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**15.05 hrs.**

**STATUTORY RESOLUTION RE : DISAPPROVAL OF  
ENFORCEMENT OF SECURITY INTEREST AND RECOVERY OF DEBTS LAWS (AMENDMENT) ORDINANCE  
AND  
ENFORCEMENT OF SECURITY INTEREST AND  
RECOVERY OF DEBTS LAWS (AMENDMENT) BILL**

Title: Combined discussion on Statutory Resolution regarding Disapproval of Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004 (No. 5 of 2004) and passing of Enforcement of Security Interest and Recovery of Debts Laws (Amendment) bill, 2004. (Resolution negatived and Bill passed.)

MR. CHAIRMAN : The House shall now take up item Nos. 17 and 18 together. Shri Bachi Singh Rawat may move the Statutory Resolution.

**श्री बची सिंह रावत 'बचदा' (अल्मोड़ा) :** सभापति महोदय, मैं निम्नलिखित संकल्प पेश करता हूँ:

"कि यह सभा राष्ट्रपति द्वारा 11 नवम्बर, 2004 को प्रख्यापित प्रतिभूति हित का प्रवर्तन और ऋण वसूली (संशोधन) अध्यादेश, 2004 (2004 का संख्यांक 5) का निरनुमोदन करता हूँ।"

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, I beg to move:

"That the Bill to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956, be taken into consideration."

**श्री बची सिंह रावत 'बचदा' :** सभापति जी, 11 नवम्बर को यह अध्यादेश लाया गया है और इसी के साथ आज यह विधेयक विचार हेतु प्रस्तुत किया गया है। उसके कारण और उद्देश्यों का अवलोकन करेंगे तो देखेंगे कि माननीय वित्त मंत्री जी ने उसे 29 नवम्बर को हस्ताक्षरित किया है। विधेयक और अध्यादेश के बीच में इतनी अधिक अवधि नहीं थी। यह उल्लेख किया गया है कि संविधान के अनुच्छेद 123(1) ए में महामहिम राष्ट्रपति जी ने कहा कि तात्कालिक कारण हैं जिससे तुरंत कार्यवाही करना आवश्यक हो गया है, परन्तु ऐसी कोई आवश्यकता उस समय नहीं थी। एक प्रकार की प्रैक्टिस है और हमेशा हम लोग उल्लेख करते आये हैं कि मूल रूप से जो विधेयक आ रहा है, मैं उसके विरोध में नहीं हूँ। जैसा पहले श्री राम जी लाल सुमन का डिसएप्रूवल आया था, उसी तरीके से डिसएप्रूवल है। जो आर्डिनैसेस लाये जा रहे हैं, वे अति आवश्यक नहीं हैं। जबकि एक दिसम्बर से पार्लियामेंट असेम्बल हो रही है और उसके सारे काम की जानकारी सरकार को है। उसमें अनेक संशोधन लाये जा सकते हैं और उसमें अधिक विचार-विमर्श किया जा सकता है। एक प्रैक्टिस व्यवहार में आ रही है कि जो कमेटीज की व्यवस्था माननीय संसद की ओर से की गयी है, उन स्टैंडिंग कमेटीज को अवाइड करने के लिए शार्टकट रूट अपनाते हुए आर्डिनैसेस के माध्यम से और फिर सब्सीक्वेंटली उसको बिल के माध्यम से लाये जाने का प्रयास इस सदन में लगातार हुआ है।

इस विधेयक को लाने के लिए जो कारण इसमें दर्शाये गये हैं, वे आर्डिनैस के लिए पर्याप्त नहीं हैं। जैसा मैंने उल्लेख किया है कि विधेयक का कहीं कोई विरोध नहीं है। मैं भी उसका समर्थन करता हूँ क्योंकि वा 2002 में जब यह विधेयक लाया गया था, देश भर की जो परिस्थितियाँ थीं कि लगभग 50 हजार करोड़ रुपये से अधिक की धनराशि बकायेदारी में है।

**15.08 hrs.**

**[Shrimati Sumitra Mahajan in the Chair]**

जो बैंकिंग और फाइनेंशियल इंस्टीट्यूशन्स हैं, उनके जरिये जो बॉरोवर्स हैं, कम्पनीज हैं, इंडस्ट्रीज हैं, उन्होंने ऋण लिया है। ऋण की वसूली का कोई मैकेनिज्म नहीं था। पिछली सरकार में पहली बार यह प्रयास हुआ। इसको प्रभावी तरीके से इस ऋण की वसूली के लिए एक मैकेनिज्म बना। एक रेगुलेटर सामने आया और उसी का नतीजा था कि लगभग 15 हजार नोटिसेस जारी हुए और 20 हजार करोड़ रुपये की वसूली का प्रयास हुआ। अब चूंकि इसमें जो बॉरोवर्स हैं, उनके विरुद्ध अनेक न्यायालयों के सामने मामले आये। प्रमुख रूप से आज भी जो विधेयक व आर्डिनैस का उद्देश्य व कारण सामने आया है, उसमें जिस केस का उल्लेख आया है, वह माननीय सर्वोच्च न्यायालय का केस था-माडिया केमिकल्स लिमिटेड एंड अदर्स वर्सेस यूनियन ऑफ इंडिया एंड अदर्स। इसके अंडर सैक्शन 17 में दो धाराओं का उल्लेख किया गया है। इसमें एक व्यवस्था की कि 75 प्रतिशत डिपाजिट अपील के समय में करेंगे। उसको माननीय सर्वोच्च न्यायालय ने पाया और उसको अल्ट्रा वायरेस डिक्लेयर किया। एक कारण यह बताया गया है और दूसरा यह कि जो बकायेदार हैं, जिनसे वसूली होनी है, उनको एक नैचुरल जस्टिस के तहत अवसर मिलना था और उसको रीजन्स बताये जाने चाहिए थे कि क्यों उससे यह वसूली की जा रही है। दो प्रावधान दिये गये हैं और एक अन्य कारण बताया गया है कि कर्ज लेने वालों की वसूली टालने की एक परम्परा है, एक व्यवहार है कि जिसे ऋण चुकता करना है, वह हर कोशिश करता है कि अपना कोई न कोई बहाना बनाकर कि उसको भुगतान न करना पड़े, अतः उसको हतोत्साहित करने के लिए यह आर्डिनैस लाया गया है। इसके अलावा कोई स्पेसिफिक कारण नहीं था। इसलिए टैक्नीकली जो मेरा डिसएप्रूवल था, स्टैच्युटरी रिजोल्यूशन लाने के पीछे जो भावना थी, वह यह है कि अध्यादेश लाने की प्रवृत्ति को हतोत्साहित करना चाहिए और चेयर से भी निर्देश होना चाहिए और इस प्रकार से जबकि पार्लियामेंट का सेशन बहुत नजदीक हो, वह आर्डिनैस के बजाए जनरली इसका बिल लेकर आए। जो बोरोअर्स बैंक्स हैं, जो क्रेडिटर्स हैं, इसमें दो व्यवस्थाएं अलग-अलग आ रही हैं, मैकेनिज्म या रेगुलेटर सैट हो रहा है, इसमें फाइनेंशियल इंस्टीट्यूशंस हैं, वे वसूली के लिए ट्राईब्यूनल के

पास या दूसरा जो नियामक बनाया है, उसके पास चले जाएंगे। जो दूसरा मैकेनिज्म तय किया गया है या फिर उसको वापस लेकर वहां जाया जा सकता है, ये दो ऑप्शंस रखे हैं। मेरा एक अनुरोध होगा कि इसका सरलीकरण किया जाए कि केवल ट्राईब्यूनल के सामने ही सारी व्यवस्था रखी जाए और दो-दो प्रक्रियाएं अलग-अलग अपनाने के लिए ऐसी व्यवस्था न हो। माननीय वित्त मंत्री जी इस मामले में काफी विद्वान हैं और उनको काफी अनुभव भी है। वह जरूर इस पर विचार करेंगे। आने वाले समय में बोरोअर्स से वसूली होने में जो विलम्ब अभी तक हुआ है, आगे भी कितना कट-शॉर्ट कर सकते हैं, सुप्रीम कोर्ट के जो डाइरेक्शंस हैं, उनको कैसे ध्यान में ले सकते हैं, इस पर आप ध्यान देंगे।

सभापति जी, यह विषय इससे संबंधित तो नहीं है लेकिन चूंकि फाइनेंशियल विषय पर बातचीत चल रही है, अनेक वित्तीय विधेयकों पर बातचीत चल रही है और शेयर-मार्केट के संबंध में सुरेश प्रभु जी के भी विचार आए हैं। वह यह है कि एमपीज को और सोशल वर्कर्स को यह बात अत्यन्त प्रभावित करती है। वित्त मंत्री जी के संज्ञान में लाना चाहता हूँ कि जो छोटे-छोटे डिपॉजिटर्स हैं, विशेषकर ग्रामीण क्षेत्र में हैं, जहां पर इन्वेस्टमेंट का कोई साधन नहीं है, जहां नॉन-फाइनेंशियल इंस्टीट्यूशंस हैं, वहां छोटी-छोटी कंपनीज बनी हैं और उनको आरबीआई से लाइसेंस मिले हुए हैं, वे वहां लोगों का पैसा डिपॉजिट कराते हैं और उसके बाद कंपनियां गायब हो जाती हैं। उनके लिए एक प्रभावशाली विधेयक आना चाहिए और ऐसी कंपनियों के पास जमा धनराशि की तादाद करोड़ों रूपयों में है। मैं अपने निर्वाचन-क्षेत्र की बात बताना चाहता हूँ, वहां एक क्रेडिट कॉरपोरेशन है, वह कंपनी लोगों का पैसा लेकर चली गई। उसने छोटे-छोटे लोगों से एक हजार, दो हजार, एक लाख- दो लाख पैसा जमा किया और आरबीआई का लाइसेंस दिखाकर वह कंपनी चली गयी। इसी तरह से अपेस इंडिया लिमिटेड, फ्रंटलाइन इन्डस्ट्रियल एण्ड क्रेडिट्स का. आदि हैं और दर्जनों ऐसी संस्थाएं हैं। आपसे इस संबंध में लगातार पत्र-व्यवहार होता है। उसमें उनका इंटरैस्ट भी सेफगार्ड हो। मैं इस बारे में बाद में निवेदन करूंगा। जो विधेयक माननीय वित्त मंत्री जी लाए हैं, उसका समर्थन करते हुए और अध्यादेश के संबंध में अपना डिसेम्प्लव दर्ज करते हुए मैं अपनी बात समाप्त करता हूँ।

MADAM CHAIRMAN : Motions moved:

"That this House disapproves of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004 (No.5 of 2004) promulgated by the President on 11<sup>th</sup> November, 2004."

"That the Bill to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956, be taken into consideration."

श्री के.एस.राव— अनुपस्थित।

**श्री अविनाश राय खन्ना (होशियारपुर) :** सभापति महोदय, मैंने पहले भी वह बात रखी थी और दुबारा इसको रखना चाहता हूँ। इसमें जो एपीलेट ऑथोरिटी को पॉवर दी गई है, अगर दो केस चलते हैं तो उनको इकट्ठा करके किया जा सकता है, उस पर आवेदन दिया जा सकता है। किन-किन कारणों से वह इकट्ठा कर सकता है, अगर उसमें यह आ जाए कि जो प्रैक्टिकल डिफिकल्टीज उनको एनफोर्स करने में होती हैं, वह नहीं होंगी। अगर अधिकरण उसका आदेश पारित कर देता है तो शायद उसकी अपील का भी प्रयोजन न रहे, अन्यथा वह लिटिगेशन में ही फंसा रहेगा और अगर अपीलेट ऑथोरिटी उसको पास करती है, तो भी बहुत ही डिलेड हो जाएगा। दूसरी बात यह है कि धारा-8 के लास्ट में है कि अगर अपेक्षित की प्रति एक सप्ताह के भीतर आ जाए, अभ्यावेदन जहाँ अपेक्षित का सुधार करने का कार्यभार लेने वाले को सुनिश्चित करेगा, तो इसके बारे में अगर डिटेल्स सहित यह बात आ जाए कि उसको डाक द्वारा सूचित किया जाए, तो फिर चैलेंज करने की कठिनाई नहीं रहेगी।

सेक्शन-10 में बात अस्पष्ट है कि ऐसी फीस जो निर्धारित की जाए, के साथ आवेदन कर सकेगा, फीस का प्रतिशत कितना होगा, यह रिफंडेबल है या नॉन-रिफंडेबल, लमसम है या कैसी है, इसको भी अगर इसके साथ जोड़ दिया जाए तो यह काफी विस्तृत हो जाएगा। इसी प्रकार सेक्शन-12 के सबसेक्शन-3 में अपील अधिकरण में जो 50 प्रतिशत की राशि रखी गई है, उसको कम किया जाए क्योंकि कई बार डिस्प्युट इतना होता है कि जो अपील करने वाला इतना पैसा जमा नहीं करा पाता, तो उसको न्याय नहीं मिल पाता। इसको भी कम किया जाए।

मैं इन्हीं सुझावों के साथ आशा करता हूँ कि अगर मंत्री जी को ये सुझाव ठीक लगे, तो इनको साथ लेकर इस बिल को पास किया जाए।

SHRI ANANDRAO VITHOBA ADSUL (BULDHANA): Madam, Chairperson, I rise to support this Bill.

It was very much essential to have an amendment in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The hon. Finance Minister had timely promulgated the Ordinance and today has brought this Bill to effect the necessary amendment in the Act which will facilitate the financial institutions to have a speedy recovery of their long-pending debts.

Sir, the previous NDA Government had brought this Securitisation of Financial Assets and Enforcement of Security Interest Act, 2002 to facilitate the banks and the financial institutions to have a speedy recovery of their debts, particularly from the willful defaulters. But after the enactment of such a Bill, the hon. Supreme Court had issued a stay on it due to certain reasons.

If any financial assets of a borrower acquired by a securitisation company or a reconstruction company which

comprise of secured debts of more than one bank or financial institution, for recovery of which such banks or financial institutions had filed applications before two or more Debt Recovery Tribunals, then the securitisation company or the reconstruction company may file an application to the Appellate Tribunal having jurisdiction over any such Tribunals in which such applications are pending for transfer of all pending applications to any one of the Debt Recovery Tribunals.

If any recovery certificate is issued by DRT, to which all the pending applications are transferred, then provisions of the recovery of debts due to the Banks and Financial institutions Act, 1993 shall accordingly apply for such execution.

After this amendment, the banks and the financial institutions may realise long-term assets, manage problems of liquidity, may sell their securities and reduce their non-performing assets by adopting measures for recovery or reconstruction. This will also facilitate the banks and financial institutions to take possession of secured assets of the borrower including the right to transfer by way of lease, assignment or sale and realise the secured assets and take over the management of the business of the borrower.

If I would say that this Bill is nothing but a weapon which is helping the banks and financial institutions for recovery from wilful defaulters, it will not be wrong.

With these words, I support this Bill.

SHRI VIJAYENDRA PAL SINGH (BHILWARA): Madam Chairperson, I stand to speak on the Enforcement of Security Interest and Recovery of Debt Laws (Amendment) Bill, 2004. Basically, this Bill is to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and further to amend the Recovery of Debts due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956.

What has been happening for many years is that the industry used to borrow money from the banks and financial institutions and not do the repayment. This Bill is further to amend the Bill which came in 2002 because there were some problems which these institutions were facing. It is because the NPAs of the banks and financial institutions have become enormous and, initially, people used to knock the doors of the High Courts and the Supreme Court and find ways to see that they do not have to repay the money. I congratulate the hon. Finance Minister to the extent that he has brought this Bill but it was not required that it had to be done through an ordinance. On this, I have reservations because there was no emergency of any kind that an ordinance had to be brought in. Otherwise, I feel that this Bill is required.

I was in Japan last week with a parliamentary delegation. The system there was so different. Today, people have to pay to an extent of ten to eleven per cent and it used to be to the extent of 17 per cent and, in this competitive global world, it is very difficult for industries to survive. The Minister is well aware of this fact. He has to reduce the interest rates from the financial institutions and banks so that these industries become viable. Otherwise, there are hundreds and thousands of industries which are falling sick as they cannot survive in this competitive world. This is one of the reasons.

Now, you may say that there are NPAs. But if you go through the reason as to why there is an NPA, you may find that it is because they cannot survive as the competition is so high. What I am trying to say is, when I was in Japan, I found that there is a negative interest there. The FDR which we always talk about of Pensioners, with which we live on afterwards (retirement), used to be 12 per cent. Why should we bring it down to nine and eleven per cent? How do we survive then? But if the money that they have to pay for FDR is nine or ten or eleven per cent, the borrowing rate will go up and the lending rate will even go further. Then, how do you balance these two things?

Now, to get the NPAs, you have done the right thing. In this Bill there is a clause for those companies which can take over these companies, which cannot be run, and re-sale them so that debts and NPAs are recovered. But what I am trying to say is that we need to encourage the entrepreneurship. In India the SME, the Small and Medium Entrepreneurship has really not taken off. In Japan the Small and Medium Entrepreneurship is very strong because they get money at 1 per cent or 1.5 per cent or 2 per cent interest rates. We are getting them at 10 per cent or 11 per cent or 12 per cent interest rates. Working capital is even more at 11 per cent or 12 per cent interest rates. How do you balance this and still survive? That is why I would ask the Minister to look into that.

I will give you one more instance. There was a bank in Japan, the Japan Credit and Leasing Bank. It was one of the biggest banks in Japan. It went into bankruptcy. It will be of interest to the Minister to note that four entrepreneurs of India who were from the Citi Bank went and took over the management of that bank and that bank has turned around. Today, it is one of the leading banks in Japan. In Japan, everybody is talking about this. There are no papers in that Bank. Everything is done on computers. It is something which we can really boast of. Otherwise, I support this Bill.

There are other facts which also the Minister should look into. Not just recovery of NPAs is important. It is also

important to see how we can rehabilitate these sick units. We should come out with schemes for that. We are interested not in just recovering the NPAs from these companies which have failed. We should have schemes to get them restarted and rehabilitated. Something should be done about them.

SHRI K.S. RAO (ELURU): Madam Chairperson, when I admire the Finance Minister, it will be repetition and possibly some parties will misunderstand me also because I happen to be Congressman and the Government is of the Congress and the Minister is also from the Congress. I will just give you some of the reasons as to why I have been admiring him. It is for the way in which he is bringing out amendments to many of the obsolete Acts. These amendments are very much required. I told it on the other day also. It is required not only with regard to Finance Ministry but also with many other Acts which are fifty years or sixty years or seventy years old, which are absolutely irrelevant to the present requirements of the nation and the people. He has brought such stringent and such good amendments to the Acts which are being taken advantage by the cheats and the undesirable elements. That is the reason why I admire him.

Unfortunately, today the values in this country have gone down so much. We used to hear and read about Tanguturi Prakasham, a freedom fighter from Andhra Pradesh, from the composite Madras State, who fought against the Britishers. When the police wanted to fire, he opened his shirt and said, "You fire, I am ready". Those were the days of doing sacrifice not for oneself and for selfish ends but for the nation. Unfortunately, today we see in this society goondas and anti-social elements who commit murders, who just force people to pay money as he likes. When the police comes, he says, "Arrest me". He does not have fear for the system and he does not have fear for the police. The same is the case in the banking industry. The intelligence, talent and capacity of the borrower is utilised only to take money from the financial institutions.

The moment he takes the loan from the institutions, he thinks that his job is over and he does not need to repay the loan. Today, we see in the newspaper reports that a sum of Rs.50,000 crore remains as the outstanding NPAs of the financial institutions. I am personally of the opinion that much more amount must have been hidden in the balance-sheets which is to be announced later or over a period of time. They do not want to create a panicky situation in the country. They want to bring it to the notice of the people gradually as far as all the NPAs in the banks are concerned. Then, they arrange the money out of the profits they earn every year and then bring down the NPAs.

A borrower who has taken money or a promoter who has taken money from an institution, if his intention is fair, we can appreciate it. By virtue of the change in laws or change in the market conditions, if he were to fail, we can understand it. The institution concerned can also go to the rescue of the borrower and then help him or re-invest money, re-finance and then bring it to order. But here the situation is something different where the promoters will siphon away the money, sometimes much before they commence production, the real business and sometimes later on also. In this context, as early as 1986 I was telling in Parliament that if a promoter were to promote a company, if he siphoned away the money and invested the same money in the name of his children in some other company, then the company which was started by him, which failed to pay back the money taken from the institution, must not be given any further loan. That promoter must be permanently boycotted. Not only he but also his family members must not be given any loan by the banks. Then only there will be a moral fear that unless he pays the money back to the institution, he will not be able to survive in this country.

Today, some rich people cheat the banks and the financial institutions to a great extent. If a company or an entity were to cheat a bank by rupees one crore, the promoter of that company or entity is considered as an intelligent and competent man and respected in the society. If there is another man who cheats an institution by rupees one hundred crore, he is considered a very great man. He has access to everybody who is well-off in the society. He does not care for the Chairman of a bank. Unless such provisions are made in the Act, we cannot deal with such a situation. I am happy that he has made a provision. In case if these people, who are not paying back the money without any genuine reasons and with assets behind them, properties behind them, the provision authorises the institutions to take over the management.

Recently, I have seen myself a case in Hyderabad. When such provisions have been provided, in some place, when a person's property was to be auctioned by an institution, he was running door to door to see that it was not auctioned. It was so because the market value of the asset which was hypothecated to that institution had gone up so high that it could repay the entire loan. When it went to auction, the entire property was not needed to be sold in auction. Only a part of the asset had secured so much amount to repay the loan to the institution. So, it is not only this provision which is being incorporated by the Minister but also instructions must go without any ambiguity, with total clarity to the institutions and the officers concerned that there should not be any mercy in dealing with such persons. There should not be any consideration at all; no politician or no well-off citizen should go to the rescue of the borrower who is trying to cheat the institution.

Similarly, the other provision that he has made in regard to referring the case to the DRT and to the Appellate Authority would also deter these people from cheating the institutions. This provision would see that they pay back the money and then have a respectable position in the society. Apart from the provisions in the Act, a publicity must be made. A feeling must be created in the society that these people, who are cheating the institutions, however rich they may be, well-off they may be, must be looked down upon in the society as culprits, as undesirables in the society. If that can be done, I am sure, we will not have this problem of having NPAs to the tune of thousands of crores of rupees which money can be utilised for doing any good work. Now, thousands of crores of rupees are lying like this in the hands of the rich people who have cheated the banks. If that money can be used to pay Rs.150 to a poor man in the society, it will be helpful. Which poor man?

Madam, my leader is also here. I wanted to bring a legislation in Parliament for those poor people who are living in the villages and who happen to work from the age of 10 right up to the age of 70. When we go and visit the villages, we see them lying in the huts. In some places where there is no roof, when they are lying on a dilapidated cot or on the ground when none of their children is around to take care of them, with eyesight loss and nothing to eat, they are not taken care of by anybody. They may not be many. Even if you take all such people into account, the maximum money that may be required to help them would be about Rs. 10,000 crore to Rs. 15,000 crore in the entire country. If we spend that money for their welfare, they will be very pleased. If a person who has worked from a very young age right from eight o'clock in the morning to eight o'clock in the night is not privileged, how can an officer who worked for 20 years in an office get all the privileges, perquisites, apart from other income, and get a pension for all his lifetime? Why should these unfortunate poor people living in the villages, who worked all through their lifetime, get some privileges? So, instead of wasting the money with the rich people who are not paying back the money which runs into thousands of crores of rupees, the same money can be passed on to the people who really deserve it.

So, I appreciate the spirit behind this measure and I support this Bill which has been brought by the Minister for bringing in this provision into the Bill. I want him to follow the real spirit. He should not merely be content with bringing the legislation and putting a clause in it. This Bill should not be misused. The institutions also must be given a clear-cut instruction that they must take action and auction all those properties, if necessary, and take over the management of defaulting companies. If they take over the management of 10 such companies, every person will come running and repay every paise that he is due to pay.

**प्रो. रासा सिंह रावत (अजमेर) :** सभापति महोदया, मैं वित्त मंत्री द्वारा लाये गये प्रतिभूति हित का प्रवर्तन और ऋण वसूली विधि (संशोधन) विधेयक, 2004 का समर्थन तथा स्वागत करता हूँ। इससे पूर्व 2002 में इस संबंध में जो बिल पारित हुआ था, प्राकृतिक न्याय के सिद्धांत के अनुपालना की उस में शायद कमी रह गई थी। सुप्रीम कोर्ट ने मारिया और अन्य बनाम भारत सरकार के संदर्भ में जो निर्णय दिया, उस निर्णय की अनुपालना के अंदर माननीय वित्त मंत्री जी उस एक्ट में संशोधन करके पुनः सदन के सामने लाये हैं। मैं समझता हूँ कि राष्ट्रीयकृत बैंकों का एन.पी.ए. बढ़ता चला जा रहा है। ऋण देने वाले वित्तीय संस्थान, चाहे वह आई.डी.बी.आई हो, चाहे आई.सी.आई.सी.आई हो, चाहे एस.बी.आई. हो, चाहे एल.आई.सी. हो या दूसरे बैंक हों, इन सब बैंकों के एन.पी.ए. बढ़ते चले जा रहे हैं। मुझे आश्चर्य होता है कि एक तरफ 'माया से माया मिले, कर-कर लम्बे हाथ, तुलसी, हाय गरीब की पूछे नहीं कोई बात।' दूसरी तरफ सामान्य किसान किसान क्रेडिट कार्ड से थोड़ा बहुत ऋण लेने के लिये बैंकों में जाता है, तब उसे कहा जाता है कि इसकी वसूली ठीक नहीं हुई या अकाल के कारण जमा नहीं करा पाया या अन्य किसी कारण से बिना जांच किये उसकी वसूली हो जाती है, जबरदस्ती की जाती है। लेकिन अगर करोड़पति कोई उद्योग लगाता है, उसके लिये उसे बैंकों से या बड़े बड़े बैंकों से बड़ी राशि ऋण के रूप में मिल जाती है। उसके बाद उसकी नीयत में खोट आ जाता है। पता नहीं किस कारण से वह दिवालिया या घाटा दिखाकर या कोई बहाना बनाकर उपक्रम बंद कर देता है। वह किसी दूसरे स्थान पर जाकर दूसरे नामों से बैंक से लोन ले लेता है और इस तरह धोखाधड़ी करता है। इस प्रकार एन.पी.ए. की संख्या बढ़ती जा रही है। यह वास्तव में चिन्ता का विषय है। जो पैसा देश के विकास के लिये खर्च होना चाहिये, वह बट्टे-खाते में एडजस्ट कर दिया जाता है या कम्पोमाइज या सैटलमेंट या अन्यान्य तरीके अपनाकर उसे कम किया जाता है। मैं समझता हूँ कि इस प्रकार की उदारता नहीं बरतनी चाहिये। कर्ज देते समय इस बात की जांच की जानी चाहिये कि उद्यम की स्थापना करने के लिये, उसे प्रोत्साहित करने के लिये या उत्पादन बढ़ाने के लिये जो पैसा दिया जा रहा है, उसकी वसूली या उपयोग सही नहीं होगा, उससे हमारे देश के उत्पादन को बढ़ावा मिलेगा या नहीं, यार बेईमानी तो नहीं करेगा, इन सब बातों की जांच की जानी चाहिये।

महोदया, मैं कुछ आंकड़ों की तरफ आपका ध्यान दिलाना चाहता हूँ कि एन.पी.ए. कितना बड़ा खतरा बन रहा है। हालांकि इस बिल के अंदर भविष्य में जो डिफाल्टर्स होंगे, उनके खिलाफ कार्रवाई करने का प्रावधान भी किया गया है। लेकिन प्राकृतिक न्याय का तकाजा था कि उन्हें एक बार सुना जाए और इसीलिए यह लाया गया है कि - Indian banks are estimated to have a bad loan portfolio of over Rs.1 lakh crore, at present. एक लाख करोड़ से ज्यादा लोन बैड लोन्स के रूप में माना जा रहा है और उसकी वसूली नहीं हो रही है। एक प्रकार से उनको आगे-पीछे राइट ऑफ करना पड़ेगा या और कुछ करना पड़ेगा। ऐसी स्थिति में The amendments have been brought in after the Supreme Court directed that banks should give borrowers an opportunity to make a representation before they pass orders and attach properties. उनकी सम्पत्ति की नीलामी से पहले उनको सुनने का अवसर प्राप्त हो, इसीलिए यह अमेंडमेंट लाया गया है। इसके साथ-साथ Upholding the constitutional validity of the Act, the Supreme Court had struck down the provisions under 17(2) of the Act mandating defaulters to deposit 75 per cent of the total dues before seeking legal redress. यह धारा 17(2), पहले वाले एक्ट के अंदर जो प्रावधान था, जिसके अंतर्गत 75 परसेन्ट जमा कराना पड़ता था, उन सारी कमियों को उन्होंने दूर कर लिया है। लेकिन यह बड़ी चिंता का विषय है कि 30 नवम्बर, 2004 को सरकार द्वारा उत्तर दिया गया था, जिसमें यह बताया गया था कि ग्रास एन.पी.ए. की मात्रा केवल सार्वजनिक उपक्रमों में बैंक के अंदर 48724.3 करोड़ और नैट एन.पी.ए. 16886.4 करोड़ है, टोटल रिकवरी साल भर में 4220.6 करोड़ की हुई। इतने कानून बनाने के बाद भी 2197.2 करोड़ एन.पी.ए. राइट ऑफ किया गया और इतना बट्टे खाते में डाल दिया। रिकवरी केवल 4220 करोड़ की रही और एन.पी.ए. कितनी बड़ी संख्या में पहले था, इससे अंदाजा लगा सकते हैं कि हमारे सार्वजनिक बैंकों या वित्तीय संस्थानों की स्थिति कितनी दयनीय होती जा रही है। इसके अंदर एक और आंकड़ा है - राइट ऑफ कम्पोमाइज और राइट ऑफ का जो कुल टोटल हुआ, जैसे तीन साल के अंदर 20,704 करोड़ रुपए था और उसमें से कम्पोमाइज और राइट ऑफ जो समझौता होकर कम हुआ है, वह 11308.3 करोड़ रुपए है। इन आंकड़ों से पता

लगता है कि वास्तव में मर्ज बढ़ता गया, ज्यों-ज्यों दवा की। जैसे-जैसे हम कानून बनाते चले जाते हैं, वैसे-वैसे राइट ऑफ वाली या एन.पी.ए. की बीमारी बढ़ती चली जा रही है। वित्त मंत्री जी बड़े प्रतिभाशाली व्यक्ति हैं, मैं आपके माध्यम से उनसे कहना चाहता हूँ कि उदारीकरण और वैश्वीकरण के इस जमाने में हमारी सरकार ने इन सारी चीजों को आगे बढ़ाने का प्रयास किया था। ऐसी स्थिति में यहां पर आकर इतने करोड़ों रुपये की राशि इस प्रकार से बट्टे-खाते में चली जाए, समझौते के नाम पर छूट जाए या लोग बचने का कोई न कोई रास्ता निकाल लें और कानून की निगाहों से बच जाएं, ऐसी स्थिति में नये पग कठोरता के साथ बढ़ाने की आवश्यकता है। यह चिंतनीय विषय है कि भारत सरकार ने, रिजर्व बैंक ने और वित्तीय संस्थानों ने वसूली करने के लिए Evolving and implementation of recovery policy by banks, जो उपाय किये गये, वे उपाय मैं गिनाकर बता रहा हूँ, इन उपायों के बावजूद हमें अपेक्षित या अभीष्ट सफलता क्यों प्राप्त नहीं हो रही है। इसके बारे में वित्त मंत्री जी को थोड़ा गंभीरता से विचार करना चाहिए। वे उपाय थे - filing of suits in civil courts; filing cases with Debt Recovery Tribunals; compromise settlement through Settlement Advisory Committees; Lok Adalats; monitoring and follow up of NPAs at various levels; Credit Information Bureau. जिससे पता लगता रहे कि क्या स्थिति है। कारपोरेट डैब्ट रीस्ट्रक्चरिंग स्कीम भी आपने लागू की है। ये सब ट्रांसपेरेन्ट मैकेनिज्म हो, इस बात का भी प्रयास किया। इन सब बातों के बावजूद असैट रीकंस्ट्रक्शन कंपनी इंडिया लि. वगैरह भी बढ़ाकर उसमें भी कुछ फंड्स आपने रखे। इन सारी बातों के बावजूद हमें वसूली के बारे में, रिकवरी के बारे में, पूरी रिकवरी हो, पर्याप्त रिकवरी हो, निर्धारित समय में रिकवरी हो, इन तीनों बातों के अंदर असफलता का सामना करना पड़ रहा है। मैं समझता हूँ कि वित्त मंत्री जी ने सुप्रीम कोर्ट के कहने से इस एक्ट के अंदर जो लेकुना था, उसे दूर किया है।

हम आशा करते हैं कि आने वाले समय में इन रिकवरियों के अंदर तेजी आएगी और ऐसे उपाय ढूँढने पड़ेंगे। लोग डीआरटी या डी.आर.ए.टी के माध्यम से चक्कर काटते रहते हैं। हमने तो प्राकृतिक न्याय के सिद्धांत की अनुपालना करने के लिए उनको कहने का, सुनने का, आपत्ति व्यक्त करने का अवसर प्रदान कर दिया, परंतु इसके बाद भी उनकी सम्पत्ति जब्त हो गई या कुछ और हो गया, तो वसूली नहीं होगी, उसको हमें देखना पड़ेगा। वैसे तो मैंने बिल का प्रारम्भिक स्वागत कर दिया है लेकिन आपके माध्यम से इतना अवश्य कहना चाहता हूँ कि इन सारे उपायों के बाद भी हमको अभीष्ट सफलता नहीं मिलने का क्या कारण है? एक बैंक से लोन लेने वाला व्यक्ति है, जिसने उस बैंक को धोखा दिया है, उस से पैसे की वसूली नहीं हो रही है। वह गोपनीय रखते हैं, दूसरे बैंकों को बताते नहीं हैं। उसका नाम, उसका पता, उसकी फैंक्चरी और उसके बारे में सब कुछ सारे देश के बैंकों को भेजना चाहिए ताकि दूसरी जगह वह धोखा न दे सके और किसी दूसरे नाम से नकली कम्पनी बनाकर वह बैंक से पैसा वसूल न कर सके। इसके बारे में ध्यान रखना चाहिए।

महोदया, आपने बोलने का मौका दिया, इसके लिए मैं आपका आभार व्यक्त करता हूँ।

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Madam, I am grateful to hon. Members for the broad support that they have extended to this Bill. I think, the principal question that is worrying some Members is this. Why was an Ordinance promulgated? That judgement of the Supreme Court in Mardia Chemicals was passed on 8<sup>th</sup> of April, 2004. I have no doubt in my mind that if the Government of the day was free to make an Ordinance, it would have made an Ordinance. But, we were in the middle of elections, and, therefore, perhaps the Government observed restraint and did not make the Ordinance. So, I think it was absolutely necessary not to leave a situation where after sub-Section 2 of Section 17 was struck down by the Supreme Court, the result was that there was no effective way in which the lenders could approach the tribunal. The Supreme Court had also said that the lender must give an opportunity to the borrower and then pass an order giving reasons, and only then you can take measures under sub-Section 4 of Section 13. If these two rulings of the Supreme Court were allowed to stand without any corrective measures, for a long time what would have happened is, for that entire period, this Act would have been a virtual dead letter. Therefore, I think we did the right thing. As soon as this Government assumed office, and the Budget Session was over – we were all preoccupied with the Budget Session – immediately we looked into the matter, and I came to the conclusion that an Ordinance was absolutely necessary. So, in consultation with the RBI, the major lenders, banks, and financial institutions, we promulgated the Ordinance on the 11<sup>th</sup> of November, 2004. Today, we are moving the Bill to replace the Ordinance. As it is, I think, we have lost about six months. Nobody is to be blamed. The law has been declared by the Supreme Court. We are all bound by the law. For a six month period, I think, this Act has not been very effective. Now, I think, after this Bill is passed by this hon. House and by the Rajya Sabha, the law will become once again effective and we will be able to recover loans on which borrowers have defaulted.

Madam, these are the main changes. As the hon. Members know, we have, in deference to the observations of the Supreme Court, deleted sub-Section 2 of Section 17, and we have also introduced a provision by which the borrower will be given an opportunity to state his case, before measures can be taken under sub-Section 4 of Section 13, and immediately the borrower can challenge it before the tribunal. If the tribunal upholds the claim of the lender, and then the borrower wishes to go for an appeal, at that stage, a provision has been introduced where the borrower would have to deposit 50 per cent of the amount which has been decided as owing from him.

At the first stage, he deposits nothing, and at the second stage, the appellate stage, he would have to deposit 50 per cent. I think, this is a fair provision. This balances the interest of both the lender and borrower. I have no doubt that this provision will be a salutary provision for effectively implementing this Act.

Madam Chairman, some reference was made to NPAs and the persistence of NPAs. It is true that there are NPAs but as credit expands, there will be a certain amount of default. I do not think we should look upon banking as anything but a business. Like some businesses will fail, in banking also some loans will fail. Markets may change, the product may become obsolete, technology may change, and there may be a crippling strike in that business or industry. Some loans will fail, and I do not think we should immediately jump to the conclusion that something is wrong with the banking system. If Rs. 100 crore is given as loans to 100 people, out of 100 people one or two loans will fail. I do not think that is a major issue. The major issue is, what is the quality of lending, what is the quality of

asset, do we have a system to recover assets, or do we have willful defaulters who vanish with the money or who defalcate. Those are the matters we should be concerned with, and not that there is NPA. In every country, there is NPA. In China, I am told that the banking system has an NPA close to 40 per cent. I am not wishing that. Our gross NPAs are only 7.8 per cent in public sector banks and the net NPAs are only three per cent.

Mr. Rawat was right. He got the correct figures. The gross NPAs are Rs. 48,724 crore and the net NPAs are Rs. 16,886 crore. But this figure should be seen in the context of the total lending. Take non-food credit for the current year. Last year, at about this time, the incremental non-food credit was about Rs. 47,000 crore. This year, it is already Rs. 1,17,000 crore. There is a tremendous credit expansion this year. Industry is growing at a very clipping rate. Manufacturing is growing at close to 7.9 or 8 per cent. People are borrowing. People are investing. Therefore, non-food credit has grown from Rs. 47,000 crore last year to about Rs. 1,17,000 crore for the corresponding period. Some of these loans will turn out to be bad loans. In order to recover those bad loans, we made this law, Parliament made this law, and we are introducing the amendments to plug some of the lacunae that have been pointed out in the law.

Madam Chairman, we have taken this opportunity to make some incidental corrections and changes, which we found were necessary in our experience of working the Act. These changes are all explained in the Statement of Objects and Reasons. Reserve Bank has been given power to issue directions to Securitization and Reconstruction companies. The word 'debt' has been defined. It has been provided that the lender can now take over the business also. There was a lacuna in the drafting. We have now corrected that lacuna. We have now provided that the application shall be disposed of within 60 days and in no case shall take more than four months. We have also given power to the appellate tribunal to club all connected cases lying in various Debt Recovery Tribunals into one tribunal. These are simply housekeeping changes in order to clean up some provisions of the law where the drafting was deficit, but the main provisions are to address the defects pointed out by the Supreme Court, section 17(2) and the opportunity to be given to the borrower. Both have been done. I am sure that this law will now become an effective instrument in order to recover loans.

I am grateful to the hon. Members for their support and I request them, most humbly, to please pass this Bill unanimously. I also request Shri Bachi Singh Rawat to withdraw his Statutory Resolution.

MADAM CHAIRMAN : Shri Rupchand Pal, you have to seek only a clarification. Please do not make any speech because we have to take up the Discussion under Rule 193 at 1600 hours.

SHRI RUPCHAND PAL (HOOGHLY): I welcome the changes that are sought to be made in the existing arrangements in the Stock Exchanges. As a Member of the Joint Parliamentary Committee which had the opportunity to look into the functioning of the Stock Exchanges, I shall just mention one thing that one of the criticisms of the JPC was that they failed to address one core issue, that is, the nexus between the industrialists, brokers and the bankers. Even we had asked the SEBI to provide a list of the companies which have been just hand in glove with the brokers, which is causing havoc to the small investors. That particular paragraph has not been addressed by the Government till today. Till today we do find that this is what is happening in the share market. ...(*Interruptions*) I am just seeking clarification.

MADAM CHAIRMAN : Shri Rupchand Pal, that Bill has already been passed.

SHRI P. CHIDAMBARAM: Which Bill are you talking about ?

SHRI RUPCHAND PAL : I am talking of Securities Laws (Amendment) Bill.

SHRI P. CHIDAMBARAM: That is over.

MADAM CHAIRMAN: That Bill is over.

SHRI RUPCHAND PAL : So you are concluding the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill. Still I take this opportunity to request that the Minister should take note of it. I was not here. I was in the BAC. I came just now. I seek your protection. You look into that paragraph on the nexus between the industrial houses, brokers and bankers. ...(*Interruptions*)

SHRI P. CHIDAMBARAM: I request Shri Bachi Singh Rawat to withdraw the Resolution.

**श्री बची सिंह रावत 'बचदा' (अल्मोड़ा) :** सभापति महोदया, वित्त मंत्री जी ने काफी विस्तार से हमारी आशंकाओं का समाधान किया है। इस बात को सभी लोग मानते हैं कि एक्सट्रा आर्डिनरी सरकमस्टांसेस में यह आर्डिनेंस लाया गया है, इससे सभी लोग संतुष्ट हैं। विशेषकर जो फाइनेंशियल बिज़नेस है, वह बिल्कुल अलग है। क्योंकि पैनल लॉ में, सोशल लैजिसलेश में वेट कर सकते हैं, लेकिन फाइनेंस में वेट नहीं कर सकते। आप इस आर्डिनेंस को लेकर आए हैं, लेकिन it should not be made a practice in future.

मैं पुनः अपने सबमिशन को दोहराते हुए अपना प्रस्ताव वापस लेने की अनुमति चाहता हूँ कि भविय में इस बारे में जरूर ध्यान दें कि जो रिमोट और फार-फ्लंग्ड

एरियाज़ में स्माल डिपोजिटर्स हैं, जो फाइनेंस कम्पनी में पैसा जमा कर रहे हैं, वे अभी भी बहुत ज्यादा इफेक्टिवली हम लोगों को एप्रोच करते हैं। उसके लिए कोई न कोई रेमिडी आनी चाहिए कि उनका भी इंटरस्ट सेफगार्ड हो, जो चिट फंड कम्पनी और फाइनेंस कम्पनी में जमा करते हैं, वे लोग जमा रूपया लेकर फरार हो जाते हैं, उनके लिए भी सुरक्षा करने के लिए कोई, बिल लेकर आएं तो मैं समझता हूँ कि पूरा हाउस सपोर्ट करेगा। इन परिस्थितियों में पुनः विधेयक का स्वागत करते हुए, उसका समर्थन करते हुए मैं अपना डिसएप्रूवल का प्रस्ताव वापस लेने की अनुमति चाहता हूँ।

**सभापति महोदय :** धन्यवाद।

Has the hon. Member leave of the House to withdraw his Statutory Resolution?

SEVERAL HON. MEMBERS: Yes.

*The Resolution was, by leave, withdrawn.*

MADAM CHAIRMAN: The question is:

"That the Bill to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956, be taken into consideration."

*The motion was adopted.*

MADAM CHAIRMAN: The House will now take up clause-by-clause consideration of the Bill.

The question is:

"That clauses 2 to 23 stand part of the Bill.

The motion was adopted.

Clauses 2 to 23 were added to the Bill.

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

MADAM CHAIRMAN: The Minister may now move that the Bill be passed.

SHRI P. CHIDAMBARAM: I beg to move:

"That the Bill be passed."

MADAM CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

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