

and India looks upon Kashmir as the mother country to include the State of India, the provincial part of it, though actually the case is the reverse. Kashmir on the top and Travancore below on the South are the two jewels in India, the most beautiful ornaments that adorn Bharat Mata. Therefore, it is but necessary that we should extend our authority over Kashmir. This House has been the scene of many a discussion on Kashmir, and always there was a tone of sorrow in it. Today, when Kashmir is going to be part and parcel of India with the financial integration, I am really surprised to find even in the Opposition Benches very few voices coming forth, except one or two, to welcome it.

I have great pleasure in supporting this Bill.

Mr. Deputy-Speaker: Has the hon. Minister anything to say?

Shri A. C. Guha: I do not think I shall have anything more to say. But I think it is a proud privilege for me to pilot this Bill, and I hope the House and the whole country will realize the implications of this Bill and that the House will have in near future the pleasure of passing similar other Bills.

Mr. Deputy-Speaker: The Kashmir State will benefit by this Bill. The question is:

"That the Bill be passed."

The motion was adopted.

MADHYA BHARAT TAXES ON INCOME (VALIDATION) BILL

The Deputy Minister of Finance (Shri M. C. Shah): I beg to move:

"That the Bill to validate the levy, assessment and collection in the State of Madhya Bharat of certain taxes on income and on profits of business due in respect of the periods referred to in sub-section (1) of section 13 of the Finance Act, 1950, be taken into consideration."

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This is a very simple Bill. Under the Federal Finance Agreement the Madhya Bharat Government was entitled to assess levy and collect the taxes under certain Acts, mainly the Indore Industrial Tax Rules, 1927 and other laws of the former Indian States now constituting Madhya Bharat, because there was no corresponding tax on business profits levied by the Centre at that time. In accordance with the usual recommendation of the States Finances Enquiry Committee, a general provision was made in section 13 of the Finance Act, 1950, keeping the taxation laws of the States in force therein immediately before the date of the Federal Financial Integration, operative only for the levy and collection of the tax on incomes of the period prior to the previous year relevant for the 1950-51 assessment. But the assessment and collection under the State laws was to be made by the officers of the Central Government appointed under the Indian Income-tax Act, who were to be treated as the corresponding officers under the State laws. Thus in the case of taxes of a special kind assessed, levied and collected in Madhya Bharat there was a sort of inconsistency or conflict between the terms of the agreement and the provisions of section 13 of the Finance Act, 1950.

Shri Bansal (Jhajjar-Rewari): What was that agreement?

Shri M. C. Shah: Agreement between the Rajpramukh of Madhya Bharat and the Government of India, that for the period prior to the integration the Madhya Bharat Government will be entitled to assess, levy and collect the taxes prior to the period of financial integration. That was the agreement under article 278 of the Constitution, and it is binding on the Government of India. Therefore the Madhya Bharat Government officers were entitled to assess, levy and collect the tax.

Now, under section 13 of the Finance Act—that was under the recommendation of the Federal Finance Enquiry Committee there was this distinction

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so far as other States were concerned, that section 13 was in operation. So far as the Madhya Bharat Government was concerned, the Agreement between the Rajpramukh of Madhya Bharat and the Government of India operated and therefore the Madhya Bharat Government, under the impression that this agreement prevailed, appointed all the officers and they assessed, levied and collected all these taxes. There are about a dozen cases of assesseses, and they have been already assessed. There have been appeals. There the question was raised by one of the assesseses that the officers of the Madhya Bharat Government are not entitled to levy or assess the tax. But under the agreement they were entitled to.

In order to remove the doubt and avoid multiplicity of litigation we have come forward to validate the action of the Madhya Bharat Government. As I said, under that agreement they are fully entitled and therefore only in order to resolve this doubt that was created we have come forward here for validating these acts.

It is rather too late in the day now to change the whole system. There is no dispute about the liability for paying the tax. Those people who question this say they are prepared to pay the taxes that may be due from them. But their objection is that under section of the Finance Act, 1950 these assessments ought to have been made by the officers of the Government of India. But they may not be knowing about the agreement between the Rajpramukh of Madhya Bharat and the Government of India. When this point was raised by some Members of Parliament and by certain others, the whole thing was again looked into in consultation with the Law Ministry and we have got their opinion that under this agreement whatever is done by the Madhya Bharat Government is quite proper and correct. Therefore, in order to resolve this doubt this Bill has been brought forward. I move.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to validate the levy, assessment and collection in the State of Madhya Bharat of certain taxes on income and on profits of business due in respect of the periods referred to in subsection (1) of section 13 of the Finance Act 1950, be taken into consideration."

Pandit Thakur Das Bhargava (Gurgaon): After reading the Statement of Objects and Reasons I have got a doubt. I find from the Statement of Objects and Reasons that there was a mistake in allowing the officers of the Madhya Bharat Government to levy and realize the taxes, etc., and that mistake is being rectified now. But at the same time there is another clause, clause 4, which says that so far as the pending proceedings are concerned they will be continued and that even now the officers of the Madhya Bharat Government shall have jurisdiction so far as these taxes are concerned. I want to know after the lapse of about 5 years, is it true that there are two sets of officers there?

Shri M. C. Shah: No.

Pandit Thakur Das Bhargava: How is it that these proceedings are to be continued and the officers of the Madhya Bharat Government will operate and realise these taxes, etc?

Shri M. C. Shah: So far as assessment for the pre-integration period is concerned, that is before the financial integration came into effect, the officers of the Madhya Bharat Government are assessing, levying and collecting the tax. From the date of the agreement coming into force, the Income-tax Officers are levying, collecting, etc.

Pandit Thakur Das Bhargava: That is not the point. The point is this. After 13th March 1948, if any tax is due, the officers of the present State are levying and collecting the tax. So far as the arrears previous to

that period are concerned, the Madhya Bharat officers levy or collect those taxes, whereas according to the Finance Act, the officers of the present Government should have collected. This Bill is brought to rectify that mistake. I can understand that. So far as pending proceedings are concerned, clause 4 of the Bill says that these proceedings will be continued by the previous officers. Am I to understand that the jurisdiction of these officers still continues?

Shri M. C. Shah: Yes; so far as those pending cases are concerned, the appellate officers of the Madhya Bharat Government are working. Because, as I just now explained, according to the agreement between the Rajpramukh of Madhya Bharat and the Government of India, all the cases that were pending were to be disposed of by the Madhya Bharat Government officials under the procedure laid down there.

Pandit Thakur Das Bhargava: What I do not understand is this. Under the Finance Act we said that in future all the taxes will be collected by the present Government.

Mr. Deputy-Speaker: Including the arrears.

Shri M. C. Shah: Yes; it is true. Arrears also were to be collected by us. A mistake was made and the officers of the old State collected those arrears and did everything.

Mr. Deputy-Speaker: The hon. Deputy Minister says that it is not a mistake but that it was a part of the agreement with the Rajpramukh that the Madhya Bharat officials should collect in which case the Finance Act differs from this agreement. They want to bring this in line with the Finance Act, and make these people responsible as if the officers of the Central Government are collecting.

Shri M. C. Shah: The words are these. I will read out two things. There is the recommendation of the Enquiry Committee.

"In one of the Covenanted States of the Madhya Bharat

Union—Indore—there used to be levied a tax described as "Industrial Profits Tax" on the income of certain industrial enterprises. It is understood that with the formation of the Madhya Bharat Union, the imposition of this tax has been discontinued; but there are still several pending cases to be disposed of. These will have to be taken over by the Centre and disposed of (in the same way as pending income-tax cases) in accordance with the pre-existing law of the Indore State. Should there be portion of this tax which is "returnable" to the assessee, the liability in this respect should be dealt with in manner suggested above in connection with the liability for the refundable portion of the E. P. T.

That was the recommendation of the Federal Finance Enquiry Committee. A modification was made in the agreement:

"In respect of the taxes mentioned below which pertain to items included in List I of the Seventh Schedule to the Constitution of India and are not in fact levied by the Government of India, the State will be allowed to continue to make assessments and to collect all the arrears outstanding even after federal financial integration, in respect of the liability of assesses up to 31st March, 1950.

I am reading a portion of the agreement.

Shri Radhelal Vyas (Ujjain): What is the date of the agreement?

Shri M. C. Shah: I shall find out and let you know.

"Gwalior War Profits Tax,
Indore Excess Profits Tax,
Indore Industrial Profits Tax,
Indore Stock Exchange and Forward Transactions Tax,
Rutlam Royalty on Cloth Production."

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"In respect of Indore Industrial Profits Tax, however, no assessment will be made in respect of profits assessable to Indian Income-tax Act after federal financial integration, that is to say, in respect of profits of "previous years" of the Indian Income-tax assessment year 1950-51 and subsequent years. It is agreed that the continuance of assessments in respect of the taxes mentioned above and the collection of arrears, etc. in relation to those taxes by the State after federal financial integration will necessarily involve that all refunds and other repayments to be made to assesseees will also be made by the State.

Mr. Deputy-Speaker: We are not interested in all these details. What is the agency which ought to collect? If this agreement preceded the Finance Act of 1950, how did it happen that this clause was introduced in the Finance Act contrary to the terms of the agreement that the Central Government officers will make the collection?

Shri M. C. Shah: This agreement was executed on 25th February, 1950.

Mr. Deputy-Speaker: The Finance Act, 1950, must have been passed some time in April, 1950. How did this happen?

Shri M. C. Shah: Therefore, the Madhya Bharat Government took the agreement as it was and they said that they were entitled to go on with the pending cases, under the agreement as I read out. When doubt was expressed.....

Shri V. G. Deshpande (Guna): When was the doubt expressed?

Shri M. C. Shah:.....we thought that we may bring in a validating Act so that all these doubts may be set at rest.

Mr. Deputy-Speaker: What ought to happen in the Finance Act should be

modified: notwithstanding this provision, in pursuance of the agreement, this provision, so far as it relates to Madhya Bharat, shall not be deemed to apply, in one form or another.

Shri M. C. Shah: After this point was raised, we took up this matter with the Law Ministry also and the Law Ministry said that this validating Act was necessary. Otherwise, they said and I thought that the first proviso to sub-section (1) of section 13 of the Finance Act may be deemed to be *ultra vires* so far as Madhya Bharat was concerned, and so it is better to proceed with this Bill.

Pandit Thakur Das Bhargava: In the Statement of Objects and Reasons, it is stated that this provision was overlooked by the Madhya Bharat Government. That is wrong.

Mr. Deputy-Speaker: That appears to be wrong. Both of them appear to be incorrect. The provisions of the Indian Finance Act, 1950 were overlooked by the Madhya Bharat Government and the Central Government overlooked the provisions of the agreement.

Pandit Thakur Das Bhargava: As a matter of fact, when it was passed in April, 1950, our officers must have known that it was their duty to realise all this. They did not know of the agreement. Probably, there might have been something wrong. At the same time, I do not see why that provision in section 13 of the Finance Act is not sought to be corrected now at least, when that Act has been passed overlooking that agreement, and the indication given that our officers will deal with this, now that the mistake has been discovered.

Mr. Deputy-Speaker: Only with respect to cases in which proceedings are pending, they are consigned to the State.

Pandit Thakur Das Bhargava: The benefit of the laws was given so far as arrears were concerned. Our courts,

our officers, our tribunals should have decided any disputed matter with regard to arrears. What I do not understand is this. As is also mentioned in an amendment, if effect was given to section 13 of the Finance Act, these arrears should have been collected by our officers. Now that the mistake has been discovered, why don't we not make it clear that our officers should adjudicate about any disputes which are there in connection with the proceedings? Why should we now enact that those officers of the State will go on dealing with the disputes about arrears.

Mr. Deputy-Speaker: The hon. Minister has read out the agreement to the contrary.

Pandit Thakur Das Bhargava: Let us change our law, section 13, in accordance with the agreement.

Mr. Deputy-Speaker: The question is whether the law should be changed in accordance with the agreement or the agreement should be validated in accordance with the law. Now, the other step has been taken under the advice of the Law Ministry. It does not matter, because both mean the same thing.

Shri Bansal: The difficulty is whether the officers of the Government of India, or the Government of India, at the time of enacting the Finance Act of 1950, overlooked the agreement which they had entered into with the Government of Madhya Bharat. There is a sort of legal duel going on between the Central Government and the Government of Madhya Bharat. What is the poor assessee to do?

What is happening in Madhya Bharat is actually this. In 1951, the Madhya Bharat Government, in pursuance of their agreement with the Central Government, appointed an appellate authority. That appellate authority had before it the cases of the assessee, whose income was assessed prior to 1950. Instead of finalising those cases or allowing those cases to be finalised by the appellate authority, the Madhya Bharat Government

appointed another tribunal in 1952. Then, I am told—this is from a representation I have received from the Madhya Bharat Millowners' Association—still another authority was appointed in 1953. What is this joke going on? It does not matter who charges or who assesses the tax. Let it be the Madhya Bharat Government or the Central Government; it does not matter, so long as the tax is finally charged and assessed reasonably. But what is happening is that the assessee are being sent from pillar to post. One appellate authority is being appointed in one year, another the next year, and still another after two or three years, with the result that the cases are pending unnecessarily. I think it is the duty of this House to take cognisance of this fact, and whether this is being done by the Madhya Bharat Government or the Central Government, it should bring about some sort of finality in the assessments. That is all I want to say on the floor of this House. The cases of these assessee must be finalised; and if nothing can be done, because there is a *cul-de-sac* on account of the agreement which the Government of India have signed with the Madhya Bharat Government or on account of the fact that either our Central Government overlooked the agreement while bringing forward the Finance Bill, or whatever it is, now the Government of India must use their good offices with the Madhya Bharat Government and get these cases settled at an early date. This can be done. Whatever provision we may amend, I think this is not outside the scope of the authority of the Central Board of Revenue and the Finance Minister to bring to bear upon the Madhya Bharat Government, good sense in order to finalise these cases.

No favour is being sought by asking this. All that I ask is that these cases which have been pending for seven or eight or even nine years—there may be some cases which may refer to incomes relating to periods much before 1950—should be finalised at an early date. This endless approach to

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this appellate authority, to this tribunal or to that tribunal must be put an end to, and some sort of arrangement must be arrived at, whereby these cases are settled amicably. I feel that if the Finance Minister and the Central Board of Revenue use their good offices, an end can be put to this whole affair.

Pandit Thakur Das Bhargava: How many cases are there pending now?

Mr. Deputy-Speaker: Now, Shri V. G. Deshpande.

Shri M. C. Shah: There are twelve assesses, and there are about.....

Mr. Deputy-Speaker: I have called Shri V. G. Deshpande.

Shri M. C. Shah: I am giving information.

Mr. Deputy-Speaker: No information now. The hon. Minister may reserve and give this information later on.

Shri M. C. Shah: I am sorry.

Shri V. G. Deshpande: I really record my protest against the way in which such important Bills are presented to the House. This is a Bill which vitally affects the interests of the constituencies I represent. Here, we are told that there was some mistake made by the Madhya Bharat Government, and in order to correct that mistake, the hon. Deputy Finance Minister is approaching this House. But now we have actually found out that the mistake was made by our Central Government. On account of this mistake, certain confusions did arise there, and as my hon. friend Shri Bansal has pointed out, this confusion is causing great injustice to many persons in Madhya Bharat.

When this Bill has been presented before the House, the House has not been informed as to what the amount involved is in all the pending cases, what the number of these pending cases is, and when this mistake was detected. Section 13 of the Finance

Act, 1950 was passed in 1950 and today it is September 1954. Within these four years, when was this mistake detected? What were the steps that Government took after this mistake was detected? What is the amount still pending? What is the number of cases which are still pending? If, as has been pointed out already, there is really such confusion, and tribunals after tribunals are being appointed, I think this House would not be justified in giving the kind of authority to an agency, which is causing great harassment to the assessee. I do not want to plead for the assessee or the millowners in that State, but it is entirely a question of jurisdiction.....

Mr. Deputy-Speaker: What is the wrong that those people have committed?

Shri V. G. Deshpande: Those people have not committed any wrong, but it is our Government that have committed the wrong.

Mr. Deputy-Speaker: Why is the hon. Member apologetic that he is not pleading for them?

Shri V. G. Deshpande: The point is this that in this progressive state, it is a bit difficult to defend that section.

Shri Radhelal Vyas: So, this way, you are defending.

Shri V. G. Deshpande: I am just thinking whether a confusion has not been caused within such a short debate of one hour, as a result of all the details not having been placed before this House. If the sum involved in these cases is not very large, and it is not proved that most of the cases which have not been disposed of are very important cases, then I think the House would be justified in rejecting this Bill.

Therefore, I would appeal to the hon. Deputy Minister to place before the House the whole information, so that we may be in a position to decide what course the House should take with regard to this Bill.

श्री राधे लाल व्यास : अभी मेरे मित्र श्री बंसल साहब ने कुछ बातें आपके सामने रखीं और बताया कि वहां एक तमाशा सा हो रहा है। एक ट्राइब्यूनल आज मुकर्रर होता है, दूसरा कुछ महीने बाद मुकर्रर होता है, कुछ महीने बाद तीसरा मुकर्रर होता है। मुझे मालूम है कि जितने बकाया कॅसेज थे उनमें से कुछ तो निबट भी चुके हैं। जितने एससेज हैं उन सब का अससेजमेंट हो चुका है। जो रुपया उनकी तरफ बाजब था वह उन्होंने पहले ही जमा कर दिया था। अब उनके मामलों का निकाल होना है। एक आध कॅस का निकाल भी हो चुका है और आपको सुनकर प्रसन्नता होगी कि वहां के आफिसर्स में कुछ कॅसेज में तो तीन लाख रुपया तक वापस दिलाया है।

एक और अफसर मुकर्रर हुए थे पर वह रिटायर होने वाले थे इसलिए मध्य भारत गवर्नमेंट ने रिटायरमेंट की वजह से तीसरा ट्रायबूनल मुकर्रर किया। इसी बीच एससेज ने एतराज किया कि १९५० का फाइनेंस एक्ट पास हो जाने के बाद इन आफिसर्स को जुरिस्टिकशन नहीं रहा। यहां एग्जीमेंट हो चुका था जैसा कि डिप्टी फाइनेंस मिनिस्टर ने बतलाया। लेकिन इस बिल में जो यह लिखा है कि मध्य भारत गवर्नमेंट गलती से वसूल करती रही है यह बात सही नहीं है। जिस समय यह बिल तयार किया गया और पेश किया गया उस वक्त शायद मिनिस्टर साहब को एग्जीमेंट के बारे में मालूम भी नहीं था।

पंडित ठाकुर दास भार्गव : इसमें भी जिन्न नहीं हैं।

श्री राधे लाल व्यास : जब वहां से लोग डिप्टेशन में मिनिस्टर साहब के पास आये और सारी स्थिति का उन्होंने अध्ययन किया तो उनके सामने सारे एग्जीमेंट आए। यह गलती जो हुई थी असल में, जैसा कि इंडियाई जी ने बतलाया, केंद्रीय सरकार से हुई थी। जो मध्य भारत गवर्नमेंट

के बारे में लिखा है वह सही नहीं है। और मध्य भारत गवर्नमेंट को गारंटी दी गयी है कि जो एग्जीमेंट हैं वह सेंट्रल गवर्नमेंट को मान्य होंगे। अब जो गलती मालूम हो गयी है तो उसको अमेंड किया जाना चाहिए और उनको लिखा जाना चाहिए कि अब उस पर अमेंडमेंट किया जा रहा है। जो दूरी हुई है यह इस वजह से हुई कि जो सन् १९५० का फाइनेंस एक्ट पास हुआ उसकी वजह से काम में रुकावट पड़ गयी और सवाल यह था कि इस एक्ट को कोर्ट के द्वारा अल्ट्रावायर्स करार दिलवाया जाए या सेंट्रल गवर्नमेंट से अमेंड करवाया जाय। पर उचित यही समझा गया कि यह पाइंट फाइनेंस मिनिस्टर साहब को भंजा जाय। उसके बाद यह अमेंडमेंट आ रहा है। और मैं समझता हूँ कि वहां पर जो भी कॅसेज हैं उनका बहुत जल्दी निकाल हो जाएगा। एंसी कोई चीज नहीं है कि मध्य भारत सरकार किसी को परेशान करना चाहती हो या उनको तकलीफ देना चाहती हो। एंसा कोई ख्याल नहीं है। मैं समझता हूँ कि उनके कॅसेज बिल्कुल न्याय से और इंसफ से फॅसल किए जाएंगे और उनको किसी तरह से भी हैरस नहीं किया जायगा।

Shri V. G. Deshpande: You are speaking on behalf of that Government?

Shri Radhe Lal Vyas: Yes.

Shri M. C. Shah: The hon. Member there just wanted certain information. I have collected that information. There are 11 assesses and 66 appeals. In these cases, the demand involved is Rs. 2.8 crores. Out of that, all the sum except Rs. 16 lakhs, has been paid. The arrears of collection now is Rs. 16 lakhs. Whatever is decided in the appeals will be given effect to. Therefore, all these moneys will go to the Madhya Bharat Government. The Central Government have not to get a single farthing.

About the assurance that was demanded by Mr. Bansal from me,

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can assure the House that we will just take up the matter with the Madhya Bharat Government to see that all these appeals are disposed of as early as possible. Perhaps all these appeals would have been disposed of except for the fact that one of the assesseees raised this question, about the validity of this assessment. And if that is held valid, then there is the involvement of Rs. 2·8 crores with the Madhya Bharat Government. Therefore, they immediately came to the Central Government and requested the Central Government. We just drafted this Bill and introduced it here. Some of those assesseees came to me also. They said that they had no dispute about paying the dues and they wanted to have it decided soon. At the same time, they just spoke to me that, if possible, some officer might be appointed—perhaps they did not say so in so many clear words,—but they wanted an officer of some experience or something of that sort. We will just look into the matter, get into touch with the Madhya Bharat Government and will see that this matter is settled as early as possible. That is all I have to say.

Mr. Deputy-Speaker: The question is:

“That the Bill to validate the levy, assessment and collection in the State of Madhya Bharat of certain taxes on income and on profits of business due in respect of the periods referred to in subsection (1) of section 13 of the Finance Act, 1950, be taken into consideration.”

The motion was adopted.

Mr. Deputy-Speaker: There are no amendments to clauses 2 and 3.

Clauses 2 and 3 were added to the Bill.

Clause 4.— (Continuance of pending proceedings)

Mr. Deputy-Speaker: There is an amendment by Mr. N. L. Joshi. He is

not present in the House? So I will now put clause 4 to the vote of the House. The question is:

“That clause 4 stand part of the Bill.”

The motion was adopted.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Shri M. C. Shah: I beg to move:

“That the Bill be passed.”

Mr. Deputy-Speaker: The question is:

“That the Bill be passed.”

The motion was adopted.

DEMANDS FOR SUPPLEMENTARY GRANTS FOR 1954-55

Mr. Deputy-Speaker: The House will now proceed to discussion of the supplementary demands for grants for 1954-55.

The Deputy Minister of Finance (Shri M. C. Shah): Usually on these demands, we do not say anything in the first instance, but this time, as the demands, taken together, involve a gross expenditure of Rs. 215·61 crores, with your permission, I will just try to explain this figure of Rs. 215·61 crores.

There has been some misapprehension or criticism that this amount of Rs. 215 crores is practically half the budget amount, and perhaps they may say that there was no accurate budgeting. But that is not so, which will be seen just now, when I give out the figures. The total revenue expenditure (gross) comes to only Rs. 6,12,77,000.

Mr. Deputy-Speaker: Under these supplementary grants?

*Moved with the recommendation of the President.