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title: Regarding Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 as a Money Bill Regarding Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015, as a Money Bill.

HON. SPEAKER: He has given the letter and now also he has argued that the Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 is not a Money Bill. In this context, I may inform that the Bill seeks to make provisions for undisclosed foreign income and assets, the procedure for dealing with such income and assets and to provide for imposition of tax on any undisclosed foreign income and asset held outside India.

Clause 3 of the Bill provides for charge of tax on an assessee in respect of his total undisclosed foreign income and asset. Clause 60 provides that the undisclosed asset located outside India and declared under clause 59 within time specified therein shall be chargeable to tax at the rate of thirty per cent of value of such undisclosed asset on the date of commencement of the Bill. Chapters III, IV, V and VI of the Bill relate to tax management, penalties, offences and prosecutions and tax compliance respectively. Chapter VII contains general provisions relating to the implementation of the Bill.

Clause (1) of Article 110 provides that a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-clauses (a) to (g) thereof. While ruling on the exact significance of the scope of the word 'only' occurring in Article 110 (1), the then hon. Speaker, Shri Mavalankar observed:

15.00 hrs.

"I think, *prima facie*, that the word 'only' is not restrictive of the scope of the general terms. If a Bill substantially deals with the imposition, abolition, etc., of a tax, then the mere fact of the inclusion in the Bill of other provisions which may be necessary for the administration of that tax or, I may say, necessary for the achievement of the objective of the particular Bill, cannot take away the Bill from the category of Money Bills. One has to look to the objective of the Bill. Therefore, if the substantial provisions of the Bill aim at imposition, abolition, etc., of any tax then the other provisions would be incidental and their inclusion cannot be said to take it away from the category of a Money Bill.

SHRI DEEPENDER SINGH HOODA : That is the objection, Madam.

माननीय अध्यक्ष : जो रीजेनिंग बात है उसे बाद में मिनिस्टर एक्सप्लेन करेंगे।

"Unless one construes the word 'only' in this way it might lead to make Article 110 a nullity. No tax can be imposed without making provisions for its assessment, collection, administration, reference to courts or tribunals, etc., one can visualise only one section in a Bill imposing the main tax and there may be fifty other Sections which may deal with the scope, method, manner etc., of that imposition."

The provisions contained in Chapters III to VII are consequential upon levy of tax under Clauses 3 and 60. Hence, the provisions deal with imposition, regulation, etc., of tax on income and asset. The provisions of these Chapters as such attract the provisions of Article 110(1)(a) of the Constitution.

I have, therefore, categorized this Bill as a Money Bill within the meaning of Article 110 of the Constitution of India.

Now, Shri Mahtab, if you wish to make any point.

SHRI BHARTRUHARI MAHTAB : Madam, the Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015, that is listed today for consideration and passing, is a completely new Bill with 88 clauses and deals with undisclosed foreign income and assets issues. For very long time the black money, that has been stashed abroad, has been in public discourse and there is public demand to enact a new law.

But, it does not have that much of teeth to achieve any meaningful purpose. We have FEMA which allows a resident to hold foreign asset freely provided these were acquired when an Indian citizen was residing outside India. The Bill stipulates undisclosed income abroad will no longer be taxed under Income Tax Act. So, domestic black money holders can escape from the Income Tax Act. This goes against the basic purpose of the Bill. This Bill creates arbitrage opportunity with a lesser punishment if black moneys are transferred from off shore to on shore. This cannot be the intention of any legislation.

Finally, where is the power to bring back stashed away funds in the Bill? It is missing.

When this is the case of the Bill, I am of the opinion, Madam, that it should be sent to the Standing Committee of Finance for deliberation which can definitely improve the effectiveness of the intent of the Bill.

DR. P. VENUGOPAL (TIRUVALLUR): Madam, this is a new Bill. It also involves many judicial forums apart from foreign agencies. This requires creation of new statutory body overlapping the functions of the Enforcement Directorate. Hence, this Bill calls for a thorough study by a Standing Committee. So, Madam, you may refer this Bill to the Standing Committee to make this vital law flawless.