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Title: The Minister of Finance made the statement regarding Signing of protocol between Republic of India and Swiss Federal Council to amend the existing Agreement for avoidance of double taxation with respect to taxes on income with protocol.

THE MINISTER OF FINANCE (SHRI PRANAB MUKHERJEE): Madam Speaker, with your permission, I beg to make a short Statement on an important issue of signing the amendment to the existing Agreement for avoidance of double taxation between India and Switzerland, which the hon. Members on the floor of this House have mentioned on several occasions.

Yesterday the Republic of India and the Swiss Federal Council have signed a Protocol which will amend the existing Double Taxation Avoidance Agreement between the two countries (DTAA). The amended DTAA shall come into operation after it enters into force on completion of internal process by Switzerland side.

Salient features of this Protocol are:

1. Article on Exchange of Information has been amended to bring it in line with international standards

- Under the current DTAA between India and Switzerland, India has not been able to obtain banking information from Switzerland. The protocol now seeks to amend the Article concerning Exchange of Information to enable exchange of such information.
- Information which is foreseeable relevant for carrying out the provisions of this agreement or to the administration or enforcement of the domestic laws concerning taxes can be exchanged under the DTAA, whereas earlier information which was relevant only for carrying out the provisions of DTAA could be exchanged.
- Information exchanged is to be used for tax purpose only. However, the new Article also provides for use of information by such other purposes which are allowed under the laws of both States and the competent authority of the supplying State authorizes such use.
- There is a specific provision to ensure that information will be exchanged even if there is no domestic interest.
- There is a specific provision for providing banking and ownership information.
- The new provision will be applicable only for prospective information and not for past information.

2 At present the income from international shipping are not covered under the DTAA. This is now sought to be included in the DTAA by providing for residence based taxation for shipping income from international traffic.

3 Our earlier treaties used to cover tax sparing provisions where if the income is exempt in one country, the other country used to provide corresponding relief even if such taxes are not paid due to exemption. However, India no longer supports this method and is moving away from profit based exemption. Tax sparing (to the extent of 10% of interest income) is currently there in the existing DTAA. Therefore, it is sought to be deleted in the Article concerning elimination of double taxation,

4 Article on Non-discrimination is sought to be amended to provide that difference in tax rate of resident taxpayer and Permanent Establishment of non-resident tax payer should not be more than

2

5 Recognised pension fund or scheme is included in the definition of resident to enable them to get benefit of the DTAA.

6 A provision for Limitation of Benefit is sought to be introduced to prevent misuse of treaty benefits on dividend, interest, royalty, fee for technical services and other income.

श्री लाल कृष्ण आडवाणी (गांधीनगर): अध्यक्ष जी, आज अंतिम दिन है अन्यथा मैं इस प्रोटोकॉल के बारे में आपसे आग्रह करता कि हम चर्चा करें। लेकिन ब्रीफली अगर वित्त मंत्री बता सकें कि इस नये प्रोटोकॉल के अनुसार जिन भारतीयों ने अपनी संपत्ति स्विस् बैंक्स में जमा करवाई है, उनके बारे में हमें जानकारी मिलेगी या नहीं मिलेगी? मिलेगी तो किस सूरत में मिलेगी और कब तक नहीं मिलेगी, इसके क्या पहलू हैं, क्या संक्षेप में बता सकते हैं?

SHRI GURUDAS DASGUPTA (GHATAL): I also say the same thing. I would like to know why it is prospective and not retrospective. There is always a clamour to bring back the large funds that are there. I urge upon the Government to ensure that the black money is recovered and it is invested for the development of the country....(*Interruptions*)

श्री मुलायम सिंह यादव (मैनपुरी): यह अत्यंत महत्वपूर्ण सवाल है और सरकार की तरफ से यह जानकारी आनी चाहिए कि उसमें किन-किन के नाम हैं?
...(व्यवधान)

MADAM SPEAKER: Now please do not start a discussion. The Leader of the House is on his legs.

SHRI PRANAB MUKHERJEE: First of all I would like to make it quite clear....(*Interruptions*)

If we want to have a discussion, then there is no end to it. But, on a limited point I can say that so far as the Swiss laws are concerned, they do not give any information in respect of their banking transactions. Swiss Bank transactions are so strictly enforced that only once in 1945 the assets of the Nazi leaders who were subjected to Nuremberg Trials were revealed by the Swiss Bank. Before and after that they have not revealed any such information. This will provide us an opportunity to have the relevant Bank information for taxation purposes.

Secondly, with many other countries we are having taxation agreements. For instance, as per the German laws we got some information that we can raise the demand for taxes. But we cannot disclose this information to any authorities including Parliament. Hon. Members are aware of that particular case; we could not reveal it.

(Placed in Library, See No. LT 3102/15/10)

...(Interruptions)

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