

Shri Nawal Kishore Sharma, Shri B. R. Shukla, Shri N. Tombi Singh, Shri C. M. Stephen, Shri K. Veeriah, Shri R. P. Yadav, and 15 from Rajya Sabha ;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee ;

that the Committee shall make a report to this House by the first day of the next session ;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make ; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill to provide for the speedy trial of certain offences in certain areas and for matters connected therewith, be referred to a Joint Committee of the Houses consisting of 45 members, 30 from this House, namely :—

Shri R. D. Bhandare, Shri M. C. Daga, Shri Madhu Dandavate, Shri Tulsidas Dasappa, Shri Biren Dutta, Shri C. D. Gautam, Shri Dinesh Chander Goswami, Shrimati Subhadra Joshi, Dr. Kailas, Shri Purushottam Kakodkar, Shri Sat Pal Kapur, Shri L. D. Kotaki, Shrimati T. Lakshminathan, Shri Mukhtiar Singh Malik, Shri Prasannabhai Mehta, Shri G. S. Mishra, Shri F. H. Mohsin, Shri Priya Ranjan Das Munsi, Shri Balakrishna Venkanna Naik, Shri Sarjoo Pandey, Shri K. C. Pant, Shri H. M. Patel, Shri M. Satyanarayan Rao, Shri Ebrahim Sulaiman Sair, Shri Nawal Kishore Sharma, Shri B. R. Shukla, Shri N. Tombi Singh, Shri C. M. Stephen, Shri K. Veeriah, Shri R. P. Yadav, and 15 from Rajya Sabha ;

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that in other respects the Rules of Procedure of this House relating to Parliamentary Committee shall apply with such variations and modifications as the Speaker may make ; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

The motion was adopted.

15.00 hrs.

INCOME-TAX (AMENDMENT) BILL

MR. DEPUTY-SPEAKER : Then, we take up further discussion of the Income-tax (Amendment) Bill. Shri Bade was on his legs.

श्री आर० बी० बड़े (सरगोन) : उपाध्यक्ष महोदय, जब इस पर डिस्कशन हो रहा था तब मैंने कहा था कि मैं इस बिल को अपोज करता हूँ, आन-प्रिन्सिपल अपोज नहीं करता हूँ, बल्कि इसमें जो मुद्दा है, वह इस बिल से पूरा नहीं होता है। इसके स्टेटमेंट आफ आब्सर्वेन्स एण्ड रीजन्ज में कहा गया है कि यह बिल क्यों लाया गया है, उसमें इनका कहना है—

"In the recent case of Indian Aluminium Co. Ltd. vs. Commissioner of Income-tax (1972) 84 I. T. R. 735, the Supreme Court virtually overruled its earlier decision in Travancore Titanium Product Ltd. vs. Commissioner of Income-tax (1966) 60 I. T. R. 277, and held that wealth-tax paid by an assessee in respect of business assets is deductible as a business expense in computing the assessee's income from business."

उस एक्ट में जो प्रावीजन था कि जो वैल्यू टैक्स लिया जायगा, वह सब में शामिल नहीं होगा, लेकिन अब सुप्रीम कोर्ट में रूलिंग दे दिया है जो उस उद्देश्य के खिलाफ था और ऐसी स्थिति में सन् 1962 से वैसा वापस देना पड़ता, इसलिये यह आडिनेन्स लागू किया गया। लेकिन मेरा कहना यह है कि वाँचू कर्मिस्तन की जो रिपोर्ट हमारे सामने हैं, उसमें उन्होंने कहा है कि यह कानून बिलकुल सीधा

[श्री आर० बी० बड़े]

होना चाहिए ताकि लोगों के दिमाग में आ जाय। लेकिन अब यह इतना कम्पलीकेटेड हो गया है, इसकी अमेण्डमेंट्स पर अमेण्डमेंट्स हुई हैं, सर्कुलर पर सर्कुलर निकले हैं कि एकट तो दिखाई देता नहीं, बस स्लिप्स ही स्लिप्स दिखाई देती हैं। कानून क्या है, यह बात साधारण आदमी को मालूम नहीं पड़ती इसलिये मैं कहता हूँ कि आप एक काम्प्रीहेन्सिव बिल लायें ताकि लोगों को मालूम हो सके कि कानून क्या है।

मेरा दूसरा प्वाइन्ट यह है कि जैसा वांचू कमिशन ने अपनी रिपोर्ट में कहा है :

At present the maximum rate of income-tax together with the surcharge in India is 97.75 per cent compared to 78.5 per cent in Canada, 75.4 per cent in U. K., 70 per cent in Nigeria, 70 per cent in Australia, 80 per cent in USA, 75 per cent in France and 50 per cent in Pakistan.

तो 97.75 परसेन्ट तक टैक्स होने की वजह से लोग टैक्स इवेंट करने की कोशिश करते हैं। अल्लाप साहब ने स्वयं कहा है कि रुपए की वैल्यू 44 पैसे रह गई है इसलिए टैक्स असेस्मेन्ट की लोयस्ट स्लैब साढ़े सात हजार होनी चाहिए लेकिन उस पर कोई ध्यान नहीं दिया गया, पांच हजार के ऊपर ही लागू किया गया है। इन कारणों से टैक्स इवेंट करने की कोशिश की जाती है।

दूसरी बात यह है कि बेल्ट टैक्स जो लगाते हैं वह डिबिटबल फ्राम इनकम होना चाहिए सुप्रीम कोर्ट की रूलिंग के अनुसार। जनता को अगर सी रुपया मिले उसमें से करीब 98 रुपये सरकार को दे दे तो उसके पास क्या बचेगा। इस वास्ते मैं चाहूंगा कि आप एक काम्प्रीहेन्सिव बिल लाकर के इस कानून को सिम्पलीफाई करें।

तीसरे आपका कहना है कि एरियर्स रह जाते हैं। आपका कहना है कि बहुत सा टैक्स वसूल करना बाकी है और देश में एक वीरेलस एकोनामी शुरू हो गई है। अब आप इसका टैक्स कैसे करें और आपका आ इतना-काम्पली-

केटेड है इसलिए टैक्स इवेंट होता है, लोग बकीलों के पास जाते हैं और सुप्रीम कोर्ट की तरह तरह की रूलिंग होती है।

अभी दिल्ली में तीन इनकम टैक्स अफसरों के खिलाफ सर्वेज हुई थीं तो किसी के यहां कुछ मिला, किसी के यहां कुछ नहीं मिला। वह बोगस सर्वेज थी। इससे उन अफसरों का डिमार्शियेशन हुआ है। कुछ अफसर बेईमान हो सकते हैं लेकिन सारे नहीं। उनका कहना है कि हम सख्ती करते हैं तो हमारे खिलाफ झूठी रिपोर्टें होती हैं और सरकार हमारी सर्वेज लेती है। इसलिए जिस मशीनरी से आपको काम लेना है उन पर बिश्वास रखकर आपको काम करना चाहिए और ऐसी बात नहीं होनी चाहिए जिससे उनका डिमार्शियेशन हो।

वांचू कमिशन ने कहा है ..

SHRI N. K. P. SALVE (Betul) : This Bill has nothing to do with the Wanchoo Commission. It has a very limited purpose. The time is very short

श्री आर० बी० बड़े : आप तो अभी नये इस लोक सभा में आये हैं, मैं यहां पर बहुत पहले से रहा हूँ।

We can say something concerning income-tax and the procedure laid down. There is the ruling of the Supreme Court of 1972. They have overruled the previous ruling. Therefore, I am saying that it should be simpler. But, on the contrary, they have said this.

तो इनकम टैक्स आफिसर्स की एक एड-वाइजरी बोर्ड होना चाहिए जोकि अपनी एडवान्स रूलिंग दे सकें। आफिस में ही एक वांचू होनी चाहिए। इसमें कहा है :

"We have carefully considered the pros and cons and we feel that the system can have great utility in such matters like deciding the tax implications of proposed foreign collaboration agreements. It would be in national interest to ensure that such projects are not subsequently shaken to the foundation by an adverse stand taken by the income-tax authorities. We are convinced that a system of advance rulings

will help in resolving ambiguities and doubts in time..."

Boards should be appointed and that is what is said on page 163 of the Wanchoo Committee's report....

MR. DEPUTY-SPEAKER : I think the scope of the Bill is very limited..

SHRI R. V. BADE : There are so many ambiguities in the income tax law...

MR. DEPUTY-SPEAKER : Discussion about ambiguities would be a much bigger discussion. Here the point is that the wealth tax of a person should not be deducted from the taxable income.

SHRI R. V. BADE : If you read the Statement of Objects and Reasons, they have given the same thing. In the recent ruling of 1972 the Supreme Court has overruled the previous rulings and, therefore, this ambiguity is there. Why I should explain is because the law is very complicated and the Wanchoo Committee has recommended that there should be a Special Tribunal which will solve the complicated questions. That is on page 163. I am saying the same thing that the Income Tax law is so complicated and there are so many amendments that an ordinary man cannot understand it. So, the Supreme Court has overruled the previous rulings and hence the Ordinance. The whole income tax law is very much complicated. I oppose this because of the complexities of the income tax law. Therefore, I oppose this wealth tax. A man should not be taxed twice. If he is taxed to wealth tax; then he should not be subject to income tax.

SHRI N. K. P. SALVE (Betul) : I rise to support this Bill...

MR. DEPUTY-SPEAKER : We are taking up some other business at 3.30. So, please try to conclude by that time.

SHRI N. K. P. SALVE : I will try, Sir.

I rise to support this Bill for grounds which are different and may be at variance with those enumerated in the Statement of Objects and Reasons appended to the Bill itself. In fact, this legislative measure which has been sponsored by this Bill stands on its own intrinsic merits, unrelated to the case made out in the Statement and for extraneous reasons. I would never canvass support for this Bill either for supersession of the judgment

rendered in the case of Indian Aluminium by the Supreme Court. I would submit in all humility that that is the judgment, that is a right judgment. I do not for a moment seek support for the supersession of that judgment nor do I seek support for this Bill merely on the consideration of administrative convenience nor do I seek support for this Bill because in the absence of this or if we are not going to pass this law, it is likely to cause some loss to the Exchequer. The Bill goes to create a concept about taxable income so far as the business income concerned and we are not going to pass such laws creating concepts, artificial concepts of business income. Not for any of these considerations do I support this Bill. I support this Bill for some thing much deeper. It concerns very sound principles of fiscal legislation because, as a result of this Bill, we are able to remedy a defect, we are able to remedy a lacuna in the law of income tax if the income tax law is correlated in juxtaposition to the wealth tax law. I will explain the position to Mr. Bade and he will immediately realise how inequitable the aggregate burden of income tax and the wealth tax is likely to become if this law was not amended the way we have sought to amend. As a result of this Bill and when this Bill becomes law, the wealth tax paid by an assessee will not be an allowable deduction, against his taxable income under the head 'business' or under the head 'income from other sources'. It would be assured that the burden of wealth-tax would become even on all the assessee with reference to quantum of the net wealth, so that the aggregate payment of income-tax and wealth tax does not become disparate in two different areas who have wealth of the same value, of the same income, but one has the business income and the other has got income from some other source other than business. How this will become inequitable will be illustrated by me just now. The judgment is correct; that is why we have come with this law. That is why we have come with the amendment of the law. I am supporting the rationale of the law. I will explain this. Take assessee A. Take assessee B. A has business income. He has 3.30 lakhs. The liability of A is Rs. 30,000 for wealth tax. Take assessee B. He has rental income or income from house properties etc. The wealth-tax liability is Rs. 30,000. In case of both A and B, taxable income would be 3.30 lakhs. In the absence of this law, persons whose incomes are from business have to pay a wealth tax of Rs. 30,000. The determination of business income as a total of taxable income

[Shri N. K. P. Salve]

of Rs. 3.30 lakhs and will give a deduction of Rs. 30,000. This calculation would amount to Rs. 2,49,550 whereas in the case of B, it will be Rs. 2,78,875. Therefore, the liability in the case of one is Rs. 29,325 more. This type of discrimination is there, as my hon. friend will see.

SHRI R. V. BADE : The second para of the statement says that the Ordinance amended the Income-tax Act, 1961, retrospectively from April 1, 1962, to provide that wealth-tax payable by a person deriving income chargeable under the head 'Profits and gains of business or profession' or 'income from other sources' will not be allowed as a deduction in computing taxable income under these heads.

SHRI N. K. P. SALVE : That is exactly the point. That is what is sought to be done in this Bill. I have explained how inequitable the discrimination would be in the case of assesses who are both similarly situated. One has assets put of business and the other has other-than business income. In view of the decision of the Supreme Court in the Indian Aluminium Company Ltd. this is what is sought to be remedied. I do not subscribe to what is stated in the statement of Objects and Reasons appended to the Bill. That is a very highly bureaucratic approach to the matter. They take only the one part; they do not see the main part. I do not for a moment submit that the decision of the Supreme Court in the Indian Aluminium Company given in No. 84 ITR is not the correct judgment; that is a correct judgment; but then, the Supreme Court is supposed to give interpretation on the law as it stands. We should amend the law. The earlier decision of the Supreme Court was not correct because it was on the basis of the old decision in the House of Commons. It did not hold the field after 10 years in England and it was referred to a much larger bench. They said "Wealth tax payment is allowable deduction."

I may also explain why in the earlier case it was held that wealth tax was not an allowable deduction. They said that wealth tax was levied on a person qua the owner of a property and on qua the trader, and, therefore, it would not be an allowable deduction. That was the decision in the case of *Travancore Titanium*, which was reported in 1966 (60, ITR, p. 235). But then subsequently it was held that a trader's

liability could not be isolated from his liability qua the owner of the property. For, if bonus is paid, does he pay bonus as the employer or does he pay it as a trader? If he pays rent for the premises in which he is carrying on business, and rent is allowed as business expenditure, does he pay rent as a trader or as a tenant? Suppose he pays rates and taxes to the municipality or the local authority, does he pay those taxes as qua trader or qua owner? A view has been taken consistently and courts have been giving their interpretation—it has to be a dynamic interpretation, and it cannot be a static concept—that a trader's liability was expanding always, and, therefore, they had in the Aluminium case that wealth tax liability was a legitimate allowable liability. There was nothing wrong with that decision. But in the absence of this law, I have pointed out to you how equitable the aggregate liability of income-tax and wealth tax would have become. The Statement of Objects and Reasons, instead of bringing out this particular point, has got itself embroiled in the two decisions etc. of which advantage is taken by Shri R. V. Bade who has criticised it without coming to the merits.

Now, I want someone to tell us what is wrong in it; if the aggregate liability of income-tax and wealth tax in respect of two assesses similarly situated is to be brought on a par, then this law is particularly 'utterly necessary'. Therefore, I commend this Bill, but finally one word more, and I have done.

This is a case where the Supreme Court has given decision in favour of the assesses and against the Department, because of the faulty drafting, and, therefore, we have given promptly in this House to amend the law. Sometimes it is the other way round, and decisions are given by the Supreme Court or observations are made which are against the assesses and in favour of the Department. It is equally necessary in these cases also where the intent of the legislation is in favour of the assessee, but due to faulty drafting, the Supreme Court has held it against the assessee and in favour of the Department, the Department must not delay the bringing forward of legislation.

With these words, I support the Bill.

MR. DEPUTY-SPEAKER : Now, Shri Balachandrayutham.

SHRI K. NARAYANA RAO (Bobbili) :

May I seek one clarification from Shri N.K.P. Salve ?

MR. DEPUTY-SPEAKER : He can seek a clarification from the Minister and not from a member. When he speaks he can have his say.

SHRI K. BALADHANDAYUTHAM (Coimbatore) : I welcome this amendment for the simple reason that it will add to the resources of the Government, though not further the socio-economic objectives about which Shri K. R. Ganesh elaborated the other day, because it does not require any argument now that the achievement of the socio-economic objective through the method of taxation has proved a failure in the last two or three years. We are celebrating the Silver jubilee of the failure of the policy of taxation with socio-economic objectives . . .

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH) : This refers only to direct taxes.

SHRI K. BALADHANDAYUTHAM : Even in the field of direct taxation the socio-economic objective is not being achieved, because the reply came from Shri Piloo Mody immediately that they were not going to pay the taxes . . .

MR. DEPUTY-SPEAKER : The hon. Member can continue his speech on the next day.

15.28 hrs.

MOTION RE: SEPARATE CENTRAL SCHEMES FOR DEVELOPMENT OF BACKWARD AREAS

MR. DEPUTY-SPEAKER : We shall now take up the motion by Shri Nathu Ram Ahirwar on the separate development schemes for the backward areas . . .

SHRI P. K. DEO (Kalahandi) : May I submit that more time should be given ? . . .

MR. DEPUTY-SPEAKER : Let me finish what I am going to say. I have not even finished my sentence.

This is a subject in which many Members feel involved, and, therefore, the tendency will be to make their submissions as strong as possible, and also as long as possible. But I would like to draw the attention of the House to the fact that only two hours have been allotted for this discussion. At 5.30 p. m.,

we are taking up another matter. Therefore, I would request that the Members who speak will kindly be as brief and precise and incisive as possible.

Now, Shri Nathu Ram Ahirwar.

SHRI P. K. DEO : May I submit that this is a very important subject ? We talk of socialism and all that. There is appalling regional imbalance. It would not be possible to do justice to the subject if we have only two hours. So, I submit that more time should be given . . .

MR. DEPUTY-SPEAKER : Let us see.

SHRI P. K. DEO : . . . So, I submit that at your discretion you may extend it by one hour. I think that is the sense of the House also.

SHRI B. K. DASCHOWDHURY (Cooch-Bihar) rose—

MR. DEPUTY-SPEAKER : Before we begin, more time is wasted on this.

SHRI P. K. DEO : We should have at least three hours.

SHRI B. K. DASCHOWDHURY : I have submitted one amendment to the motion.

MR. DEPUTY-SPEAKER : We will see about it. We have not come to that stage.

श्री नाथू राम अहिरवार (टीकमगढ़) :
उपाध्यक्ष महोदय, मैं निम्नलिखित प्रस्ताव करता हूँ :

“कि इस सभा की राय है कि देश के पिछड़े क्षेत्रों जैसे पूर्वी उत्तर प्रदेश, मध्य प्रदेश में बुन्देलखंड और बिहार में छोटा नागपुर, के लिए पृथक पृथक केन्द्रीय विकास योजनाएँ आरम्भ की जाएँ ताकि ये क्षेत्र अन्य विकास-शील क्षेत्रों से पीछे न रहें।”

उपाध्यक्ष महोदय, मैं समझता हूँ कि मेरे इस प्रस्ताव को अगर मान लिया जाए तो ये जो अविकसित क्षेत्र हैं, ये देश के विकसित क्षेत्रों के बराबर आ सकेंगे और वहाँ की जनता भी यह महसूस कर सकेगी कि देश का जो विकास हुआ है, उसमें हमें भी हिस्सा मिला है, उसको हम भी भोगीदार बने हैं।