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Title: Discussion on the motion for consideration of the Companies (Amendment) Bill, 2014 (Discussion not concluded).

HON. DEPUTY SPEAKER: The House shall now take up The Companies (Amendment) Bill, 2014. Hon. Minister.

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

"That the Bill to amend the Companies Act, 2013, be taken into consideration."

Sir, I would like to make a brief comment. We had, in 2013, a new Company Law. The original Companies Act had something like 600 plus provisions. It was re-worked out and a law with 470 sections was enacted, after a detailed consideration. Most of the provisions have been implemented. Now, after the provisions were implemented, while enforcing the provision, we found that there were certain difficulties with regard to the enforcement of certain provisions or certain errors, while drafting had taken place.

Now, there was an Open House that we held where industries, Chambers, business organizations, professional organizations, chartered accountants, legal experts and others had submitted their memorandums and made their presentations. Many changes were suggested. Some provisions could be rectified merely by the enactment of rules. Some could be clarified by notifications. But, after the detailed consideration, there were some minor amendments which were required in the principal Act. Most of them are intended for one purpose, that is,

for the ease of doing business. In some cases, there were oversights which were left out. It is only to rectify those provisions in the Bill itself, the advice of the Law Ministry was that these changes could not be covered. Therefore, these small consequential amendments have arisen because of that.

I propose to the hon. Members that these be taken up for consideration.

HON. DEPUTY SPEAKER: Motion moved:

"That the Bill to amend the Companies Act, 2013, be taken into consideration."

SHRI M. VEERAPPA MOILY (CHIKKABALLAPUR): Hon. Deputy Speaker, I thank you for this opportunity to speak on the Companies (Amendment) Bill, 2014.

16.49 hrs (Shri Pralhad Joshi *in the Chair*)

Even though the Bill looks like a technical one and also harmless, if you go deeper into the Bill, there are a few things which may take away the democratic principles of the shareholders and also definitely work contrary to the transparency in governance. That is why, I thought that I should speak on this particular Bill. As the former Law Minister, in fact, a Bill came from the Corporate Affairs Ministry which was only in the form of an amendment to the old Companies Act.

I thought it appropriate that there should be a holistic approach to the entire concept of company law. When I was Law Minister we got it redrafted as a comprehensive Bill. You all know that a lot of exercise has gone into it. We had involved the corporate bodies. The best of experts like F.K. Irani was asked to monitor these things. A number of national conferences were held with great players in the corporate world, industry, chartered accountants, professional institutes. I do not think any other Bill in my memory has gone through the mill of this process of consultation, an intensive consultation with a micro-level approach to each and every provision of the Bill.

That is why my general observation on this Bill is that since a lot of exercise has been done and a comprehensive Bill has been brought about with a holistic approach, we will have to be very careful in meddling with the provisions of the Bill. I do understand the spirit with which the hon. Minister has brought about this Bill, but there are a few things which he may have to look into.

The Minister has brought in amendments to a number of provisions in the Act. In fact, many amendments which have been brought about have their own significance. I agree that clause 8 may not be harmful, but as far as clause 10 is concerned it may have very serious repercussions in implementation. Here they say that after the third proviso the following proviso shall be inserted namely, "Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in the previous year or years are set off against profit of the company for the current year". I think this may be against the principle of transparency. You know very well that we have drafted a number of clauses so that fraud may not take place. I think this will open the doors for committing frauds and also inviting those liabilities which should not have been included here. Why do you allow any provision to reopen? I think we have very serious objection to this. Also, I would rather say that even with regard to clause 15 in section 185 of the principal Act, in subsection 7, in the proviso after the clause the following clauses and provisos shall be inserted namely, "any loan made by a holding company to its wholly owned subsidiary company, or any guarantee given or security provided by a

holding company in respect of any loan made to its wholly owned subsidiary company provided that the loans made under clauses C and D are utilised by the subsidiary company for its principal business activities". This is again quite dangerous and it also invites the contravention of the transparency law and also governance.

Many of our friends strongly feel that since the Companies (Amendment) Bill has been brought about after a decade of consultation all over the country with all the stakeholders, we should try to avoid any anomalies or avoid any of these problems which today we cannot contemplate. I think the ideal thing for the hon. Minister will be to agree to refer it to Standing Committee because various discussion and consultation can be held in the Committee. Earlier, twice it had gone to the Standing Committee. I think it is safer to refer it to Standing Committee so that it can be totally re-examined before this amendment is brought about. There was a report in the newspapers that Government is said to iron out thorny provisions in the Companies Act. I expect a lot of things must have been brought about. Now you are confined to fewer things. I think that even while you approach these amendments, perhaps you want that it should be brought about by instalments and not at one strike. So we may expect another set of amendment in the next session.

I was expecting some amendments, particularly on the question of ease of making business. We had constituted a Committee under the Chairmanship of Shri Damodaran. He was the Chairman of SEBI. It was an expert committee. They have brought about a number of things so that ease of business can be definitely and seriously looked into. If you had gone through that particular report and brought some amendment to that, it would have taken you to a way forward. While making business there are a lot of difficulties and obstructions. You could have as well brought amendment to that. We would have welcomed that. But I really find that this kind of substantial amendment to provide for transparency in business and also to provide for ease of business and upgrade India in respect of business index can be contemplated. That will help us to demonstrate to the entire world or the investors that we are really interested in bringing about certain amendments to create an investor-friendly atmosphere, both outside and inside the country.

I must tell you that we are now a country running into a lot of problems. I was told that hon. Prime Minister had a meeting with a group of American economists recently. In the meeting, he seems to have expressed to them that while first six months were the time to create propitious environment for growth, the coming few months would be the time to initiate some major reforms and policy changes. I think if the corporate sector in particular is concerned, they are just looking forward inside and outside the country. But all these six months what has been said is that propitious environment will be created. I am afraid you may have to take another seven months. Now it is a disappointment. Maybe you may require another seven months instead of next seven months to initiate some major reforms. But what is called a propitious environment has not been created.

17.00 hrs.

This is what we need to do. ...(*Interruptions*)

SHRI M. VEERAPPA MOILY : Is my time over?

HON. CHAIRPERSON : Yes. Totally, your Party has got 10 minutes. You have got one more speaker from your Party.

SHRI M. VEERAPPA MOILY : I do not mind sitting, but I thought I can speak for a while.

HON. CHAIRPERSON: Whatever the hon. Speaker has directed, I have to act accordingly.

SHRI M. VEERAPPA MOILY : If you ring the bell, that is the ultimate order and I will sit down. But before ringing the bell, if there is some indication, it would have been better. Normally it is done, but it is not done now. I do not know what kind of procedure we are adopting. All right, thank you.

HON. CHAIRPERSON: If you want to conclude, you may conclude, but whatever the hon. Speaker has decided, I have just communicated. It is not my decision. Whatever decision has been taken, I am communicating.

Let me explain it to you.

SHRI M. VEERAPPA MOILY : No. I do not need any explanation. You do not owe an explanation to me. If you just say that the time is over, I will sit down. There is no question of bargaining for time.

SHRI MALLIKARJUN KHARGE: He is the first speaker from our Party. This is one. Another thing is that this is a Bill and he is throwing some light, as the former Law Minister. The hon. Minister is also agreeing to this. I do not think there will be any objection from any one.

HON. CHAIRPERSON: I have nothing to say about it. Whatever is written here, I am going by that.

Now, let him continue.

SHRI MALLIKARJUN KHARGE : Even in 'Zero Hour', we have seen that many hon. Members are being allowed.

HON. CHAIRPERSON: Let him continue.

SHRI M. VEERAPPA MOILY : Thank you very much. I never knew that it was only ten minutes. I thought there was enough time.

So, we are awaiting major announcements, no doubt. I do not want to narrate all these things because it may be known to him. I do not want to take away the time of the House in repeating what are those major initiatives that he wanted to take.

But I want to say one thing. Strong messages have been given, no doubt, by the hon. Prime Minister, but unfortunately they have been followed up by the weakest signals. In fact, I must tell you that the sentiment is the lowest today. Trade deficit has been widened to an extent, which is 18 months' high. Indian economy stares at deflation – this is a dangerous signal. It has taken away the pricing of power from companies, eroding their profits and forcing them to lay off employees. Jobs are lost.

According to Shri Pronab Sen, who is the Chairman of the National Statistical Commission – I have not said this, but this is what he said authentically – deflation is the real danger; more than the negative numbers, for primary articles and also for fuel group, a sequential drop of inflation of manufacturing items is the real bad news. In the Indian context, manufacturing inflation below 2.5-3 per cent should be considered deflationary. This is the value judgment given by the Chairman of the National Statistical Commission, Shri Pronab Sen, a noted economist.

I do not know whether the Prime Minister or the Finance Minister has seen the signals. That is why the signal is the weakest and the messages are very strong. I must compliment you. If the messages are strong, then equally the signals should be strong. But the signals are not definitely inflationary. He further said that the inflation of manufactured items came down for the third consecutive month, the first such occurrence since the peak of Lehman crisis in 2008. Of course, we do not wish that it should come.

But at the same time, the economists have compared it to the same thing which happened when the Lehman Brother crises were there in 2008. Inflation rate of textiles, food, chemicals and basic mettle declined. India's factory output, in fact, contracted in October for the first time in seven months and it was its worst performance. In three years, while retail inflation touched a new low since the series was drawn in 2012, last time, when the inflation was minus 0.3 per cent followed by Lehman Brothers definitely at that time our RBI responded immediately and changed the repo rate from October, 2008 when it was lowered from 9 per cent to 8 per cent and it is still lower.

Thereafter, rate cut followed one after another and in April, the rate has lowered to 4.75 per cent. This is the right time. I found a statement from an eminent banker like Shri K.V. Kamath who said that all the ingredients are there for really cutting the rate. Despite that, you do not see the signal. You are blind to the signal. Zero wholesale rate inflation calls for rate cut. It is inevitable. It is the main and substantial ingredient for cutting the bank rate. That has not been done here. In fact, China, in a surprise move, has cut the rate to spur the growth rate. It was first rate cut in two years and that is how they are trying to wake up. Even Japan followed the same.

I think we go only by rhetoric and not by the fundamentals. It was not so earlier. In fact, in 2008-09, the fundamentals were still strong whereas there were some problems. But here the fundamentals have become weak. I think this wake up call will have to be understood by India today and all over the world, this will be a very dangerous trend unless you come out with reform agenda.

In fact, I find – I maybe wrong or right -- that the Finance Minister wants American style conservatism with low taxes and a low deficit, while the Prime Minister wants to follow the Chinese model. This is the contradiction which is there and ultimately the Indian economy will falter with your fight that there should be American conservatism and the PM says that it should be the vibrant Chinese model. Why do you not think of an Indian model? This is what I would like you to think. In 2008-09 when we faced the crisis, the entire world was reeling under economic recession, we did not adopt the American model or China model. We adopted only Indian model. This is what I would request the Finance Minister to think about and it is for you to reconcile yourself with your Prime Minister. We cannot influence that.

In fact, the RBI Governor also does not believe in the strategy or approach - 'Make in India'. He gave an open statement and he said that the Make in India plan is unlikely to be effective. This is what Shri Raghuram Rajan has said. He warned about too much stress on manufacturing and also on work in India. In fact, Dr. Manmohan Singh, even though he was the Prime Minister, he was more of a great economist. He said that India has potential enough to attain 8 to 9 per cent GDP growth. This is what we said. We are capable of doing that. In fact, deceleration has started. Once deflation comes, deceleration starts, there is sharp decline in jobs and it will be a very dangerous situation then for a country like ours. Many of us are not thinking about this. Manufacturing sector which accounts for 75 per cent of the total factory output fell by 7.6 per cent; consumer durable output fell by 35 per cent; capital goods output also fell by 2.3 per cent. There is no improvement in any sector that you take. But there is a ray of hope from the Finance Minister when he said that large investments are waiting. If they are waiting, then the Government has to realise it immediately. The Government has to translate those wishes into reality. But at the same time he has mentioned that the doors have to be opened. Who will open the doors? It is for the Government to open the doors. Either the hon. Prime Minister or the hon. Finance Minister has to open the doors for the large investments to come into this country.

Sir, I have already taken much time. Today I find that GST is being considered. GST and the Direct Tax Code are all tax hurdles and need to be addressed immediately. I think, it requires total undivided attention both from the hon. Prime Minister and the hon. Finance Minister. Of course, the hon. Prime Minister is very busy otherwise. I do not find fault with him. Maybe, he is BJP's PR man and the only PR man for the Party and also the Government. We are not blaming the Government. That is the approach of the Government. But I have hopes on the hon. Finance Minister. The Finance Minister should address them directly. The Government must concentrate on some of these problems, otherwise deflation will kill the economy of the country for ever.

Thank you.

डॉ. किरीट सोमैया (मुम्बई उत्तर पूर्व) : माननीय सभापति महोदय, कांग्रेस के हमारे सीनियर मੈम्बर ने अंत में जो एक वाक्य कहा, उससे मुझे थोड़ा दुःख पहुंचा, ठेस पहुंची। Modi is not PR man for BJP. Modi is a symbol of development. मोदी जी आज देश की धड़कन बन चुके हैं। आज यह जो बिल आया है, वास्तव में एक वाक्य में कहूं तो मैं श्री अरुण जेटली जी को धन्यवाद देना चाहता हूँ और मैं श्योर हूँ कि मोदली साहब जो बोल रहे हैं, वह सही है, यह जस्ट बिगनिंग है। देखिये दो रिजिम में अंतर है। एक रिजिम गत दस साल तक था, तब विदइन गवर्नमेंट, गवर्नमेंट और अब जो रिजिम का प्रारम्भ हुआ है, मिनिमम गवर्नमेंट एंड मैक्सिमम गवर्नेन्स। दस साल जो रिजिम था, जिन्हें और किसी में विश्वास नहीं था, सब गवर्नमेंट करेगी और जनता को उनमें विश्वास नहीं था। दस साल जो रिजिम थी, वह सिर्फ एक-एक कायदा, उसमें सब-वलाज, उसमें वापस एक्सप्लेनेशन एक के बाद एक बना रही थी। आज यह जो बिल आया है, वास्तव में these are not just amendments. क्योंकि मुझे पता है, मैं अपने प्रोफेशनल ब्रदर्स को लेकर मिनिस्ट्री में चार बार जाकर आया था, ऐसे-ऐसे वलाज, एक्शन और सैक्शन डालकर रखे हैं that everybody feels that they are outside this Government, everybody is dishonest. वास्तव में जनता पर विश्वास रखना चाहिए, बिजनेसमैन में विश्वास रखना चाहिए, प्रोफेशनल में विश्वास रखना चाहिए। यह जो कानून आया था, उसमें इतने सारे ऐसे वलाजेज हैं और मुझे पता है कि अनेक जो वलैसिफिकेशंस हैं, एक्ट में बिना अमैन्डमेंट के मंजूर करने के हैं।

उसके लिए मैं वित्त मंत्री जी को, कॉर्पोरेट मिनिस्ट्री को धन्यवाद देता हूँ।

सभापति महोदय, मैं एक उदाहरण देना चाहूंगा, जिसकी बात कही जा रही थी, प्राइवेट कंपनी और एक उदाहरण यहां पर आया है। अब मुझे यह कहो कि शेयर का एक लाख रूपया, एक रूपया और पांच लाख रूपया, why should the Government go in for details? Let the investor decide. When it is a closely held company, when it is a private limited company, why should the Government go and codify all details as to how they have to behave, what they have to do and other things? I can appreciate one thing. कानून में भी यह कहा है...(व्यवधान)

SHRI N.K. PREMACHANDRAN (KOLLAM): Even after this amendment is being carried out, the paid-up share capital will still be determined by the Government as prescribed by the rules. So, it is still with the Government. The right vested in the Parliament is being taken away by the Government by virtue of amending clauses 76 and 81. So, it is still with the Government.

DR. KIRIT SOMAIYA (MUMBAI NORTH EAST): That is why, I told that this is just a beginning. We believe in maximum governance and minimum government. What Shri Veerappa Moily said is correct. भारतीय जनता पार्टी की सरकार और मोदी सरकार लोगों पर विश्वास करना चाहती है। मैं मानता हूँ कि एक वर्तमान के संबंध में थोड़ा वलैरिफिकेशन आया है, मैं माननीय वित्त मंत्री जी को धन्यवाद भी दूंगा और ध्यान भी आकर्षित करना चाहूंगा। I am a chartered accountant and an auditor. ऑडिटर के संबंध में आपने भी कुछ विशेष जिम्मेदारी डाली है और आपने भी डाली है। इस संबंध में और इस अमेंडमेंट में और थोड़ी स्पष्टता की गई है। सर, मैं आपको एक उदाहरण देना चाहूंगा। मुंबई, महाराष्ट्र की एक कंपनी में हजारों-करोड़ रूपये का पॉलिटिकल कर्प्शन हुआ। You know that company. जिस कंपनी में 16 करोड़ का नेट लॉसेज है। It has incurred a net loss of Rs. 16 crore. पांच साल तक कोई बिज़नेस नहीं हुआ। वह कंपनी अचानक दस रूपये के शेयर दस हजार रूपये के भाव से मार्केट में ले कर आती है और सम कोलकाता, सम वाया-वाया-वाया इन्वेस्टर they purchased the share of Rs. 10 at Rs. 10,000 per share and transferred around Rs. 700 crore to that corrupt politician bank account. चार्टर्ड अकाउंटेंट अगर ऑडिटर है, तो इसलिए मैंने कहा कि आपने भी और आपने भी इस ऑडिटर को कहा कि भाई आप ऑडिटर हो, कंपनी के ऑडिटर हो, मगर देश के भी ऑडिटर बनो। मैं अपने प्रोफेशनल ब्रदर्स को कहना चाहता हूँ और इसके लिए सरकार इसमें जो अमेंडमेंट लाई है कि You have to report to the Government. This is appreciable. साथ में मैं सुझाव देना चाहूंगा कि कोई ऑडिटर प्रामाणिकता से सुझाव देता है, जानकारी देता है कि इस प्रकार का यह मनी लॉन्ड्रिंग हो रहा है, करप्ट प्रैक्टिसेज हो रही है, तो उस समय यहां पर वह वापस उस प्रकार की इंफार्मेशन, जो ऑडिटर रिपोर्ट्स आएं, उसको किस प्रकार से प्रोसेस करना, इसके बारे में भी मंत्रालय कुछ विचार करे। मैं यह सुझाव देना चाहता हूँ। This is concerned with section 143. It is a good amendment.

Mr. Chairman Sir, my favourite subject is small investors protection. I want to make a minor observation regarding Investor Education and Protection Fund. इसके संबंध में माइनर ऑब्जरवेशंस हैं। मुझे पता है कि अरूण जेटली जी, जब कंपनी मामलों के मंत्री थे, इसी सदन में यह कंसेप्ट उन्होंने इंट्रोड्यूस किया था। आज वे वित्त मंत्री हैं, जिसमें कंपनी मंत्रालय भी है। मैं उनको धन्यवाद देता हूँ, लेकिन साथ में एक चीज़ के प्रति उनका ध्यान आकर्षित करना चाहूंगा कि बीते दस साल में आपने उस समय जो पौधा लगाया था, वास्तव में After ten years of the creation of Investor Education and Protection Fund, there is a need to review it. उसका क्या हुआ? कितना पैसा इन्वेस्टर एजुकेशन के लिए खर्च हुआ? वास्तव में अनवलेम्ड डिविडेड, यह यहाँ से गवर्नमेंट के फंड में जाता है और वहाँ से कंपनी मंत्रालय कोई एक-दो संस्था को देकर अपनी जिम्मेदारी खत्म करता है। You have also expressed concern about the ponzi companies. पोंजी कंपनी में हमारे रमाल इन्वेस्टर्स पैसे डालते हैं, because they are not aware. Why can we not initiate a massive campaign with the help of this IEPF? इसलिए मैं आपका ध्यान आकर्षित करना चाहता हूँ कि आप इस विषय पर ध्यान दें। मैंने जो 10 रूपये के शेयर के 10 हजार रूपये वाली बात कही, इसमें वह अमेंडमेंट आपने परचू नहीं किया है। आप इसके ऊपर विचार करिए। In your Income Tax Department, last year you have come out with the clarification and an amendment कि जो इस प्रकार का ऐक्सर्ड वैल्युएशन होगा, तो you will ask the beneficiary to deposit 33 per cent income tax. You are not accepting any explanation or clarification. मैं चाहता हूँ कि कंपनीज एक्ट में भी आगे आप कुछ ऐसे करेक्शन लेकर आइए।

सभापति जी, जो फ्रॉड रिपोर्टिंग से लेकर, लोनस इन कंपनीज और जो एक छोटी बात है, जिसके बारे में आपने उल्लेख किया है, जो डिविडेड मिनिमम पेड अप शेयर कैपिटल लॉस गारंटी, ये सब जो मुझे हैं, उसके साथ ही मैं एक और बात की ओर आपका ध्यान आकर्षित करना चाहता हूँ कि टी कंपनीज एक्ट, I am not clear whether they have addressed what is going on in the country for the last ten years. यह कंपनीज एक्ट के प्रोवीजन का कहीं पर दुरुपयोग हो रहा है, वेव ऑफ कंपनीज क्लियर की जा रही हैं। वेव ऑफ कंपनीज, सेल कंपनीज और उसके द्वारा जो पैराल इकोनॉमी है या जो हम ब्लैक मनी की बात करते हैं, वह ब्लैक मनी किस प्रकार से बनाई जाती है।

17.23 hrs. (Hon. Deputy Speaker in the Chair)

अंत में एक ही बात करके मैं इस बिल को समर्थन करते हुए अपनी बात समाप्त करूंगा। मैं एक और छोटे से बिंदु पर माननीय मंत्री महोदय का ध्यान आकर्षित करना चाहूंगा। वीरप्पा मोदली जी ने थोड़ी छूट ली, मैं भी एक प्वाइंट के लिए छूट ले लेता हूँ। जीरो परसेंट इन्फ्लेशन है, इसके लिए आप अभिनन्दन के पात्र हैं, लेकिन मैं साथ में यह भी कहना चाहूंगा कि आपकी दूसरी एंटी-इन्फ्लेशन योजना जन-धन योजना है। उस दिन सप्लीमेंट्री डिमांड में आप यहाँ पर नहीं थे। जन-धन योजना में we are opening the accounts और बहुत कम समय में ओपन कर रहे हैं, इसके लिए आप अभिनन्दन के पात्र हैं। But try to understand the phrase and philosophy of banking. It is to mobilise the savings and invest it. यह जो वलास है, Mobilise the savings means, mobilise the savings from the persons who have surplus and to invest it. You have to advance the loans. यह भी अपर वलास है। तो अभी की जो बैंकिंग है, जिसे इकोनॉमी में हैक्स बोलते हैं, वहाँ तक सीमित है, Now, you are going to extend it to have-nots. उस समय मैंने स्वयं जन-धन योजना में मुंबई और बंगल वाले डिस्ट्रिक्ट के बैंक आफिसर्स से भी मीटिंग्स कीं। We have not drawn or I am not able to understand whether you have drawn कि वह जो 33 परसेंट, जो सेगमेंट आफ टी सोसाइटी है, वहाँ हम अपना फिजिकल इन्फ्रास्ट्रक्चर किस प्रकार से पहुँचायेंगे? I will give you one example. मैंने जो आदर्श गॉव एडॉप्ट किया है, वह मुंबई से 120 किलोमीटर दूर है। वहाँ से 20 किलोमीटर तक कोई बैंकिंग इन्फ्रास्ट्रक्चर नहीं है। When I asked that bank manager, he asked me, कियेटी जी, वहाँ बिजनेस क्या मिलेगा? We will have to train the banking staff also that this is a social commitment, बिजनेस नहीं। वहाँ बिजनेस भी आपको बहुत मिलेगा, क्योंकि 33 परसेंट वर्ग को आप टच करेंगे, तो पेपरलेस करेंसी की ओर आप बहुत स्पीडली आगे बढ़ेंगे। इस छोटे बिंदु की ओर आपका ध्यान आकर्षित करते हुए, इस बिल का समर्थन करते हुए मैं आपको धन्यवाद देता हूँ।

SHRI S.R. VIJAYA KUMAR (CHENNAI CENTRAL): Hon. Deputy-Speaker, Sir, let me thank you for giving this opportunity to speak on the Companies

(Amendment) Bill, 2014.

I am speaking on this Bill on behalf of the AIADMK Party led by our former Chief Minister, *Puratchi Thalaivi, Amma*. The people-centric vision of our beloved leader, Amma is to ensure that any company set up for the purpose of manufacturing or producing or servicing must have a streamlined administrative machinery that will take care of both the workforce and the customers. This Bill empowers the shareholders to have more of a say in the major decisions to be taken by a company. Just imagine what would have happened if our leader had not intervened when the five per cent of the stake in the Neyveli Lignite Corporation was not purchased by the Government of Tamil Nadu by our beloved leader! She was for ensuring that public utility of the public sector undertakings was maintained intact. The lignite coal produced there, the power generated there and the workmen who contributed to the overall production there are all the valuable assets of our country. That profit-making company was about to be offered on a platter to private players in an unwarranted fashion. For the first time in the history of independent India, our leader, *Puratchi Thalaivi Amma* intervened taking up the matter again and again with the Centre and finally succeeded in making the Government of Tamil Nadu a stakeholder instead of some faceless private players who may not be ready to face the ground reality of saving the interests of the workforce. When it comes to modernizing corporate structure or redefining corporate relationship taking care of shareholders, stakeholders, company managements and the Board of Directors, our leader has made all the PSUs of the State Government to be model agencies.

Sir, the amendment Bill we are discussing now seeks to ease the smooth functioning of companies in this globalized era. In 2008, a comprehensive Bill in this regard was sought to be brought forward. That was to replace an old legislation which was more than half-a-century old.

As that Bill had lapsed with the dissolution of the Fourteenth Lok Sabha, a Bill on the similar lines has taken shape only now. This has come about after much of deliberations in the Parliamentary Standing Committee. This Bill gives the Government the right to notify rules and broadens the range and scope of subordinate legislation. Trade regulations envisaged in the Companies Bill used to be in conflict with the SEBI Act. Now, some changes have been brought about which is procedural in nature in line with the Depositories Act and the SEBI Act. The first one is for dematerializing all securities. The latter one is for making it mandatory to have all public offers in dematerialized form. It is hoped that this would result in good corporate governance. Frauds related to loss or duplication of security certificates would not happen; investors need not go for safeguards related to physical share certificates. This Bill seeks to make the transactions of companies more transparent. This is remarkable for a vast country like ours. The mouse of our computers can act like a careful cat and a watchdog. This can happen because the maintenance and inspection of documents by companies in electronic forms is being allowed as part of e-governance.

Any company must take into account its social environ and must live up to the expectations of the local mass surrounding, its production units or marketing units. That is why, corporate social responsibility is being underlined in this era of liberalization. This Bill lays stress on that. On the part of the companies, accountability towards the Government and the public will be enhanced. This has been ensured by adding the concept of independent directors.

This amendment Bill makes the "promoters" of the company own certain liability in certain cases. I am here reminded of the sad tragedy of the Bhopal gas leak incident. I only wish this Bill was there then.

This Bill also proposes to enable a company to evolve a process to encourage ethical corporate behaviour. Another highlight of this Bill is that the employees will be rewarded for providing valuable information for the avoidance of deviant practices.

So far, it was enough to have 50 members to establish a public limited company. Now, that number has been increased to 200. At the same time, the shareholders will be taking up the role of watching the management and the performance of the companies. In a democratic body polity like that of ours, this move of the Government is to widen the scope of having more people in the management of the companies and in monitoring its management.

A National Company Law Tribunal to administer provisions with respect to company law will be in place in a sound manner. This Bill gives greater powers to creditors to supervise a rescue plan when a company becomes sick. Mergers, amalgamations and takeovers of companies will be more transparent from now on. This is a welcome move. It so happened in the past that some companies have gobbled up even without the knowledge of the members. The Government has thought it fit to entrust more responsibilities with the shareholders of the companies than even its Boards. This has been done in the changed atmosphere in the light of globalisation. We want to believe that this Bill has been conceived rightly and delivered properly.

With these observations, let me conclude.

PROF. SAUGATA ROY (DUM DUM): Sir, I rise to speak on the Companies (Amendment) Bill, 2014. I don't want to inflict a long speech on the Finance Minister. As it is, he is looking tired at the end of a long day, wearing three hats in three Ministries. So, I would be very brief.

The Corporate Affairs Minister has brought 14 amendments to the Companies Act, 2013. The main purpose of his Bill is to improve the ease of doing business. A World Bank Report sometime back said that ease of doing business in India, India was ranked at 142 among 189 countries. So, people found that it is difficult to do business here, which is why the Minister is thinking of bringing this Bill.

As early as October, the Finance Minister has said that we are getting innumerable requests to amend the Companies Act. So, he has brought this Bill with two purposes. Mainly in the face of innumerable requests from the corporate world, business classes, Chambers of Commerce, etc. and to make the business easy. Here, I would like to differ with him in the sense that I spoke on the comprehensive Company Laws Bill which was brought by my young friend, Shri Sachin Pilot, who is not in this House any more. I thought that the overall effort was commendable. But I had said, and I would say again as to what is the touchstone of a good Companies Bill. To me, there are two touchstones because in recent times, corporate world

has been shaken by two incidents. One is the Satyam case in which the value of shares of the company was shown in an inflated way and it was found that in Satyam case, auditors had faulted and had not given a proper report. I just saw two days back that Shri Ramalinga Raju has received punishment of six months in prison. Maybe, he would receive more punishment.

My second touchstone is this. Whether this Bill helps to eliminate chit fund companies and cheating of small investors by companies listed as such? Because we have seen the collapse of not only Saradha and Rose Valley in West Bengal but such collapses are also taking place all over the country. Will the Bill strengthen the Government's stand in resisting, in avoiding such collapse which put millions of people at risk? Of course, we have the problem of investors' democracy, education of investors, and I am not going into the nitty-gritty and details. To my mind, Mr. Jaitley after several months of deliberations has come up with this Bill. It does not satisfy these two touchstones. This is not at all a comprehensive Bill which we expected with comprehensive amendments from a noted corporate lawyer like Shri Arun Jaitley. That is why, I would point out small defects in the Bill.

He has said that the ease of doing business is alright. Let me point out several problems with regard to the Bill. The amendments include replacing special resolution with ordinary resolution for approval of related party transaction by minority shareholders. This means that companies need only to have the consent of 50 per cent of the minority shareholders present instead of 75 per cent which is prescribed under the law. Now this reduces corporate democracy. Let me cite the case of United Spirits. Recently, a Special Resolution moved by the liquor maker United Spirits, through postal ballot, to approve four related party transactions was defeated by minority shareholders as it did not satisfy the 75 per cent provision. If the proposed amendment had been there, the Resolution would have been passed. So, in that sense, the power of the minority shareholders is reduced in this new amendment. I am sure the Minister would explain that.

The new amendment also empowers the audit committee to give omnibus approval for related party transactions on an annual basis. They say that it is in line with the SEBI Policy to increase the ease of doing business.

The other point that I would like to make is regarding related party transactions. Heeding to the corporate demand again, the new amendment also proposes to exempt related party transactions between holding companies and wholly owned subsidiaries from the requirement of the minority shareholders' approval. In all these cases, the power or rights of the minority shareholders are reduced. I would like the Minister to explain this while replying.

There is another provision which prohibits a public inspection of Board Resolutions filed with the Registrar of Companies. It is said that company professionals have been complaining to the Ministry that Board Resolutions, if made public, would reveal the company strategy thereby helping the competitor inadvertently. But this is against transparency. Now, Company Board Resolutions will not be seen by anybody else. They say that competitors might get advantage. But I do not think it is a strong enough reason.

The other thing I want to say is regarding fraud. Fraud reporting has been made limited in this amendment. Earlier, a provision was there which ensured that frauds which are beyond a certain threshold would compulsorily need to be reported by the auditors to the Government. Any such fraud which is above the threshold will also need to be disclosed in the Board Report. Now, here again, the auditor is given a leeway that below a certain threshold, he need not report the fraud to the Government; whether it is good or bad or whether it will control frauds as it happened in Satyam's case, the Minister would be able to tell us.

Originally, the Government had said that all the hindrances in doing business can be removed by just amending certain provisions of the Act for improving the business environment in the country.

Mr. Moily has given an overall picture of the economy of the country. The main problem is, manufacturing sector is not growing. It is almost stagnating. This is a matter of serious concern to the Minister. So, after this amendment is passed, we would like the economy to grow to the promised level of 8 per cent. Now we are at 5.3 per cent only. I would like to know how this ease of doing business is going to really improve the growth in the manufacturing sector.

Sir, Mr. Mayaram was the Finance Secretary earlier and he has been removed now. After this Government took over office, he said a very interesting thing where he tried to speak about the philosophy of the Government. He said: "I believe our potential growth rate is 8 per cent. And to get there, we need to develop resources. And that which we cannot generate domestically must come from outside and if it comes from outside then we prefer it in the form of Foreign Direct Investment (FDI) rather than Foreign Institutional Investment (FII)," This summarizes the philosophy of the Government. They will run the Government for five years. Only time will tell whether with this policy, whether with these amendments to the Companies Act, we shall be able to make business easier, whether we will be able to achieve growth rate, whether we will be able to improve manufacturing and whether we will create more jobs. With that, I end my speech. Thank you, Sir.

SHRI PINAKI MISRA (PURI): Thank you, Mr. Deputy Speaker for giving me the chance to speak on this very important Bill today. The hon. Minister rightly said that the Companies Act, 1956 with 658 Sections, was sought to be amended by the 2013 Act with only 470 Sections which was supposed to be a lean, more comprehensive Act. I heard Mr. Moily of the Congress Party with some amusement. Mr. Moily is not here now but he started out by saying that a great deal of time, effort and energy went into making the new Companies Act, 2013. And yet he now blames the Government saying we expect you to now change that Act comprehensively to bring in new laws so that the "ease to do business" would be facilitated. This is a contradiction in terms. The fact of the matter is, the Congress Party and Mr. Moily are out of touch with reality. The fact of the matter is, as the hon. Minister has already said, there have been innumerable complaints with regard to this Bill. Therefore, even though, I rise to support this Bill, I rise to support it with a great deal of dissatisfaction because this Bill simply does not go far enough. The fact is that this Companies Act, 2013 and the Land Acquisition Act, 2013 are actually two model Acts brought by UPA II on how to make it impossible to do business in India. That is a fact.

The only thing that I find very strange is this. When Mr. Jaitley was the Leader of the House in the Rajya Sabha for the BJP, how did these two pieces of legislations which are uniformly regarded in India as the most retrograde and anti-business, anti-growth pieces of legislations, fly-past his

radar in the Rajya Sabha. This is what I cannot understand. This is what mystifies me and this is actually what mystifies all of us that what kind of legislation are we doing. We are all now saying – Prof. Saugata Roy just said – it needs comprehensive changes. What kind of legislation are we doing in Parliament? The Congress Party and the UPA-II specialized in this: the Land Acquisition Act, the Environmental Law that they had in place, the tax terror regime, the retrospective taxes. I can go on and on. So they made sure that industrialization in this country collapsed. Now Mr. Moily laments that we are at an all time low as far as manufacturing is concerned; this is a matter of great concern. This is not because Mr. Jaitley's regime has been here or Mr. Modi's regime has been here for the last six months; this is five years of egregious misrule of the Congress Party which is why things have come to this sorry pass. Therefore, this lament by Mr. Moily really today is too little, too late.

Be that as it may, I have to ask Mr. Jaitley as to when he proposes to bring in the all-comprehensive changes that we require in this piece of legislation. It is because, if I start to enumerate the shortsightedness that has led to the various lacunae in this Act, it will not end in hurry. Actually the experts say that this requires about 65 to 70 amendments to 65 to 70 Sections. So, now in this 470 Sections Acts, you need 65 to 70 amendments. As Prof. Saugata Roy said, Mr. Jaitley is one of the finest minds. As a Senior Advocate, I had the privilege of assisting him, briefing him, way back in the mid eighties when I was a young lawyer. I do not understand how he has firstly allowed this Bill to pass the last time around and now has brought in legislation which is absolutely cosmetic in nature. These are such minor cosmetic changes that these really do not go far enough. I do not think that anybody is going to be satisfied with this. I do not believe that this is going to ameliorate the problems of industry today, the problems of doing business today. This is not going to ease your business mechanism in India today. Therefore, this Bill of 2014 has come so soon after the Act of 2013. Now we must have a Act in 2015.

The hon. Minister has to put his wonderful mind to this and give it a deep thought and insight. This ease of doing business will require comprehensive legislative changes, as he has rightly said, both in the Companies Act as well as in the Land Acquisition Act. But I cannot go into the details now.

SHRI ARUN JAITLEY: Sir, I am glad that my friend Mr. Pinaki Misra is raising some basic issues, I will certainly respond to them. But let me tell him and Mr. Saugata Roy, when he raised the issue of manufacturing and how we are complicating business, we recently saw a dip in the IPP manufacturing figures. This is something that I have been repeatedly saying even at the time of the debate on the Supplementary Grants. On the outskirts of Chennai, Sripambadur, an industrial area has come in. One major plant, manufacturing telecommunication handsets, has closed down because of taxation reasons....(*Interruptions*)

HON. DEPUTY SPEAKER: It is not because of taxation, there were some other problems.

SHRI ARUN JAITLEY: The dip in the telecommunication manufacturing, which in turn reflects in overall manufacturing growth, just by closure of one major plant, 54,000 jobs lost, itself is 78 per cent. When we are talking in terms of ease of doing business, etc., these are not some notional concepts. This is in effect, the direct impact of what our attitude is and how it affects the larger economy of the country.

SHRI PINAKI MISRA : Sir, I am so glad that the hon. Finance Minister has clarified this as he is also the Minister of Corporate Affairs. I have no doubt about it. He is absolutely one hundred per cent right. You have to speak to the members of FICCI, the members of ASSOCHAM because they are the backbone of industry and they will tell as to how difficult it is to do business in India and which is why there is so much flight of capital of all major industrialists who are taking their money out of India. They would rather do business in Africa, Far East and Australia rather than spend their money here.

Sir, as I said, there are some 65 or 70 amendments required in this Bill. This Bill, I am sure, comes in the fullness of time. I have no doubt that when our hon. Minister applies his mind to it fully in 2015 he will bring a comprehensive Bill. But what is required immediately, I think, Mr. Jaitley will concede, that the backbone of industry in a place like India, which is essentially a Third World country, is the medium and small scale industry. That is the real nuts and bolts of manufacturing here. The mega industries do not come here easily. They will take a lot of time to make up their minds to come to India. The medium and small scale industries are there to do their start ups. They operate through private companies. They do not operate through public limited companies. A private limited company with the kind of onerous rigours that have been placed in this Acts, makes it impossible to operate for a private company, as Mr. Kirit Somaiya, the hon. BJP MP has said. I can understand that. The bar must be higher for public limited companies because public monies are involved, shareholders monies are involved.

But where people are willing to invest their own monies, their kith and kin money and their friends' money, I do not understand why these onerous rigours need to be applied to them. Sections 10, 11, 62, 73, 185, 186, 188 and 195 among others have such onerous and rigorous provisions. As far as private limited companies are concerned, nobody can start up a private limited company today and happily do business in India. That is the reason why this manufacturing activity is coming down day by day is because the small and medium scale industries always have to operate through private limited companies. After all, if you operate in a partnership, there are other pitfalls and problems. So, everybody wants to operate within the ambit of a private limited company - not go public until you grow big enough. How does this sector start with these draconian provisions?

Therefore, I would strongly urge the hon. Minister to apply his mind to this. The penalties and prosecutions incidentally, which have been postulated, are extremely hard and harsh. I think, the hon. Minister knows that when you give these kinds of terror mechanism in the hands of certain officials, extortion is bound to happen. That will lead to corruption; that will lead to a great deal of dissatisfaction; and ease of business cannot happen where there are these kinds of harsh penalties.

Therefore, from Section 230 to Section 240, the entire issues of compromise, arrangements and amalgamations are the absolute and basic prerequisites of doing business under a company umbrella. They have been made very harsh and onerous. So, I would urge the hon. Minister to kindly apply his mind to it. He has a very brilliant mind. He must apply his mind over the next two to three months, and before the Budget he should come out with a comprehensive legislation. I would urge the hon. Minister to do that but, of course, I support him today. This is unexceptionable that this Bill must be supported.

Thank you.

SHRI PREM DAS RAI (SIKKIM): Hon. Deputy Speaker, Sir, thank you very much for giving me this opportunity. Since the Finance Minister is leaving ...*(Interruptions)*

HON. DEPUTY SPEAKER: He is not leaving.

SHRI PREM DAS RAI : I thought he was leaving. I just want to bring in an issue which is related to the State of Sikkim.

As we are discussing the progressive amendments to the Companies Act -we have heard a fair bit of sprinkling of the discourse – in the ease of doing business and to address the concerns of various stakeholders, I would like to draw the attention of the Minister to the concerns of the people of Sikkim and the Sikkim Government regarding Section 465 in the Companies Act, 2013, which repeals the Registration of Companies (Sikkim) Act, 1961.

In this regard, I wish to quote the assurances given by the former Minister of Corporate Affairs, Shri Sachin Pilot ji to the State of Sikkim on the floor of the House in the Rajya Sabha that the said Section would be notified only after consultations in this regard with the Sikkim Government and the Members of Parliament, taking into consideration all issues and addressing all concerns.

I would like to quote what he has said:

"I want to assure the hon. Member from Sikkim that before the 'notification' is issued, we will have due consultations with the State Government, for that matter we will speak to the Chief Minister of and the hon. Members of Parliament on all issues related to Sikkim in the Bill and will take into consideration all issues and address them."

This was stated by Shri Sachin Pilot, former Minister of Corporate Affairs, during the passage of the Bill in the Rajya Sabha.

I would like to seek reassurance from the Government that the decision on the notification of the said Section will be taken only after thorough deliberation on the issue with the State Government and the Members of Parliament, as assured by the previous Government.

I would like to reiterate here that it is essential to maintain the sanctity of the provisions of Article 371 F. I am confident that the Government, which runs on the principle of "*Sabka Saath, Sabka Vikas*" will be sensitive to the concerns of the people and the Government of Sikkim this regard.

Thank you very much.

श्री विनायक भाऊराव राऊत (रत्नागिरी-सिंधुदुर्ग) : उपाध्यक्ष महोदय, मैं कम्पनीज़ एक्ट विधेयक, 2014 का समर्थन करने के लिए खड़ा हुआ हूँ। फ़ैक्ट्री एक्ट, 1956 में तकरीबन 57 वर्ष बाद पहली अमेंडमेंट अगस्त, 2013 में हुई। लेकिन दुर्भाग्य की बात है कि 57 वर्ष बाद जो कानून बनाया गया, उसमें सिर्फ 8 या 10 महीने के अंदर अमेंडमेंट बिल लाना पड़ा। मैं मंत्री महोदय को धन्यवाद दूंगा, उन्होंने ऑब्जेक्ट्स में लिखा है कि वर्ष 2013 का कानून आने के बाद जब उस पर अमल शुरू हुआ तो जिस तरह की कठिनाइयां सामने आ रही थीं, उससे मैनुफैचर करने वाले लोग परेशान हो रहे थे। आज कोई भी मैनुफैचरर सुखी नहीं है, कोई भी सर्विस प्रोवाइडर सुखी नहीं है। हमारे मराठी में एक कहावत है -- भीख नुकोपन कुतरा आवर। कानून जिसके लिए बनाना चाहिए, अगर वह घटक उस कानून से सुखी नहीं होता तो उसका फायदा ही नहीं होता। आज वर्ष 2013 में फ़ैक्ट्री एक्ट का निर्माण होने के बाद, 2013 का बिल पास होने के बाद बिल के अब्जेक्ट में लिखा है :

"*practical difficulties in complying with some of the requirements laid down in the commenced provisions.*"

वर्ष 2013 में जो प्रोविजन किया गया था उस पर अमल करते वक्त उससे सारे मैनुफैचरर परेशान हुए थे। मैं मंत्री महोदय को धन्यवाद दूंगा कि उन्होंने लोगों की कठिनाई और समस्याओं के ऊपर ध्यान देकर आज कम्पनी एक्ट, 2014 के माध्यम से जो नया बिल लाया है, उसमें कम से कम 14 अलग-अलग सुझाव तैयार किए हैं। भविष्य में मैनुफैचररिग करने वाले जो लोग हैं, उनको इस बिल के माध्यम से राहत देने का काम किया है।

महोदय, जो 14 अमेंडमेंट जो अलग-अलग हैं उसमें कई तो सही हैं, लेकिन कई के माध्यम से डर होता है। जैसे इम्परिजमेंट करना, पनिश्मेंट करना, जो ब्यूरोक्रेट्स होते हैं, प्रशासनिक अधिकारी होते हैं उनको ज्यादा पॉवर देकर अगर मैनुफैचरर लोगों को तकलीफ हुई तो इस बिल से थोड़ा भी दुरुपयोग हुआ तो उस पर मंत्री महोदय को ध्यान देना चाहिए। आज मुंबई की स्थिति ऐसी हो गई है, एक समय पूरी दुनिया में मुंबई कपड़ा मिल के क्षेत्र में बहुत फेमस सिटी थी, सबसे ज्यादा कॉटन मिल और कॉटन वर्कर्स मुंबई में थे। करीब दो लाख कॉटन वर्कर्स वहां काम करते थे। दुर्भाग्य से वहां ऐसी परिस्थिति पैदा हुई कि आज सारे कॉटन वर्कर बेघर हो गए, बेचिराग हो गए, सारे बर्बाद हो गए, मुंबई की पूरी की पूरी कॉटन इंडस्ट्री बाहर निकल गई। उसका नतीजा यह हुआ कि मुंबई की जो आर्थिक स्थिति थी, महाराष्ट्र की जो आर्थिक स्थिति थी, उसके ऊपर इसका गंभीर परिणाम हुआ। आज हिन्दुस्तान में जो इन्वेस्टर्स हैं, जो अलग अलग तरह से इन्वेस्टमेंट करते हैं, कोई मैनुफैचरर है, कोई सर्विस इंडस्ट्री में है, उसको राहत मिलने की जरूरत है। इसके माध्यम से जब वे आएंगे, जैसे बड़ी-बड़ी कम्पनीज आती हैं, इससे रोजगार निर्मित होता है, रोजगार के निर्माण होने से वहां के लोगों को ऑटोमेटिकली वहां के लोगों के जीवन पर असर होता है। इससे लोग सुखी होते हैं। दुर्भाग्य से, आज हिन्दुस्तान में कोई इन्वेस्टर्स आना नहीं चाहता। क्योंकि वहां का कानून उनके लिए परेशानी का निर्माण करती है। आज मुंबई में कई ऐसे डायमंड मैनुफैचरर्स हैं, डायमंड डीलर्स हैं, वे मुंबई में बैठकर व्यापार करते हैं, लेकिन सास का सास उनका जो बिजनेस होता है वह प्रदेश में जाता है। प्रदेश में जाकर धंधा करना, हिन्दुस्तानी इन्वेस्टर्स के लिए आसान होता है, हिन्दुस्तानी इन्वेस्टर्स को इस हिन्दुस्तान में आसानी से बिजनेस करने के लिए जब सरकार कोशिश करती है, तो हमारा फर्ज है कि सरकार द्वारा लाए गए इस बिल का समर्थन करे, एक अच्छा सुझाव लाया है। उसके लिए मैं संबंधित मंत्री जी को बधाई देता हूँ। इसके साथ-साथ एक विनती करूंगा जिस तरह से अमेंडमेंट बिल लाते वक्त उन्होंने 14 सुझाव रखे, करीब 14 अमेंडमेंट लाए हैं। अपने देश में कई लोग चोरी करना ही ज्यादा पसंद करते हैं। इस बिल के जरिए ऑडिट के माध्यम से उस पर कंट्रोल लगाने का अच्छा काम किया गया है। लेकिन दूसरी तरफ मैं ध्यान देना चाहता हूँ, इसके पहले भी मैंने बताया कि एक और अच्छा सुझाव इसमें लाया है।

It is mentioned in para 5 of the Statement of Objects and Reasons. It says:

"(vi) transferring equity shares for which unclaimed/unpaid dividend has been transferred to the Investors Education and Protection Fund;"

एक अच्छा सुझाव इस बिल के माध्यम से आया है। पहले ऐसा होता था कि कई लोग किसी कारण या कोई अप्रॉव न होने के कारण डिविडेंड नहीं लेते थे तो वह पैसा कम्पनी के खाते में जमा होता था। इस कारण एजुकेशनल फंड या वेल्फेयर फंड सही तरीके से इस्तेमाल नहीं होता था।

मेरी विनती है कि जो उद्योग जिस क्षेत्र में है, उसी उद्योग का एजुकेशनल फंड या वेल्फेयर फंड उस क्षेत्र के बच्चों के लिए कैसे इस्तेमाल हो, उसकी व्यवस्था आप इस बिल में करें।

