

an>

Title: Discussion on the motion for consideration of the Payment and Settlement Systems (Amendment) Bill, 2014 (Discussion Concluded and Bill Passed).

HON. DEPUTY SPEAKER: Now, we will take item No. 17.

PROF. SAUGATA ROY (DUM DUM): May I raise a point of order at this stage.

HON. DEPUTY SPEAKER: No, first I will call the Minister, then you raise your point of order.

THE MINISTER OF FINANCE, MINISTER OF CORPORATE AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI ARUN JAITLEY): Sir, I beg to move:

"That the Payment and Settlement System (Amendment) Bill, 2014 be taken into consideration."

Sir, I have gone through the provisions of the Amendment and I have a written note which is ready and I could read out to explain what the amendment is about. But on the first reading, it looks like somewhat complex. But upon a simplistic explanation and I think I am going to be in hon. House in simple language to explain what this subject matter is entirely about?

Sir, the Payment and Settlement system in commercial transactions is the backbone of all financial transactions. I issue a cheque in favour of somebody. It goes through a clearing house from my banker to the recipient bankers and therefore, there is a payment and settlement system involved in this. Prior to 2007, this was all being managed through an executive notification and authorities created under that. In 2007, the Government at that time, and rightly so, enacted the Payment and Settlement Systems Act 2007. I would just read from the preamble of that Act one sentence. It will be clear as to what the purpose of that Act was.

"An Act to provide for regulation and supervision of payment systems in India and to designate the Reserve Bank of India as the authority, for that purpose and for the matters connected therewith and incidental thereto. "

So, the payment systems are to be regulated by the Reserve Bank of India. Now, what does the Act say? The principal Act after definition say that it is only Reserve Bank and whoever has an authorization from the Reserve Bank, he can run a payment system. In a payment system, you can have two kinds of actors involved. One is a system participant. My bank will be a system participant. In a private transaction, just as for instance today, this radio taxi service controversy is going on, how does a consumer pay for these radio taxis which are currently in controversy? These are not governmental transactions or banking transactions. Earlier, the system was that he would register himself with the private taxi company and he would come on their Whatsapp. He would give his credit card number. Once he gave his credit card number, every time he wanted to hire a taxi, he would just press the Whatsapp of that taxi. They would locate where the passenger is and then they would pick him up. When he would leave the taxi, he would not pay, but it will be credited to his account. Now, a violation was discovered that the payment gateway was outside India. So, the Reserve Bank told them to bring it within India. So, from 1st December this year, it appeared in the newspapers that Paytm, a local wallet has been created by one of these companies which is in controversy. The payment is deposited in advance through a credit card or cash into that wallet. Every time you use the service, you have already paid in rupees. So that wallet becomes the service provider.

When this original Act was enacted, there is a provision that under Section 7, the Reserve Bank will permit an authorisation to any person. It could be a State agency; it could be a non-State agency. But without authorisation of the Reserve Bank, you cannot become a service provider. That is a designated authority. That is how, the commerce in this area is evolved. If you default, what are the consequences etc., the Act provides for it.

There is a provision under Section 23. Section 23 says and since Prof. Saugata Roy was raising a point of order, I could quite anticipate what he wanted to say. The amendment is very simple, though it is couched in a very complicated phraseology and unless you understand this commerce, it looks a little complicated. I myself yesterday had spent a lot of time before I could understand it simply. ...(*Interruptions*)

SHRI MALLIKARJUN KHARGE (GULBARGA): If we read the Objects and Reasons, we will not be able to understand it.

श्री अरुण जेटली : इसीलिए मैं सरल भाषा में समझा देता हूँ।

So far, I think, I am putting very simply. Our lady colleague and I just discussed along with Shri Deepender Singh Hooda. It took them two and a half to three minutes to follow as to what it is all about. Section 23 says: "What if the system participantâ€¦" That is, suppose, I have to give money to somebody. What happens if either the recipient or I become insolvent? Now the sanctity of commercial transaction is to be respected. So, either of us becomes insolvent under ordinary law of the land and those for whose behalf we are transacting, that is, the bank becomes insolvent. Then under the Banking Regulations Act or the Companies Act, they owe money to me. I will have to stand in a queue. The old Companies Act had a provision under Section 529. First, the taxation authorities get the money after insolvency and liquidation. Thereafter, the workmen will get the money; thereafter, the secured creditors will get the money and in the last, the unsecured creditors will come. So, they are holding my money but I will stand last in the queue. So, the original Act has a provision under Section 23. If a system participant became insolvent, then Companies Act and the Banking Regulations Act will not apply. Under this Act, you first pay to the person on whose behalf you are holding the money. If anything else is left, then that procedure for the rest of the land will apply. At the cost of repetition, I would just translate it in. अगर कोई सिस्टम पार्टिसिपेंट इसमें इनसॉल्वेंट हो जाता है, उसका दीवालिया हो जाता है तो सामान्य देश के कानून में, बैंकिंग रेगुलेशन एक्ट में या कंपनीज़ एक्ट में पहले पैसा टैक्सेशन अथॉरिटीज़ को जाता है, फिर लेबर को जाता है, फिर सिविल बैंक्रेडिटर्स को जाता है और उसके बाद अनसिवयर्ड बैंक्रेडिटर्स को जाता है। इस एक्ट में सेक्शन 23 में कहा कि यह प्रक्रिया नहीं चलेगी। जिनके बिनाफ पर आप ट्रांसैक्शन कर रहे थे, ताकि कामर्शियल ट्रांसैक्शन चलती रहे, पहले उसका पैसा उसको मिलेगा और उसके बाद जो सामान्य देश का कानून है, उसके तहत लोगों को मिलेगा।

So, the Act in 2007 envisaged this. But the Act did not envisage a situation where not the participant but what if the system provider itself becomes insolvent. If the system provider becomes insolvent, the Companies Act will apply; if the system provider is a bank, the Banking Regulation Act will apply. So, we go back to the same problem. This amendment entirely is that even if the service provider, which is the clearing house, becomes insolvent, then first pay the money to those whose money you were clearing, and if anything is left, then the rest of the procedure will apply. This is entirely the amendment in simple language.

There are some editorial corrections in the original Bill in the language of this section. And then Section 23 is being replaced with those editorial language corrections to say that the procedure of insolvency which applies to the system participants will also apply to the system provider. That is entirely the Bill.

With these few comments, Sir, I commend this Bill to this House for consideration.

HON. DEPUTY SPEAKER: Motion moved:

"That the Bill to amend the Payment and Settlement Systems Act, 2007, be taken into consideration."

PROF. SAUGATA ROY : Sir, I am on a point or order.

HON. DEPUTY SPEAKER: Under what rule?

PROF. SAUGATA ROY : I am raising the point of order with reference to Rule 31(e)

The functions of each of the Standing Committees will be (a) to consider the Demands for Grants etc., (b) to examine such Bills pertaining to the concerned Ministries/Departments as are referred to the Committee by the Chairperson, Rajya Sabha or the Speaker as the case may be and make report thereof.

Ever since this rule has been brought in, it has been the practice in this House to refer any Bill that is important to the Standing Committee. Sometimes for small amendments, minor amendments, we overlook this clause.

HON. DEPUTY SPEAKER: The Bill was already introduced yesterday, discussion has started now, and you are also going to speak during the discussion. On referring this kind of things to the Standing Committee, yesterday also many members spoke. These issues could be raised during the discussion and not in the form of a point of order.

PROF. SAUGATA ROY : Sir, let me complete my statement and then you give whatever ruling you wish to.

All I want to mention is that I agree that this Bill was placed in the Business Advisory Committee and the Business Advisory Committee included it in the Business of the House. The name of the Bill was mentioned and two hours were allotted by the Business Advisory Committee for discussion. But what happened in the Business Advisory Committee was that a copy of the Bill was not given. So, the Business Advisory Committee members thought that it is a minor Bill and the Finance Minister wanted it to be passed. But after it was decided, the BAC Members did not realize that this is such a complicated thing.

A lawyer of Mr. Jaitley's eminence had to spend hours to understand the implications of it. How do you expect such a complicated Bill to be discussed and passed in this House within two hours? He is introducing two new concepts – trade depositories and legal entities. My point of order is simple. There can be several motions after a Bill is placed, a Bill can be taken into consideration and it can also be referred to the Standing Committee.

HON. DEPUTY SPEAKER: Is that your point of order?

PROF. SAUGATA ROY : Sir, my suggestion is that the Bill be referred to the Standing Committee on Finance so that we can go through it thoroughly and submit a report to the House. This is a serious Bill. You also study it; it will take you hours.

HON. DEPUTY SPEAKER: It is correct that the hon. Finance Minister said that he took a lot of time. But he said it is a simple thing and that is what he explained to you. If you are not satisfied, in the discussion you can speak and the Minister will reply to your points.

Hon. Minister, do you want to say anything?

SHRI ARUN JAITLEY: Let me say that this is not a kind of Bill which has any kind of partisan character between previous Government or this Government or next Government. Because of the global financial order, in various international forums including G-20, to add to the credibility of the global financial system these negotiations started during the UPA Government and they concluded under the UPA Government. They felt that to maintain the sanctity of the financial system, the backbone of the financial system has to be strengthened. One of the gaps that they noticed in some of the countries including India is that if the central counter party, which is the service provider in this case, becomes bankrupt or insolvent, the whole transaction will collapse. Therefore, most countries are making their laws up-to-date.

It is literally a one-section amendment and the practice has been that if it is a significant amendment, it shall go to the Standing Committee; if it is a marginal amendment, and in one sentence the only amendment is that the original law envisaged insolvency of the system participant, it did not envisage the insolvency of the service provider. As per the amendment, what applies to the insolvency of the participant will also apply to the insolvency of the service provider. Therefore, as I am saying it, initially when you read this, it does take time to understand the commercial nature of transactions in the first instance, but translated in simple language this is the entire Bill.

Therefore, we have to bring our law at par with the international community. After all this affects our credibility in the global financial system as to when payments are promised from India, there has to be some credibility of that promise itself, there has to be some legitimacy. Therefore, there is an element of urgency. I would urge the hon. Members to consider this so that the Bill can be passed right away. There are no trans-party different opinions with regard to a proposition like this.

SHRI MALLIKARJUN KHARGE : Of course this is the amendment to the previous Bill of 2007. You are amending nearly 3 sections- Section 2, 23 and 34A. As you have explained to this House, this is also going to affect the workers' dues and also your own taxes. Government will not have first priority to recover it. These two priorities will go and the service provider will get the first priority as per your amendment.

श्री अरुण जेटली : उपाध्यक्ष जी, मैं खड़गे जी का पूरा समझ गया, आपका कंसर्न भी समझ गया। इसमें जो तीन सेक्शंस हैं, उसमें पहले वाले प्रोवीजन में, सेक्शन-2 में सिर्फ डेफिनिशंस का अमेंडमेंट है। इसमें केवल दो डेफिनिशंस ऐड हो रहे हैं। सेक्शन-23 जो था, उसमें पहले वाले में यह भाषा थी कि अगर कोई पार्टिसिपेंट इन्सॉल्वेंट होता है तो कम्पनीज एक्ट और बैंकिंग रेगुलेशंस एक्ट एप्लाइ नहीं करेंगे, लेकिन पहले पेमेंट क्रेडिट को जाएगा। मान लीजिए कि एक बैंक है, वह पार्टिसिपेंट है और वह बैंकस्ट हो जाए तो अगर मेरा पैसा उस बैंक में जमा है तो सबसे पहले मुझे मेरा पैसा वापस मिलेगा। अगर हम यह नहीं करेंगे तो लोग हमारे साथ फिर्नाइल सिस्टम में ट्रॉजैवट करने में रिलक्टेंट होंगे। अब उस सिस्टम को रिस्ट्रिक्ट करके इसके साथ जो परिभाषा ऐड हुई है कि अगर सिस्टम प्रोवाइडर बैंकस्ट हो जाए तो वही प्रिविज्ञा फॉलो होगी। That is all.

इसके अलावा जो सेक्शन 34 है, जैसे रिजर्व बैंक ने एक विलयिंग कारपोरेशन ऑफ इंडिया बनायी हुयी है, जो रिजर्व बैंक की सब्सिडियरी है, जो विलयिंग्स करती है। अगर उसके साथ कोई तकलीफ आएगी, तो जिनके वेवस या पेमेंट उसके थ्रू ट्रॉजैवट हो रहे हैं, पहला अधिकार पेमेंट लेने का उनका होगा। उसके बाद फिर कम्पनीज एक्ट और बैंकिंग रेगुलेशंस एक्ट की प्रक्रिया चलेगी।

SHRI N.K. PREMACHANDRAN (KOLLAM): What is Clearing Corporation of India?

SHRI ARUN JAITLEY: It is a subsidiary of the Reserve Bank of India, through which commercial transactions take place. It is a clearing house, in a simple language. सेक्शन 34 में जो सेक्शन था कि यह एक्ट की ओवर राइडिंग कंसीडरेशन होगी, उसको रीस्ट्रिक्ट लैंग्वेज में ऐड किया गया।

श्री महिलकार्जुन खड़गे : इतना समझाने के बजाए इसे स्टैंडिंग कमेटी को रेफर करिए। ऐटलीस्ट वहां पर विचार-विमर्श होता है, उसके बाद फिर यह आएगा। ... (व्यवधान) इसमें कोई दिक्कत नहीं है। ... (व्यवधान)

HON. DEPUTY SPEAKER: I will give my ruling.

Hon. Members, as you are aware, referring or not referring a Bill to the Standing Committee under the Rules falls within the jurisdiction of the hon. Speaker. I may inform the House that the hon. Speaker, on a request made by the hon. Minister of Finance, and in view of the reasons cited by the Minister, has agreed to the request for not referring the Bill to the Standing Committee of Finance.

Now, Shrimati Sathyabama.

SHRIMATI V. SATHYABAMA (TIRUPPUR): Thank you, Mr. Deputy-Speaker.

At the outset, let me thank the Chair, most of all, our beloved leader, Amma and the people of my constituency, known for its global economic activity as a knitting town for having enabled me to speak on this important legislation.

In the globalized economic sense, accepting international norms has become necessary. That necessity has necessitated our Government now to propose certain amendments to the Payment and Settlement Systems Act, 2007 to increase transparency and stability of the Indian financial markets.

Based on the principles of safety, security, soundness, efficiency and accessibility, the RBI has been authorized to establish ordered growth of payment systems. Whether they are Government bodies of other countries or multi-national corporations and organizations or individual customers, their payments and receipts must be transparent and at the same time, safe and secure. In 2007-08, the global economy witnessed a meltdown and there was a huge global financial crisis which had its cascading effect on economies of many countries. Though India witnessed the negative impact a bit late, it became a great uphill task to overcome. The ill-effects are affecting our economic growth rate even today. We cannot claim right now 'India is shining'. That is why, we are inviting foreign investors to come and 'make in India'. Such financial transactions have been reformed time and again. That is why, originally in 2007, this Act was enacted to regulate and supervise payment systems. After waking up to the reality that globalized economy has changed payment systems and mechanisms. The G-20 nations took measures to reform Over the Counter derivatives markets. This led to certain new initiatives like bringing about Trade Repositories that emerged as a new type of financial market infrastructure. These are growing in importance in the Over the Counter derivatives market.

15.00 hrs

The Reserve Bank of India has no specific legal provision to supervise the trade repositories in India. As these trade repositories are to comply with international norms, there needs to be a regulator with appropriate legal powers. India is a party to the G-20 commitment and has taken note of the global developments. So, the Reserve Bank of India has made a trade repository, the Clearing Corporation of India Limited. This was necessary because of our bad experience in facing difficulties when our banks and regulatory agencies were not able to identify the complicated business ventures. We need to establish connections between issuers and securities efficiently. This gave rise to the need for a standard uniform code. That is why the Legal Entity Identification System is brought forth as a new initiative. The G-20 countries have recognised the importance of a global identifier. This can be a key component of necessary improvement in financial data system. Now, through these amendments we want to give more powers to the Reserve Bank of India and the regulatory mechanism it may put in place as the globally compatible Legal Entity Identifier.

Clearing Corporation of India Limited has been selected by the Reserve Bank of India to act as a local operating unit to issue Legal Entity Identifier.

The amendments sought to be made in section 23 of this Act also calls for insertion of a new section 23A relating to protection of funds collected from the customers by the payment system providers. This is necessary because the participating banks have to run the risk of exposure of its other operations when the Clearing Corporation of India function take up its role as central counter party. A sound and enforceable legal basis for "netting" of bank exposures to the said Corporation is required to reduce the banks' exposure significantly.

All these amendments will provide financial protection in the event of insolvency, dissolution or winding up of a central counter party. This will also help individuals and various bodies to overcome legal difficulties in securing the customers interests held in bank accounts in the event of insolvency or bankruptcy or prepaid instruments.

The LEI system is to be dependent on a vast computer network. I forewarn this Government that we must be beware of the computer hackers. Otherwise, country may have to face a huge financial loss as suffered by the Bank of America only recently. Even the Defence Ministries of the Governments all over the world are not free from hacking. Hence, we must ensure a viable security system while contemplating central counter party in India.

Thanking our hon. leader, Amma for enabling me to speak on this important Bill which has become necessary in the globalised economic sense, let me conclude. Thank you, Sir.

श्री जगदम्बिका पाल (डुमरियागंज): उपाध्यक्ष महोदय, मैं आपका अत्यंत आभारी हूँ कि माननीय वित्त मंत्री जी के द्वारा प्रस्तुत द पेमेंट एण्ड द सेटलमेन्ट सिस्टम्स, अमेंडमेंट बिल - 2014 प्रस्तुत किया गया है, उस पर आपने मुझे बोलने का अवसर दिया है। माननीय मंत्री जी ने इस बिल को प्रस्तुत करने का उद्देश्य और उसमें जो अमेंडमेंट किया गया है, उसे बहुत सरल भाषा में पूरे सम्मानित सदन को समझाने का प्रयास किया है।

15.05 hrs (Shri Anandrao Adsul in the Chair)

अगर हम इस बिल के अमेंडमेंट्स को देखें तो साफ है कि सेशन 23 में जो अमेंडमेंट किया गया है, उसका खास मकसद है, खास उद्देश्य है कि protection of funds collected from the customers. जिसके द्वारा फंड जमा हो रहा है, उसे सिविलिटी देना, सुरक्षा देना बैंकिंग प्रणाली या किसी देश की अर्थव्यवस्था के लिए आवश्यक आवश्यकता है, वह इस बिल के माध्यम से वित्त मंत्री जी ने प्रस्तुत किया है। मैं उन्हें निश्चित तौर से बधाई देता हूँ। जहां तक बिल के अमेंडमेंट का संबंध है, मैं समझता हूँ कि उन्होंने उस पर भी रोशनी डाली है कि वर्ष 2007 और 2008 में जब रिसेशन आया, आर्थिक मंदी आई जिसके नाते जापान, यूएस के बड़े-बड़े बैंक बंद हो गए, उनमें छटनी शुरू हो गई, जिन करस्टमर्स के डिपॉजिट थे, उनके पैसे की कोई सिविलिटी नहीं रह गई क्योंकि कोई लीगल प्रोविजन नहीं था। केवल भारत ही नहीं बल्कि पूरी दुनिया के लोगों ने जी-20 में महसूस किया कि हमें कोई ऐसा रिफॉर्म करना चाहिए जो भारत में भविष्य में लोगों को सुरक्षा प्रदान करे। आप देखेंगे कि इसीलिए सेशन 23 (ए) है --

"The Reserve Bank may, in public interest or in the interest of the customers of designated payment systems or to prevent the affairs of such designated payment system from being conducted in a manner prejudicial to the interests of its customers, require system provider of such payment system to - â€œ"

इससे साफ है कि इस बिल के ताने के पीछे उद्देश्य है कि बैंकों या फाइनेंशियल इंस्टीट्यूशन्स में आज जिस तरह लेन-देन हो रहा है, उसमें सुरक्षा दी जा सके, हम इस दिशा में प्रयास कर रहे हैं। यह साफ है कि अभी तक पेमेंट और सैटलमेंट दो तरह से होता था -- एक, सैटलमेंट सिस्टम था। उसमें रियल टाइम ग्राँस सैटलमेंट होता था और दूसरा, नैशनल इलेक्ट्रॉनिक फंड ट्रांसफर होता था। डीसेंट्रलाइज्ड सिस्टम में इनडिपेंडेंट बैंक एक-दूसरे से लेन-देन करते थे, लेकिन इसके बावजूद उन्हें कोई लीगल सैटलमेंट नहीं थी। वर्ष 2007 के उसमें जो सैटलमेंट सिस्टम था, उसमें हमने नैशनल इलेक्ट्रॉनिक फंड ट्रांसफर को रेगुलेट करने के लिए नैशनल पेमेंट कारपोरेशन ऑफ इंडिया बनाने का काम किया है। उससे उसे रेगुलेट करने में आसानी होगी और रियल टाइम ग्राँस सैटलमेंट को आरबीआई रेगुलेट करता है, आरबीआई के पास ऐग्जीक्यूटिव आर्डर से ही अभी तक उसका रेगुलेशन था, लेकिन अब हम उसे मैनेजेंटरी लीगल प्रोविजन के माध्यम से ताकत कर रहे हैं जिससे उन डिपॉजिटर्स की सुरक्षा हो सके। इस दिशा में इसका प्रयास है। इसके लिए जो काम शुरू किया गया है, उसमें ओवर दी काउंटर मार्केट का है, उसमें दो अमेंडमेंट किए गए हैं - एक तो सबको पूरे ग्लोबल में लीगल एंटी-डिफिकेशन सिस्टम हो जिससे कम से कम पूरी दुनिया में पहचान हो सके। नहीं तो आज भी ऐसा होता है कि लोग एक बैंक से सौ, दो सौ करोड़ रुपये ले लेते हैं, दूसरे, तीसरे बैंक से ले लेते हैं। इसी तरह वर्ल्डवाइड होता है। आज जो ब्लैक मनी की चिन्ता कर रहे हैं, मैं समझता हूँ कि इससे निश्चित तौर से जो बड़े बरोअर्स को जब आइडेंटिफिकेशन देंगे, बीस नम्बर का कोड देंगे तो पूरी दुनिया में एहसास होगा और इसकी जानकारी भी रहेगी कि जिस व्यक्ति को कोड दिया गया है, उसकी आइडेंटिटी क्या है और कितनी फेयरनेस है। इस दिशा में भी यह काम किया गया है।

जो वलीयरिंग कारपोरेशन ऑफ इंडिया की बात हुई है, यह एक तरह से ट्रेड रिपॉजिटरी के रूप में काम करेगी क्योंकि अभी तक न्यू टाइप ऑफ फाइनेंशियल मार्केट इफ्लूएन्स है, उसमें कोई लीगल प्रोविजन न होने के कारण आज उसमें भी एक प्रवधान किया गया है कि वलीयरिंग कारपोरेशन ऑफ इंडिया बनाएं। जैसे मंत्री जी ने कहा कि वह बैंक या वलीयरिंग हाउस की तरह काम करेगा। निश्चित तौर से इसकी जो शुरूआत हुई है, कुछ माननीय सदस्यों ने इस पर आपत्ति उठाई है। वे एक्स्ट्रा अकाउंट समझते हैं। एक्स्ट्रा अकाउंट में हम चाहे सेशन 23 की बात कर रहे हैं, सेशन 34 की बात कर रहे हैं, ऊपरी पेड कार्ड की बात कर रहे हैं, प्रोटेक्शन के लिए अगर हमने कंपनीज के साथ, फाइनेंशियल इंस्टीट्यूशन्स के साथ या बैंक के साथ कुछ भी लेन-देन करते हैं इससे पूरे वर्ल्ड वाइड इन्फॉर्मेशन मालूम होगी। इस तरह के जो अमेंडमेंट हुए हैं, जो फाइनेंशियल इंस्टीट्यूशन होते हैं, उसका हिसाब-किताब इस पेड-रिपोजिटरी में रखा जा सकता है। अभी तक इसका कोई हिसाब-किताब ही नहीं था, किस तरीके से रखें, अभी तक कोई विलयरिंग कारपोरेशन ही नहीं था। आज पूरी दुनिया में इस तरह के लॉज अमेंड हो रहे हैं, जिससे एक पारदर्शिता आए। पारदर्शिता कैसे आएगी, पारदर्शिता के लिए एक आइडेंटिफिकेशन होगा, तो निश्चित तौर से वह ब्लैक मनी को कंट्रोल करने का भी काम करेगा। सबसे बड़ी चिन्ता ओवर द काउंटरपार्टीजेशन होते हैं, उसमें भी पारदर्शिता आएगी। जब से मोदी जी की सरकार बनी है, चाहे दुनिया का मंच हो, चाहे पार्लियामेंट हो, चाहे जी-20 का सम्मेलन हो, हम निश्चित तौर से बधाई देंगे कि जी-20 में भी भारत के द्वारा उजाए गए ब्लैक मनी को कर्ब करने का सीरियस नोट लिया गया, बल्कि पार्ट ऑफ नोट भी बनाया गया। निश्चित तौर से हमारी सरकार बधाई की पात्र है। अगर हम ऐसी कोई व्यवस्था लागू नहीं करेंगे तो निश्चित रूप से हम जो चाहते हैं उस लक्ष्य को नहीं प्राप्त कर सकेंगे। आप जानते हैं कि बड़े-बड़े फाइनेंशियल इंस्टीट्यूशन्स या बैंकिंग या बरोअर द्वारा हजारों करोड़ों का लेन-देन होता है। इस बिल को ताने का मकसद यह है कि सब कुछ ट्रांसपेरेंट हो, ट्रांसपेरेंट होने से निश्चित रूप से हर क्षेत्र में पारदर्शिता आएगी। यह बिल न केवल कर्ब करेगा बल्कि रिफॉर्म भी करेगा। पूरी दुनिया में आर.बी.आई रेगुलेट करता था, अगर एक बैंक से दूसरे बैंक में अगर आप कुछ भी भेज रहे हैं, या एक इंस्टीट्यूशन से दूसरे इंस्टीट्यूशन या बाहर, या बरोअर हो, या फॉरेन में भी हो, वे तीनों आर.बी.आई. द्वारा ही रेगुलेट होती थीं। इस बिल में जो अमेंडमेंट आ रहा है, निश्चित रूप से उनकी सुरक्षा होगी, बैंकस्ट के संबंध में माननीय मंत्री जी ने कहा है कि 23 के सब-सेक्शन में भी साफ लिखा है कि Where a system participant is declared by a court of competent jurisdiction as insolvent or is dissolved or wound up. If you go through the Bill, I think you will reach the conclusion यह बिल आर्थिक सुधार के लिए मील का पत्थर साबित होगा, आप इसको धन्यवाद देंगे। आप उस बिल को कम से कम पढ़ तो लीजिए। यह मंत्री जी की सदाशयता है कि उन्होंने कहा कि पढ़ने में बहुत कम्प्लेक्स है, इसलिए मैंने पढ़ा, यह बात नहीं भी कह सकते थे, जिस सरल ढंग से उन्होंने समझाया, आप समझ भी जाते। अगर मंत्री जी ने कह दिया कि पढ़ने में बहुत कम्प्लेक्स लग रहा है, लेकिन पढ़ने में चाहे जितना कम्प्लेक्स लग रहा हो, यह आर्थिक सुधारों के लिए सुरक्षा देने वाला बिल है। इस बिल को भी ... (व्यवधान) आप

अगर बिल के ऑब्जेक्ट और रीजन पढ़ लिया होता तो शायद इस बिल के बारे में समझ में आ जाती, ज्योतिरादित्य जी सबको जरूर समझाने की कोशिश करेंगे, मैं बहुत थोड़ी बातें कहना चाहता हूँ कि G-20 endorsed the development and maintenance of a global legal entity identified system. The legal identifier is a 20 character unique identity code assigned to entities which are party to a financial transaction and could be unique across the globe. पूरी दुनिया के लिए 20 अक्षर का कोड जारी होगा। इसे ट्रैक करके भी कहते हैं। उस 20 अक्षर का यह कोड न केवल भारत में लागू होगा, बल्कि पूरी दुनिया में यह कोड रहेगा और एक दूसरे में सूचनाओं का आदान-प्रदान होगा, इन्फोर्मेशन का आदान-प्रदान होगा।

"The use of the Legal Entity Identifier numbers is likely to be mandated for Over the Counter derivative transactions and large borrowers in a phased manner."

मैं समझता हूँ कि यह बिल बहुत साफ और सिम्पल है। जाहिर है कि आज जो भी लेन-देन है, चाहे एक बैंक से दूसरे बैंक के इंटीविजुअल्स की बात करें, चाहे इंस्टीट्यूशनल फाइनेंशियल की बात करें, चाहे हम अर्बों के साथ जो भी लेन-देन करते हैं, उन्हें रेगुलेट करने के लिए एक कानून बनाने का काम हो रहा है। मैं समझता हूँ कि यह बहुत सिम्पल अमेंडमेंट आया है। यह बिल तो वर्ष 2007 में पास हो गया था, लेकिन आज हम उसे एक लीगल कोडीफाई कर सकें, लीगल अधिकार दे सकें, जिससे कम से कम हमारी सरकार उन कस्टमर्स के हक-हकूक की हिफाजत कर सके। यह कदम अगर सरकार उठाती है तो निश्चित तौर से खड़ने साहब को बधाई देना चाहिए और यह कहना चाहिए कि हम इस बिल को सर्वसम्मत से पास करेंगे।

अभी प्रो. सागत राय ने वलीयर्स कापोरेशन ऑफ इंडिया लिमिटेड के बारे में सवाल उठाया। वैसे वह समझते हैं, लेकिन उनकी मजबूती है कि उनकी बात दूर तक जानी चाहिए, इसलिए वे खड़े होकर प्वाइंट ऑफ ऑर्डर भी उठाते हैं। वे जानते हैं कि जब बिल इंस्ट्रुमेंट किया जाता है तो प्वाइंट ऑफ ऑर्डर या बिल को इंस्ट्रुमेंट न करने या स्टैंडिंग कमेटी में भेजने का अवसर कल ही था। वे प्रोफेसर हैं और हम लोग उनसे सीखते हैं। कल जब यह अवसर था तो उन्होंने उस अवसर का लाभ नहीं लिया। अब जब बिल पर डिस्कशन हो रही है तब प्वाइंट ऑफ ऑर्डर उठा रहे हैं। इसके बावजूद वेयर और हम सब लोग उनका सम्मान करते हैं और उनको आपने बोलने का मौका दिया। मैं समझता हूँ कि वलीयर्स कापोरेशन ऑफ इंडिया लिमिटेड को भी आप देखिये।

"The said Act, though providing for netting protection and settlement finality in the event of insolvency or dissolution of system participants, does not expressly contemplate a situation which may warrant netting on account of insolvency or dissolution of the central counter party itself."

मैं समझता हूँ कि सैटलमेंट की बात को भी अमेंड किया जा रहा है। वह इसलिए किया जा रहा है क्योंकि पहले जिस तरीके से सैटलमेंट सिस्टम या डीसेंट्रलाइज्ड सिस्टम से सैटलमेंट हो रहा था, उन दोनों सिस्टम में, यानी डीसेंट्रलाइज्ड सिस्टम में भी अभी तक एक बैंक दूसरे बैंक के साथ कोई भी फाइनेंशियल ट्रांजेक्शन करती थी तो वह आर.बी.आई. के थू ली होता था लेकिन उनकी कोई लीगल एंटीटी नहीं थी। आज कम से कम लीगल एंटीटी, आईडेंटिफाईड जब उसे इश्यू किया जायेगा तो उससे एक लीगल एंटीटी हो जायेगी और व्यक्ति को एक कोड दिया जायेगा तो उससे निश्चित तौर से एक सुझा होगा।

मैं समझता हूँ कि वर्ष 2007-08 में एक स्थिति, जिसका वित्त मंत्री जी ने उल्लेख किया कि पूरी दुनिया में एक ग्लोबल फाइनेंशियल क्लाइंट्स हुआ। मैं कहूँ कि उन परिस्थितियों में भी आज हम पहल कर रहे हैं। भारत पहल कर रहा है, भारत की बैंकिंग पहल कर रही है और भारत की सरकार पहल कर रही है। शायद यह दूसरे लोगों के लिए आदर्श होगा क्योंकि जब हम किसी इंटरनेशनल फोरम में हम कोई बात कहते हैं ... (व्यवधान) मैं एक-दो मिनट में अपनी बात समाप्त कर दूँगा। मैं इसलिए थोड़ा वक्त ले रहा हूँ ताकि चीजें वलीयर हो जायें, जो मंत्री जी के कहने के बाद रह गयी हैं। उसके बाद विपक्ष से कुछ भी बोलने की आवश्यकता नहीं रहेगी और निश्चित तौर से यह बिल पास हो जायेगा। इसलिए मैं समझता हूँ कि इस बिल के संबंध में चीजें वलीयर हैं, जिन तीन अमेंडमेंट की बात की। मैं समझता हूँ कि खड़ने साहब ने एक टाइल की बात कही, सेशन 23 की बात की। मैं समझता हूँ कि उन्होंने अब बिल देखा लिया होगा। सेशन 34 (a) की बात कही। मैं समझता हूँ कि वे सारे बिल को देखें। मैं खड़ने साहब और विपक्ष के सभी सम्मानित साथियों से अनुरोध करूँगा कि वे इस बिल को सर्वसम्मत से पास करें और इस सरकार को बधाई दें। धन्यवाद।

PROF. SAUGATA ROY (DUM DUM): Sir, I rise to speak on the Payment and Settlement Systems (Amendment) Bill, 2014.

This Bill seeks to amend the original Bill, the Payment and Settlement Systems Bill, 2007. As our hon. Finance Minister said, it mainly seeks to amend Clause 23 of the Bill. Amendment to clause 23 has different parts. There are also some amendments to clause 2 and clause 34. With my limited knowledge I felt that it could have been referred to the Standing Committee. In the Committee we could call the representatives of the Reserve Bank of India and the Clearing Corporation of India and then we would be able to study positive and negative aspects of the earlier payment system, which has been continuing since 2007. But since the Finance Minister felt that it was not necessary, I bow to his superior wisdom and I am taking part in the discussion over this Bill.

I have little knowledge of financial matters. I used to teach physics. I can understand difficult principles of quantum mechanics. I am not brilliant like hon. Shri Jagdambika Pal, who has been a former Chief Minister for three days and has been the ruling party Member both in the UPA as well as in the NDA regimes. Now, I do not have that superior wisdom and intelligence. He said it is very simple. But I still do not consider it to be simple.

The question that I want to raise in the House is that, why is the Finance Minister in a hurry to pass the Bill. He has stated in the Statement of Objects and Reasons that the G 20 countries feel that this system should be introduced in this country. Our Finance Minister attended the G 20 Finance Ministers' Conference before he fell ill in Cairns, if I am not mistaken. There they must have pressurised him saying, "Finance Minister of India, why don't you pass the Bill?" So, I can understand that there is an international pressure on him in this matter. But this is what is special about the First World countries. ... (Interruptions)

SHRI ARUN JAITLEY: I have respect for my friend Prof. Saugata Roy. I always call him 'Dada'. He knows it. But I want to make just a point of correction, which may alter his argument. I never attended the G 20 Conference, but the UPA Finance Minister did. What you are saying applies to them.

PROF. SAUGATA ROY : I made a slight mistake. The Cairns meeting was attended by Shri Chidambaram. But the Prime Minister attended the G 20 meeting in Australia. The pressure from there must have come to the Finance Minister.

Now, this is what is special about the First World countries. They first pollute the world as much as they can, emit all the carbons and then they pressurise, in the international fora, India to follow their emission norms. First, they totally botch up the system. Then, they pressurise us to follow their norms. See what has happened to America in 2008. They had this sub prime mortgage system. Sub prime mortgage system was a system due to which financial services firms like Lehman Brothers collapsed. They have not yet recovered fully from the meltdown of 2008. Now, they are after us, pressurising us to follow the G 20 norms. The Finance Minister is following their foot steps. I think, basically our financial system is stronger. Our

regulator, the Reserve Bank of India, has looked after the financial system, especially the banks, better. There was no collapse of Indian banks during 2008. So, while we should follow international norms, the pride in the solidity of our financial system should also be there in the Finance Minister's mind. I find that missing because three times in the Statement of Objects and Reasons he has mentioned G 20 countries want it. We will do what is good for our country. We want to participate in the international trade. But because of the hurry that the G 20 countries have, we should not take recourse to any legislation or pass any legislation.

Basically, what is settlement? Shri Jagadambika Pal while reading from his note mentioned about different types of settlement. There can be two types of settlement. One is centralised and the other is decentralised. Decentralised settlement is, I buy something from you and you pay me money. But there can be centralised settlement, which is of two types. One is real time group settlement – you present a whole bunch of cheques from one bank to another, they pay you back. So, this is real time settlement. Settlement can also be in virtual world, electronic fund transfer system. That is more common and prevalent in these days. In both sorts of settlements, ultimately the controlling authority is the Reserve Bank of India (RBI). The Bill in 2007 also stated this. Here, there is a new concept. New concept is to set up trade depository. They have designated Clearing Corporation of India which as the Minister explained is a subsidiary of the RBI as the trade depository. Trade depository basically will deal with all tradings in the financial sector.

SHRI ARUN JAITLEY: There is a slight slip on my part. So, I would like to correct it since you have repeated it. I said that it is authorized by the RBI. I wrongly used the word `subsidiary'; it is authorized by the State Bank under Section 7 of this Act, its shareholding comprises essentially of financial institutions – State Bank, ICICI, Bank of Baroda, HDFC, STC, LIC, IDBI – it is these kinds of banking institutions which collectively hold it. It is not directly a subsidiary.

PROF. SAUGATA ROY : I thank the Minister for correcting himself. That is the sort of boldness and directness that we expect from Shri Jaitley.

As I was saying that this trade depository will basically keep the history of any instrument. Why is the trade depository necessary? It is necessary as it is mentioned for over the counter derivatives markets. I went to ask Shri Jyotiraditya Scindia, who was a finance man, worked in Mumbai, who explained to me as to what exactly derivatives mean. He explained to me in simple terms like Shri Jaitley did. He said that if I have a foreign equity or foreign shareholding, and I want to take the risk of the foreign exchange part out. So, I would take a derivative. Once you take a derivative on an equity holding, then, you can trade the derivative over the counter. This new trade depository will act as the clearing corporation Am I right, Shri Jaitley?

SHRI ARUN JAITLEY: Yes.

PROF. SAUGATA ROY : Clearing Corporation will keep the history of all the instruments. Any time somebody wants to refer they can come to the Clearing Corporation and see as to what is the history of this instrument of this transaction. The new thing that is being added which is truly an international thing is what is called the legal entity identification system, that is, for any big transaction, you will get a 20 character unique identity code. Like in Aadhar Card, you get an identity code; here, for any transaction you would get a 20 character identity code. This is entirely a new thing. Immediately a transaction can be identified with this 20 character legal entity identifier issued. The same Clearing Corporation of India will issue this 20 character identity code. For any future transaction, you will have to refer to that identity code, if I am right.

Now Mr. Jaitley has already mentioned as to what happens in such cases. Previously in 2007, we had taken precaution against possible liquidation of the system participant. If the Clearing Corporation of India goes bust, what happens in that case? Then this law provides for that eventuality. Earlier we had Clearing Houses. The local Reserve Bank was the Clearing House and different banks used to send their instruments. They were divided and then the money was given. Now, the Clearing House has become the Clearing Corporation of India. With electronic fund transfer, the whole process has become very easy and even passing of actual instrument is not necessary. The whole thing can be done electronically now. So, the Bill takes care of the possible collapse.

This Bill takes care of another important thing. These days, we have, what is known, as the Gift Card. You may have a Gift Card for Rs. One lakh. With that, you can go and shop at various places. You may have paid for it and so you have got a Gift Card. Now, what happens if the bank, which has issued you a Gift Card, collapses? There will be an escrow account and the escrow account will refund the Gift Card holder for whatever losses he has suffered. The whole idea is to make the whole payment and settlement system easier, more transparent and international. With a 20-character identifier, you make it international so that international transactions can take place very easily.

So, I hope, with the passing of this Bill, when our present Minister goes to attend the next meeting of the Finance Ministers of G-20 countries, he will be lauded that he has done what they wanted him to do and say that India is now compatible with international norms. In that respect, I would like to commend the Minister of Commerce and Industry that against pressure in the WTO, she held out against the pressure to release our food stocks. Sometimes we should hold up against the big countries and not go by whatever they would like us to do.

Finally, since I have this great opportunity of speaking in the presence of the Finance Minister, I would like to know from him about the progress that has been made in the unearthing of black money stashed abroad. We are waiting with bated breath to know when we will know the names of black money holders. As we asked Mr. Jaitley in the last debate, when will the amount of Rs. 15 lakh come to our accounts?

With these words, I conclude my speech.

SHRI BHARTRUHARI MAHTAB (CUTTACK): Mr. Chairman, Sir, I thank you for permitting me to participate in this debate on the Payment and

At the outset, as has been explained by the Finance Minister, this Bill seems to be a bit complex and complicated and as Mr. Kharge, Leader of the Congress Party, has mentioned because of the Statement of Objects and Reasons it has become more complex and complicated. I hope the ruling dispensation has taken his suggestion in good spirit and henceforth the Statement of Objects and Reasons would be explained in a simple manner so that it becomes easier for all of us to understand, especially financial matters. I would say, there are specifically, as has been said, two specific amendments that are being brought into. Amendment to Section 23 is in two parts and there is amendment to Section 23A where an insertion is taking place. Then it is to substitute sub-Section (4) of Section 23 of the Principal Act where a system participant is declared as insolvent or is dissolved or wound up, then the liquidator or receiver or assignee are going to play a role. But, before that, there is another sub-section (1) after the words "to a payment system" occurring at the end, the words "under section 7, or, such gross or netting procedure as may be approved by it under any other provisions of this Act" shall be inserted. I fail to understand, this first part of the insertion which is being made. I think, it needs a little bit of clarification in the first part of sub-section of Section 23.

Regarding the other two, there is very little issue to be understood. I would say, as there is no legal provision in any of the law administered by the Reserve Bank of India to regulate and supervise the trade repositories in India, it has become essential to bring this type of amendment. Currently, there is no legal provision under any of the laws administered by the Reserve Bank of India for regulation and oversight of the legal entity. Therefore, this amendment is essential.

I would say, the consumer banking frauds are on the rise. A Reserve Bank of India Group had suggested the use of public key infrastructure in order to ensure a safe and secure payment system in the country. The Central Bank has announced a series of initiatives to improve technological infrastructure to support payment and settlement system which are termed as PKI such as Real Time Gross Settlement, National Electronic Fund Transfer.

I remember in 2006-2007, when this Bill came up before the Standing Committee for deliberation, the basic question that was posed to RBI and also to other stakeholders who were witness before us is that electronic transfer is taking place. Plastic card has become the call of the day. As my friend Mr. Ahluwalia was telling me some days back, if somebody is going to rob you when you are walking on the street, they are not picking up your wallet; they are snatching your mobile telephone. It is because your wallet does not carry much money, much hard cash. It carries plastic cards. So that card cannot be used by robber or whoever who takes your wallet. He robs you of your mobile phone because it fetches him Rs. 500 or Rs. 3000, whatever may be the market price. But the question that arose there was, with this transaction of money, when I am giving a cheque, how long does it take to get reimbursed? In different States there are different clearing houses and are recognised by RBI. How long does it take? I come from Cuttack. Cheques are delivered to me or to certain institutions or firms from Bhubaneswar. It takes minimum three days with a distance of only 22 kilometres. The question that had arose in 2007 was that why should it take three days? If it is with Mumbai or with Delhi, the minimum time is eight days. Why should it happen? You are talking of electronic age. It should happen instantly. If I can do RTGS; if I can send money to my family members from the Parliament House Branch of the State Bank of India in Delhi, it reaches them within two or three or four hours and I get it confirmed that, yes, they have got it.

If I give a cheque, why can it not be transacted within a minimum time span? Why should it take seven or eight days' time? That is a question.

When we are discussing on this aspect, I think, it is necessary that we should also deliberate on the payment structure. The Payment and Settlement System Bill is getting amended today. Though it was passed in 2007, it came into operation, actually, in 2008. This new Bill seeks to amend certain parts of the Act to provide that if a system participant is declared as insolvent or is dissolved or wound up by an order of a court or an authority, it will not affect any settlement that has become final prior to such order or immediately after it. It also seeks to insert new sections including one on protection of fund collected from the customer by the payment system provider.

Sir, what is this term called 'payment system'? It is a term used by many but understanding the true depth is perhaps left to a few like Professor Saugata Roy and Jagdambikaji who directly come into contact with payment systems. A peep into the vast amount of literature available on this subject leaves one either stunned or confused depending on what one's perception had been earlier regarding this subject. It could be viewed, at the simplest level, as a means to transfer funds or a 'system' with all the accompanying connotations. Going by the latter, a comprehensive understanding of payment and settlement systems can be had by its definition. The definition says;

"Payment and Settlement System refers to a set of rules and regulations, processes and procedures, instruments and institutions, and including the legal framework, which facilitate transfer of financial assets between the sender and the receiver". Our own Payment and Settlement Systems Act 2007 defines a payment system as 'a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange'."

Again, the perception about payment and settlement systems and its complexity depends on whether one is just a user of the payment system or a participant in the system or both. The instruments of payment itself may vary from being cash-based or non-cash based. An efficient functioning of payment system in any country is reflected by the ability of its financial sector, reduced cost of transaction, optimum utilization of financial resources and increased market liquidity. A safe and efficient payment system facilitates the smooth transmission of the Central Bank's Monetary Policy signals. Globally, payment systems have been undergoing a sea change in tune with the changes in technology.

Therefore, I would say on what Professor Saugata Roy said: "Do not go into the dictates of G-20." We are invited to G-20. We participate in the deliberations of G-20. We cannot keep our system away from the processes and the agreements that G-20 has agreed upon. To recover black money, it was G-20, who took the best steps forward. In that respect, I would agree and also support what has been mentioned here that we have

to take up those methods which the developed countries have accepted and that is the right direction which we should proceed with.

In any system, its rules and procedures should be enforceable, simple and clear; and their consequences predictable. Illegal system would pose dangers to its participants if these things are not that clear.

Generally, contract law is the basic bedrock of any legal structure on which the enforceability of agreements that are used to establish the rights and obligations of system operators and participants that participate in a payment system are built. Such contractual arrangements must be enforceable and inviolable to ensure smooth conduct of operations under normal circumstances as well as during financial crisis.

Sir, with this Act in place, all these payment systems would be regulated by the RBI under the legislative framework. The Act has been effective from 12th August, 2008, as I had mentioned earlier. I would say that the term 'payment system' is defined in Section 2(1) of the PSS Act. Before I conclude, I would just mention here that this Act is, indeed, a very positive legislation for the smooth conduct of the payment system as it recognises the concept of netting, gives finality of settlement to the transactions and protects the netted transactions settled through recognised and payment system from adverse impact of insolvency, recognition of loss allocations, etc. This piece of legislation not only imbues the system with a sense of protection but will also go a long way in promoting a healthy financial payment system in India.

I would say that with these two amendments, the Act is getting more strengthened; and it is expected that it would be a benchmark in the Indian payment system against international standards.

Thank you.

पु. रविन्द्र विश्वनाथ गायकवाड़ (उस्मानाबाद) : सभापति महोदय, मैं इस बिल का समर्थन करता हूँ। मेरी एक विनती है कि देश में बैंक हैं, लेकिन जो बैंक कोऑपरेटिव सैक्टर में हैं, उनमें शेयर्स की जो रकम दी जाती है, उसका भुगतान इस देश में एक भी कोऑपरेटिव सोसाइटी ने आज तक नहीं किया। मेरा निवेदन है कि उसे भी प्राथमिकता दें। धन्यवाद।

SHRI KONDA VISHWESHWAR REDDY (CHEVELLA): Hon. Chairman, Sir, I am thankful to you for giving me this opportunity to speak on this important Bill.

With increasing globalization, there is a need to be consistent and to conform with the globally accepted standards as stated in the Objects and Reasons by the Minister. It is, indeed, welcome.

In today's world of commerce, the number of transactions are increasing exponentially so far. But with the implementation of the RuPay card and other things, it would not increase exponentially. It would increase in mathematical terms, hyperbolically, cube of the previous year. There is a need to increase the speed and efficiency of the transactions. Most importantly, Sir, there is a need to bring in a finality through the settlement, which is, again very, very important.

Claims of the previous financial years can crop up this year as ghosts from the past. I think, this Bill can potentially put an end to these claims from the previous financial years. The Bill helps, probably, in also reducing legal litigations in terms of unsettled claims.

The hon. Minister gave examples of how the Bill will protect unsecured vendors. I think, that is, indeed, welcome.

The amendments to the Payment and Settlement Bill are overdue. The amendments are welcome. On behalf of the Telangana Rashtra Samithi party, I stand to support the amendments to the Bill. However, Sir, I have a few clarifications from the hon. Minister. As per the proposed amendments, the decision of the court, tribunal or any authority will not impact the settlement which had become final prior to the issuance of the order. Now, I fail to understand and I need a clarification on this that if the matter is already *sub judice*, can an authorised settlement agency make the settlement in finality? That is my question. I have a few other small clarifications. The Minister did give the example of Uber and Paytm. Do they also come under the purview of this? Does Paytm come under the purview of this Bill? Does the Indian Postal System, which offers cash on delivery to our parcels, come under the purview of this Bill? So, I have lot of such minor clarifications.

But I would like to agree with the Minister on one thing. The decisions and opinions on this discussion will definitely not be partisan because every Member here wants to facilitate this and make the transaction system more efficient. But, however, given the time, I, for one, could have had the opportunity to educate myself better and probably, one or two Members actually might have even given a good suggestion. So, I look forward to the clarification from the Minister. Thank you, Sir.

DR. A. SAMPATH (ATTINGAL): Mr. Chairman, Sir, it is well said in English that finance is the engine of growth. I would like to appreciate our hon. Minister of Finance, Arun Jaitley Ji. I can read his lips because he is smiling as he has ensured that this House is in a mood to pass this Bill, I hope, within minutes. I do not know whether just because we are discussing a very simple Bill, this House very barely crosses the minimum number of MPs who should be present here. We are just across the quorum. This is a very serious Bill that we are discussing. Of course, we have quorum. I am not questioning because I cannot interrupt my own speech anyway. But this is an important Bill. Anyway, this is going to affect positively our financial sector. In this, I have certain doubts, maybe, because of my lack of knowledge or because of my ignorance.

The point which I would like to raise is that while we were students of economics, we had learnt about bills of exchange, the discount houses, clearing houses, etc. But in our nation, the clearing houses and the discount houses are not very strong. That is not in usage very much. Here I understand and if I am correct, the hon. Minister is intending to amend the principal Act, the Payment and Settlement Systems Act, 2007, in three matters--one is regarding Section 2, second is Section 23 and third is Section 34. These are the three Sections. Certain doubts have been raised by my colleagues here on these three Sections. I hope the Minister may clarify their doubts.

Sir, with your permission, here I may be permitted to read from the Statement of Objects and Reasons. What the Minister says in paragraph 4 is this.

"The legal entity identifier is a 20 character unique identity code assigned to entities which are parties to a financial transaction and would be unique across the globe."

This is necessary in this era of globalization. But at the same time, you also very well know that in our nation, there still exists the barter economy; and there still exists a parallel economy consisted by black money. Now-a-days it has become very easy for the flight of black money from this nation to abroad, to any other nation, and for the import of black money, a flight from abroad to India is also much speedier. We all understand that that happens in this nation. Even whatever the G-20 nations may say and whatever laws we make, always a mouse finds a hold somewhere. And, it happens. At the same time, the money or the legal tender, takes much time to reach to the recipient. So, this happens. How can this be overcome? I ask such a question because this is a very important Bill. Many of our colleagues have raised that point. We did not get much time to go through this Bill because only yesterday the hon. Minister introduced this Bill in the House and today the Bill is here for consideration and passing. I would say that they have raised a very pertinent point that this Bill should have been sent to the Parliamentary Standing Committee. The Standing Committee should have taken the initiative to collect evidence and have a discussion with various stakeholders.

Sir, the number of credit card holders is increasing in our country. Of course, it is a symbol of economic growth also. That also we can understand. At the same time, the frauds happen. You see it in the electronic media. That is also in the rise. It is rising disproportionately. I am not talking about any ponzi schemes. If I say something about Sahara, Satyam or Saradha, I am afraid that some of my colleagues may get irritated if not frustrated. But, it is true that behind the Satyam or Saradha or Sahara incident, the element of fraud was there. It was actually a cheating to the depositors, who have deposited their money.

While appreciating the initiative that has been taken by the hon. Minister, I want to know what measures we can undertake to check the fraud. Even if the Reserve Bank of India entrust these jobs to the Clearing Corporation of India, still these frauds will increase. So, this matter has to be looked into.

Regarding the provisions of the Indian Contract Act, I have a doubt. I do not get much time to speak on this matter. My doubt is that after some of the provisions of this Act get amended, will they not be in contradiction with certain provisions of the Indian Contract Act. If that is so, who is the arbitrator and who will have the last word in that?

Sir, clause 4, section 23 (1)(a), mentions:

"the deposit and keep deposited in a separate account or accounts held in a scheduled commercial bank; or (b) maintain liquid assets in such manner and form as it may specify from time to time, of an amount equal to such percentage of the amounts collected by the system provider..."

Anyway, I will support this. But, at the same time, take, for example, a corporate, I mean, a juridic personality. They are not natural personalities. There are always consortiums, subsidiaries and other agencies behind the veil. So, unless and until we have a provision to lift the corporate veil, we will not be able to identify as to who is behind these frauds and irregularities. How will we know about the money, which has been siphoned off? All these legal actions are to be taken by the concerned settlement corporation. How that can be taken into account; how that can be caught hold of? We cannot allow frauds of lakhs and lakhs of rupees being siphoned off by various companies and a natural person being in pity. When there is a battle between a corporate and a man, who may be a pensioner – sometimes we will also become pensioners like ex-MPs and others – that old man will be at peril. His life will be at peril. He will not be able to fight with the corporate and the corporate, maybe, by the time would have been wound up. Then, all the legal sanctities would be in vain. So, this thing should also be looked into. Thank you, Sir.

KUMARI SUSHMITA DEV (SILCHAR): Thank you, Chairman, Sir. Mr. Jaitley, before we started this debate, very briefly explained on the floor of the House as to why this Bill has been necessitated, and what is the Objects and Reasons of the Bill. He relegated his speech to just one aspect of the Bill, but in a hurry, I have seen the statement, as reported by PTI, where the hon. Finance Minister has himself stated that the amendment seeks to protect funds collected from the customers by the payment system providers and to extend the Act to cover trade repositories and legal entity, and identify issuers.

A legal entity identifier is a unique ID associated with a single corporate entity. But the main sections that I have seen relate to a proposed amendment where the decision of the court, tribunal or any authority vis-à-vis declaring a service provider insolvent will not be effective retrospectively. But what I would like to understand from the hon. Minister is that whereas we are trying to protect the customer from an insolvency order so that it will not affect a settlement that has already been finalized. Therefore, if somebody has already collected the owed money from a customer, then we are giving that customer priority, which the Companies Act, Section 529 is not giving. But the question is that in insolvency proceedings will something remain for that customer because it has already been declared insolvent? This is a query that comes to my mind.

I appreciate the fact that with the global economy merging and with the G-20 coming into the picture, we have to meet the international standards, but I would have been far happier if this Bill had been referred to the Standing Committee because this Bill seems to be significant, which will ensure financial prudence, transparency and accountability, and no one in this House can disagree with it. But the idea is that the Bill that most of the Parliamentarians here have not been able to decipher, I wonder that, as policy makers, are we acting responsibly in allowing this Bill to be debated today and passed where we are showing concern for an ordinary customer not to be deprived, especially, in light of what has recently come in the news.

It was stated in today's '*Indian Express*' about the Uber Taxi Service that they initially had no such system in place. It is only recently that they have submitted to the wallet system.

I feel that, yes, no doubt that this Act is a significant one and it is bound to protect an ordinary customer, but I wish that we had spent a little more time in the Standing Committee discussing this for the simple reason that as responsible policy makers when we pass a Bill, we become answerable to the people.

I hope that you will enlighten us on the aspect that I had raised, which talks about the order not affecting a settlement that has already been finalized. Thank you.

SHRI ARUN JAITLEY : Sir, I am extremely grateful to a very large number of hon. Members who have spoken on various aspects of this law.

As the title itself indicates, it is a Payment and Settlement Systems Act. Therefore, for any form of financial transaction to be honoured or any form of commerce to have credibility, it is extremely important that commercial transactions are respected and honoured. You cannot have other devious methods or ploys by which commercial transactions are not honoured in the spirit with which they are maintained.

The reference to G-20 which was made by my friend, Prof. Saugata Roy; he is not here. He said that he has been a student of Quantum Physics. Now, Quantum Physics and real politics make a very interesting combination. Therefore, going by the best global practices where the intention of the world at large is that transparent transactions must be honoured, payments which are made must reach the payee, and in case they do not reach the payee, there must be a statutory mechanism to settle those payments. Therefore, the Payment and Settlements Act really came about to be legislated with this objective. If payments are made, payments must be respected, payments must be honoured and the settlements, in case there is some kind of an intervention which takes place, must be effected.

Now, the entire Act itself enables the Reserve Bank of India, as the functional regulator in this field, to give an authorization to third entities, and those third entities could be Governmental, could be non-Governmental, and they become the clearing agents.

16.07 hrs (Hon. Deputy-Speaker *in the Chair*)

Now, several questions have been raised. The hon. Member Shrimati Sathyabama from the AIADMK spoke about the technological security to the entire electronic transactions. She is absolutely right. The Clearing Corporation of India has taken particular keen interest on this. Therefore, the international standards have been provided for the technological security by the Bank for International Settlements. It is those standards which are being applied, as far as these clearing houses are concerned.

PROF. SAUGATA ROY : Will you introduce encryption?

SHRI ARUN JAITLEY: After all, as technology grows, I can check it up and get back to you on the functioning, firewalls around these have necessarily to be created. Otherwise, for anyone to go and intervene in that and, therefore, the process of commerce is set at naught would be quite easy.

It is not that we have gone and blindly followed what G-20 has been saying. From 2008 onwards, even though India is an invitee, this entire negotiation with the global fraternity has been going on. We cannot afford to live an isolationist existence. We cannot provide a banking system which is inconsistent or a financial system which is inconsistent with global standards. So, right through 2008 to 2010, the finalization of those standards with regard to the service providers was finally decided in 2012, when the UPA was in power. I find nothing wrong with it because that is how the entire financial system has to evolve. Otherwise, if we have an obsolete financial system, the world will not trust us to the level at which the world should if we are to relegate ourselves to a country whose financial system must really have confidence itself.

Now, the question raised by Kumari Sushmita Dev, our hon. Member from Assam, is what will happen or whether this will override even earlier transactions or subsequent transactions which are taking place. Supposing, I make a payment through a clearing house to any of my learned friends here, and the interim agency is the clearing house, whose face I do not see or none of us sees, but it is an intermediary. Where did that intermediary burst? The payment instead of reaching you lands up with the third party. Once insolvency takes place, what is the law that must regulate? Let this payment go to the third party. If that is the law in India, then the world at large or even Indian parties would think twice before transacting through these instruments.

So, the object is that there is an obvious gap. You cannot have a court decree and somebody comes up and say that I have a court order in my favour. So, the payment which is made by Mr. Jaitley to Mr. Roy lands up with Mr. Jagdambika Pal. It cannot happen. I am just referring to the two main speakers who spoke. Therefore, the payment must reach you. Even if the third party has a court order in his favour and if he says under a special law of Companies Act or Banking Regulation Act, I will stand before Mr. Roy as far as the queue is concerned, this law says no. This is for these instruments under the Payments and Settlements Act the person you have paid to, it must reach him and if it does not reach him because of a contingency, the law must provide for a settlement by a process through which it reaches him. This was the gap in the law and that gap is what we

are really trying to fill up.

Mr. Mahtab raised a question as to what is the object of section 23(1) in this Act itself. The real object is that the procedure and the priority being given to the payee must be recorded statutorily in this Act and this Act, therefore must have the effect of over-riding other Acts to the contrary. Otherwise Contracts will not be honoured itself. The hon. Member who spoke towards the later part of the debate wanted to know whether there is a contradiction between the Contract Act and this Act. It is perfectly consistent with the Contract Act and the reason is contracts are to be performed and not to be breached. That is the underlying principle of fairness in any private sector or the Public Sector contract. If we are in an economy which is now a free market economy or at least moving towards that, it also essentially implies fair economy. Unless it is a fair economy where contracts are performed and not breached and if I make a payment for the benefit of somebody and there is an intermediary, the implicit contract is that the payment must reach him. If the law so provides, how can such a law be contrary to any provisions of the Contract Act itself? If bank frauds are taking place, each fraud must be looked at on its merits or demerits. If there is a violation of a statutory provision, people must be taken to task. If there is a gap in law, we must fill up the gap in law. But that cannot be a reason that we allow this obvious gap to continue that the payment intermediary goes insolvent and the payment does not reach the payee. That is the limited objective of this law.

All other amendments, which are being brought about are consequential to the principal objective and therefore, this being in consonance with the principles of fairness and the best international practices, I would commend to this House while thanking all the hon. Members who have taken keen interest. But I must end only by saying when I heard Mr. Roy, he is wiser than most of us. So, initially, when he was saying that this is a complicated piece of legislation, after hearing him I understood that he understood this law more than any one of us. Therefore, his elaborate speech itself now establishes that the law can be passed today without a reference to the Standing Committee. Thank you Sir.

HON. DEPUTY SPEAKER: The question is:

"That the Payment and Settlement Systems (Amendment) Bill, 2014 be taken into consideration."

The motion was adopted.

HON. DEPUTY SPEAKER: Now, the House shall now take up clause by clause consideration of the Bill.

The question is:

"That clauses 2 to 5 stand part of the Bill"

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clause 1, the Enacting Formula and the Long Title were added to the Bill.

SHRI ARUN JAITLEY: I beg to move:

"That the Bill be passed."

HON. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.