Act wanted. Particularly, after this moratorium now, when the Act becomes operational again, there will be a deluge of cases. Therefore, unless we have a proper infrastructure and superstructure in place, unfortunately, there is going to be serious problems.

One last issue, which again my friend Mr. Dubey mentioned, is about the RPs. The other part of the superstructure here is the Resolution Professionals. Unfortunately, in the 'Bhushan Power' case, which he mentioned, several hundred crores of rupees seems to have been siphoned off in collusion with the promoters. It is the Resolution Professionals today, who get their skin in the game. Somebody said that lawyers are actually responsible for delays. I believe, actually, it is the Resolution Professionals today, who have got their skin in the game, are not willing to let go of their control over these companies.

So, I would appeal to the hon. Finance Minister to ensure that the IBBI, which is the agency which has been given the power to educate these RPs, should do a better job in getting in better RPs into the field so that there is less fraud, less collusion. These things have been said, other things being equal, it is a salutary piece of legislation brought by the hon. Finance Minister, and there is no question that this House will not go with her on this.

Thank you very much, Madam Chairperson.

*m09

श्री श्याम सिंह यादव (जौनपुर): धन्यवाद सभापति महोदया, The Insolvency and Bankruptcy Code Bill provides for a time-bound process to resolve insolvency amongst companies and individuals. Insolvency is a situation wherein an individual or a company is unable to pay their outstanding debt. मैं देखता आया हूँ कि हर आदमी अपनी जीविका के लिए कोई डॉक्टर बनता है, कोई इंजीनियर बनता है, कोई टीचर बनता है, कोई कुछ बनता है, वह अपने घर के भरण-पोषण के लिए कमाता है। लेकिन, कुछ कंपनियां ऐसी हैं, जो इतने डाकू और लुटरे हैं कि उनका केवल एकमात्र उद्देश्य रहता है कि एक कंपनी फ्लोट करो, पैसा कमाने का यह भी एक तरीका है। एक कंपनी फ्लोट करो और शेयर में मैनिपुलेट करो। वे कभी शेयर खरीदते हैं, कभी बेचते हैं। कंपनी के सभी शेयरों का पैसा साइफन कर लेते हैं, खुद में रख लेते हैं और एक स्टेज आती है जब उसको दिवालिया घोषित कर देते हैं।

ऐसी कंपनियों में काम करने वाले लोग गद्दार हैं, एंटीनेशनल हैं। गरीबों की गाड़ी कमाई व खून चूसते हैं। मध्यम वर्गीय जो परिवार हैं, उनके ढेर सारे सपनों को तोड़ते हैं और देश की अर्थव्यवस्था से खिलवाड़ करते हैं। आपने देखा है कि नोएडा में हर जगह रियल एस्टेट कंपनियां हैं। कई लोगों ने उसमें अपने लाखों रुपये लगा रखे हैं और फ्लैट के लिए इंतजार कर रहे हैं। वे उनका पैसा डकारकर बैठ गए हैं। इन कंपनियों पर जितनी नकेल कसी जाए उतना अच्छा होगा और जनता के लिए और देश की अर्थव्यवस्था के लिए भी बेहतर होगा।

अभी डॉ. निशिकांत दुबे जी कह रहे थे कि यह आया है तो इसका रिकवरी रेट 42 से 45 परसेंट हो गई है। मैं कहना चाहता हूँ कि अभी तो बच्चा पैदा हुआ था, आर्डिनेंस था और अब यह बड़ा हो रहा है। अब यह आगे चलकर क्या काम करेगा और कैसी परफॉर्मेंस देगा, उसके लिए हमें इंतजार करना पड़ेगा। उन्होंने कहा है कि दो शब्द प्रशंसा में कह दीजिए तो मैं कहना चाहता हूँ कि गवर्नमेंट इस बिल के जरिए एक-दो चीजें अच्छी करने जा रही है जैसे

“A Director or a partner of the corporate debtor may be held liable to make personal contributions to the assets of the company in certain situations.”

देखिए, यहां पर सर्टेन सिचुएशन लाकर फिर से गफलत पैदा कर दी गई है, फिर से एक मौका दे दिया है। सर्टेन सिचुएशन है कि नहीं है? सत्ताधारी लोग बैंक के साथ और कंपनियों के साथ मिलकर सर्टेन सिचुएशन है या नहीं, उसमें मैनुप्लेट करते हैं।

“There must be clear-cut laws. There should not be any ambiguity. This liability can occur if despite knowing that the insolvency proceedings cannot be avoided, the person did not exercise due diligence in minimising the potential loss to the creditors.”

आप देखिए कि जो ड्यू डिलिजेंस और सर्टेन सिचुएशन वाली बात है, इसमें यह गलत बात है। यह बात यहीं पर मैनुप्लेट करने का मौका देती है। मैं इस बिल के डिसकशन के समय एक और बात कहना चाहता हूँ कि जो लोग फ्रॉड करते हैं, मुझे संदेह है कि इलेक्टोरल बांड में लाखों-लाखों, करोड़ों-करोड़ों रुपये का डोनेट करते हैं इसलिए मैं इस मौके पर यह भी कहना चाहूंगा कि इलेक्टोरल बांड जितने लोगों ने दिया है, उसको ओपन किया जाना चाहिए और उसमें ट्रांसपेरेंसी लाई जानी चाहिए। मुझे बहुत बड़ा संदेह है कि इसी तरह से जो कंपनी फ्रॉड करती है, वह सत्ताधारी पार्टी को इलेक्टोरल बांड के रूप में फायदा पहुंचाती है। इन्होंने एक और छोटी सी चीज करने की कोशिश की है, वह भी अच्छी है।

“The Ordinance prohibits the initiation of insolvency proceedings by the corporate debtor. The question is whether the corporate debtor should be prohibited from initiating insolvency proceedings. The corporate debtor may be better placed to assess whether the recourse under the insolvency framework is warranted.”

So, this is another good thing which they are trying to do.

माननीय सभापति: डॉ वेंकटेश नेता जी।

SHRI SHYAM SINGH YADAV: Madam, just one minute. वैसे ही मैं बहुत संक्षिप्त में बोल रहा हूँ। Under the Code, there is one good thing to appreciate. I think, they will be happy enough to hear it.

“Under the Code, insolvency proceedings can be initiated against the personal guarantor of a corporate debtor.”

This is another thing which they have brought in here in the Bill.”

वैसे तो मुझे बोलने के लिए बहुत कम समय अलॉटेड है।

मैं इन्हीं शब्दों के साथ माननीय मंत्री जी से यह रिक्वेस्ट करना चाहता हूँ कि बिल की कंडीशन्स पर और ज्यादा नकेल कसी जाए। जैसे सरकार कोविड-19 के नाम पर इनको कई कंसेशन्स देने जा रही है तो यह बिल्कुल भी नहीं होना चाहिए।...(व्यवधान)

***m10**

DR. VENKATESH NETHA BORLAKUNTA (PEDDAPALLE): Madam, thank you very much for giving me the opportunity to speak on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020.

On behalf of TRS party and the State of Telangana, I fully agree with the objects and reasons. In this crisis situation of the pandemic, all sections of the society and all sectors of the economy need support and sympathy. There is a greater responsibility on the Central Government to create an atmosphere for economic activities to continue and pick up, as far as possible, and support them to the extent possible in this difficult moment. I am sure, the IBC (Second Amendment) Bill will help the companies to keep alive to run the companies well. To revive and support economic activities, all-round efforts are needed by the Central Government in the interest of the nation. In this hour of crisis, the Central Government must make all efforts and support institutions and State Governments to minimise the distress of the people. The measures to assist the States may be in several ways: financial, legal, infrastructure building, restoration of connectivity and communications, support to industries, agriculture, service sector and business, etc. These will further generate employment to the benefit of the people in the States as well as in the nation.

In the State of Telangana, under the able leadership of our inspirational Chief Minister, Kalvakuntla Chandrashekhar Rao *ji*, the revival efforts are picking up on the revolutionary basis. As far as the financial support is concerned, I have been bringing up the issue of reimbursement of GST dues to all the States. At this stage, when the State is trying hard to revive all the sectors of the economy and launch all-round welfare measures for the welfare of the people of the State, financial support from the Central Government is important and urgently required. Therefore, I would like to highlight the issue of immediate release or reimbursement of GST, IGST and grant for regional imbalances -- approximately Rs.9,000 crore – pending to the State of Telangana.

There are some other financial and developmental related matters relating to the State of Telangana under consideration with the Central Government, namely, special assistance grant of Rs. 450 crore to the backward districts in the State of Telangana and release of funds under the 15th Finance Commission. All these financial matters relating to disbursement to the State of Telangana are crucial from the point of view of revival of the economy, creation of employment opportunities and welfare of the people of the State of Telangana.

Thank you very much, Madam.

***m11**

SHRIMATI SUPRIYA SADANAND SULE (BARAMATI): Thank you, Madam. I must say one thing that in these extraordinary difficult times that the world is going through, the one Ministry which regularly, I think, outperforms all the other departments is the Finance

Ministry. I have even in the last Session mentioned that we may have strong disagreements but I would like to compliment her and her Minister of State. They are the two people who constantly come with Bills to try and fix things which really need fixing with urgency.

Specially at the time that we are going through, this is a Bill, as Pinaki Misra *ji* said, which is not something we object. It is something we support and it is probably the need of the hour. It is the sensitivity of the Ministry to bring up the pandemic issue to make sure that the companies which are already under such pressure get a breather. But there are three quick clarifications I would like to seek from her. It is because I remember her speaking on this Bill in the month of March; I could stand corrected.

She mentioned that in this Bill, when the cross-border issues would come up, we would have a specific rule to make sure that all Indian investors are protected when we have international relations. You are bringing FDI in such a big way into India. Every investor should be protected. But, when we have cross-border issues, how are we going to address them? You had mentioned it. So, is it included? If it is not, how soon would you do it? It is because, we really need it. It is because the JPC was formed in 2017; we are in 2020. It is a very important issue, I think, we all need to address so that every investor is protected.

The second issue which is very-very important and, I think, which the Treasury speaker talked about, is about the moneys that have come back. He mentioned about sections 7, 9 and 10 very proudly. I am not taking away the fact. Please correct me. I could stand corrected because finance is not my core strength. But it is more about the banks and about the financial creditors. I want to know how much money have been lost. I agree that the 45 per cent of the money has been returned which is a wonderful thing. I would complement your Government. But it is 45 out of 100. So, what has happened to the remaining 55 per cent? Is that a haircut? Has that money gone? What is the status of this bank? I do not feel any of us should be proud if a company is shut down, be it a big or small.

Several lakh people lose their jobs. Employment is at its absolute bottom globally. So, what intervention are you doing? I am not sure what Mr. Dubey said about sections 7, 9 and 10. Is it something very complementary or anything to be proud of?

The other point is between resolution and liquidation. Liquidation is the worst option. So, is that something we are looking for? It is because we have not got money back after its liquidation. So, should 'Resolution' not be our first priority? I would come back to that point again because there are one or two companies about which I would like to bring to your notice.

There is another point which Mr. Pinaki Misra has raised. I would not repeat it but I would like to bring it to the notice of this House. What he said about having a full time NCLAT Chairman was absolutely right. As a matter of fact, Mr. Misra, had asked a question on 19th September. He asked whether the Government has any plans to expand e-Courts so that there could be less pressure; and the reply of the Government was that 'there are only 16 Benches of NCLT and only nine Benches are working online'. So, I have a request. He said that NCLAT needs a full time Chairman. It is because if we really want to accelerate the setting up of infrastructure and help the poor men, we should do this.

There is one topic which is very close to my heart. In the Insolvency Bill, you have made one point which is not directly connected but in the larger interest, it is very important for us. Under the Code, the director or the partner of the corporate debtor may be held liable for making personal level contribution to the assets of the company in certain situations. I have a request to the hon. Finance Minister. She had brought another Bill for Cooperative Banks just last week. Can we extend this so that the PMC Bank - all the lands which are lying or properties which are lying – can sell land or property in a time bound manner. If it works for insolvency here, why can it not work for the PMC bank?

Major suggestions have come. Madam, Finance Minister, you are also an economist. You would definitely remember this. It was the TARP which the America has brought about. Even Nishikant Dubey Ji talked about various countries. He talked about what various other countries have done. I want to ask a pointed question to this Government. What are you doing to save the economy? I remember the US at one time had the Trouble Asset Relief Programme in 2008 -- there was a financial crisis -- to stabilise financial systems for better economic growth and to mitigate foreclosures. So, do you have a plan to make our economy strong and robust something specific like this which has been mentioned?

There are several companies which are getting closed. We keep reading about it. There are some resolutions under this. I would like to ask a pointed question to this Government. Every company is under pressure right now. You talk about Air India. I am so fortunate that the hon. Minister was exceptionally helpful to us during the pandemic. It was Air India which brought millions of our family members, friends, professional and children from abroad, but Air India is under pressure. Air India is under pressure, you have not been able to sell it. Now, Air India is a company run by the Government. It is a business stressed or a business loss company. There are other companies. Take for example, Jet Airways. I would specifically talk Jet Airways because Jet Airways had a huge hub and huge employment, especially from the State where I come from, where it started, which is Maharashtra. So, why is Jet Airways treated differently than Air India? Why is BSNL treated differently than others? So, if the Government makes mistakes, is it okay? Whether it is your Government or my Government, that is not the point. Who did it? Why did it happen? It has been six years now. So, in these six years, what corrective measures have you taken to make sure that every Government run company is run better? Are private companies bad? Can we have some solution? Why is it that if a Government owned company is a business stressed company and when it is a private company, it is always a corrupt company? I think it is unfair especially when you are trying to do 'Ease of Doing Business'? I compliment the Government that they have gone up the ladder in doing 'ease of doing business'. I do not think capitalism

is bad at all. They create jobs and also they create wealth. So, when you are doing all this, what specific interventions will you do to improve this? Some of them are for bankruptcy; some of them are for resolutions; and some of them are for NCLT resolution.

19.00hrs

So, what quick time bound measures are you taking to make every businessman or even an investor feel confident that his or her money is safe in India and they are protected? This Government is, beyond words and only legislations, committed to making this economy a five- trillion economy. Last time Mr. Singh said the Government is committed to make this economy a 10-trillion economy. Whatever you do, my only humble request is this. I do not want to get into the numbers game. Unemployment is back. The minute unemployment goes, the Government's economy improves and our social sector programmes, which are right now all doing badly, will do better. So, it is really for poverty alleviation. We need to get our house in order. So, I just request the hon. Minister to give all these clarifications because when you say something, it sends a clear message in this country and gives confidence to people who need it right now the most. Thank you.

***m12**

SHRI MANISH TEWARI (ANANDPUR SAHIB): Thank you Madam Chairperson for giving me the opportunity to speak on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020.

This Bill has a certain context, which I think this House needs to keep in mind, and the context is that even before the COVID-19 pandemic hit the world and hit us in turn, the Gross Domestic Product of our country, the GDP growth rate, had been in a freefall for

seven quarters. The fundamentals of the economy, namely savings, investment, consumption and employment, have been under a stress, if not under a severe stress, for a while now, even preceding COVID-19.

If I recall correctly from the top of my head, in the first six months of 2019-2020, which is H1, credit offtake was down by 93 per cent from Rs.7,35,000 crore to Rs.93,000 crore. The Government in 2019-2020, after the Budget has been presented, tried to remedy the economic situation but instead of giving a demand side stimulus, they decided to give corporate India a relief of Rs.1,45,000 crore in terms of corporate tax which essentially was a supply side fix. But, unfortunately, it failed to boost the economy. Therefore, if the current Bill is also read in juxtaposition with the Companies (Amendment) Bill, which was in this House two days ago, the same mistake is being repeated again and again. The Government feels that the panacea for all evils, the magic bullet to revive the economy, really lies in giving stimulus and incentives to the corporate sector, while they completely and absolutely ignore the fact that at this point in time what the Indian economy requires is a liquidity injection, money directly in the hands of the people. And till that point in time, this paradigm shift does not occur in the thinking of the Government, I am afraid the kind of economic revival that we are looking for, unfortunately, may not take place.

Coming to the Insolvency and Bankruptcy Code (Second Amendment) Bill, I believe, Madam Chairperson, there is a fundamental misunderstanding about the intent of this legislation. When this particular legislation was put on the statute books, the idea was not that it would serve as another means of debt recovery or that it becomes an alternative means of debt recovery. In fact, the entire purpose of this exercise was to see as to how you could reconstruct companies, rehabilitate them, and make them viable. Therefore, employment continues to be sustained and they continue to generate value for the economy. Unfortunately, if this has become another concurrent and a parallel paradigm to the DRT or the SARFAESI process, may I point out, since Dr. Nishikant Dubey, the hon. Member

from Jharkhand, had alluded that SARFAESI was actually put on the statute books by the then UPA Government, but the fact is that it was put on the statute books by the then NDA-BJP Government in 2003. I think factually we need to be correct.

Madam, Chairperson, I would just like to read Clause 2, which adds Section 10 A to the Insolvency and Bankruptcy Code. It says:

“notwithstanding anything contained in Sections, 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall ever be filed for any ‘default arising on or after 25th March, 2020 for a period of six months or for such further period, not exceeding one year from such date, as may be notified in this behalf.”

As has been pointed out by some other hon. Members, there does not seem to be or there is no direct linkage with COVID-19. (Interruptions) I think that is what is extremely germane given the larger pre-COVID-19 economy context, that I pointed out too, that there is a need for the Government to rectify this particular Bill and make the linkage between this moratorium and COVID-19 stress absolutely direct and precise.

My last submission, Madam, Chairperson, is that a canard or a myth has been deliberately perpetrated that the then UPA Government was responsible for subverting the banking system of India. I would, with all responsibility, like to urge the Government, if they believe that this is true, and they have been in the Government for six years, to please initiate appropriate legal proceedings under the law against whosoever in the UPA was responsible for subverting the banking system. Otherwise, stop spreading this canard repeatedly over and over again because it is like what Joseph Goebbels says that some people believe that if you speak a lie a thousand times, it will become the truth but unfortunately it would not.

Thank you very much, Madam, Chairperson.

***m13**

SHRI JAYADEV GALLA (GUNTUR): Madam, I have just five points and I will be very pointed.

The first point is related to chocking of cases before the NCLTs. The Supreme Court in Swiss Ribbons Private Limited versus the Union of India has directed the Government to set up more Circuit Benches of NCLATs within six months. But it is now over one and a half years since the judgement was issued. As of September 2019, 19771 cases were pending before the NCLTs. The Government should consider increasing the number of benches and the bench strength of NCLTs as well.

The second point is the delaying tactic being adopted by advocates through unfair means ultimately delaying the insolvency process. How it should be stopped may kindly be investigated.

The third point is relating to NCLT Benches. The State of Andhra Pradesh has got an NCLT Bench. The name of the Bench is Amaravati Bench with territorial jurisdiction of Andhra Pradesh. But if you look at the location of the Bench, it is situated in Hyderabad. How is it justified? The NCLT Amravati Bench meant for Andhra Pradesh should be in Amaravati. So, I would like to know from the hon. Minister what her plan is for shifting this Bench from Hyderabad to Amaravati.

The fourth point is also with regard to delay. The other hurdle for delay is interpretation of various provisions of the Code. Secondly, there is no coordination between various Ministries and agencies of the Government. It is happening because different interpretations are given for different provisions of the Code.

I would suggest for the consideration of the hon. Minister – since she is also in-charge of the Corporate Affairs Ministry – to issue a directive to all Departments and agencies concerned to follow the interpretation given by the Corporate Affairs Ministry as final and it has to be followed by all. This should solve the problem.

Finally, I would like to point out that the haircut being given seems to be on the higher side. It is somewhere between 58 per cent on an average and in one case which the hon. Minister is aware, the haircut is as high as 82 per cent. Even the RBI has taken serious note of it. I would like to know what the Ministry and the IBBI are doing to take the realization percentage to at least 60 to 70 per cent.

With these words, I support the Bill. Thank you.

***m14**

SHRI ARVIND SAWANT (MUMBAI SOUTH): Madam Chairperson, I thank you for giving me an opportunity to speak on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020. The Code provides a time-bound process to resolve insolvency among companies and individuals. Insolvency is a situation where an individual or a company is unable to repay its outstanding debt. In light of the COVID-19 crisis, the World Bank has identified two key challenges for an insolvency framework. The first is the need to prevent otherwise viable firms from prematurely being pushed into insolvency. This is more important because it will prevent a company, which is competent enough to run the business, from premature insolvency. The second one is to increase the number of firms that will not survive the crisis without resolution of insolvency.

There are two amendments which are being taken in this Bill. One, sections 7,9 and 10 of the IBC are being suspended to prevent companies from being pushed into insolvency. Then, insertion of section 10A is more important, which states that the application of CIRP cannot be filed for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from March 25, 2020, as may be notified in this behalf. The Ordinance further clarifies that no proceeding can ever be initiated for defaults occurring during this period. These are now incorporated in this Bill.

Then, in section 66, one sub-section has been added, that is, section 66(3) after section 66(2) of the IBC. The Ordinance protects the directors or partners of the corporate-debtor from proceeding being initiated against them for wrongful trading relating to a default occurred during the specified period starting from March 25, 2020.

Both these amendments are welcome amendments. In this pandemic situation, I think, the Government has taken a right step while first issuing the Ordinance and now bringing the Bill.

I welcome the Bill. At the same time, I have experienced that some of the companies, when there was a possibility of protecting the employees, forcibly imposed VRS on them and shunted them out of the company. Now, they will proceed further. First, care has to be taken of that aspect. Otherwise, the Bill is good and I welcome it.

Thank you so much.

***m15**

SHRI K. NAVASKANI (RAMANATHAPURAM): Hon. Chairperson Madam, I thank you for giving me this opportunity to speak on this Bill.

This Bill seeks to amend the Insolvency and Bankruptcy Code, 2016 to allow the companies not to declare bankruptcy and initiate the corporate insolvency resolution process, CIRP, during the period of COVID-19 lockdown. The Bill exempts companies from the provisions of CIRP if the default on payment happens within a period of six months from March 25, 2020 when the lockdown started.

This Bill gives no clarity about its provisions. I have some concerns about its provisions. This Bill effectively stops the CIRP for a period of six months. While it is good to protect companies which are defaulting due to COVID-19, the blanket provision of exempting all companies is problematic.

This may lead to several companies which are defaulting due to reasons other than COVID-19, including fraudulent business process or some other reasons, getting undue advantage of the blanket exemption. While the Bill mentions 'excluding such defaults arising as a result of the pandemic' in its objectives, there is no such filter given in the exemption clauses. Such a blanket exemption only proves that either the Government is not bothered enough about the creditors' interests as long as their business friends are safe

or the Government did not even bother to find out a suitable way to filter out genuine COVID-19 related defaults from all the cases and went ahead in haste to bring in this change.

The Bill states that beyond the period of six months the exemption may further be extended up to one year from such a date. The Government has now started unlock phase of the lockdown. It claims in several reports that businesses are opening up and that the economy is going to have a V-shaped recovery. If that is the case, then what is the reason for providing further six months' exemption provision in this Bill?

If indeed the provisions of the Government can ensure a V-shaped recovery of the economy and if the Government is sure about its assertions, then why is it extending the exemptions to the CIRP to one year? Does the Government fear that the economic downturn that has started will continue for the next one year from now?

Therefore, first of all, clear provisions should be made in the Bill for identifying and exempting only such defaults which are arising genuinely due to COVID-19 pandemic. Instead of the blanket exemption, the provisions of the Bill must have some safety measures for the corporate creditors whose money may get struck due to the exemptions. The Government must provide them with a suitable safety option.

The provision of no-CIRP ever being applied must be dropped from the Bill. The National Company Law Tribunal can individually verify the cases. Thank you.

***m16**

श्रीमती नवनित रवि राणा (अमरावती): बहुत-बहुत धन्यवाद महोदया। आज जो आईबीसी अमेंडमेंट बिल सदन में लाया गया है। महिला होने के साथ-साथ फाइनेंस की जानकारी होने के कारण मंत्री जी को पता है कि घर किस तरीके से चलाना चाहिए और कम्पनी चलाते समय किन-किन चीजों की जरूरत पड़ती है। आज हमारे देश में स्मॉल स्कैल कम्पनीज़ हों या बड़ी कम्पनीज़ हों, उन कम्पनीज़ के वर्कर्स या उसको चलाने वाले लोगों के बारे में हम सोचते हैं तो जिस तरह से वे कई महीनों से लोन प्रोवाइड नहीं करवा पा रहे हैं, वे बैंक में डिफाल्टर घोषित हो रहे हैं। बैंक्स वाले उन्हें फोर्स करते हैं, कम्पनियां सील करने के लिए जाते हैं, उसके लिए यह जो बिल लाया गया है कि उन्हें अगर मजबूत करेंगे तो हमारे देश की इकोनॉमी मजबूत होगी। सभी लोग अपने-अपने राज्यों में आवाज उठा रहे हैं कि जितने भी वर्कर्स हैं, उन्हें बचाना चाहिए, उनकी जॉब्स नहीं जानी चाहिए, बल्कि जॉब्स मिलनी चाहिए। उसे अगर बचाना है तो मुझे लगता है कि सभी को इस बिल का एक आवाज से समर्थन करना चाहिए। व्यापारियों, रियल एस्टेट के लोग हों, बड़े उद्योगपति और कम्पनीज़ हों, जितनी कम्पनीज़ ने लोन लिया है और लोन में अगर वे डिफाल्टर हो रहे हैं, उनको रीस्ट्रक्चर करके, उनको मजबूत करने का काम इस बिल के माध्यम से होगा। लेकिन इसके साथ एक चीज और ध्यान में रखने की आवश्यकता है कि इन्हें मजबूत करने के लिए औन लोन डिफाल्टर होने के बावजूद उन्हें इस सदन में सपोर्ट करने के लिए हम आ रहे हैं, लेकिन एक चीज को उन्हें ध्यान में रखना होगा कि कंटेन्यू रूटीन में आने के बाद उनके जितने भी वर्कर्स हैं, उन्हें कम्पनीज़ से न निकालें, चाहे कितनी भी अड़चन या प्राबलम्स आएँ, उन्हें मजबूती से उन्हीं कम्पनियों में रखा जाए। इतनी ही मैं उनसे विनती करती हूँ, क्योंकि ये सब चीजें बहुत इम्पोर्टेंट हैं।

I definitely support this Bill. I feel proud that I am part of this Bill. Now, the situation of the economy has become worse. I support this Bill. Thank you so much.

***m17**

SUSHRI DIYA KUMARI (RAJSAMAND): Thank you, Chairperson Madam, for giving me this opportunity for speaking on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020.

First of all, I would like to thank our hon. Prime Minister for his exemplary leadership during these unprecedented and extraordinary times. Today, I am speaking on the one-year suspension of IBC, which is extremely essential, if we want business to get an opportunity to sustain, revive, and survive in these very very difficult times.

It is also a part of the five pillars of Atmanirbhar Bharat described by our hon. Prime Minister, which are Economy, Infrastructure, 21st century technology driven System, Vibrant Demography and Demand, for the effective utilisation of our demand and supply chain in full capacity.

Now, coming back to the post-pandemic and temporary suspension of IBC, I must emphasise that the Government has been taking a series of proactive measures to support business and corporate borrowers hit hard by this pandemic. One of these measures has been to temporarily suspend the insolvency proceedings under IBC. This Bill effectively suspends the insolvency process for defaults arising on and after 25th March, 2020 for a period of six months and is extendable up to one year.

It also empowers the Central Government to exclude COVID-19 related debt from the definition of 'default' under the Code for the purpose of triggering insolvency proceedings.

Before I delve into the merits of this temporary suspension, it would be beneficial to analyse why the IBC was brought upon in the first place. The Code is designed to consolidate and amend the laws relating to reorganisation and insolvency resolution in a time-bound manner.

Moving on, IBC has benefited us in many many ways. It has helped us improve 14 positions to be at the 63rd position in 2019 from the previous year's 77th position on the ease of business rankings. We have also been amongst the top ten improvers for three consecutive years.

Similarly, on Resolving Insolvency Index, we jumped 56 places to be at 52nd position in 2019 from the previous 108th rank. This improvement in ranking of 56 places in a single year makes us believe that we are finally on the path of breaking the proverbial *chakravyuh* of exit from business.

In brief, I would also like to talk about the measures taken prior to this Ordinance: To protect the small borrowers' minimum threshold limit for triggering insolvency was increased from Rs.1 lakh to Rs.1 crore; Lockdown period was excluded from the 330 days-completion timeline; Government can now identify debts raised from Special Window for Affordable and Middle-Income Housing Investment Fund as super-priority loans.

Madam, I would also like to say that the need for this amendment through the Ordinance was because this pandemic has created uncertainty and stress for business which is in their control. Supply chain has been severely disrupted leading to overall disruption of businesses. This would lead to many companies, primarily the MSMEs which serve as the backbone of the Indian economy into liquidation. The suspension, thus, allows such firms to remain as ongoing concerns despite the financial stress on account of COVID-19.

I think it is extremely important that we pass this Bill because all over the world, countries like Switzerland, Spain, Australia, Germany, UK etc. have either amended the insolvency laws or effectively suspended them. Others, like US, have taken indirect

approaches to tackle the issue of insolvency through reformist measures.

I would like to thank our hon. Prime Minister, our Government and our hon. Minister for bringing this Ordinance to lend a helping hand to the industry and business as they not only are a huge part of our economy but also provide jobs to our youth and this would go a long way in making India truly Atmanirbhar. Thank you.

***m18**

SHRI THOMAS CHAZHIKADAN (KOTTAYAM): Thank you, Madam, for giving me an opportunity to participate in the discussion on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020. While the Bill may offer relief to stressed companies, certain provisions in the Amendment have unwarranted consequences and can be misused by wilful defaulters and fraudulent promoters.

There is an apparent conflict in the Bill. There is a need to safeguard companies -- which were viable before the pandemic and whose insolvency is temporary -- from being prematurely pushed into insolvency. But, a complete suspension of insolvency proceedings may take away a distressed company's opportunity to seek recourse under the IBC framework.

The Bill raises a question whether all defaults during the specified period need to be treated in the same manner. There may be defaults, which were not induced due to COVID-19, but are a result of distress in companies before the pandemic. It will be subject to interpretation and may result in increased litigation.

The Bill prohibits initiation of insolvency proceedings by the corporate debtor. The corporate debtor may be in a better position to assess whether the recourse under the insolvency framework is necessary. The corporate debtor should not be prohibited from initiating insolvency proceedings. A voluntary and timely initiation of insolvency proceedings by an insolvent debtor could maximize the benefits for the debtor as well as the creditors. In countries such as Spain, Germany, and France voluntary insolvency proceedings by the debtor have been allowed.

Under the Code, insolvency proceedings can be initiated against the personal guarantor of a corporate debtor. While the Bill prohibits insolvency proceedings against the corporate debtor for the defaults occurring during the specified period, it does not disallow such action against the personal guarantor. Why should the personal guarantor be held liable for defaults of the original debtor when the original debtor's liability itself has been relaxed? Therefore, the Government should reconsider this Bill, so that the interest of the genuine creditor and debtor can be protected and possibility of gross misuse of relaxation by willful defaulters and fraudulent promoters can be avoided.

Thank you, Madam.

***m19**

श्री मलूक नागर (बिजनौर): सभापति जी, एनसॉल्वेंसी, बैंकप्सी, एनसीएलटी, एनसीएलएटी – कुछ भी कहें, असलियत में आज सदन में सब लोगों को सोचना चाहिए कि देश महामारी के काल से निकल रहा है, आर्थिक तंगी है, नौकरियां चली गई हैं, लोगों को डटकर इसे सपोर्ट करना चाहिए। मुझे समझ नहीं आ रहा है कि ये कांग्रेस के लोग या दूसरे लोग क्यों इतना विरोध कर रहे हैं। यह तो देशहित की बात है, गरीब हित की बात है, किसान हित की बात है, इसमें सबको सपोर्ट करना चाहिए।

दूसरा, एक बात मैं कहना चाहता हूँ कि हमारी वित्त मंत्री इतना बढ़िया काम कर रही हैं, देश में मनमोहन सिंह की तरह, बिल्कुल उसी तरह काम कर रहे हैं और हम उनकी तारीफ करते हैं। लेकिन कई जगहों पर इनके हाथ बंधे हुए हैं। इस पर इन्हें सोचना पड़ेगा। भारत सरकार को कैबिनेट में सोचना पड़ेगा कि एक मंत्रालय का कानून दूसरे मंत्रालय के कानून को मारता है, जैसे – अर्बन डेवलपमेंट मिनिस्ट्री से संबंधित रेरा कानून है, जो बिल्डर से संबंधित कानून है, रेरा ने दो लोगों के लिए ऑर्डर पास कर दिए कि इनके पैसे दो और 998 लोग उसकी वजह से मर गए। दूसरा, इन्फ्रास्ट्रक्चर का प्रोजेक्ट है। वर्ल्ड बैंक से देश की सरकार ने लोन ले रखा है और वहां जो भूमि अधिग्रहण कानून है, वह ऐसा बना दिया कि अगर उसमें जमीन नहीं मिल रही है तो कुछ कर नहीं सकते हैं। किसान जमीन दे नहीं रहा है, बीच में प्रोजेक्ट रुक गया और काम हो गया। तो आपस में सारे मंत्रालय एक-दूसरे को सपोर्ट करें। खास कर कोविड-19 के समय में, वर्ल्ड में अपने आपको बचाने के लिए, देश को बचाने के लिए, लोगों के रोजगार बचाने के लिए इस बारे में सोचना पड़ेगा।

19.29 hrs

(Shri Rajendra Agrawal *in the Chair*)

महोदय, मैं एक बात वित्त मंत्री जी से जरूर रिक्वेस्ट करना चाहूंगा कि जिस तरह की सुविधाएं एनसीएलटी, एनसीएलएटी में जो भी हैं, कंपनियों को, व्यापारियों को, उस तरह की सुविधाएं किसानों को भी देनी चाहिए।

आज किसान के ट्रैक्टर पर लोन है, उसके ट्रैक्टर को खींच कर ले जा रहे हैं, पुलिस वाले लड्डू बजा रहे हैं, तहसीलदार उसकी आरसी काट रहे हैं, उनके साथ भी अन्याय न हो। आज हम सब सांसदों को मिलकर देश हित में विचार करना है कि देश की अर्थव्यवस्था कमजोर होने की तरफ चल दी है। मोदी जी और वित्त मंत्री जी 5 ट्रिलियन डॉलर की इकनॉमी का सपना देखते थे, उसको पूरा करने के लिए हम सब को पूरी तरह सपोर्ट करना पड़ेगा। विपक्षी पार्टियाँ खास कर कांग्रेस यह न सोचे कि

हमें तो विरोध ही करना है, विरोध में ही बोलना है। अरे भाई, देश में जब आपकी सरकार होती है, आप भी ऐसा ही करते हैं, तो बगैर मतलब के क्यों लड़ते हैं? देश हित में जो सही चीज है, उसके लिए आगे आकर क्यों नहीं सपोर्ट करते हो? बहुत-बहुत धन्यवाद।

*m20

SHRI DNV. SENTHILKUMAR S. (DHARMAPURI): Thank you, Sir, for giving me this opportunity to speak on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020. *Vanakkam*, Sir.

First of all, I would like to say that it is good that the Finance Minister is bringing this Bill to revive the companies which are already in stress due to the COVID-19 pandemic situation. Why have we got into such a situation? The situation has arisen because of the improper planning of this Government right from the date of lockdown on 24th March. What happened on the 24th March? There were cases in a few hundreds. What was the decision taken by the Government? The decision taken by this Government was to go for a complete lockdown, without even giving time for migrant labourers to have a chance them to go back to their places.

Why are we talking about migrant labourers in this company law? It is because in this Insolvency Bill, if you talk about corporate factories and companies, it is not the private owners who are going to run the companies, which are incurring losses but it was the migrant labourers and the common people who are involved, and who will revive the companies. This situation has arisen because of

improper lockdown. You may say that the same situation arose throughout the world. You can give examples of the USA and Brazil but the USA, Brazil and India have the same sort of leadership which didn't have the courage and the economic crisis was created due to this Government and leadership of this Government. If you take the same geographical topography of countries adjoining us - we forget to see them - the number of death rates from Sri Lanka, Myanmar, Bhutan, Malaysia, and Thailand are very less. The number of deaths ranges from 12 to 50 and a maximum of 400 till date in all these countries, which occupy the same geographical topography. If they can control it, and if they have given a successful model, why not us?

Also, what we have seen is that it is not just the revival of the companies which is addressed in this Bill but what we have seen is that the Government and the Finance Minister are very keen on killing the profitable companies such as the LIC, which have been making huge profits thus far. Even Rs.33,000 crore have been spent on national highway projects from the profit of the LIC but the companies have been dying. What about the BSNL?

So, the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020, which you have brought for reviving the companies, should also be extended to the profitable companies like the BSNL, of not laying off the staff of the LIC and the BSNL, and taking into account the consideration of all the employees. The Government is giving special importance only for the companies. What about the taxi driver who lives next to my house? What about the thousands and thousands of tailors, local and laypeople who have lost their jobs? What is the Finance Minister going to do to revive the economy of them, to bring food to the table of the common layman? All these things also have to be taken into consideration. We have seen in our country thousands of labourers walking across miles whereas we see our Prime Minister posing with ducks and peacock, the national bird of our country. This should be strongly condemned and the layman should be given proper importance, just not as the Government is very much keen to give to the corporates. Thank you, Sir.

*m21

श्रीमती रमा देवी (शिवहर): सभापति महोदय, मैं दिवाला और शोधन अक्षमता संहिता विधेयक, 2020 पर बोलने के लिए तैयार हूँ। दिवाला और शोधन अक्षमता संहिता विधेयक पर जारी इस महत्वपूर्ण चर्चा में शामिल होने का मुझे अवसर प्रदान किया गया है, इसके लिए मैं आपके प्रति हृदय से आभार प्रकट करती हूँ। हम सभी अवगत हैं कि माननीय प्रधान मंत्री श्री नरेन्द्र मोदी जी के नेतृत्व में केन्द्र सरकार ने भारतीय अर्थव्यवस्था के सुधारात्मक कई ऐतिहासिक निर्णय लिए हैं।

कोविड-19 वैश्विक महामारी का भारत सहित पूरे विश्व के व्यवसाय और वित्तीय बाजारों पर असर पड़ा है, जिसके कारण व्यवसाय जगत में अनिश्चितता और तनाव की ऐसी स्थिति उत्पन्न हुई है, जो अभूतपूर्व है। 25 मार्च, 2020 को लगे देशव्यापी लॉकडाउन के कारण महीनों तक सामान्य व्यावसायिक कार्य-कलाप लगभग ठप हो चुके थे, जिसका भारतीय अर्थव्यवस्था पर भी बहुत बुरा असर पड़ा है। इसके चलते ऋणदाता बैंकों और ऋण लेने वाली कंपनियों एवं कारोबारियों के संबंध निश्चित रूप से प्रभावित हुए हैं। स्थिति की गंभीरता को देखते हुए सरकार को इस संकट को और गंभीर होने से रोकने के लिए शीघ्र ही आवश्यक कदम उठाने की आवश्यकता थी।

मैं माननीय प्रधान मंत्री श्री नरेन्द्र मोदी जी एवं वित्त मंत्री श्रीमती निर्मला सीतारमण जी को धन्यवाद देती हूँ कि इस अभूतपूर्व स्थिति में ऋण अदायगी में लोगों को दिवाला संबंधी कार्यवाहियों से बचाव हेतु राहत देने का काम सरकार द्वारा किया जा रहा है। इस परिस्थिति में सरकार में जो प्रधान मंत्री होते हैं, मंत्री होते हैं, उनको सोचना पड़ जाता है कि जिन लोगों ने हमें सरकार में बैठाया है, यह कोविड-19 इतनी बड़ी आफत लेकर आया है, कभी कोई सोच नहीं सकता था कि इस तरह की बीमारी फैलेगी और इस तरह से लोगों के व्यवसाय पर नुकसान पहुँचेगा। ऐसी स्थिति में जब प्रधान मंत्री दिल की बात करते हैं, तो वे दूसरों की दिल की बात को भी सोचते हैं। उनका यह सोचना फर्ज हो जाता है। आज ऐसे प्रधान मंत्री हैं, जो गरीबों, मजदूरों, व्यावसायियों आदि के लिए सोच रहे हैं। हम उनको दिल से धन्यवाद देते हैं और हमेशा हमारे प्रधान मंत्री ऐसे ही बने रहें, इसके लिए भी मैं भगवान से प्रार्थना करती हूँ।... (व्यवधान)

19.37 hrs

(Hon. Speaker in the Chair)

माननीय अध्यक्ष : माननीय सदस्य, आपकी बात हो गई है। धन्यवाद।

माननीय मंत्री जी ।

श्रीमती रमा देवी: इस अभूतपूर्व स्थिति में ऋण अदायगी में लोगों को दिवाला संबंधी कार्यवाहियों से बचाव हेतु राहत देने का काम सरकार द्वारा किया जा रहा है, जिससे कि उन्हें अपने व्यवसाय या कारोबार को फिर से खड़ा करने के लिए कुछ समय मिल जाए ।

माननीय अध्यक्ष : धन्यवाद ।

श्रीमती रमा देवी: इस विधेयक में घर खरीदारों और सूक्ष्म, लघु एवं मझोले उद्योगों को हरसंभव संरक्षण प्रदान करने का प्रावधान है ।

यदि कोई कंपनी या व्यक्ति बैंक का कर्ज वापस नहीं चुकाता तो आईबीसी के तहत कर्ज वसूलने के लिए उस कंपनी या व्यक्ति को दिवालिया घोषित कर दिया जाता है ।

माननीय अध्यक्ष : माननीय सदस्य, आपकी बात हो गई है । बहुत-बहुत धन्यवाद ।

माननीय मंत्री जी ।

*m22

THE MINISTER OF FINANCE AND MINISTER OF CORPORATE AFFAIRS (SHRIMATI NIRMALA SITHARAMAN): Nineteen hon. Members have participated in this discussion and I must admit, whenever I have come to this hon. House following the dedication with which my hon. predecessor, late Shri Arun Jaitley, had worked on the IBC, as one hon. Member had very clearly referred that it is only

since 2016 that we have had IBC, in parliamentary history, this probably is the Bill, now an Act, which has come very quickly each time when the ground situation required changes so that this becomes a robust law. Therefore, whenever we have come, particularly to the Lok Sabha, I find an equally positive approach even in the other House, in response to each Amendment with which we come on the IBC. So, in particular, I thank this House for being so open minded and positive about engaging with the Government on the IBC Amendments. Each time, I would take the names of each one of them, although I am not taking them now. Particularly in this House, I have found constructive inputs coming in and also being very encouraging about how this law has to be kept abreast so that the developments in the market and the development in the economy as a whole get reflected.

This particular set of amendments was necessitated to be brought in the form of an Ordinance. The Leader of Opposition might question the need of this Ordinance. ऐसे ऑर्डिनैस की आवश्यकता, अभी के माहौल से ज्यादा कॉन्टैक्चुअल, शायद 100 सालों में भी नहीं होगी। टाइमली ऑर्डिनैस लाने का ऐसा माहौल शायद आने वाले 100 सालों में भी नहीं हो सकता है। That is why we came up with the Ordinance to which Mahamahim Rashtrapati ji gave his assent and then it became a part of the Gazette of India on 5th June. This is clearly because of the pandemic and because the hon. Prime Minister put life before livelihood stating very clearly that we need to save people from falling ill.

The dimension and the scale of the pandemic was obvious. Therefore, we had to come up with this Ordinance which clearly suspended the application of three sections - 7, 9, and 10 - of the Insolvency and Bankruptcy Code. It is after all a young law enacted only in 2016. But we had to prevent any company which is experiencing distress because of COVID-19, being pushed into insolvency proceeding. Therefore, we had to suspend these three sections. When I say three sections, you know obviously it covers all the three kinds of creditors.

Together with that, we also wanted to bring in a new section, Section 10A, because we clearly did not want this suspension to hurt any proceedings which are otherwise due owing to reasons prior to 25th March, 2020. The notification for lockdown was given on 24th night and it came into force from 25th Morning onwards. Therefore, we clearly wanted to exclude insolvency proceedings which could be triggered off for reasons prior to the COVID, that is, prior to 25th March. Therefore, the date of commencement itself was 25th March, 2020. We made it very clear that this period and any distress which may arise out of this period's situation cannot be acted upon even after, if and when, the lockdown period gets to an end.

Therefore, we gave ourselves the first six months with a proviso in the Act itself saying, 'may be extendable' to another six months. As the Parliament is in session, I would like to draw the attention of the House, we have come forward replacing the Ordinance with this Amendment to the Bill so that it becomes a part of the Act as the Ordinance has to go away. Incidentally, even as we are discussing this, that six-month period we gave as a period of suspending Sections 7, 9, and 10 comes to an end on the 24th of the September, that is, in a couple of days. That was the way in which the Ordinance had to be rushed in.

We also made it clear that during this time, the resolution professional shall not file any application against the Director or Partner of a company also. So, this is a very clear, specific, and timebound provision clearly making a distinction between distress caused by COVID-19 and that which can be beyond and above COVID-19.

So, there need not be any ambiguity in our understanding whether this is going to apply to anything else. Not at all. Will this apply to the period beyond or before? Not at all. Therefore, this is timebound and specific character bound, that is, distress due to COVID-19.

Just before responding in particular to the various issues which hon. Members have raised, I want to highlight the fact that we are not uniquely placed in this set of amendments which we are bringing in. Several hon. Members have referred to it that world-over countries are working to have some kind of an immediate response or a temporary response, and then making sure as and when companies are going to come out of this period of distress, how they would handle it. So, an immediate response or a transitional response, or whatever you may call it, is needed but for immediate forbearance, specific forbearance was announced by many countries. You may name them; I am not naming anyone.

In the larger overview or the bird's eye view of different countries doing different things is this. There are countries coming up with specific forbearance, also infusion of liquidity, to some extent, into their banking system, which can then be led forward, and then, financially distressed firms can be given that hand-holding through banks and finally, relief can also be given in terms of asset classification, which was done following all the banking norms.

So, even the World Bank and the IMF in their responses – well after our initial Gazette Notification had come – had suggested that countries should have three-phased approach to this. The first phase would be something immediate and interim. The second phase would be transitional measures that when the lockdown, containment, and all that goes away, how do companies come out of that period, and finally, the third phase of regular debt resolution.

So, all over the world, multilateral funding institutions are also suggesting that we should do it in phases as we come out and post-coming out, as many hon. Members have stated also, what if there is a rush into NCLT. What happens if there are a lot of insolvency cases coming up? So, the phase-wise approach that we have taken also is to make sure in the meanwhile we are able to infuse some kind of a life into these companies, and when complete calling back of these lockdown-related things is done, companies

are in a position to stand on their own, however frail they may be. But as they go on, the recovery will be the message rather than the liquidation. So, the whole approach that we, as Government, have taken is to immediately help them with some relief and then look at the way in which the second phase can go on, which is its part; and then, the third phase, in which we would have some kind of a resolution mechanism for those who are not able to survive and the hand-holding is inadequate in particular instances.

But before I get into details, as I said, hon. Speaker, Sir, I just want to give some figures, very little of them. I am not going to overburden hon. Members. Section 7 relates to financial creditors, Section 9 relates to operational creditors, and Section 10 relates to corporate debtors. Just look at the situation up to 31st July, 2020. The numbers that I am giving you now regarding details of disposed cases before admission are only those cases which are before admission and this relates to the 31st July, 2020.

In Section 7, total number of companies or cases are 2,789 and the amount recovered is Rs. 1,96,171 crore. In Section 9, which relates to operational creditors, total number of cases are 11,581 as of 31st July, 2020, which are disposed cases before admission into NCLT, and the amount involved here is Rs. 1,63,927 crore. And finally, in Section 10, which relates to corporate debtor, 140 cases are there as of 31st July, 2020, and they are disposed cases before admission, and here, the amount involved is Rs. 15,03,372 crore.

Therefore, this is the kind of numbers with which we are watching the situation. The total number of pending cases as of 31st July, 2020, for financial creditors are 4,062; for operational creditors, it is 7,952; and for corporate creditors, it is 264. I am not getting into the amounts involved in each one of them.

Some of the hon. Members including Shri Nishikant Dubey spoke about what has been the performance of different resolution or recovery channels with which we worked before the IBC came in. I am not going to take up everything together because the Leader of

Opposition Shri Adhir Ranjan Chowdhury, and later probably Shri Manish Tewari also spoke about how banking sector NPAs have risen. I fully agree that we have to look at figures. I am going to take the example of IBC's performance as regards NPAs which relate to scheduled commercial banks' exposure. I just give the figures so that we are able to compare very quickly. I am only talking about the provisional figures of 2018-19. I can compare with 2017-18 and we can go backwards, but the purpose of giving this number here is to see the performance of Lok Adalats vs. DRTs vs. SARFAESI vs. IBC. It is not a period comparison that I am talking about. I am talking about the performance of Lok Adalats and their delivery; DRTs and their delivery; SARFAESI and its delivery; and IBC and its delivery.

Just look at the figures. As I said, these are provisional figures for 2018-19. As for Lok Adalats, cases referred to them were 40,80,947, amount recovered was Rs. 2,816 crore, and therefore, there was only 5.3 per cent recovery. In the case of DRTs, cases referred were 2,52,175, amount recovered was Rs. 10,574 crore, and therefore, the percentage of recovery was 3.5 per cent only. In SARFAESI, the number of cases referred were 2,48,312, amount involved was around Rs. 2,89,000, total amount recovered was Rs. 41,876 crore, and therefore, the percentage of recovery was 14.5 per cent only. Lastly, in IBC, the number of cases referred were 1,135; amount involved was Rs. 1,66,600 crore, amount recovered was Rs. 17,819 crore, and therefore, the percentage of recovery was 42.5 per cent which hon. Member Shri Dubey and a few others also mentioned. So, we are constantly looking at how to improve IBC and make it functional.

There are difficulties about the number of benches not being sufficient, number of quick appointments of people not happening; requirement of quality resolution professional being adequately trained and being in position, and giving them the right mindset of looking at how the IBC can be effected, and how to let a concern be a going concern rather than liquidate it. These are all issues and challenges that we are facing. But we are conscious that these are the challenges. Therefore, with the performance rate given here in terms of just NPAs related to scheduled commercial banks, we should thank this House for having thoughtfully brought this IBC and

having made it more robust every time, as a result of which, today we have 42.5 per cent recovery. I would straight go to referring to hon. Member Surpiya Sule who said, "Suppose this is the rate at which you are recovering, what happens to the rest 58 per cent? Is it lost?" But that is the point of what the valuation is. When a company is coming for liquidation, what is the valuation? How many of its assets are worthy? Now the fear is, every time delay happens, if the protracting nature of this happens, the value of the liquidable assets keeps coming down. At the end of the day, something gets recovered off that. I would not take the names, but some of the hon. Members said that we have done this because we want to give a pocketful to our friends.

My friends are the companies. They can be big, small, medium, micro or nano. Any company is important for India. Under the Companies Act, even MSMEs are registered. IBC applies even to the small companies. The moment the word 'corporate' or 'company' comes, the immediate imagination is, 'who'. Sorry, none of us know who. It could be anybody who is registered under the Companies Act and if unfortunately, it comes for liquidation it has to have a solution. It does not matter whether it is your friend or my friend. All are our friends. It is *desh ka* friend. Unless businesses run, small, medium or big, the kind of job creation that all of us are talking about will not happen. So, solution is required for everybody.

I have already explained why we should have Section 10. Suspension under Section 10 does not apply for pre-25th March, 2020. Companies cannot initiate insolvency proceedings only for defaults of COVID-19. They can initiate proceedings on other things.

We should keep reminding ourselves. It will be unfair for me to say, 'oh, did you know' because after all, this House has passed this law. It is such a robust law which balances the rights and interests of all stakeholders, particularly of the equity and debt suppliers. It creates an imbalance if only the debtor has the right to initiate insolvency proceedings while the creditor does not have or vice-versa. Therefore, we have to constantly keep the balance with which this Act was passed by this Parliament. We really cannot tinker

with it in such a way that we distort the fine balance which was arrived at. We should see to it that it does not become lopsided. We cannot, even in our enthusiasm, do such a thing. So, I think it is important for us to keep remembering that this is the place where this was given birth and we have to constantly keep the spirit of what was originally brought in.

I think it will be impertinent for me to go on repeating that this Code is not a recovery law. The creditors otherwise have several options through which they can seek their recoveries. Those of us who were repeatedly saying that this suspension is going to hurt MSMEs, may please know that MSMEs have several other ways through which they can recover their claims. Therefore, I think it will be important for us to go on looking at various ways in which MSMEs have been attended to, even in this period. I will just give you one or two references.

Special refinance facility of Rs.15,000 crore to SIDBI for on-lending and refinancing has been announced by the RBI. Yesterday, I was appalled when I heard some Member saying that nothing has reached them on ground. No MSME has got any benefit. MSMEs are suffering on the ground. No doubt, MSMEs are suffering but nothing has reached them is completely wrong. On a weekly basis, the bank is putting out data mentioning the size of which MSME is receiving what amount. I am not giving you the exact figure, which in a minute I can obtain and give you, but more than Rs.1,60,000 crore have been disbursed, not just sanctioned. I think somewhere all of us are anxious about MSMEs and I fully appreciate it. But some work is also going on, and I would want you all to take cognizance of the steps which have been taken.

For standard accounts, Emergency Credit Line of Rs 3 lakh crore have been given. Subordinate Debt for Stressed MSMEs is a scheme framed by the Government. MSMEs which are NPAs have also been given this benefit. The Government is infusing about

Rs.20,000 crore for the MSMEs. Those numbers have also been constantly put out. There are more such things.

20.00hrs

Now, I come to the TReDS platform. Hon. Members will definitely appreciate that the TReDS platform has been very useful. Up to March, 2018, 652 MSME sellers, 128 corporate PSUs, 37 banks, and about four NBFC factors -- who deal with factors themselves -- have all been on TReDS. In March, 2018, the amount which has been invoice financed was Rs. 1094 crore. In March, 2019, more people came into the TReDS platform and the amount which has been invoice financed was Rs. 6,669 crore and that had benefited about 3,708 MSMEs. What was it in March, 2020? About 9,288 MSMEs have been benefited from about 1,661 corporates and PSUs. Most often I am told that the Government departments and the PSUs owe so much to the MSMEs and that the Government is not giving money to them. I am giving you a figure of March, 2020 and subsequently, we can get the figures for the other months.

Compared to March 2018 and 2019, about 9,288 MSMEs sellers have been benefited to the extent of Rs. 17,834 crores purely because of TReDS. Every bill is uploaded into that. The banks are giving recognition and they discount the bills. So, particular attention has been given to MSMEs so that they really do not suffer for want of liquidity.

Adhir Ranjan Ji also asked about as to what about the timelines. Yes, the provision is that the CIRP should conclude in 180 days. It can be further extended only up to 90 days. It should conclude, at any cost, by 330 days, including the time taken for litigation.

However, in actual, excluding the time taken by courts, on an average, within 380 days, it is getting resolved. It is important for us to remember that earlier four years was the time taken to resolve any crisis. So, where are four years and where are 380 days?

Adhir Ji had also questions on liquidation and number of companies which have gone into liquidation and which have really been rescued. Till July, 2020, the IBC has rescued about 258 companies through resolution plans. Of the companies that were rescued, one-third were either totally sick or even defunct. Even defunct companies have been rescued. The process under the Code has yielded liquidation of 965 companies. Three-fourths of these companies were sick or defunct when they entered the insolvency process itself. So, the companies which had been rescued, had an asset value of 0.96 lakh crore of rupees, while the firms referred for liquidation, had asset values of 0.38 lakh crore of rupees when they were admitted into the CIRP. You just see the fall in the valuation. Thus, in value terms, 72 per cent of distressed assets have all been rescued.

Now, I come to recovery rate. Adhir Ji, I would not load you with numbers. I will just tell you that the recovery rate in 2016 was 26 per cent. In 2017 -- within one year of this law coming in -- it was 26.4 per cent. In 2018, it was 26.5 per cent and in 2019, it was 71.6 per cent. That is why, our ranking improves.

On the Benches, I think, a lot of data is available. There was only one Principal Bench and ten jurisdictional benches were established subsequently. Even later, three more Benches which were formed in 2018 and two Benches which were formed in 2019, have all been notified. But what is important? This I would respond in response to Shri Pinaki Misra. I would like to say that 67,749 cases have been dealt by the NCLT till 31st July of this year.

Out of this, 49,900 cases have been disposed of and 19,844 cases are pending as of 31st July and I think in honour of this House, I would say that this is a remarkable achievement for a Tribunal which is working on an IBC Code which is only three and a half years old as of today. If tribunal can give this kind of a result compared to all that I have read out about how the Lok Adalat and SARFAESI have performed, this is the performance. I agree, we need to strengthen them.

There was a very pertinent question which Pinaki Ji asked. Will there be a surge of insolvency proceedings after the suspension is lifted? Our assessment is that it is unlikely given that the stakeholders have very many options even during the COVID-19 period for recovery of loan as I earlier mentioned. Therefore, resolution of stress need not only be like this. There can be always mid-course resolution through the various mechanisms which are there. There may even be very many innovative options which people may adopt, particularly during these challenging times. So, I also can see the number being lesser because companies have normal business operations even during the pandemic, if not very many of them, at least, some of them.

There is also a higher threshold given of default for initiation of insolvency proceedings of MSMEs. That was made as an announcement that the threshold has been raised to Rs.1 crore. So, we expect that many of the MSMEs would not even come near it. Then we have made it clear, through this amendment which I suppose all of you will be responding to positively, that the defaults occurring out of this particular pandemic are being kept out for ever.

I can see the hon. Speaker rushing with the time. He has quite a few demands. I think largely I have addressed many of the questions which the hon. Members have raised. If there is anything at all further for me to explain, I will do it subsequently when I see

each one of you.

There is a special financial service provider's framework and the Section 227 of the IBC has been used in the context of banks. I can see Supriya Ji putting her hand up. At present, the Code has two separate Sections which are 234 and 235 which deal with cross-border insolvency and because it is an important thing, the Insolvency Law Committee has submitted its comprehensive report which the Ministry is going through. Hopefully, we will come up with something sooner on that.

Sir, that is all that I have to give in terms of answers. There is one last question which Shri Jayadev Galla asked about Amravati Bench which is still in Hyderabad. Yes, the Amravati Bench has been named and notified but it is still in Hyderabad pending infrastructural development in Amravati. So, till then, unfortunately, it has to remain there.

Arvind Sawant Ji did ask as to why the State does not do anything about things when companies are going bad. The State does not have a role in this. This is clearly a commercial thing and it is for the Committee of Creditors to take a call and if there is no resolution plan or resolution plan is unacceptable to the Committee of Creditors, then it goes to liquidation. So, the Government has no role in this.

Thank you.

***m23**

SHRI KALYAN BANERJEE (SREERAMPUR): I want to tell you from the ground level that tremendous corruption is now existing in Debt Recovery Tribunal and up to NCLT. It has become a hub of corruption. As the Minister of Finance and Corporate Affairs, I called you on mobile to report against an officer, you may kindly keep him under your supervision. You did not extend it after 20 days. I

appreciate this but you may kindly keep a vigil, if required. From my experience I am saying that in metro cities of Kolkata, Delhi and Mumbai, I do not know about other places, these have become a hub of corruption. You may kindly take care of those persons who are being appointed.

***m24**

SHRI ADHIR RANJAN CHOWDHURY : Hon. Speaker, Sir, given the salience and significance of this important legislation, you may allow me a couple of minutes.

I will first like to appreciate your endeavour in being able to convince the House about the Bill. But the fact is that there is always a slip between the cup and the lip. It has to be admitted and acknowledged. Yes, it is true that IBC is not a Code of recovery as has been mentioned by the hon. Finance Minister. But it has been brought for enhancing the insolvency resolutions and ensure the just nature of procedure in the vicinity of insolvency. Therefore, I am talking about the justice that is sought to be provided through the provisions in the Bill. In this Bill there is no justice and it is very much partial in nature towards the corporate.

Secondly, I only wish to buttress legislative muscle of the hon. Minister. There is a very dangerous assumption that every company is affected badly by COVID-19 and everyone will be pushing for insolvency. This is a generalised assumption without consideration to subjectivity of the situation. The subjectivity of this can vary as the incidence of COVID-19 is not same on all companies and also not everyone will run for insolvency in the wake of the pandemic. It is important to note that they have different options to rely upon. In this regard you have stated that a number of nations have adopted various procedures and measures.

Sir, I would like to suggest to the hon. Finance Minister to kindly go through the World Bank report on COVID-19 Outbreak -- Implication on corporate and individual insolvency. It has suggested other measures like establishing informal out of court or hybrid workout framework, encouraging e-filings, virtual court hearings and out of court solution in insolvency cases etc. which are not being looked into by the Government. To seal vulnerable businesses from all quarters India could emulate the Singapore model so that India could have taken inspiration from Singapore's COVID-19 Temporary Measures Act, 2020.

Sir, here some hon. Members cited the examples of countries like Germany, USA etc. When this COVID-19 was just beginning to surface in Europe, Germany suspended its insolvency filing obligation for six months like India but also extended lines of credit providing liquidity guarantees as well as economic grant for businesses to the tune of 750 billion pounds. The economic package announced by India's Finance Minister contains directly bail outs only for MSMEs by providing an emergency credit line, collateral free loans. But these exclude the remaining companies from the infusion of much needed liquidity for possible re-capitalisation that will help maintain solvency. The Danish Government has decided to compensate for some of the fixed cost that the cash trapped companies have to pay. These are some of the issues that I would like to bring to the kind attention of the hon. Finance Minister.

Sir, I would like to submit to the hon. Finance Minister, if possible, could she be able to cite the names of those wilful defaulters, at least one to ten, so that we could also understand the gravity and significance of the situation?

Last but not the least, I have not told that these kinds of Ordinances should not be promulgated. I have tangentially referred to this issue. But in general, this has become a practice of this Government to promulgate Ordinances on each and every issue. That is why, in my initial remarks, I objected to this kind of a practice. Certainly, it should be used as an exception and not as a rule. That is my suggestion to the hon. Finance Minister.

*m25

श्रीमती निर्मला सीतारमण : अधीर जी, हर कम्पनी का कोविड-19 की वजह से स्ट्रेस नहीं होता, तो उसे कैसे डिफरेंशिएट करेंगे। इसे डिफरेंशिएट करना आवश्यक है और इस रास्ते पर हम चल रहे हैं। आइडियली, अगर यह हो सकता है, तो हो सकता है, मगर डिफरेंशिएट करने के लिए भी प्रोफेशनल्स चाहिए और कोविड-19 के समय में यह असंभव है। इसके अलावा डिफरेंशिएट करने का फार्मूला स्टैंडर्डाइज करना पड़ेगा और आज के समय में फार्मूलेशन के अनुसार रिज्योल्युशन प्रोफेशनल को पकड़ो, उन्हें एलॉट करो, उन्हें वेबिनार के द्वारा करवाओ। यह बहुत कम्प्लीकेटेड है, वह प्रिंसिपल ठीक है, लेकिन कार्य में लाना है तो दिक्कत है। हमने तीन लाख करोड़ रुपये सिर्फ एमएसएमई के लिए ही नहीं दिए हैं। जितना एमएसएमई सैक्टर को देना था, उतना देने के बाद उसका एक्सटेंशन हमने एलएलपीज, प्रोफेशनल्स, लॉयर्स, डॉक्टर्स, जो अपना क्लीनिक चला रहे हैं, उन सभी को भी एक्सटेंड किया है। उनका नाम एमएसएमई के तहत है और हमने उन्हें प्रॉयोरिटी भी एमएसएमई को दी है, लेकिन उसके बाद एलएलपीज, प्रोफेशनल्स आदि को भी एक्सटेंड करवाया। छोटे-छोटे शहरों में जो चार्टर्ड एकाउंटेंसी फर्म्स चला रहे हैं या लॉयर्स फर्म्स चला रहे हैं, डाक्टर्स जो अपने अस्पताल चला रहे हैं, उनमें नर्सिंग काम करती हैं, उन्हें कैसे चलाना है, इसके लिए इमरजेंसी लिक्विडिटी क्रेडिट गारंटी हमने दी है, उसे भी एक्सटेंड किया है। यह केवल एमएसएमई के लिए ही नहीं है, बल्कि इसे एक्सटेंड किया है। इसका नाम केवल एमएसएमई के लिए हो गया है।

हमसे होटल वाले, टूरिज्म सैक्टर वालों ने बात की। हमने उन्हें भी क्लीयरली जवाब दिया कि बैंक्स को कहा गया है कि उन्हें भी एक्सटेंड करो और जितनी भी उनको मदद चाहिए, उन्हें दो। स्कीम के अलावा होटल, टूरिज्म सैक्टर वाले बैंक्स से लिक्विडिटी लें, इसके लिए क्लीयरली बैंक्स को इंस्ट्रक्शंस दी हुई हैं। इंस्ट्रक्शंस देने के बाद मैं चुप नहीं बैठ रही हूँ। हफ्ते में एक बार उनसे डेटा भी मांग रही हूँ कि कितने लोगों को उन्होंने पैसा दिया है और वे किस हालत में आए और उन्हें एडिशनल सिक्योरिटी न लेते हुए एक्सटेंड किया या नहीं। हम यहां तक मोनिटर कर रहे हैं। मेरा यही कहना है कि यह केवल एमएसएमई तक ही सीमित नहीं है।

माननीय अध्यक्ष : अब तो सदन पूर्ण रूप से संतुष्ट होगा।

अधीर रंजन जी, क्या आप विदग्ध कर रहे हैं?

*m26

श्री अधीर रंजन चौधरी: अध्यक्ष जी, आप मौका दीजिए।

सीतारमण जी, सब ठीक है लेकिन ग्राउंड लेवल में ठीक ढंग से रिफ्लेक्ट नहीं होता है। लोगों के पास पैसा नहीं पहुंचता है। मैंने पहले भी कहा है और अब फिर कह रहा हूं। आप इस विषय में ज्यादा कोशिश कीजिए। आप बहुत कुछ करने की कोशिश कर रही हैं, लेकिन लाभार्थी तक पैसा पहुंचने में काफी दिक्कत आ रही है।

क्योंकि बैंक वाले काफी तरह की दिक्कतें पैदा करते हैं। उन लोगों के लिए बड़ा मुश्किल होता है। जितना आसानी से आप सदन में बैठ कर कहती हैं, उतना आसानी से बेनिफिशियरीज के पास पैसा नहीं पहुंचता है। इस हालत को देखते हुए और आपने इलैडुसिनेशन जिस तरह किया है, उससे लगा कि आप जरूर सही ढंग से कोशिश करेंगी। इसके लिए मैं अपना स्टैटूटरी रेज्योलूशन विद्वा करने की अनुमति चाहता हूं।

श्रीमती निर्मला सीतारमण : बहुत-बहुत धन्यवाद। Very kind of you!

माननीय अध्यक्ष : क्या सभा की यह इच्छा है कि श्री अधीर रंजन चौधरी द्वारा प्रस्तुत सांविधिक संकल्प को वापस लिया जाए?

सांविधिक संकल्प सभा की अनुमति से वापस लिया गया।

माननीय अध्यक्ष : प्रश्न यह है :

“कि दिवाला और शोधन अक्षमता संहिता, 2016 का और संशोधन करने वाले विधेयक, राज्य सभा द्वारा यथापारित पर विचार किया जाए।”

प्रस्ताव स्वीकृत हुआ।

माननीय अध्यक्ष : अब सभा विधेयक पर खंडवार विचार करेगी।

खंड 2 धारा 5 का संशोधन

माननीय अध्यक्ष: श्री सप्तगिरी शंकर उलाका, क्या आप संशोधन संख्या 1 और 3 प्रस्तुत करना चाहते हैं?

SHRI SAPTAGIRI SANKAR ULAKA (KORAPUT): I beg to move:

“Page 1, line 10,--

for “25th March, 2020 for a period of six months”

substitute “30th April, 2020 for a period of eleven months”. (1)

“Page 2, line 6,--

for “25th March, 2020”

substitute “30th April, 2020”. (3)

माननीय अध्यक्ष: अब मैं श्री सप्तगिरी शंकर उलाका द्वारा खंड 2 में प्रस्तुत संशोधन संख्या 1 और 3 को सभा के समक्ष मतदान के लिए रखता हूं।

संशोधन मतदान के लिए रखे गए तथा अस्वीकृत हुए।

माननीय अध्यक्ष: श्री जसबीर सिंह गिल – उपस्थित नहीं।

प्रश्न यह है:

“कि खंड 2 विधेयक का अंग बने।”

प्रस्ताव स्वीकृत हुआ।

खंड 2 विधेयक में जोड़ दिया गया ।

खंड 3 और 4 विधेयक में जोड़ दिया गया ।

खंड 1, अधिनियमन सूत्र और विधेयक का पूरा नाम विधेयक में जोड़ दिए गए ।

माननीय अध्यक्ष : अब मंत्री जी प्रस्ताव करें कि राज्य सभा द्वारा पारित विधेयक को पारित किया जाए ।

SHRIMATI NIRMALA SITHARAMAN: I beg to move:

“That the Bill be passed.”

माननीय अध्यक्ष : प्रश्न यह है :

“कि विधेयक पारित किया जाए”

प्रस्ताव स्वीकृत हुआ ।

