

rating all the reforms suggested by them. In his reply, he has omitted that point altogether. I would like to know whether it is in the contemplation of the Government to consider this and if so whether it is likely that before the end of this Parliament, he will introduce a Bill like that.

Shri P. Venkatasubbalah: (Adoni): There has been some misapprehension in the minds of the people that there has been inordinate delay in appointing Judges once the proposals are sent by the Chief Justice of a State. In my own State, a proposal has been sent for the appointment of two judges. This matter has been pending for a long time, more than a year. An apprehension has been created that there is some hitch between the Chief Justice of the State and the Chief Justice of India and the Union Ministry. I would like the Minister to remove this misapprehension.

Shri Hathi: I am sorry Mr. Mukerjee was not satisfied with the reply I gave. So far as issuing some-direction was concerned, that was altogether a new point which he has not mentioned in his earlier speech. I shall certainly look into that.

So far as the appointment of Judges is concerned, as the provisions stand at present, article 217 says:

"Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State and in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court..." etc.

It has been said that there is some political pressure that should not be there. The Home Minister is going to discuss it with the Chief Justice of India as to whether anything further is necessary in this regard.

Mr Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

15.15 hrs.

DIRECT TAXES (AMENDMENT)
 BILL

The Minister of Finance (Shri T. T. Krishnamachari): I beg to move*:

"That the Bill further to amend certain laws relating to direct taxes be taken into consideration."

This is a short Bill which seeks to amend the Income-tax Act, 1961, the Estate Duty Act, 1953 and the Expenditure-tax Act, 1957, within a limited compass, for making certain provisions for removing hardship and providing relief to assesses in certain situations, and also removing certain difficulties arising in the operation of some of the provisions in these Acts. Some of the provisions in the Bill are designed to strengthen and improve the machinery of the Income-tax Act for tackling evasion and avoidance of tax.

First I shall refer to the main provisions of the Bill relating to income-tax. One of these provisions for giving relief to assesses relates to the taxation of the distribution made to the shareholders of a company by liquidator during the course of winding up of the company. Under the present law, the amount of such distribution, to the extent it is attributable to the accumulated profits of a company prior to its liquidation, is taxed as dividend in the hands of the shareholders. This provision is meant to prevent the avoidance of tax by the shareholders of a company through the device of accumulating its profits for several years and then taking the company into liquidation so that these

*Moved with the recommendation of the President.

[Shri T. T. Krishnamachari]

profits could be received through the liquidator as return of capital. However, this provision results in an unintended hardship to members of the public holding shares in companies which go into liquidation, not voluntarily or due to bad management, but consequent on the compulsory acquisition of the undertaking of the company by the Government. Hon'ble members may recall that during the debate in this House on the Finance Bill 1964 the hardship caused by this provision to shareholders of electricity companies which went into liquidation on the acquisition of the undertaking by the Government was mentioned. A provision has been made in the Bill to relieve hardship in such cases. It applies to all companies which go into liquidation in consequence of compulsory acquisition of their undertaking by the Government or by a corporation owned or controlled by the Government. It has been provided that in such cases, the distribution attributable to the accumulated profits of the company prior to the period of three successive accounting years before the acquisition of its undertaking, will not be taxed as dividends in the hands of the shareholders. Such distribution will be taken into account only for computing any capital gains arising to the shareholders. An exception has been made in respect of the accumulated profits of the last three accounting years so that this provision may not be abused by the deliberate accumulation of the profits of a company on receipt of advance information about the acquisition of its undertaking. It is sought to give retrospective effect to this provision from 1.4.1962, that being the date on which the Income-tax Act, 1961 came into force. I may mention here that this partially restores the position that was obtaining upto 1954-55.

From time to time, suggestions have been received by us from various quarters for providing some relief to the salaried class of assesseees in respect of tax on house-rent allowance

received by them from their employers. The taxation of the whole of the allowance actually spent in the payment of house-rent, as is the position under the present law, on doubt causes hardship to employees paying rent for ordinary residential accommodation in excesses of a reasonable proportion of their salary. This happens particularly in large towns and cities, where the level of house-rent has risen quite high in recent years. To remedy this hardship, a provision has been made in the Bill for the exemption of house-rent allowance from tax to the extent as may be laid down in the Income-tax Rules, subject to an upper ceiling of Rs. 300/- per month. The specific limits have not been laid down in the provision, as these may have to be revised from time to time having regard to the level of house-rent in various classes of cities, any change in the policy of the Government in regard to the grant of house rent allowance to its employees, and other relevant considerations. I would mention that at present, it is contemplated to make a provision in the rules, limiting the exemption in respect of house-rent allowance to the sum by which the house rent payable by the employee exceeds 10 per cent of the salary if he is stationed at any limit of 20 per cent of his salary if he is stationed at Delhi, Bombay, Calcutta and Madras and 10 per cent of the salary if he is stationed at any other place. There will also be an over-riding limit of Rs. 300/- per month.

Another provision in this Bill relates to grant of rebate of tax to assesseees in respect of donations made by them to the Jawaharlal Nehru Memorial Fund. As hon. Members are aware, this Fund has been set up to promote the objectives and ideals for which our late Prime Minister worked untiringly throughout his career, and of which he has left an indelible imprint on our national institutions and domestic and foreign policy. The objects of this Fund being objects of

national welfare, it is but appropriate that donations to this Fund should not be subject to the limits laid down in the Income-tax Act on the amount of charitable donations qualifying for rebate of tax.

The next provision to which I refer now relates to the levy under the Finance Act, 1964, of an extra amount of super-tax on the equity dividends declared by the companies which are not under a compulsion under the Income-tax Act to distribute dividends up to the statutory percentage of their profits. Hon. Members may recall that during the debate on this provision in this House, in April last, a point was made that the levy of this tax in the case of companies in which the public are not substantially interested, and whose shares to the extent of 75 per cent or more of their equity capital were held by charitable institutions, would cause hardship, because it would result in a reduction in the dividend income of such institutions. I had then promised to have this matter examined. I think that it would be justifiable to grant to such charitable institutions a credit for a proportionate part of this tax on dividends in relation to the amount of equity dividends received by them from such companies. The Bill seeks to make a provision in this behalf in the Income-tax Act.

I shall now refer to two of the provisions in this Bill which are designed to strengthen the provision in the Income-tax Act for preventing tax evasion. One of these provisions seeks to prohibit the registering authorities from registering any document transferring any non-agricultural immovable property exceeding Rs. 50,000 in value or any rights in such property, unless the person concerned has produced before the registering authorities a tax clearance certificate from the Income-tax Department in respect of his existing liabilities to income-tax, wealth tax, expenditure-tax and gift-tax as also any liability to excess profits tax and business pro-

fits tax. The object of this provision is the detection of concealed investments in immovable property and also the prevention of any attempt on the part of an assessee to forestall the attachment of his property for the purpose of recovery of his arrear tax dues. There is already a provision on similar lines in section 34 of the wealth-tax Act but it applies only to immovable property exceeding Rs. 1 lakh in value. However, this limit of Rs. 1 lakh leaves a wide scope for transfer of immovable property without information to the assessing officer. It is, therefore, desirable to bring down this limit to Rs. 50,000. Apart from this a tax clearance certificate has to be granted under this provision in the Wealth-tax Act if the assessee has no outstanding dues of Wealth-tax even though large amounts of income-tax and other direct taxes are outstanding against him. It is, therefore, necessary to extend this requirement of a tax clearance certificate to other direct taxes. With a view to obviate any misgivings in the minds of hon. Members about the practical working of this provision, I may state here that in the Rules to be made for implementing this section, a time limit will be specified for the grant of the certificate or its refusal as the case may be and it will be ensured that no avoidable delay is caused in the registration of such documents. A consolidated provision in this behalf is, therefore, sought to be made in the Income-tax Act. This will obviate the necessity of a tax clearance certificate under each of the Acts for the transfer of the same property. As a result of this provision, the existing provision in section 34 of the Wealth-tax Act will have to be omitted from that Act.

Under the next provision, it is proposed to make it incumbent on persons obtaining contracts of the value of Rs. 50,000, relating to house-building, to furnish relevant particulars regarding such contracts to the Income-tax Department within one month of making the contract. It is

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well-know that one of the major outlets of unaccounted money available with the assessee is the construction of house property. For avoiding detection of such investments, the cost of the construction of the house is often understated or the ownership of the property is passed off to *benamidars* of the real owner. Contractors engaged in building houses also find it advantageous to conceal or understate the payments received by them. The proposed provision is one of the measures for tackling this situation. It has been provided that a person who contravenes this provision will be liable to the imposition of a fine by the Commissioner of Income-tax not exceeding Rs. 50/- for each day of default subject to a limit of 25 per cent of the value of the contract. The order of the imposition of fine will be appealable to the Appellate Tribunal.

I shall now mention a few other provisions in the Bill which arise out of certain new provisions introduced in the Income-tax Act by the Finance Act, 1964. One of these provisions seeks to enable the Income-tax officer to revise the original demand of advance tax and advance annuity deposit with reference to the total income of the latest year for which tax has been paid by the assessee on self-assessment, if such total income is higher than the income on the basis of which the original demand for advance tax or advance annuity deposit was based. Some of the provisions relating to annuity deposits are also proposed to be amended. Under one of these amendments, the amount of the annuity deposits will be rounded off to the nearest multiple of Rs. 10/- instead of Rs. 5/- as under the existing provision. Another provision seeks to lay down that the concession allowed to artists, authors, playwrights, musicians and actors for making an additional annuity deposit of 25 per cent of their income will be allowed only in respect of the income derived by

them from their profession, and not in respect of their income from other sources.

The Bill also seeks to make a few other miscellaneous amendments to the provisions of the Income-tax Act which have been found necessary in the light of experience. I need not go into the details of these provisions, as they mostly relate to procedural matters.

I now turn to the proposed amendments to the Estate Duty Act. These are only two in number.

It would be recalled that during the debate in this House on the Finance Bill, 1964 in regard to the stepping up of the rates of Estate Duty, a fear was expressed by some of the hon. Members that the rate of duty at 85 per cent which becomes applicable on the value of an estate in excess of Rs. 20 lakhs, taken together with the tax on the capital gains which the accountable person will be liable to pay when he sells the property for the payment of the estate duty may, in the case of comparatively larger estates, exceed the total value of the property. I have given some thought to this matter. I now propose to introduce a provision in the Estate Duty Act to secure that where the accountable person transfers the assets comprised in an estate and utilises the proceeds for the payment of estate duty, the tax which is paid by him on the capital gains arising on such transfer would be allowed as a deduction from the duty. If the entire sale proceeds of the property or properties are not paid towards Estate Duty, the capital gains tax proportionate to the amount paid towards Estate Duty will be allowed as a deduction. This will secure that the cumulative incidence of estate duty and the tax on capital gains will in no case exceed 85 per cent of the value of the estate duty. In order to expedite the collection of estate duty, it has been provided that this concession will be

available in cases where the property forming part of the estate is transferred within two years of the death of the deceased. An appropriate extension of time may be granted in cases of genuine difficulty.

It is also proposed to make another provision in the Estate Duty Act for enabling an accountable person, if he so desires, to offer to the Government any asset comprised in an estate, whether it movable or immovable property, in payment of estate duty. The object of this provision is to avoid distress sales of property and also to expedite the collection of estate duty. The assets offered by the accountable person in payment of the estate duty will be accepted at the price mutually agreed upon between him and the Government. Any excess of the amount of the price of such assets over the estate duty payable will be adjusted towards income-tax or any other Central direct taxes due from the deceased person or from his estate. Any balance left over will be paid back to the accountable persons. The machinery for taking possession of and administering the property so accepted and the procedure to be adopted the matter will be worked out and prescribed in the Estate Duty Rules.

These amendments to the Estate Duty Act are applicable to duty on agricultural lands also. Estate Duty in respect of agricultural lands is a State subject, but in view of Article 250 of the Constitution, the Parliament has power, at present, to legislate in this sphere also. State legislatures will, however, have to consider whether these provisions should continue to apply in respect of estate duty on agricultural lands after the period mentioned in clause (2) of Article 250 is over and pass necessary resolutions on the subject.

Lastly, I propose an amendment to the Expenditure-tax Act. It relates to the new provision made in that Act by the Finance Act, 1964, under which expenditure incurred on making gifts will not be exempt from ex-

penditure-tax except if the assessee is chargeable to gift-tax thereon or pays to the Government an amount of 4 per cent of the value of such gifts. Under the provision as it stands now, this levy of 4 per cent as additional expenditure-tax will also apply to gifts which are specifically exempt from gift tax, such as gifts to private charities in small amounts or gifts to a spouse up to the cumulative limit of Rs. 50,000. However, as this will result in an unintended hardship, the relevant provision in the expenditure-tax Act is proposed to be amended so that gifts which are exempt from gift tax under sub-section (1) of section 5 of the Gift-tax Act are completely exempted from tax under the Expenditure-tax Act also.

I hope, Sir, the Bill with these provisions will meet with the approval of this House.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend certain laws relating to direct taxes, be taken into consideration."

Shri S. M. Banerjee (Kanpur): Mr. Deputy-Speaker, Sir, I have heard the hon. Finance Minister and I would like to make certain observations on the various clauses of the Bill.

Mr. Deputy-Speaker: He can continue on the next day. We shall take up the next item now.

15.31 hrs.

DISCUSSION RE: SUPPLY OF CONTAMINATED AND POLLUTED WATER TO RESIDENTS OF DELHI

Mr. Deputy-Speaker: We shall now proceed with the discussion under rule 193. Maharajkumar Vijaya Ananda is to raise a discussion on the situation arising out of continued supply of contaminated and polluted