

[श्री प्रकाशवीर शास्त्री]

के हिन्दी संस्करण को प्रस्तुत करने की बात कही है। मैं आपके माध्यम से यह जानना चाहता हूँ कि क्या हिन्दी संस्करण उतना ही पूर्ण है, जितना कि अंग्रेजी संस्करण पूर्ण है, या वह अंग्रेजी संस्करण का सारांश है और केवल सदस्यों को संतुष्ट करने के लिए दो चार पन्ने साइक्लोस्टाइल कर दिए गए हैं।

अध्यक्ष महोदय : पूरा है।

श्री अटल बिहारी वाजपेयी : पूरा है। श्री शास्त्री पहले इसको देख लें और फिर टिप्पणी करें। इस प्रकार संशय करना ठीक नहीं है।

12.35 hrs.

STATEMENT UNDER DIRECTION 115

INCOME-TAX RETURNS OF MPs

SHRI N. K. SANGHI (Jodhpur): During the discussion in this House, on 24-12-1969, on resolution regarding Income-tax and Wealth-tax payments, Shri P.C. Sethi, the Hon. Minister of State in the Ministry of Finance, stated that 350 members of Parliament did not file income-tax returns or filed the returns late under section 139(1).

Under section 139(1) no one is to file any return, if his or her income is below the taxable limit. Here in this House, the income of majority of members, I believe, is not above the taxable limit.

The monthly payments made to the Members of Parliament are treated as income from 'Other Sources.' Income from 'other sources' is subject to deductions and the residual income, if it exceeds the taxable limit, then only a member of Parliament needs filing a return. This is the legal position. This being the legal position, merely because a member receives Rs. 500/- per month does not make it obligatory on his or her part to file a return. Any member receiving Rs. 6,000/- a year may have to spend a good part of it in the discharge of his or her obligations and duties as a member. He or she, under the law, is to

file a return *only* if the residual or net income after meeting these expenses, is above the taxable limit.

About two years ago, the Secretariat of the Lok Sabha while effecting monthly payments to the members was deducting income-tax construing the payment as 'Salary'. Later on, on the advice of the Advocate General and the Law Ministry, it was classified as income from 'Other Sources'. Income from 'Other Sources' is subject to several deductions for determination of taxable income whereas such deductions are not allowed in the case of 'Salary.'

Subsequently to the discussion on 24-12-1969, in answer to my Unstarred Question No. 89 of 23-2-1970 asking for a list of those members who did not file or filed the returns late, the Hon. Minister stated that, 'a list of MP's who had not filed the returns or filed late, under section 139(1) had been furnished to the Speaker.'

I presume, the Hon. Minister was wrongly advised and consequently misinformed the House. His statement has created a wrong impression all over the country that Hon. members of Parliament who are so vigilant in discharging their duties have failed to discharge their reasonable obligation like regular filing of returns payment of income-tax and thereby becoming defaulters.

My purpose of this statement is simple, as I am sure this House will agree, that this wrong impression should be corrected. I might have taken this matter to the Privileges Committee but I feel this statement will put an end to this slanderous campaign by certain people against the Members of Parliament.

श्री प्रेम चन्द वर्मा (हमीरपुर) : अध्यक्ष महोदय, मेरा प्वाइन्ट ऑफ ऑर्डर है। प्रधानमंत्री जी ने मेरे एक सवाल के जवाब में कहा था कि 350 मेम्बरों की लिस्ट एक महीने तक टेबल पर रख दी जायेगी। लेकिन अभी तक ऐसा नहीं किया गया है। अध्यक्ष महोदय, आप मुझे मिनिस्टर साहब के बोलने से पहले अपनी बात कहने का मौका दीजिए।

MR. SPEAKER: I have to observe the procedure. No points of order are allowed after the statement.

SHRI N. K. SANGHI: Sir, I rise to a point of order about the next item of business. (Interruption)

MR. SPEAKER: Order, order. Let the Minister reply.

SHRI N. K. SANGHI: I rise to a point of order. It is a very important one; it is a matter of the rights of the Members.

SHRI ATAL BIHARI VAJPAYEE (Balrampur): How can he rise to a point of order when he has made a statement now?

SHRI N. K. SANGHI: Sir, it is very important. You cannot differentiate between the rights of Members and the rights of Ministers. (Interruption)

MR. SPEAKER: You have made a statement, and you yourself want to raise a point of order. I think it is extraordinary. Let the Minister reply.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI P. C. SETHI): While making the statement on the Floor of the House on 24-12-1969 during the discussion on the Private Member's Resolution (Shri J. M. Imam's Resolution on income-tax matters of Shri Jagjivan Ram, Union Minister of Food & Agriculture), I had stated that more than 350 Members of Parliament had either not filed their income-tax returns or filed them late. In making this statement I was not trying to create any wrong impression or speaking derogatorily of the Members of Parliament for whom I have the highest respect, but was merely stating the facts. Subsequently, a list of Members of Parliament who had not filed their income-tax returns or filed them late had been submitted to the Hon'ble Speaker of the Lok Sabha and the Hon'ble Chairman of the Rajya Sabha. According to this list, 260 Members of Parliament had not filed their income-tax returns and 213 had filed them late.

The legal position u/s 139(1) of the Income-tax Act, 1961 is that every person whose total income during the previous year ex-

ceeded the maximum amount which is not chargeable to income-tax, has to furnish a return of his income by the prescribed date which is generally the 30th June of the assessment year. However, on an application from the assessee, the date for filing the return can be extended by the Income-tax Officer. This applies to all those also whose tax is deducted at source.

The statement submitted to the Hon'ble Speaker of the Lok Sabha relates to assessment years 1966-67 to 1968-69. Upto March, 1968, the fixed allowance of Rs. 500 per month which the Members of Parliament were receiving was treated as income from "salary" and tax was being deducted at source. The person paying the salary could make standard deduction in respect of Life Insurance premia for these years. The I.T.O., however, could allow expenses within certain limits in respect of conveyance, books, etc. A statement showing tax deducted at source from the salary of Members of Parliament sent to the I.T.O., Salary Circle, Delhi, by the Pay and Accounts Officer, Lok Sabha, shows that tax was deducted at source in the case of 516 M. Ps. out of a total membership of Lok Sabha 523 (including the Speaker). According to section 139(1) even if tax had been deducted at source, these Hon'ble Members were required to file their returns.

In October, 1967, one of the Hon'ble Members (Shri C. C. Desai) made a representation in which he claimed that—

- (a) The salary received by him was not taxable under the head "Salaries" but should be taxed either under the head "Profits and gains of business or profession" or as "income from other sources"; and
- (b) The expenses incurred on the maintenance of an office in Delhi and another in the constituency should be allowed as also election expenses, expenses incurred on nursing the constituency and expenses on the maintenance of conveyance for attending Parliament.

The matter was referred to the Ministry of Law and it advised that the salary of M.Ps was assessable under the head "income from other sources" and hence was not subject to deduction of tax at source. From 1-4-1968, therefore, no tax was deducted

[Shri P. C. Sethi]

from the monthly remuneration received by M. Ps.

As regards the deductions allowable out of the allowance received by the M. Ps., the Attorney General's advice was sought, according to which, the following expenses are allowable as deduction:—

- (a) Expenses incurred in maintaining an office in Delhi;
- (b) Expenses incurred in maintaining an office in his constituency; and
- (c) Expenses incurred on postage, stationery, conveyance, telephone, stenographic assistance etc., in Delhi or in his constituency.

The following expenses were held to be not allowable:—

- (i) Expenses incurred by a Member of Parliament in contesting the election.
- (ii) Expenses incurred in nursing the constituency.
- (iii) Expenses incurred regarding conveyance for attending Parliament from his place of residence in Delhi; and
- (iv) Expenses incurred in travelling from his place of residence to Delhi and vice-versa.

The Law Minister agreed with the opinion of the Attorney General.

On the basis of this advice, instructions have been issued by the Central Board of Direct Taxes elucidating the scope for allowable expenses. This was for the guidance of the assessing officers. In the light of this decision, if an Hon'ble Member has no other income except that Rs. 500/- as a Member of Parliament and he has expenses worth Rs. 1,000/- per year as to be allowed, he need not file the return under section 139(1).

The Law Minister while endorsing the Attorney General's opinion had advised that it may be appropriate to consider allowance of a portion of the salary on a flat basis as expenditure. This aspect of the matter was referred to the Parliamentary Committee on Subordinate Legislation. The Committee

in its report have expressed their view that instead of laying down any general formula, for allowance of expenses with a fixed part of M.P's. salary, the allowance of expenses may be left to be determined on the merits of each case. The question of formulating general guidelines in the form of rules is under consideration.

In a recent case (Shri C. C. Desai's case), the Income-tax Appellate Tribunal, Delhi, has held that the monthly allowance received by M. Ps. was assessable under the head "Profits and gains of business or profession". On receipt of the Tribunal's decision, the Ministry of Law were consulted about its correctness. That Ministry has advised that the decision was not correct and they adhered to their earlier advice that salary of M.Ps. was properly assessable under the head "other sources". Accordingly, a reference from the Tribunal's decision has been filed by the Department, for getting the issue adjudicated upon by the High Court.

As regards deductions while computing the income under the various heads, I may point out that the scope of deduction of expenses varies with the head of income under which the income is computed. If the income is computed under the head "salary", the deductions are allowable only in respect of Life Insurance premium, Provident Fund, conveyance and books etc. If the same income is treated to the "income from other sources", then, expenses which are incurred for earning the relevant income are allowable. If, however, the income is assessable under the head "business, profession or vocation", then expenses incurred for the relevant business, profession or vocation (even though not for the particular item of income) are allowable.

But I must again emphasise here that since upto assessment year 1968-69 the allowance received by M. Ps. was assessable as income from "salary" and as the statement of tax deducted at source by the Pay & Accounts Officer, Lok Sabha, showed, the income of most of the M. Ps. was above the minimum taxable limit, returns u/s 139(1) should have been filed which were either not filed or filed late. Thus, in giving information regarding non-filing or late filing of returns by M. Ps., I was neither misinforming the House nor

trying to create wrong impression about the Hon'ble Members.

श्री कंबर लाल गुप्त (दिल्ली सदर) : अध्यक्ष महोदय, यह सारे पार्लियामेंट के मेम्बरों की इज्जत की बात है। अगर आप मुझे एक मिनट दे दें तो अच्छा होगा।

Sir, you permit me only one minute. It is a very serious matter.

MR. SPEAKER: I have to remind him every time that no questions can be asked on a statement.

SHRI PILOO MODY (Godhra): We are not interested in a detailed statement on what the law on the question is. Our charge is that he has deliberately tried to mislead the House and the Public by making this infructuous charge. It is a cheap stunt.

SHRI KANWAR LAL GUPTA: Sir I am asking a question to you.

MR. SPEAKER: I do not know how I...

श्री कंबर लाल गुप्त : मंत्री महोदय ने उस दिन यह कहा कि तीन सौ से ज्यादा पार्लियामेंट के मेम्बरों ने अभी तक इन्कम टैक्स का नक्शा दाखिल नहीं किया, हालांकि उनकी इन्कम टैक्सबिल लिमिट से ज्यादा थी। वस्तु स्थिति यह है कि जैसा अभी मंत्री महोदय ने माना . . . (व्यवधान)

अध्यक्ष महोदय : मैं इस बारे में क्या बताऊँ। मैं बात करूँगा आपको बुला कर।

SHRI PILOO MODY: He has made a false statement. How do you expect us to accept it. The law as it stands today was not the law earlier.

MR. SPEAKER: The Finance Minister has made the position clear. I would request Shri Gupta to speak on the next item which is standing in his name.

SHRI RANDHIR SINGH (Rohtak): Sir, the income-tax paid by us should be refunded. . . (Interruptions)

SHRI PILOO MODY: Why should he try to equate us with Shri Jagjivan Ram? Who the devil is he to equate us with Shri Jagjivan Ram?

श्री कंबर लाल गुप्त : अभी भी यह गलत कह रहे हैं, और अननेसेसरी मलाइन करने के लिए ऐसा कहा है। हर एक मेम्बर को इन्होंने श्री जगजीवन राम बना दिया।

MR. SPEAKER: I have passed on to item No. 9. Is Shri Gupta going to speak on that or not?

SHRI S. K. TAPURIAH (Pali): Sir, the names of those Members should be made public. . . (Interruptions)

श्री प्रेम चन्द्र वर्मा : अध्यक्ष महोदय, मुझे 350 मेम्बरों की लिस्ट चाहिए। मुझे प्राइम मिनिस्टर ने इसी सदन में कहा था कि एक माह के अन्दर उन 350 मेम्बरों की लिस्ट दे दी जायगी, मुझे वह लिस्ट चाहिए. . . (व्यवधान). . . अध्यक्ष महोदय, यह मेरा हक है, आप मेहरबानी कीजिए, मुझे जो एगोरेंस दी गई थी, उसको पूरा कराइए. . . (व्यवधान). . . 3 महीने गुजर जाने के बाद भी वह लिस्ट मुझे नहीं मिली। यह बड़ा महत्वपूर्ण मामला है, जब प्राइम मिनिस्टर ने यहाँ पर एगोरेंस दी थी, तो मुझे वह लिस्ट क्यों नहीं दी गई, मुझे लिस्ट दिलवाइए।

SHRI MORARJI DESAI (Surat): I would like to make one request. That is that the request of the members to get the list of those who have not filled in their forms is very legitimate and that ought to be supplied by the Minister.

श्री कंबर लाल गुप्त : माननीय मंत्री जी ने जो बयान आज दिया है, उसमें फिर यही कहा है कि जो बयान उस दिन दिया गया था, वह ठीक था। लेकिन, अध्यक्ष महोदय, मैं आपको जरिए यह कहना चाहता हूँ कि यह गलत है, चाहे सेलरी के हेड को ले लीजिए, चाहे प्रोफेशन के हेड को ले लीजिए, चाहे प्रदर-सर्विसिज के हेड को ले लीजिए। जिस मेम्बर

[श्री कंवरलाल गुप्त]

की कोई और इनकम नहीं है, 500 रु० के झलावा, उसके लिए 139 (1) के तहत इनकम टैक्स रिटर्न फाइल करने की जरूरत नहीं है और उस वक्त भी नहीं थी, पहले भी नहीं थी, जिसका खर्चा 100 रु० महीना हो। अध्यक्ष महोदय, यहां हमको मैलाइन करने की कोशिश की गई है, जगजीवन राम के साथ हमको इक्वेट करने की कोशिश की गई है। कानून यही है कि अगर 100 रु० महीना किसी मेम्बर का खर्च हो, तो उसको नक्शा दाखिल करने की जरूरत नहीं है और पहले भी नहीं थी। मंत्री महोदय ने अभी जो बयान दिया वह भी गलत है और पहले जो बयान दिया वह भी गलत था, इन्होंने जान बूझकर गलती की है। मंत्री महोदय को यहां पर कहना चाहिए था कि अगर किसी की और सोर्स से इनकम नहीं है, तो उसको नक्शा दाखिल करने की जरूरत नहीं है, लेकिन अगर इनकम ज्यादा है तो उसको नक्शा दाखिल करना चाहिए।

SHRI S. M. BANERJEE (Kanpur): Kindly hear my submission. I wanted your permission.

SHRI RANDHIR SINGH: No MP is a defaulter.

SHRIMATI SHARDA MUKERJEE (Ratanagiri): We have a right from this side of the House.

MR. SPEAKER: You may have a right, but I am calling Mr. Banerjee.

SHRI S. M. BANERJEE: That day, when the hon. Minister wanted to make a statement and he has made a statement when he was replying to the debate on the non-official resolution moved by Mr. Mohd. Imam, he mentioned that there were some 300 MPs or something like that, who have not filed their returns. That day itself I wanted your permission and I wanted to bring to your kind notice that we wanted this money to be deducted from our salary. The day it was stopped either at the instance of Mr. C. C. Desai or somebody else, we knew it was impossible for us to file the returns not

do we have the time at our disposal. I hardly get Rs. 100 as salary and everything is deducted. We are prepared for incometax being deducted from our salary. If it is not deducted from our salary, to malign us before our constituents and before the people is very wrong. It should be deducted from our salary in future.

SHRI N. K. P. SALVE (Betul): It is a matter connected with income-tax. Will you allow me to make a submission?

SHRIMATI SHARDA MUKERJEE: I want to make a submission, Sir. Because of one dishonest Minister, the hon. Minister is casting an aspersion on the entire House and he is not even prepared to give the details.

Another point I would like to submit. If one is late by one month or two months, it is not the same thing as not filing returns, for ten long years. Most of our friends, here, have filed their returns. But one of our friends here has been served with a summons. This sort of victimisation is going on in the House. To cover up that thing they want to put the whole House under a cloud.

SHRI N. K. P. SALVE: We do not want the law to be any different for the MPS as against what it is for individual citizens. The law must be uniform whether he is a Minister or an MP. (Interruptions) I am not standing here to justify any Minister or any MP or anybody. I am explaining the basis of law. The law is uniformly administered and the income tax law is very clear that a person cannot be held to be in default for filing a return until the Department finds the person concerned as having income above the exemption limit. Unless the income is above the exemption limit there is no liability for a Member of Parliament or any other citizen to file a return. Now a member gets a salary of Rs. 500 and out of that. . .

MR. SPEAKER: No, No. What is the point of order?

SHRI N. K. P. SALVE: Under Section 139(2) unless the Minister has issued or unless his Department has issued a notice and ascertained the income of each of the Members, it cannot be determined whether a

Member is in default or not. This is the clear position. We do not want any special privileges for us. At the same time, we do not want to be condemned for no fault of ours. Therefore, let him call for returns of all the members. Then only it will be determined as to who are the Members who are in default and as to who are the members who are not in default. (Interruptions)

श्री मोलू प्रसाद (बांसगांव) : अध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न यह है कि कानून बनाने का काम विधान-पालिका का है, व्यख्या करने का काम न्यायपालिका का है और उसे कार्यान्वित करने का काम कार्यपालिका का है। मैं आपके माध्यम से जानना चाहता हूँ कि इन्कम टैक्स प्रफसरों को इन्कम टैक्स वसूल करने में स्वविवेक कैसे हासिल है, यह कैसे न्यायसंगत है, मैं इसका खुलासा चाहता हूँ। स्वविवेक का अधिकार इन्कम टैक्स प्रफसरों को कैसे दिया गया है ?

SHRI NAMBIAR (Tiruchirappalli): My submission is this. Let us not make a storm out of a tea cup. Here the point is if the hon. Members are liable to pay income tax and they are liable to submit returns, let them submit. If they are not, why do you make a noise here ? You tell them that you are not liable. There it ends.

SHRI PILOO MODY: Mr. Jagjivan Ram's advocacy.

SHRI NAMBIAR: We do not want ourselves to be treated in any way different from the citizens of the country. Everybody must submit his return.

श्री प्रेम चन्द वर्मा : अध्यक्ष महोदय, मैं डिटेल में नहीं जानना चाहता हूँ, मैं तो एक सी.डी.सी. बात जानना चाहता हूँ। इस सदन में प्रवान मंत्री जी ने यह घोषणास न दिया था—24-12-1969 को मेरे एक सवाल के जवाब में—कि 350 म्बरो की लिस्ट हमको एक महीने में दे दी जायगी, लेकिन वह लिस्ट मुझे अभी तक नहीं मिली है, मैं इसका जवाब

चाहता हूँ। यह हमारे प्रिवलेज का प्रश्न है, हमें वह लिस्ट चाहिए, वरना मैं भी उन लोगों में शामिल हो जाऊंगा, जिनको जनता चोर कहेगी। यह चीज साफ़ होनी चाहिए।

SHRI RANDHIR SINGH: There is no defaulter in this House now.

SHRI PILOO MODY: We want an apology.

SHRI RANDHIR SINGH: The income tax deducted should be refunded with interest.

श्री शिव नारायण (बस्ती) : अध्यक्ष महोदय, आपके द्वारा इस सरकार से मेरी रिक्वेस्ट है कि वह कुछ कामनसेन्स से काम ले और इन्कम टैक्स हमारी तनख्वाह से काट लिया जाए। हम इतने गए गुजरे नहीं हैं कि टैक्स भी न दें लेकिन उसको आप हमारी तनख्वाह से काट लीजिए। और इस तरह से हमको जलील और बेइज्जत न किया जाए।
... (व्यवधान) ...

MR. SPEAKER: I would request you to please listen to me. After this question was asked and replied to this list of Members as already stated in the House was sent to the Speaker, and the Speaker called a meeting of all the party leaders and group leaders, and the whole position was explained to them and as the exact legal position was still pending and the whole matter was under examination, with the consensus of the leaders, as I see in the proceedings here. . .

SHRI N. K. P. SALVE: Is the legal position now examined properly? Is the position settled and well understood?

MR. SPEAKER: It was under examination and the Minister wanted that those names should not be mentioned in the House unless the whole legal position came out very clearly and this I did not accept, I said, unless I consult the party leaders. I consulted all the party leaders and the group leaders. Their names are there; everything is there and when that position was laid before them, the Minister was allowed not to present the list before the House unless the whole position was not examined. This is the position.

श्री प्रेम चन्द वर्मा : लेकिन हमको वायदा किया है। . . . (व्यवधान) . . .

MR. SPEAKER: The list was to be sent to each Member. Normally we don't allow any questions. And, as the questions were addressed to me, to get out of the procedure, that was the only procedure I adopted, and so I hope the questions addressed to me were also heard by the Minister. And, if he likes, he can also make his observations. That is the only way I can cover this.

SHRI P. C. SETHI: I would like to clarify one point if you permit.

MR. SPEAKER: The House stands adjourned for lunch to meet at 2 P.M.

13.05 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at six minutes past Fourteen of the Clock.

[SHRI VASUDEVAN NAIR *in the Chair*]

PAPER LAID ON THE TABLE—Contd.

IMPORT TRADE CONTROL POLICY

THE MINISTER OF FOREIGN TRADE (SHRI B. R. BHAGAT): I beg to lay on the Table a copy of the Import Trade Control Policy for the year 1970-71. [Placed in Library. See No. LT-3031/70].

14.07 hrs.

STATUTORY RESOLUTION RE: CALCUTTA PORT (AMENDMENT) ORDINANCE
&
CALCUTTA PORT (AMMENDMENT) BILL

MR. CHAIRMAN: The House will now take up Shri Kanwar Lal Gupta's resolution regarding disapproval of the Calcutta Port (Amendment) Ordinance.

SHRI S. M. BANERJEE (Kanpur): I rise on a point of order.

MR. CHAIRMAN: On what?

SHRI S. M. BANERJEE: On this particular motion, I have a point of order. Has he moved his motion or not? After he moves the motion, I have a submission to make.

श्री कंवर लाल गुप्त (दिल्ली सदर) : सभापति जी, मैं आपकी आज्ञा से निम्नलिखित प्रस्ताव प्रस्तुत करता हूँ कि :

“यह सभा कलकत्ता पत्तन (संशोधन) अध्यादेश, 1970 (1970 का अध्यादेश संख्या 2) का, जो 2 फरवरी, 1970 को राष्ट्रपति द्वारा प्रख्यापित किया गया था, निरनुमोदन करती है।”

SHRI S. M. BANERJEE: I rise on a point of order. May I invite your kind attention to rule 340 which says that:

“At any time after a motion has been made, a member may move that the debate on the motion be adjourned.”?

I have received so many telegrams today from various places in UP, from the Central Government employees as well as, the State Government employees, in regard to the levy of professional tax from 1965.

MR. CHAIRMAN: Order. . .

SHRI S. M. BANERJEE: Kindly hear me. . .

MR. CHAIRMAN: No, I do not think that it is important enough for this kind of interruption.

SHRI S. M. BANERJEE: I am moving the motion under rule 340.

MR. CHAIRMAN: Order, please. Shri Kanwar Lal Gupta.

SHRI S. M. BANERJEE: I want that the Finance Minister should make a statement here.

MR. CHAIRMAN: I am sorry.