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Title: Further discussion on the motion for consideration of Companies (Amendment) Bill, 2016, moved by Shri Arjun Ram Meghwal on the 26th July, 2017 (Discussion concluded and Bill Passed).

HON. CHAIRPERSON: Now, the House will take up Item No. 9, the Companies (Amendment) Bill, 2016.

Hon. Minister to continue.

वित्त मंत्रालय में राज्य मंत्री तथा कॉर्पोरेट कार्य मंत्रालय में राज्य मंत्री (श्री अर्जुन राम मेघवाल) : माननीय सभापति जी, मैं कंपनीज अमेंडमेंट बिल, 2016 के बारे में कहना चाहता हूँ। यह बिल चर्चा करने और पास करने के लिए है। बिल के साथ कुछ ऑफिशियल अमेंडमेंट भी हैं जिनको मैंने ऑलरेडी मूव कर दिया है। मेरा यह कहना है कि कंपनीज एक्ट 2013 दिनांक 19 अगस्त 2013 को नोटिफाइड हुआ था। 2013 के अधिनियम द्वारा कंपनीज एक्ट में बहुत अमेंडमेंट किये गये थे। मुझे ध्यान है कि पन्द्रहवीं लोक सभा में देर रात तक इसके लिए बैठे थे, जैसे स्टोक होल्डर का डिसक्लोजर, डाइरेक्टर, ऑडिटर व प्रमुख कार्मिकों की एकाउंटेबिलिटी है तथा इसका मुख्य उद्देश्य इन्वेस्टर प्रोटेक्शन एंड कॉर्पोरेट गवर्नेन्स है। That was the main objective behind this amendment to the Companies Act. इस एक्ट के प्रारंभिक काल में कुछ परेशानियां आयी थीं, रिप्रजेंटेशंस आये, जिसको दूर करने के लिए हमारी सरकार आने के बाद मई, 2015 में अमेंडमेंट किया गया था।

सभापति महोदय, जब वर्ष 2015 में कंपनीज एक्ट, 2015 पर राज्य सभा में चर्चा हो रही थी, तब यह सुझाव आया कि अमेंडमेंट कॉंप्रिहेंसिव रूप में आना चाहिए और इसी श्रृंखला में बहुत माननीय सदस्यों ने कंपनी एक्ट के नये संशोधनों को सुधारने के लिए प्रतिवेदन दिये, जिस पर एक कमेटी बनी, जिसका नाम कंपनी लॉ कमेटी था और कहा गया कि इसमें जितने भी स्टोक होल्डर्स हैं, उनसे वह चर्चा करें, चाहे वह चार्टर्ड एकाउंटेंट के इंस्टीट्यूट्स हों, कंपनी सेक्रेट्री इंस्टीट्यूट हो, कॉस्ट एकाउंटेंट इंस्टीट्यूट हो, इंडस्ट्रीयल एसोसिएशन हो, सीआईआई हो, एसोचैम हो, फिक्की हो, पी एच डी चैम्बर्स एंड कॉमर्स हो, इन सभी से चर्चा करें और चर्चा करके एक कॉंप्रिहेंसिव अमेंडमेंट बिल लेकर आयें। सेक्रेट्री कॉर्पोरेट अफेयर्स के बीच में अध्यक्षता बनी, उन्होंने एक फरवरी को अपनी रिपोर्ट प्रस्तुत कर दी। उसके बाद यह मैटर स्टैंडिंग कमेटी ऑन फाइनेंस को रेफर हो गया। मैं श्री एम.वीरप्पा मोइली जी को धन्यवाद देना चाहता हूँ, वह इस स्टैंडिंग कमेटी के चेयरमैन थे। उनके सभी वरिष्ठ साथी भर्तृहरि महताब जी, सौगत राय जी, किरीट सोमैया जी, दिनेश त्रिवेदी जी ने बहुत अच्छे सुझाव दिये, एक कॉंप्रिहेंसिव रिपोर्ट आयी। इस रिपोर्ट के बाद यह बिल लोक सभा में 16 मार्च, 2016 को इंट्रोड्यूस् हुआ। जब यह बिल 16 मार्च, 2016 को इंट्रोड्यूस् हुआ

तो कमेटी को रेफर हुआ और 12 अप्रैल, 2016 को कमेटी को यह रिपोर्ट दिया और 07 दिसम्बर, 2016 को अपनी रिपोर्ट आयी। कमेटी ने दो फील्ड विजिट भी की - मुंबई एंड बंगलुरु, उसमें नेशनल एसोसिएशंस ऑफ सॉफ्टवेयर एंड सर्विसेज कंपनी से भी कंसल्ट किया और एसोसिएशन से भी कंसल्ट किया।

मैं आपके माध्यम से इनिशियल रिमार्क में यह कहना चाहता हूँ कि इस अमेंडमेंट का जो मुख्य उद्देश्य है, वह ईज़ ऑफ़ ड्रूइंग बिजनेस को बढ़ावा देना है। मुझे विश्वास है कि इस अमेंडमेंट के बाद प्रॉसिजर सिम्पलिफायड हो जायेगा। कम्प्लायंस सरल हो जाएगा और जो कम्पनियां डिफॉल्ट करेंगी, उन्हें सख्त से सख्त सजा देने का प्रावधान इस अमेंडमेंट बिल के माध्यम से किया गया है। कम्पनीज अमेंडमेंट एक्ट, 2016 के मुख्य उद्देश्य का मैंने जिक्र किया है। उसके साथ-साथ होल्डिंग कम्पनी, जिसके विषय में भी इसमें अमेंडमेंट है और इसमें एक बड़ा अमेंडमेंट है कि पहले के प्रावधानों में 20 करोड़ रुपये का टर्नओवर करने वाली कम्पनियों का कम्प्लायंस सरल था, उसकी सीमा हमने 20 करोड़ रुपये से बढ़ाकर सौ करोड़ रुपये कर दी है। इसका मतलब 100 करोड़ रुपये तक की कम्पनियां इसके सरल कम्प्लायंस के कैनवास में आ गई हैं। हमने थ्रेश होल्ड लिमिट में कम्प्लायंस सरल करने का काम किया है।

महोदय, मैं आपके माध्यम से सदन को बताना चाहता हूँ कि हमने सैक्शन-42 में संशोधन किया है, उसमें प्राइवेट प्लेसमेंट में सिक्योरिटीज़ को ईज़ कर दिया है। यह भी एक बड़ा विषय समिति के सामने था। सैक्शन-230 के तहत जो रिओपनिंग आफ एकाउंट को रीड करता है, उसमें भी संशोधन किया गया है। पहले इसमें कोई सीमा नहीं थी। अब इसमें संशोधन करके आठ साल तक के खातों को रिओपनिंग करने का प्रावधान किया गया है। यह भी कम्पनियों को राहत देगा और ईज़ आफ ड्रूइंग बिजनेस को बढ़ाएगा। सैक्शन-96 के तहत जो अनलिस्टेड कम्पनियों को एनुअल जनरल मीटिंग रजिस्टर्ड आफिस में ही करना अनिवार्य था, अब इसमें प्रावधान किया गया है कि रजिस्टर्ड आफिस के अलावा भी आप एजीएम कर सकते हैं और यह कदम भी ईज़ आफ ड्रूइंग बिजनेस को बढ़ाता है। मेरा आपके माध्यम से कहना है कि इंडिपेंडेंट आडिटर्स पांच साल के लिए और फर्म दस साल के लिए अप्रूव्ड होती थी। हर साल एजीएम में रेक्टिफाई करना पड़ता था, अब रेक्टिफिकेशन हटा दिया गया है। यह भी ईज़ आफ ड्रूइंग बिजनेस को बढ़ावा देता है।

महोदय, कम्पनीज एक्ट में एक और संशोधन किया गया है कि जो इनसाइडर ट्रेडिंग है, वह हमने सेबी के साथ हार्मोनाइज किया है। मैं इनिशियल रिमार्क में कहना चाहता हूँ कि सैक्शन 185 के तहत जो कॉमन डायरेक्टरशिप वाली कम्पनियों में 'ए' कम्पनी को 'बी' कम्पनी को लोन एलाऊ नहीं था, अब लोन एलाऊ कर दिया गया है। इससे बिजनेस करना आसान होगा। कुल मिलाकर ईज़ आफ ड्रूइंग बिजनेस को बढ़ावा देने के लिए कम्पनीज अमेंडमेंट बिल, 2016 सदन के समक्ष चर्चा के लिए लाया गया है। सार्थक

चर्चा के बाद इसके पास होने से ईज़ आफ ड्रूइंग बिजनेस की रैंकिंग में बहुत बड़ा सुधार होने की संभावना है। मैं प्रस्ताव करता हूँ कि इस बिल पर सदन चर्चा करे और इस कम्पनीज अमेंडमेंट बिल को पास करे।

HON. CHAIRPERSON: Motion moved:

“That the Bill further to amend the Companies Act, 2013, be taken into consideration.”

PROF. K.V. THOMAS (ERNAKULAM): Sir, as the hon. Minister himself has admitted in his introductory speech, this amendment is to dilute many of the stringent provisions of the Companies Act,

2013. The Companies Act, 2013 has been brought after 50 years. The Companies Act, 1956 was existing and in 2013, when this Act was brought, it was to amend and correct many of the anomalies in the then existing Act. The 2013 Act was brought in a context when we had a large number of scams like the Sahara scam, the Saradha scam. In order to prevent such scams in future, this 2013 Act was enacted. It was discussed many times. The present enactment and amendments are completely diluting the existing stringent regulations. For example, the 2013 Act permits the Central Government to impose a cap on layers of subsidiaries a company can have. This was a very stringent law. The Government proposes to dilute that amendment also.

The Government itself has accepted in the Statement of Objects and Reasons of 2013 Act that the Act introduced significant changes related to disclosures to stakeholders, accountability of directors, auditors and key managerial personnel, investor protection and corporate governance. The Government itself has accepted that the 2013 Act was to prevent the malpractices existing in many of the private companies. However, the Government continues to say, Government received number of representations from industry Chambers, Professional Institutes, legal experts and Ministries and Departments regarding difficulties faced in compliance with certain provisions. Amendments of the Act were carried out through the Companies (Amendment) Act, 2015 to address the immediate difficulties arising out of this. So, the Government has openly admitted that this amendment is to help private companies and private manufacturers and industries. What is the position in the country in the last 3 ½ years? This Government has been in power for the last 3 ½ years and they have made a lot of promises. The industrial production has come down from 75 per cent to 50 or 60 per cent. The Government admits this. Many of the major industries are going out of the country. For example, auto industry, General Motors. They are going out of the country.

Now, layoffs in many companies like IT is going up everyday. Now, the economy is slowing down. Only thing is that there is a hike in the stock market and everybody knows the reason that blackmoney is again coming back. The Government took a very important decision of demonetisation on 8th November, 2016. What the Government said and what the Prime Minister himself said:

“This is to check blackmoney; this is to prevent terrorism; this is to prevent Pakistan sending fake notes to us. ”

Sir, eight months have passed. Where are we? How much money has come back? Why is the Government hiding it? Many of the Committees of the Parliament have called the Reserve Bank Governor and asked him about the position. He still says that they are counting it. This shows where we stand economically.

Sir, in the 2013 case, how was this brought? In view of the changes in the national and international economic environment and expansion and growth of economy of our country, the Central Government,

after due deliberations, decided to repeal the Companies Act, 1956 and enact a new legislation to provide for new provisions to meet the changed national and international economic environment and further accelerate the expansion and growth of our economy. This was the purpose of 2013 Act. The present amendment of 2017 should be an attempt to find what the faults are, to find remedial measures and if the Government's intention was in that direction, we would have definitely supported them. But if you go clause by clause of important amendments that the Government is bringing, one of it says that investments in the company cannot be made through more than two layers of investment. That was in 2013. What is the attitude of the Government?

Similarly, the memorandum must define the specific objects for which the company is being incorporated and other related matters. It permits the annual return for a one-person company or a small company to be signed by the Company Secretary or the bank. There are a large number of acts in the Companies Act, 2013. How the Government is going to handle it in the 2017 amendments? These are serious matters. For example, take the case of CSR. How the CSR of a company has to be decided? How it would be fully under the control of the Government? These are some of the issues which have been under discussion and deliberation.

Sir, my request to the Government is that it has to look at the problems of the poor, of the farmers and of the small traders. For example, in the case of GST, the hon. Finance Minister is here, what are we hearing from different parts of the country? The officers in the Finance Ministry are threatening the people in many parts of the country. Stories are coming out. So, when I had an occasion to talk to the hon. Prime Minister, he said the Government will ensure that the officers will not create problems in the country but the picture is quite different. This is something that the Government has to look into. I am not against GST because GST is one of our products. But at the time of implementation, the Government has to be careful.

Similar is the case of this Companies Act Amendment. The 2013 enactment came in the context of Sahara scam, Sarada scam etc. We have to find a solution to similar scams. Now, again everything has been thrown open. Everything is free. What are the private companies or multinational companies going to do in this country? So, I think the Government has to be serious about these

amendments and see that the industry flourishes and employment is generated. But at the same time the corporate houses should not take undue advantage of the economic situation in this country. So that should be primarily in the mind of the Government.

With these words, I request the Government to consider these amendments properly. Thank you.

डॉ. किरीट सोमैया (मुम्बई उत्तर पूर्व) : माननीय सभापति महोदय, माननीय मंत्री जी ने चर्चा के प्रारंभ में बताया कि मुख्यतः कंपनीज़ एक्ट, 2013 के संदर्भ में गत दो-तीन सालों में जो सुझाव आए, उनके लिए यह कंपोज़िट अमेन्डमेन्ट बिल लाया गया है। उन्होंने ऐसा प्रस्तावित किया।

माननीय मंत्री जी ने दो चीज़ों का उल्लेख किया है कि मुख्यतः, कंपनीज़ एक्ट का उद्देश्य इन्वेस्टर्स प्रोटेक्शन और कॉर्पोरेट गवर्नेन्स था। मेरे सहयोगी और सदन के वरिष्ठ सदस्य कांग्रेस के थॉमस जी ने इसी विषय को आगे बढ़ाते हुए यह अमेन्डमेन्ट लाते समय या कंपनीज़ एक्ट का एग्जिक्यूशन करते समय, कहीं इसमें कुछ त्रुटियाँ तो नहीं हैं, इसकी ओर सदन का ध्यान आकर्षित किया। उन्होंने सहारा स्कैम से लेकर शारदा स्कैम और अनेक पॉन्जी कंपनियों का उल्लेख किया।

मैं सबसे पहले मंत्री महोदय से एक बात कहना चाहूँगा। We certainly welcome and support 'ease of business', लेकिन 'ईज़ ऑफ बिज़नेस' का एग्जिक्यूशन करते समय 'ईज़ी फॉर बिज़नेस' और इस बिज़नेस की व्याख्या कहीं पर कैसी हो जाती है, मैं आज उसके दो-चार उल्लेख-उदाहरण देने वाला हूँ। एक चीज़ होती है - 'एक्ट' और दूसरी होती है उसका - 'एग्जिक्यूशन'। 'ईज़ी ऑफ बिज़नेस' जिस प्रकार होता है, उसके उदाहरण के रूप में थॉमस जी ने 4-5 कंपनियों के नाम दिए हैं। इस अमेन्डमेन्ट का सभी लोग स्वागत करते हैं। फाइनेंस कमेटी ने भी इसका समर्थन किया है। इस अमेन्डमेन्ट के दो-चार अच्छे उद्देश्य अर्थात् 'एनकरेजिंग स्टार्ट-अप्स' हैं। जब यह मूल एक्ट सन् 2013 में आया था, उस वक्त इसके स्टार्ट-अप्स की कल्पना ने इतनी प्रगति नहीं पाई थी।

After 2014, when the Modi Government took over, the Prime Minister himself insisted on the new entrepreneur, the 21st century's entrepreneur, उनको बढ़ावा देना चाहिए। स्टार्ट-अप बिज़नेस के लिए इसमें कुछ अच्छे सुझाव आए हैं- harmonising the law, easier management. प्राइवेट लिमिटेड कंपनियों के संबंध में छोटे-छोटे स्ट्रिन्जेन्ट प्रोविजंस किए गए थे। छोटी-छोटी प्राइवेट लिमिटेड कंपनियों और एस.एम.ई. कंपनियों को इस कंपनीज़ एक्ट के एग्जिक्यूशन में तकलीफ हो रही थी। इन प्राइवेट लिमिटेड कंपनियों के मालिक, जो खुद लोन्स लेते और देते हैं, उसके संबंध में भी इसमें त्रुटियाँ थीं। इसके संबंध में अच्छे सुझाव आए हैं। हम इस अमेन्डमेन्ट का स्वागत करते हैं, लेकिन मैं मंत्री महोदय का ध्यान एक दूसरी बात की ओर दिलाना चाहूँगा।

वास्तव में मैं आज डीमॉनिटाइजेशन पर ज्यादा बोलना नहीं चाहता हूँ। हमारे मित्र ने डीमॉनिटाइजेशन का उल्लेख किया है। डीमॉनिटाइजेशन के कारण कांग्रेस का बहुत डीवैल्युएशन हो चुका है। अब तो वह अपने खुद के अस्तित्व के लिए डीमॉनिटाइजेशन की चर्चा बंद करे। अगले चुनाव के लिए जिस व्यक्ति को वे प्रधान मंत्री का पर्याय मान रहे थे और उन्हें वह पद देने की बात कर रहे थे, वे भी उनके भ्रष्टाचार से कंटाल आकर इस ओर आ गए हैं। मुद्दा सिर्फ भ्रष्टाचार का है। जो कंपनीज़ एक्ट 2013 बना उसमें भ्रष्टाचार किस प्रकार से पनपा, बहुत अच्छा स्ट्रिन्जेन्ट एक्ट था। स्ट्रिन्जेन्ट एक्ट के अंतर्गत गत सप्ताह वित्त मंत्री श्री अरुण जेटली जी ने मेरे द्वारा पूछे गए प्रश्न के उत्तर में कहा कि 'around 12th July, 2017, we have deregistered or struck off 1,62,618 companies.' Why did the previous Government not stop it up till 2014? Who registered these companies? क्या ये महज वर्ष 2014 या वर्ष 2012 में कंपनियां रजिस्टर्ड हुई थीं? ये सब कंपनियां वर्ष 2004 से वर्ष 2014 के दरमियान बनीं। इन कंपनियों का उपयोग कैसे हुआ, किसने किया, मैं उसका उदाहरण देने वाला हूँ। What is 'ease of business' and what is 'easy for business'? What was the definition of business for the earlier Government? बोगस कंपनियां बनाओ, फेल कंपनियां बनाओ, बेनामी कंपनियां बनाओ और मनी लॉन्डरिंग के लिए जैसे चाहे वैसे उसको उपयोग करो। सरकारी प्रॉपर्टी एक कंपनी से दूसरी में लेना, दूसरी से तीसरी में ले जाना और वहां से लाकर फिर राज्य सरकार के मुख्य मंत्री

के परिवार के नाम पर वे कंपनियां रातों-रात ट्रान्सफर हो जाती हैं।...(व्यवधान) रेलवे की प्रॉपर्टी, रेलवे के होटल, ईज ऑफ बिजनेस और ईजी फॉर बिजनेस, इसका थोड़ा अंतर समझ लो। पहले की सरकार ईजी ऑफ बिजनेस करती थी, We want ease of business for SMEs, for genuine manufacturers and genuine industrialists. This is the difference between 'ease of business' and 'easy for business.'

माननीय सभापति महोदय, कंपनियां किस प्रकार से बनीं। मैं आपको इसके एक-दो उदाहरण देना चाहूंगा। मेरे पास यह सूची है। इसकी कंपनियां Mishail Packers and Printers Private Limited is one of them. मैं उनके बेनिफिशियरी के नाम नहीं पढ़ता हूं। उसे पढ़ने की आवश्यकता भी नहीं है। वह समाप्त हो गया है। आज तो शपथ विधि भी हो गई है। अब मैं आगे जाता हूं। मनी लॉन्ड्रिंग 8 हजार करोड़ रुपये का हुआ। क्या कोई पूछने वाला है? मैंने सुरेश प्रभु जी से पूछा कि इस प्रकार से रेलवे की प्रॉपर्टी दूसरी कंपनी के पास कैसे पहुंच गई। किसी व्यक्ति के नाम पर कैसे चढ़ गई। वह भी चार्टर्ड अकाउन्टेंट हैं, मैं भी चार्टर्ड अकाउन्टेंट हूं। उनको भी समझने में काफी सप्ताह लगे और मैं तो अभी तक नहीं समझ पाया हूं।...(व्यवधान)

श्री रवनीत सिंह (लुधियाना) : आप पढ़े नहीं हैं।

डॉ. किरीट सोमैया: हां जी, हम अनपढ़ हैं, वे पढ़े-लिखे हैं। मुझे सुरेश प्रभु जी ने कहा कि एक काम करो कि तुम्हारी एक पी.एच.डी. मुम्बई यूनिवर्सिटी से है और अब दूसरी पी.एच.डी. बिहार की कंपनियों के ऊपर कर लो। अभी गाइड को फुर्सत मिल गई है और शायद अब टोटल ही फुर्सत हो जाएगी। तुम गाइड बना लो, तुम्हें अच्छा गाइड करेंगे। ... (व्यवधान) वह इमरजेंसी वाला मीसा, यानी जेल में...(व्यवधान)

श्री अश्विनी कुमार चौबे (बक्सर) : जब हम लोग जेल में थे मीसा वाले में, तो पैसा रखा गया था ...* में...(व्यवधान)

डॉ. किरीट सोमैया: वह ... * में आप गए थे, ये ईमानदार हैं।

HON. CHAIRPERSON: Dr. Kirit Somaiya, please address the Chair.

डॉ. किरीट सोमैया: सभापति महोदय, मैं आपके द्वारा यहां एक उदाहरण देना चाहूंगा। एक कंपनी और ये सब वर्ष 2013 के एक्ट के अंतर्गत फंक्शनिंग कर रही थीं। ये कंपनी वर्ष 2005 के बाद बनीं। उसमें आप देखें। It is stated that : "... In a way, a relative converted black money into white by selling a share of rupee one at Rs. 10...". एक रुपये का शेयर दस रुपये में बेचा। It further states that : "... and repurchasing the same at Rs. 1.11 per share ...". एक रुपये का शेयर दस रुपये में और तीन महीने के बाद में...(व्यवधान) लेकिन यह कमाल तो हममें से किसी को नहीं आता है। हमारे मंत्री को इसे पकड़ना भी नहीं आता है। 7 लाख पचास हजार शेयर्स इस प्रकार से लिये गये, इसे टैक्निकल फाइनेंशियल लेंग्वेज में राउंड ट्रिपिंग कहते हैं और साढ़े तीन सौ करोड़ रुपये, मैं अभी की बात कर रहा हूं, हमारे महाराष्ट्र के उस समय के उप-मुख्य मंत्री डेढ़ साल से जेल में हैं, मेरे महाराष्ट्र के साथी समझ जायेंगे। उन्होंने जिन कंपनियों में मनीलांड्रिंग की, मैं माननीय मंत्री जी से पूछना चाहूंगा कि वेनु इंफ्रा प्रोजेक्ट प्राइवेट लिमिटेड, आशीष प्रोपर्टीज प्राइवेट लिमिटेड, गुड वैल्यूज टाप ट्रेड प्राइवेट लिमिटेड, स्वप्न सुंदरी होल्डिंग एंड ऐस्टेट डैवलपर्स प्राइवेट लिमिटेड और फर्स्ट ग्रोथ प्रोपर्टीज प्राइवेट लिमिटेड ये जो सब कंपनियां हैं, इनमें जिन्होंने मनी लांड्रिंग की, ई.डी. ने उन्हें अरेस्ट किया, वे वहां से सुप्रीम कोर्ट तक आए, सुप्रीम कोर्ट ने उन्हें बेल नहीं दी, डेढ़ साल से जेल में हैं। मैं मंत्री जी से मांग करना चाहता हूं कि इन कंपनियों में जिन बाकी लोगों ने मनी लांड्रिंग की है, क्या ई.डी. उसकी जांच करेगा, क्या इंकम टैक्स डिपार्टमेंट उसकी जांच करेगा? चाहे कोई भी हो, किसी का साला हो, किसी का श्वसुर हो, चाहे वह मुम्बई वाला हो या दिल्ली वाला हो या बिहार वाला हो। मंत्री महोदय आप और मैं राजस्थान घूमते थे

तो राजस्थान वाला भी साला-बहनोई हो तो आपके ऊपर जिम्मेदारी है। जिन्होंने इस प्रकार से मनी लांड्रिंग की है, उन सब कंपनियों की मैं बैलेंस शीट लेकर आया हूँ और इनमें किसने-किसने मनी लांड्रिंग की, यह सब जब आप चाहोगे, मैं ये डाकूमैन्टरी एविडेन्स आपको देने के लिए तैयार हूँ। ... (व्यवधान)

प्रो. सौगत राय (दमदम) : आप इनके बारे में बोलिये।... (व्यवधान)

डॉ. किरीट सोमैया : क्या मैं एक-एक नाम बोलूँ?... (व्यवधान) कुछ मेरे मित्र आपकी पार्टी में भी हैं, क्योंकि इसमें कोलकाता की कंपनियाँ भी शामिल हैं।... (व्यवधान)

महोदय, मैं संकट महसूस कर रहा हूँ। मेरे मित्र, हमारे सीनियर सदस्य कह रहे हैं, कुछ मेरे मित्र उनकी पार्टी में भी हैं और इन कंपनियों में जिनका शारदा चिट फंड में मनी लांड्रिंग हुआ है, उन कंपनियों के नाम भी इन कंपनियों की सूची में हैं। वह कहेंगे तो मैं अभी एक-एक नाम बोल दूँगा और उसके बेनिफिशियरीज... (व्यवधान) मेरे पास पांच सौ कंपनियों की सूची है। एक नम्बर से लेकर एडीए, एग्जिम से लेकर आदाम विनकॉम से लेकर आकाश फाउंडरी से लेकर 529 कंपनी जिंग मर्चेन्ट प्राइवेट लिमिटेड ... (व्यवधान)

SHRI K.C. VENUGOPAL (ALAPPUZHA): Sir, I have a Point of Order. ... (*Interruptions*) Sir, I am raising a Point of Order. ... (*Interruptions*) This is a discussion on The Companies Bill. While participating in the discussion on this Bill the hon. Member, Dr. Kirit Somaiya, is pointing out and through his speech making insinuations. ... (*Interruptions*)

HON. CHAIRPERSON: Kindly mention the Rule No.

... (*Interruptions*)

SHRI K.C. VENUGOPAL: There was a hawala scandal in Kerala BJP. Are you aware about that also? There was a big news about it, and your Party has investigated the matter. An amount of Rs. 5.5 crore was sent to Delhi. Who is taking that money? ... (*Interruptions*)

HON. CHAIRPERSON: Hon. Member, Dr. Kirit Somaiya, please continue.

... (*Interruptions*)

SHRI K.C. VENUGOPAL: Let us talk about that also. ... (*Interruptions*)

डॉ. किरीट सोमैया: सभापति महोदय, मेरे मित्र अगर जांच कराना चाहते हैं तो केरल में हमारा एक ही विधायक है। कल तक आपकी सरकार थी। आज से हमारे मित्र कम्युनिस्टों की सरकार है। वहां तो भारतीय जनता पार्टी का इतना ही काम है। राष्ट्रीय स्वयं सेवक संघ के इतने ही स्वयंसेवक हैं। ... (व्यवधान) लेकिन एक जन को काम करने नहीं देते हैं। उनसे इतना डरते हैं कि कितने ही कार्यकर्त्ताओं और स्वयंसेवकों की हत्या की जाती है। तीन सौ से ऊपर की हत्या की जा चुकी है। अभी इतना घोटाला, जैसे मैंने कहा कि यह 529 कंपनियों की लिस्ट जब भी माननीय मंत्री महोदय कहेंगे, मैं उनको देने के लिए तैयार हूँ। कोई राज्य का उप-मुख्य मंत्री है तो कोई मुख्य मंत्री है तो कोई अभी का उप-मुख्य मंत्री है। यह जो ईज़ ऑफ़ डूइंग बिज़नेस और ईज़ी फॉर बिज़नेस है, मैं एक और चीज़ के ऊपर आपका ध्यान आकर्षित करना चाहता हूँ। जो इनवेस्टर्स प्रोटेक्शन की बात की है my Ph.D. was on non-investor protection. मंत्री

महोदय, कंपनीज़ एक्ट के एग्ज़िक्युशन के बारे में जिस प्रकार से आपने यह प्रोविज़न किया है, I supported that provision. जो प्राइवेट इनवेस्टर्स, प्राइवेट प्लेसमेंट है, लेकिन प्राइवेट प्लेसमेंट का इस प्रकार का दुरुपयोग होता होगा तो आपको सावधान रहना पड़ेगा। आज आप रजिस्ट्रार ऑफ कंपनीज़ में ऑन-लाइन एप्लिकेशन करो, आपको तुरंत रजिस्ट्रेशन मिल जाता है। There is no due diligence. We have to pay attention. We have to correct that system. आपको पासपोर्ट चाहिए, दस धक्के देने पड़ते हैं, पचास डॉक्युमेंट्री एविडेंसिस देने पड़ते हैं। राशन कार्ड चाहिए, पचास डॉक्युमेंट्स देने पड़ते हैं, लेकिन ईज़ ऑफ ड्रूंग बिज़नेस के कारण इस प्रकार की स्थिति होगी, यह नहीं पता था।

मैं आपको एक उदाहरण देना चाहता हूँ कि एल्डर फार्मा नाम से मुंबई की एक फार्मास्युटिकल कंपनी है। हमने इस पर डिपॉज़िट लेने के ऊपर थोड़ा सा ईज़ी किया, लेकिन आप भी जानते हैं कि आपके पास कितनी शिकायतें आती हैं। छोटे-छोटे निवेशक कंपनीज़ में डिपॉज़िट रखते हैं। कंपनी दिवाला निकाल देती हैं। उसके बाद ये बेचारे दस साल इंतजार करते हैं। I would refer to the CAG Report which was presented in Lok Sabha on 10th March, 2017 – Report No.2, Chapter No.5 – fictitious sales and purchases by shell companies and hawala operators. हम राजनीति में हैं, हमारे राजनीतिक मतभेद होंगे, उनकी चर्चा जरूर करें, लेकिन इन फाइनेंशियल फ्रॉड करने वाले लोगों से हम सबको मिल कर लड़ना चाहिए। मैं इसमें इतना आश्चर्यचकित हो गया कि एल्डर फार्मा ने डिक्लेयर कर दिया कि हमारे पास पैसे नहीं हैं, हम डिपॉज़िटर्स को पैसे नहीं देंगे। वित्त मंत्री को मैंने पत्र लिखा, शिकायत भेजी, माननीय अरूण जेटली जी का जवाब 14 दिसंबर, 2015 को आया कि एल्डर फार्मास्युटिकल के विरुद्ध शिकायत आई है। उसके बाद में कंपनी अफेयर्स सैक्रेट्री का जवाब आया, मिनिस्ट्री ऑफ कॉर्पोरेट अफेयर्स, 03 फरवरी, 2017 को Liquidator is appointed. उसके बाद लिक्विडेटर का जवाब 19 जनवरी, 2017 को आया। इनवेस्टर्स की इतनी सारी शिकायतें मैंने भेजीं।

अब आपको आश्चर्य होगा कि जो सीएजी ने रिपोर्ट प्रेज़ेंट की है। 35 कंपनियों का एक-एक उदाहरण उन्होंने दिया है। सीएजी ने अपनी रिपोर्ट में कहा है कि शैल कंपनीज़ बना कर हवाला ऑपरेटर्स, शैल कंपनीज़ और उसके द्वारा किस प्रकार से फ्रॉड किया जाता है, फिर चाहे वह कोलकाता की हो या मोरिशियस बेस्ड हो या मुंबई, दिल्ली बेस्ड हो। एक ओर सरकार को लूटते हैं, दूसरी ओर छोटे निवेशकों को लूटते हैं। इस एल्डर फार्मा की 700 करोड़ रूपये की डिपॉज़िट डिपॉज़िटर्स को नहीं दी और सीएजी ने अपनी रिपोर्ट में कहा है कि महाराष्ट्र सरकार के सेल्स टैक्स डिपार्टमेंट ने, वैट डिपार्टमेंट ने ऐसी 2000 कंपनियों की लिस्ट अपनी वेबसाइट पर डाली है। इन 2000 कंपनियों ने, खोका कंपनियों के पास से खोटे परचेज़ बिल लिए और वे अपने अकाउंट में लगाए। It amounts to Rs.30,000 crore. 30 हजार करोड़ रूपये खोटे खर्चे दिखाए। इसके कारण इनकम टैक्स इतना बचा, खोटे बिल अकाउंट किए, प्रॉफिट कम किया और डिपॉज़िटर्स के पैसे डुबा दिए। एल्डर फार्मा कहता है कि मेरे पास पैसा नहीं है। इसमें सीएजी ने अपनी रिपोर्ट में लिखा है कि एल्डर फार्मा ने दो बोगस बिल के द्वारा 77 करोड़ 40 लाख रूपये बोगस बिल अकाउंट कर के बाहर निकाल दिए। डिपॉज़िटर्स के पैसे नहीं दिए जाते हैं। सीएजी ने लिखा है कि ईडी और इन्कम टैक्स ने इस विषय में, जो महाराष्ट्र सरकार ने वैट के ऊपर जो दो हजार कंपनीज़ कीं और वैट बोगस, उनका वैट आउट प्रूव हो गया है, कोर्ट में एप्लीकेशन रिजेक्टेड, लेकिन इन्कम टैक्स डिपार्टमेंट और ईडी को भी उनके ऊपर कार्रवाई करनी चाहिए। मैं यह सीएजी रिपोर्ट और उसकी जानकारी टेबल पर रखना चाहूँगा।

महोदय, अंत में मैं इतना ही कहूँगा कि यह जो अच्छा बिजनेस है, लेकिन आखिर में यह भी ध्यान में रखना पड़ेगा कि ए गुड बिल, ईज़ ऑफ बिजनेस, लेकिन पोंजी कंपनियों को बढ़ावा न मिले, यह भी ध्यान देना पड़ेगा। जो मान्यवर वित्त मंत्री ने बजट सेशन में कबूल किया था, वचन दिया था कि वर्ष 2016 के बजट में कि एंटी पोंजी कानून

लाया जाएगा, वह बिल लगभग बनकर तैयार है। मैं सरकार से आग्रह करूंगा कि 1998-99, when I was in this House, at that time, I had introduced this subject. तभी से केन्द्र सरकार कह रही है। वर्ष 2003 में सरकार ने निर्णय लिया कि केंद्र स्तर पर एंटी पॉजी एक्ट बनाया जाएगा। आज 2017 हो गया है। आपने बजट में वचन दिया है तो आप जल्दी वह बिल इंट्रोड्यूस करो और एक ओर आप बिजनेसमैन को राहत दीजिए और दूसरी ओर छोटे इन्वेस्टर्स का रक्षण कीजिए।

SHRI S.R. VIJAYA KUMAR (CHENNAI CENTRAL): Thank you, Sir. I wish to express my gratitude to our immortal leader Puratchi Thalaivi Amma and thank you for allowing me to speak on the very important Companies (Amendment) Bill, 2016.

As on 31st December, 2016, a total of 16,13,371 companies were registered in the country. Of them, 11,43,131 companies were active and the rest were inactive. Of the active companies, there are 10,77,398 private companies and 65,733 public companies engaged in under four broad heads, namely, business services, manufacturing, trading and construction. Business services include hardware and software, data processing, research and development, legal, accounting and audit services, business and management consultancy, entertainment and advertising etc. Manufacturing companies include food products, textiles, paper, metallic/non-metallic mineral products, chemicals and petrochemicals, radio, television, mobile phones and communication products, transport equipments etc. The total authorized capital of these companies is around Rs.53 lakh crore.

The Companies Act was enacted and enforced on 12th September, 2013 which replaced the old Companies Act of 1956. The Act was brought in to address the loopholes and discrepancies that were present in the old Act. Since then, the Act has been amended *vide* the Companies (Amendment) Act, 2014 and the Companies (Amendment) Act, 2015. The Companies (Amendment) Bill, 2016 was introduced in the Lok Sabha on March 16, 2016, to further amend the Act. It was referred to the Standing Committee on Finance on April 12, 2016 and the Committee submitted its 37th Report on December 6, 2016. In April 2017, the Government circulated certain amendments to the Bill.

The Bill amends the Companies Act, 2013 in relation to structuring, disclosure and compliance requirements for companies. The Act of 2013 permits the Central Government to impose a cap on layers of subsidiaries that a company can have. But the Companies (Amendment) Bill, 2016 removed the restrictions on the number of layers of subsidiaries of a company. The amendments to the Bill, 2016 restores, the provision in the Act of 2013 and permits the Central Government to impose a cap on layers of subsidiaries of a company.

With regard to the cap on investments through layers of companies (Section 186) under the 2013 Act, investments in a company cannot be made through more than two layers of investment companies. The amendment in the Bill of 2016, removes the restrictions on number of layers of investment

companies. Now, the Government restores the provision in the 2013 Act and prohibits investments in a company through more than two layers of investment companies.

As far as the objects of the company are concerned, it was recommended by the Standing Committee on Finance that the amendments in 2016 Bill may lead to the creation of bogus entities and *status quo* should be restored. The recommendations are accepted. It is required that the Memorandum is to define the specific objects for which the company is being incorporated.

A simple form of annual return may be prescribed for small companies, one-person companies and private companies with less than annual sales turnover of say, Rs. 100 crore. This may apply to other forms of companies as well to avoid repetitive information. The Government has accepted the recommendations of the Standing Committee. The amendment extends the power of the Central Government to prescribe abridged form of annual returns for other types of companies, in addition to one person company or a small company.

As far as the annual financial statement (Section 129) is concerned, the amendment prescribes for a company to attach a separate financial statement of its associate companies, in addition to that of its subsidiaries. For financial statement of foreign subsidiary (Section 137), every company is required to file a copy of its financial statement with the Registrar along with the accounts of subsidiaries incorporated in foreign countries.

If the accounts of foreign subsidiaries are not required to be audited under the local law, companies need to make a special declaration stating the same. This applies only for public listed companies. It was recommended that such a provision should be applicable to all companies, and not just listed public companies.

With regards to late filing, the 2013 Act gave the companies 270 days of upper time limit. The amendments remove the time limit for filing of documents under the Act. For non-filing of documents under Section 92 (filing of annual return) and Section 137 (filing of financial statements), a minimum fine amount of Rs. 100/day has been specified. Further, the company shall be liable for penal action. If a company defaults on submitting the documents for two or more times, the fees levied on the company may be doubled. The imposition of fines on late filing may not fetch desired results in many small companies and perhaps detrimental to the survival and growth of smaller companies. It is, therefore, desired that the provisions of the 2013 Act should be restored.

In calculation of profits to provide dividends (Section 123), the company should declare or pay dividends only out of the profits of the company. The amendments add a proviso which, in computing profits, excludes: (i) any unrealised or notional gains, or (ii) revaluation of assets and any change in carrying amount of an asset or liability.

With regards to the loans to directors of companies (Section 185), a company is not allowed to advance any loan to its directors or to any person in whom the director is interested. The Bill 2016 allows the companies to advance a loan to any person a director is interested in if the company passes a special resolution to this effect.

The amendments proposed by the Government provide that if loans extended are used against certain conditions, in addition to the company and its directors, every defaulting officer in the company may also be imprisoned or fined. The amendment proposed deletes the provision that provides power to SEBI to enforce the insider trading and forward dealing provisions of the Act.

The Bill permits an independent director to have a pecuniary relationship up to 10 per cent of his total income with the company. Currently, there are restrictions on loans that can be provided to a company by its director or their relatives. The restrictions are based on factors such as net worth of the companies. The loans from directors are major source of funding for Micro, Small and Medium Enterprises (MSMEs). Restrictions on these loans are restraining the finances and growth of MSMEs. The restriction on loans from directors should be reduced to promote growth of MSMEs.

Currently, every company is required to file a copy of the financial statement with the Registrar, consisting of details regarding balance sheet, cash flow and profit and loss statements, etc. Further, companies are required to attach accounts of subsidiaries which are incorporated in foreign countries. The Bill requires that if the accounts of such subsidiaries are not required to be audited under the local law, companies need to make a special declaration stating that. However, the requirement applies only for public listed companies. The Committee recommended that such requirement should hold to all public companies.

The Bill also seeks to set a limit on the reopening of accounts of a company. The Bill suggests that the accounts of a company prior to eight years from the date of examination must not be reopened. This will be a great relief to companies as they will not have to carry on the cumbersome task of maintaining books of accounts for several years as they currently are required to.

Before I conclude, I would like the Union Government to make more provisions and provide powers to the Central and State Governments as well as elected representatives to involve, suggest, recommend and monitor the annual allocation and spending of the public and private sector companies under the corporate social responsibility.

Thank you, Sir.

PROF. SAUGATA ROY (DUM DUM): Sir, I rise to speak on the Companies (Amendment) Bill, 2016.

I did not want this debate to be a bipartisan debate or a partisan debate. I wanted this to be a general discussion on the problems faced by the companies. Very often in recent times problems regarding companies have come up. We had the collapse of the Satyam Computers. We had the history of ponzy companies. In recent times what we are hearing very much is about the shell companies that have been floated post demonetization.

Our hon. Shri Kirit Somaiya brought up many issues including Elder pharmaceuticals. My request to him would be to directly go to the Minister instead of raising it in Parliament. In the Corporate Affairs Department there is the Serious Fraud Investigation Office (SFIO). If somebody has done something wrong, let the Government take action through the SFIO. We the opposition people will raise this issue in Parliament. People belonging to Ruling Party can always approach the Minister, talk about things in the party meetings. I do not know why hon. Shri Somaiya decided not to take that route.

Hon. Shri Somaiya spoke about demonetization. He says that demonetization has been proved to be correct because of UP elections. It is strange to relate one thing to another. They may say lynching of people by *Gorakshaks* is also related to victory in UP election. These are entirely different issues.

The bad effects of demonetization are being felt now. In the first quarter of 2017, the GDP has already gone down by one per cent. Small industries have been destroyed altogether. We have been trying to repeatedly find out how much money has been deposited in the banks till today after demonetization. The Reserve Bank Governor has not been able to say how much money was deposited in the banks after demonetization. So, I do not want to go into those matters.

As I said earlier, it should not be a partisan debate because the Companies Act which was passed during UPA-2 regime in 2013 was the result of a long discussion. The Bill was introduced in 2011. Then it went to Standing Committee. In 2013, Shri Veerappa Moily was the Minister and Shri Sachin Pilot became the Minister who piloted the Bill. That Bill brought a whiff of fresh air because the old Companies Act, 1956 was outdated and was not competent to deal with a liberalized economy. So, the 2013 Act was very much appreciated by business circles. When the NDA came to power in 2014, obviously it was a new Government and they wanted to do something. Many people represented to them about problems being faced in the implementation of the Companies Act, 2013.

Out of 470 sections of the Companies Act 2013, 284 sections were already implemented and the National Company Law Tribunal has now been set up. So, there is no problem, but still when businessmen and Chartered Accountants went to the Minister of Finance Shri Arun Jaitley, he first brought in an amendment in 2015. That amendment was discussed in the Rajya Sabha which gave certain suggestions on it. At that time, the Government set up a Committee called the Company Law Committee comprising

Chartered Accountants, Cost Accountants, Company Secretaries and a former High Court judge under the chairmanship of Secretary of the Ministry of Corporate Affairs.

The Committee submitted a report to the Government. Then the Government introduced the current Bill in 2016. It came to the Standing Committee on 12th April 2016. I am a member of this Standing Committee. So we deliberated on the new Bill and we met FICCI, CII, ASSOCHAM, Chartered Accountants, Cost Accountants, Bombay Chamber of Commerce and Industry and then the Standing Committee gave a report under the Chairmanship of Shri M. Veerappa Moily.

It is in line with that report that the present Bill has been brought in. So, I cannot really object to the structure of the present Bill. The only thing I am happy about and for which I want to thank Shri Jaitley is that today he has left it to Shri Arjun Ram Meghwal to pilot the Bill and he himself is absent. Shri Mehgal was a very vocal Member of Parliament but after having become a Minister of State, he does not get so much time to speak. So, today he will be piloting the Bill and maybe replying to our queries etc. So I welcome him in this role.

What are the specialities of this new Companies Bill? The main object is to improve the ease of doing business so that people who want to start a start-up or a one-man company do not have to go through so many formalities, so many disclosures, so many filling up of forms. So, the idea is to make the law simple so that only lawyers do not benefit but the companies also benefit. That is why this law has been brought.

The amendments proposed are expected to simplify the disclosure and compliance requirements for companies. The example is doing away with the requirement of Government approval for managerial remuneration and replacing it with approval through a special resolution by shareholders in a general meeting. It is a good addition. The Bill has also suggested simplifying the format of the Board's report and recommended avoidance of repetitive information. The requirement of filing an extract of annual return as part of the Board's report has been removed. Exemption has been provided for uploading individual financial statements of step-down foreign subsidiaries by listed holding company where consolidated financial statements have been prepared by foreign subsidiaries according to the laws of the relevant foreign countries.

In the interest of transparency and fairness, guiding principles for determination of penalties have been introduced such as size of company, nature of business etc. To encourage start-ups, the amendment Bill proposes several incentives to start-ups and small companies, pre-conditions for a company to be considered 'small' have been relaxed and so has the format of Board's report and annual return for one person companies or small companies.

15.00 hours

The fines for non-filing of statutory annual filings have been significantly reduced. They have been provided more avenues to raise funds. This is also a good thing for start-ups.

One problem is of harmonising laws. There is a Companies Act; there is also a SEBI Act for the Securities and Exchanges Board of India. They overlap. An effort has been made now to remove that. The resultant ambiguities of an overlap dissuade companies from complying with relevant laws. The amendments are geared towards doing away with dual requirements, especially in the context of separate prescriptions for prospectus and the contents of the board report; the provision of prohibition on forward dealing and insider trading has been omitted since those are relevant for listed entities which are already regulated by SEBI. So, there is no need for keeping them in the Companies Act. The unlisted companies will also now be allowed to convene annual general meetings in any place in India, not necessarily at the place of their registered office.

The Bill has empowered the Centre to exempt any class of foreign companies from the applicability of registration and other requirements provided in the Act. I do not know if this is an unmixed blessing. I have a slight antipathy towards foreign companies because they often put money in and take it out. We have no control over that.

15.02 hours

(Shri Hukmdeo Narayan Yadav *in the Chair*)

The Bill attempts to address the provisions that were criticised on the grounds of being onerous, relaxing the restriction on number of layers of subsidiaries as a much needed step towards giving companies greater freedom in the way they structure themselves.

This Amendment Bill will remove many ambiguities from the current law and streamline its provisions with other relevant laws. I want to mention something here. Earlier I mentioned about the Company Law Committee which was set up by the Government. Certain recommendations of the Company Law Committee have not been incorporated in the Bill. These include issues related to resident requirement of directors and compliance requirement for dormant companies.

The new restriction will prevent a company from attracting a talented individual residing outside India. The CLC recommended that the residence requirement for a foreign national should be removed but that has not been done. Under the Act of 2013, any company without transactions for the previous two years may apply to obtain the status of a dormant company. The Act of 2013 does not exempt such dormant companies from the requirement of constituting committees. The Company Law Committee suggested that the dormant companies may be exempted from constituting an audit committee as they have no business activity or employees.

Lastly I want to say that the Supreme Court upheld the constitutional validity of the National Company Law Tribunal. However the Court held certain provisions in relation to the qualification of the technical members of the NCLT and composition of the selection committee for appointment of technical

members of the NCLT and the National Company Law Appellate Tribunal as invalid. This Bill has modified those provisions to bring them in line with the Supreme Court's decision which is a good thing.

To end, we want good corporate governance in India because as the economy expands and is liberalised, it is not only necessary to have proper regulation but also allow companies the freedom to grow, invest and attract investment. The intention of this Bill is to improve the ease of doing business. We shall have to pass the Bill and then see what response we get from the corporate world. I hope that Shri Arjun Ram Meghwal, who is looking after the Corporate Affairs Department, will use the powers of the Department to really save people. A number of people have sunk their money in companies which did not pay back their depositors. Companies have raised money in so many fraudulent ways and so the need of the hour is to see that the common citizen of India is free of all this encumbrance. With this, I end my speech on the Bill. Thank you.

SHRI BHARTRUHARI MAHTAB (CUTTACK): Thank you, Chairman, Sir. I start from where Prof. Roy ended.

In India we have seen a large number of fly-by-night companies. We have seen companies being floated to do plantation and hardly a tree has been planted, yet money has been taken and they have just evaporated. We have seen during the last five or ten years one of the major concerns of every enlightened citizen of this country was why could the Government not do something about it.

Today, we have a Minister looking after the corporate affairs who very much has his feet on the ground. Not only he has his feet on the ground, he also travels to a place, which was not visited by any public representative during the last 70 years, and calls for a ladder to climb up a tree so that his mobile can be connected. That made him very famous throughout the country. Anyone who looks at him says यहां तो ये लैडर मिनिस्टर हैं। Sir, you have actually not only magnified the problem of your constituency, you have also magnified the problem that the Ministry is facing in remote parts of our country.

श्री अर्जुन राम मेघवाल : माननीय सभापति जी, महताब जी मेरे अच्छे दोस्त हैं। मैं रेगिस्तान से आता हूँ, इन्होंने धौलिया गांव का जिक्र किया, यह श्रीडुंगरगढ़ तहसील का गांव है। 70 साल में यहां कोई मंत्री नहीं गया। मीडिया ने एक प्रोजेक्ट लिया कि क्या इस गांव में कोई मंत्री जा सकता है। मैंने चैलेंज स्वीकार किया। मीडिया का एक चैलेंज और था कि धूप में 12 से 2 बजे के बीच ही जाना है जब टेम्परेचर 49-50 डिग्री था। मैं उस दिन गांव में गया, दो घंटे रुका, उन्होंने कहा था 12 से 2 बजे तक रुकना है। वहां सारी बातें हुई कि क्या एमपीलैड देंगे या और क्या करेंगे। यह गांव बहुत छोटा था, ग्राम पंचायत मुख्यालय भी नहीं था। गांव वालों ने कहा कि आप इस गांव में पहली बार आए हो, आप एक काम कर दो, हमने 70 साल में कोई नर्स नहीं देखी। मैंने कहा कि यह काम तो मैं कर सकता हूँ, मैंने कहा कि सीएमएचओ को फोन करो, तब उन्होंने कहा कि फोन यहां नहीं लगता है। मैंने कहा कि आप कभी फोन लगाते हो, उन्होंने कहा कि हम फोन कभी लगाते हैं, एक टिब्बा है, वहां एक पेड़ है, उस पर चढ़ते हैं। मैंने कहा कि कल कर दूंगा। वे कहने लगे कि आप हमें धोखा दे रहे हैं, अगर आप हमारे जन प्रतिनिधि हो, जैसे हम फोन करते हैं आपको

करना पड़ेगा। मैंने कहा कि अगर वहां फोन लग गया तो ठीक है। मैं वहां जाकर सीएमएचओ को फोन कर रहा था। 70 साल से वहां सैन्ड डयून हैं, कोई गया ही नहीं और मोदी सरकार तो तीन साल से ही है। वहां 70 सालों से कोई नहीं गया, इसे आप एप्रिशियेट कीजिए। जब मैंने फोन लगाया, तो उस गांव में दूसरे दिन ही नर्स आ गयी। आप यह भी एप्रिशियेट कीजिए।

SHRI BHARTRUHARI MAHTAB: Hon. Chairperson, I was just mentioning that we have now a Minister of Corporate Affairs who has his feet on the ground. I was appreciating the effort made. But, I would also like to know this. Do you have a ladder in your quarter here? कॉल ड्रॉप की ज्यादा प्रॉब्लम दिल्ली में होती है।

Now, I come to the issue of The Companies (Amendment) Bill, 2016. I would mention here that ‘yes’ on earlier stages, during the UPA regime, this Bill came before this Parliament. This Amendment was moved in the Parliament on 16th March, 2016.

The Standing Committee deliberated with the Government and stakeholders like The Institute of Chartered Accountants of India, FICCI, ASSOCHAM, CII, etc., and with the representatives of the Institute of Company Secretaries of India, Bombay Chamber of Commerce, Indian Merchant Chamber, Investor’s Grievances Forum, The Chamber of Tax Consultants and NASSCOM, etc. The report was submitted to the Parliament on 1st December, 2016.

One curious aspect of this Companies (Amendment) Bill, 2016 is that when Dr. Moily was the Minister for Corporate Affairs, the Companies Bill, 2009 was introduced in the Lok Sabha. The Standing Committee on Finance examined it and submitted its Report on 31st August, 2010. The Ministry examined the Report and out of 178 recommendations made by the Committee, 167 were incorporated fully, six were partially accepted and a different view was taken by the Ministry on the rest five recommendations. In 2011, the revised Bill was introduced and again it was referred to the Standing Committee on Finance by this august House to look into it. The report was presented on 13th August, 2012 and out of 15 recommendations, 13 were accepted by the Government and a different view was expressed on the remaining two recommendations. Therefore, one may say that out of 193 recommendations, 180 were accepted fully. This shows the enormity of the problem that our old Companies Act of 1956 was facing. The Committee had recommended around 193 recommendations, out of which, 180 were accepted.

There have been a host of changes in the present Bill. It is because this is the third attempt of correcting the Act of 2013. This Bill seeks to simplify private placement process, remove restrictions on layers of subsidiaries and investment companies, amend Corporate Social Responsibilities provisions to bring greater “clarity.” Today, out of 470 sections of the Companies Act of 2013, 284 have come into effect since 1st April, 2014. Now, new amendments are to be effected and therefore, we have this Bill before us for consideration.

Hon. Chairperson, I would say the process of fine tuning the Companies Act of 2013 seems to have no end. It is because even today a large number of corporate bodies are still saying that there is a need to have further amendment to the amendments that have been made by the Government. Should we continue to do amendment of this Companies Act, again and again?

It was in 1956 when an Act was promulgated. We amended it in 2013. Now every time and every year whenever the corporate people meet, they say that there is some flaw in this Act and we need amendment. To tide over this situation, a committee was formed when this new Government came into being. They gave certain suggestions and those suggestions have been incorporated in this Bill and some suggestions have not been accepted by the Government in its wisdom. But should we go on amending the Act like this? That is the first question.

As I said earlier, more than 200 changes were incorporated over a period of five years. Now based on a Government-appointed panel's report, 100 odd amendments to the Companies Act of 2013 are under discussion. Even day before yesterday, another 48 amendments have been moved by the Minister. The aim is to make it easier for the companies to do business including simpler laws for incorporating a company, for raising funds as also for insider trading and dealing with top executives.

It is interesting to note that even as various amendments to the Companies Act were passed in the Budget Session year before last, industries still have concerns over some provisions and now the Government has again come to us with amendments.

As I have reiterated earlier, the Government is only interested in economies and money. The social fabric of the society that keeps businesses together is being torn apart. You can see the result of the hostile attitude of the Government yourself since lending by banks is at five per cent which is a 60 year low. Some may say that it is because of demonetization but the fact today is that it is a 60 year low and it has come down to five per cent. Banks are flushed with money but people are not taking money from the banks. The economy is practically stagnant today. Jobs are being lost and yet the Government insists on living in an imaginary city where buildings are made of gold.

On the one hand, the Government violated individual privacy and on the other hand, it gives more anonymity to corporates. Corporates are legal persons. They can enter into contracts, take loans and do business. People who run these corporates are not held responsible for any loss that the company makes but the burden is distributed among the shareholders. That is how, it has been since the Mauryan Empire where such entities were also present but this corporate veil of secrecy offered by the corporates is also prone to misuse.

What has happened today is that the Kingfisher will take a loan of around Rs.7000 crore and it will not pay it back. It gets a pay off from the United Breweries of Rs.515 crore, severance package. There is

something, I would say which the House should ponder over. There is something very wrong with our system if things like this are allowed to happen.

The Economic Survey this year pointed out that top ten Companies in India owe Rs.40,000 crore each to the banks. The Directors who run these Companies are living lavish lives at the cost of the Company while the corporate itself is going on many misadventures.

In April last year the Supreme Court was given an envelop by the RBI regarding big defaulters in the country. An argument was made that these names should be kept confidential since it would impact our economy. It is incredible that artificial and fictional persons have more rights in India than individuals today.

On the one hand, you have brought this Bill which removes subsidiary company caps, investment layer caps, diluting requirements to have an objective clause while on the other hand, you keep imposing Aadhar on the citizens of this country.

Sir, the Finance Bill, 2017 went a step ahead and allowed anonymous corporate donations to political parties. The Government is going on over-drive to give more powers to institutions that are not accountable to the public while taking away the freedom of the public.

Sir, this Bill allows some pecuniary interest in companies for independent Directors. Here I would say this because this is one of the major provisions of this amendment today which the Government is dealing with relating to appointment of independent Directors with transactions up to 10 per cent with the company. Section 149 of this Bill allows an independent Director to have 10 per cent pecuniary benefits with the company where he or she holds a position. The earlier Act did not allow any personal interest to interfere in the business. This Bill is allowing it. Not only does it allow pecuniary benefits, it also leaves it to the executive to decide the percentage of interest. This goes completely against the concept of corporates as independent entities. This will be misused by the likes of Shri Mallya to lead an even more comfortable life than they already have, while the companies continue on their misadventure. This should not be allowed at all. While India has to catch up quite a bit on its record of independence of Directors, most of the problems of the corporate sector and that of the banking sector can be traced to poor corporate governance. When corruption, nepotism and crony capitalism are eroding the foundations of our institutions in India, change in a law which determines independence of Directors, even if justified for pragmatic reasons, should not be espoused. While India largely escaped the adverse effect of 2008 melt down in the wake of the sub-prime mortgage crisis, the crisis in India which is threatening to explode may be solved in the medium and large term only through a robust model of corporate governance, both in the banking sector as well as in the corporate sector.

Sir, in the light of the Satyam scam, the Company's Act 2013 introduced new rules to improve audit quality and to punish auditors who will be found guilty of negligence or connivance with the management

in acts of omission and commission by the company. Will this be effective? I would like to get an answer from the Government. For business reasons auditors have strong motivation to approve client's financial statements because an unfavourable report might lead to losing the client. The Company's Act stipulates that the auditor has to be appointed for a term of five years and they can be removed only by passing a special resolution in a shareholder's meeting and with the approval of the Government. This has reduced the risk of losing the client, yet audit partners act as an agent of the firm in securing non-audit businesses from the client and therefore, there is motivation to appease the client. This needs to be corrected.

Sir, the process of fine-tuning the Company's Act, 2013 seems to have no end, but the process to make a perfect law seems to be never ending. I would come to my last point. There are certain shortcomings in this Bill. Amongst the problematic provisions of the 2013 Company's Act which have not been redressed by the amending Bill are the provisions contained in Sections 203 which requires every company of a certain size to have at least three classes of key management personnel. This has been one of the most impractical provisions of the 2013 Act requiring companies to perfunctorily designate Chief Financial Officers and Company Secretaries in companies which have significant capital but do not have day-to-day business. There was a widespread demand that either such companies may designate the same person to look after several positions or the same person to look after several companies. However, nothing has been done to introduce amendments in this section although the definition of 'key managerial personnel' in section 2(51) has been widened.

Another significant difficulty created by the 2013 Act was the unduly restrictive set of provisions pertaining to private placements. This over ambitious scheme of regulation was a direct result of some incidents in the past which I mentioned about Satyam. One such provision requires every private placement to be routed through a separate bank account opened for this purpose and a bar on utilisation of the money until allotment. While the Bill rewrites the entire section 42, it in fact, bars the use of money until the return of allotment has been filed with the Registrar of companies. It is curious to note that the use of the money has been linked with filing of a document for which the time allowed is as much as 60 days for allotment and 15 days for filing the return. More often than not, the amount received in private placement is large and companies cannot afford to keep the amount idle even for a day. The only relief in the private placement provisions seems to be that the amount of penalty for contravention has been limited to Rs. 2 crore which was earlier seemingly extending to the entire amount raised by private placement.

Sir, with your wide experience, you know that law is as good as it is administered. The Companies Act, 2013 is a modern law for a rising India. It is important that the administrators of such a law have a mindset keeping with the spirit of such a law. Unless transformative changes are brought about in its administration, the felt purpose of such a law would be lost.

Therefore, we should address this issue effectively so that India becomes a beaconing economy of the world.

SHRI JAYADEV GALLA (GUNTUR): Sir, I rise to support the Bill moved by the hon. Minister for Corporate Affairs, Shri Meghwal. Nearly 90 amendments proposed in the Bill are mainly in pursuance of the recommendations made by the Company Law Committee and based on the recommendations made by various industrial bodies, industries and professional organisations.

This House itself passed the Companies Bill in 2013 and out of 470 Sections, so far, only 284 have been notified and the remaining are relating to National Company Law Tribunal and National Company Appellate Law Tribunal. They could not probably be constituted earlier since the matter was *sub judice* but a five judge Constitutional Bench of the Supreme Court approved the constitution of NCLT and NCLAT in 2015 itself. But have these not been constituted? It is a big question mark which I wish the hon. Minister for Corporate Affairs to explain.

Coming to the Bill, some of the major amendments include providing greater flexibility in incorporating and running a company by simplifying Memorandum of Association which and doing away with Central Government approvals, etc., to simply procedures to raise capital, to rationalise penal provisions relating to auditors, improving corporate governance and remove ambiguities in CSR provisions, etc.

With your permission, I have a few points to make on the Bill and request Shri Meghwal to ponder over them and take steps accordingly.

The first one is regarding Clause 45. Clause 45 allows a relative of an Independent Director to be indebted to the company or its promoters within a limit as may be prescribed by the Central Government. But I wish to make a point here. When a relative of an Independent Director is indebted to company, the independence of such a Director would be highly suspect. Especially, when a relative of an Independent Director is indebted to promoters of a company, independence of such a Director becomes a definite casualty. Here, the Government of India may prescribe the limit, but that limit is nowhere mentioned in the Bill. I suggest, while framing subordinate legislation, the limit should be kept at a minimum level. Otherwise, it brings disrepute to the company and also hit its brand image in the market and before creditors.

Clause 45 allows some pecuniary interest in companies for Independent Directors. The Bill allows such Directors on their own to have transactions with companies where they are Independent Directors up to 10 per cent of such Independent Directors' total income or such amount as may be prescribed. It means, in a way, we are legitimizing 'self-dealing merchants' as Independent Directors.

I apprehend that the limit of 10 per cent transactions in the hands of Independent Directors can be altered by the executive action by prescribing an altered limit. Vested interests can achieve a higher limit by influencing the executive. I feel that this would certainly weaken the independence of corporate boards.

And, you are also removing an existing provision which says that an Independent Director's relative should not have been a senior employee of the company in the last three years and it may also impact independence of an Independent Director.

Secondly, I beg to differ with the CLC which says that such a small amount of income will have no bearing on the independence of the Director. This assumption, in my view, is flawed. A threshold limit of the pecuniary relationship affecting the independence of a Director cannot be objectively set, as the concept of independence is more subjective in nature. Objectively, the only manner in ensuring independence is adhering to the provisions in the Act, i.e. absolutely no monetary relationship aside from the Director's remuneration.

The next one is Clause 59. You are proposing to amend Section 185 which deals with loans to Directors, etc. I wish to submit that a holding company, irrespective of being a public or private company and without conditions imposed on the nature of its shareholding, can grant loans to its subsidiaries subject to the passing of a special resolution and the subsidiary utilising such amount for its principal business activities. This may be a cause of concern because if the end-use of loan is still restricted to the 'principal business activities', it appears that in case of loans required by the subsidiaries for purpose other than its 'principal business activities', holding companies may have to continue the current practice of amending its objects in its Memorandum of Association to include 'grant of loans to subsidiaries', in order to have such loans granted in the 'ordinary course of business.'

Then, claim exemption under sub-section (3) (b) of the proposed to be amended Section 185, which exempts companies providing loans/guarantees/securities in the ordinary course of business, provided the specified rate of interest is charged. But again, if the MCA intended to permit such an exception, it would have been reflected in the Bill itself. Secondly, practice of amending the objects clause may prove to be risky. So, I suggest for consideration of the hon. Minister that Exemption Notification must be amended to reflect the above relaxation under Section 185 and there should not be any confusion that public companies enjoy more liberty than private companies under Exemption Notification.

The next one is regarding Clause 60. Clause 60 of the Bill seeks to amend Section 186 of the Principal Act by deleting restrictions on layers of investment companies. It also seeks to provide for aggregation of loans and investments so far made and guarantees so far provided, for the purpose of calculating the limits of loans and investments. Further, it also seeks to provide that requirement of passing a special resolution at general meeting shall not be necessary where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company or acquisition is made by a holding company of the securities of its wholly owned subsidiary company.

I agree that under the existing provisions, a company is not allowed to make investment through not more than two layers of investment companies. This Clause eases the structuring of group companies and

inter-company investments.

I feel that there is a need to put a limit on the number of layers. Otherwise, I am apprehensive that this very proposed amendment facilitates rerouting of black money against which this Government waged a war. And, the second one is, you are going to create a structure where promoters can control large businesses with small holdings through a series of subsidiaries. If this is the objective of this provision, what would be the impact on corporate governance?

The next point is regarding Clause 65. It is good that the hon. Minister has removed the ceiling of 11 per cent on managerial remuneration. But, there is a condition that if a company has taken loan from a bank or if any public financial institution is subsisting or there is any default, then it has to take approval of that financial institution. If a company takes loan, say from 10 financial institutions, then it has to take approval from each one of them. And, everybody knows that no bank or financial institutions is going to agree to this. But when it comes to private companies, there is no need to take consent of lenders even if such a private company has a running default with its lenders. So, I feel this is sheer discrimination and request the hon. Minister to relook at it once again.

Sir, one final point I would like to make is in response to rising NPAs. Hon. Minister, this is an important point to which I would just like to draw your attention. With the rising NPAs, banks are now insisting on personal guarantees or personal guarantees of the promoters for every loan taken by company. This goes against the very principle and nature of a limited liability companies. If promoters have to provide a personal guarantee for every loan that they have to take for their companies, then what is the point of having a limited liability company? That goes against this principle. So in response to this, I believe, risk taking is coming down in our country. The risk taking comes down. The dynamism of our economy depends on risk taking capability. I think, the dynamism of our economy is also at risk if personal guarantees are insisted every time. There needs to be a balance. The accountability of banks also has to be there in doing their due diligence and evaluating the loans needs to be brought into focus. What is the due diligence being done by the banks? How are they evaluating the nature of the loan before giving the loan? All these things also need to be brought into focus. The accountability of banks also needs to be established. It is not only that accountability has to be completely on the promoters who are taking the risk in the first place but the banks giving the loans also have to take some risk. I think, a balance needs to be maintained.

In conclusion, I would like to say that there is no doubt that a large portion of the Bill achieves its objective of providing clarity, unambiguity, transparency and certainty. But there are some provisions, a few of which I had mentioned, which appears to have been contradicting to the core theme of the Bill. I only wish hon. Minister will have a relook at them once again closely and avoid this Bill paving the way for rampant misuse of these provisions.

With these observations, I support the Bill. Thank you.

SHRI KONDA VISHWESHWAR REDDY (CHEVELLA): Thank you, Sir, for giving me this opportunity.

Sir, at the outset, I would like to state that on behalf of the Telangana Rashtra Samithi we support this Bill. But, yes, this is a very small step in the long democratic process. While it is an important step, we are going to pass it, it may merely amount to tinkering of the existing law and great changes are required. At the end of the day, in another half-an-hour, we are going to pass this Bill. All of us are going to thump our benches loudly and cheer that the Bill is going to be passed.

I will just raise two or three points. Many more points have already been covered. There are a number of layers and subsidiaries. We should support this. The number of layers and subsidiaries were limited. Now, it is unlimited. This is very very required. I worked in a large multinational corporation, General Electric Corporation, one of the largest companies in the world. I was trying to count how many subsidiaries and layer of subsidiaries it has. I think, I stopped counting at 150, but I think there are more than 1000 subsidiaries and several layers. It is extremely required for Indian companies to grow big, to become multinational conglomerates. Sometimes, even temporary companies are formed called a Special Purpose Vehicle for a particular contract. Short duration joint ventures are formed. Country-specific companies are formed. So, I think it is very important. It does not restrict Indian companies to grow. We support it.

My next point is regarding pecuniary interest of independent directors. I think, this restriction has been removed. This is totally not required. It is because, the concept of independent directors is that it is not the interested parties who are directors. We want a fresh thought. It may be an academician who is an independent director or it may be a scientist in that field or it may be a market engineer or a finance expert or even a social worker who brings a new thought in the company directorship. What is the need for them to own a company? It is because, the very fact of owning a company brings in conflict of interest. But the rationale here is, little bit conflict of interest is okay. But there is an American phrase which says you cannot be a little bit pregnant. Either you are pregnant or you are not pregnant. How can you have little a bit conflict of interest? Either you have conflict of interest or no conflict of interest.

I have one more point regarding removal of dealing in insider trading. Once again, unnecessarily we are treading on a dangerous area. In an age when the Prime Minister and the whole country is looking forward to give more teeth, I think we are taking away one teeth from the law makers. Right now it is only SEBI which can go after these companies that are dealing in insider trading and removal of forward dealing. We do not need relaxations. We need stricter regulations. We are discussing all this when one Mr. King of good times is actually fishing somewhere in some islands near Britain or some other place. So, I think we need to make it stricter. While we support the entire Act, I would like to bring forth a few other issues.

In US, we have the Sarbanes-Oxley Act and the Foreign Corrupt Practices Act. These have significant teeth. Companies there are really scared not out of a moral need or ethical need. It is because of the sword hanging and because of the teeth those regulations have. I think, we need to make regulations stricter. In this case, it is mostly relaxing those regulations.

When the previous Companies Act, 2013 was addressed, there is a whole list – whether it is CII or FICCI – of disadvantages, pros and cons that were listed out. One of them is the compliant requirement which continues to be very high. It is good; it is required. But, if it is too high, it hits the ease of doing business. It can be high for large companies which have hundreds of employees and even they have the accounts and compliance departments. But for a small company, to have such stringent compliance standards will actually reduce the ease of doing business. This was actually given earlier. There is no mention of that in this Bill.

The Memorandum of Association, as per the Act, requires the company to declare the objective of formation. The Bill removes this requirement. We saw a telecom company importing apples. Earlier, we had objectives of the company and the company had to do that business. You cannot do any other business. So, we cannot do relaxations on some of these. I think, we need to increase this. I do not want to say too much because, I think, many speakers have covered these points.

Many speakers said that we achieved great things by closing down defunct companies. This is one more thing of thumping the benches too hard for very little achievements. We had 16 lakh companies and, I think, the Ministry did a good job. They took an initiative of closing down defunct companies. Frankly, I also have a personal experience in this regard.

Recently, two companies belonging to my son were closed down. They were neither scam companies nor they were involved in any operations which were illegal. They were not shell companies. This is merely a part of spring cleaning. So, you get rid of unwanted things in your house. In most countries after winter, in spring, you have enough of unwanted things which you throw out or close them. So, the Ministry's initiative is good. A lot of group companies close down these unwanted companies. How many are they? Maybe, they are about 16,000 or so. They closed them down in the last six months. It is a very good initiative but let us not say that we made any impact on closing down shell companies or unauthorised operations. A lot more needs to be done. That is not the proof of the pudding. Somaiya Ji was mentioning that we closed down these many companies. By doing that, we have not closed any shell companies. Shell companies are alive, kicking well, paying all the fees and doing all the illegal operations. So, a lot more needs to be done. The real proof of the pudding is, have the NPAs of banks reduced, has corruption reduced, has tax compliance increased, has *hawala* reduced, has under-invoicing of exports reduced and finally, has the rupee gained value in the international market? These are the real proofs of pudding. So, has our GDP increased significantly? Yes, we are making marginal progress. At this point, I would also like to make one more thing. So, entire India is not like this. Some pockets of India are doing extremely well in terms of tax compliance and other things. I would like

to point out that you will be shocked to know, recently we got the data, that in the State of Telangana, got 21.7 per cent increase in its tax collections. The next is only Chattisgarh which is at 10 per cent and the rest of the country is hardly at 7-8 per cent.

Lastly, a lot more needs to be done. Not enough is being done. So, when we pass the Bill, let us not thump our benches so hardly. Let us not cheer so hardly. Let us thump little softer. Thank you Sir. We support the Bill.

SHRI MD. BADARUDDOZA KHAN (MURSHIDABAD): Hon. Chairman Sir, I am thankful to you for giving me an opportunity to speak on an important Bill.

Sir, as you know that this Bill was introduced in Lok Sabha on 16th March, 2016 and referred to the Standing Committee on Finance on 12th April, 2016. Actually, the Companies Act, 2013 came into force on 1st April, 2014. Since then many companies raised their voice that they are facing difficulties with the implementation of 2013 Act. So, the then Government set up Companies Law Committee on June, 2015 to examine the issues regarding implementation of 2013 Act. The Committee submitted its report in February, 2016.

But in the meantime in 2015, the Supreme Court gave its judgement related to quasi-judicial tribunal set up under the 2013 Act as invalid.

Sir, it was the need of the time to amend some sections related to such issues.

Subsequently, the Standing Committee on Finance heard the views of the Institute of Chartered Accountants of India, FICCI, CII, ASSOCHAM and NASSCOM.

Finally, they submitted the report on 7th December, 2016. I agree with the observations made by the Standing Committee and the verdict of the Supreme Court also.

Sir, it is true that all recommendations submitted are for improving ease of doing business in India without many hurdles. The Committee has proposed changes in 78 sections. Approximately, 50 amendments to the Rules have also been proposed. So, a record number of amendments have been proposed in this Bill. Mostly, it will help the corporates to expand their business in India. But I want to know about the small companies. The existing definition of small companies limits the scope of small companies having a turnover of rupees two crore. The limit is being increased to rupees five crore but the

limit of paid up capital still remains at rupees fifty lakhs. I request the Government to review the situation.

In another case relating to banking companies, I want to seek some clarifications on the provision of Sections 53 and 185. Actually, the banks are making use of Corporate Debt Restructuring (CDR) and Strategic Debt Restructuring (SDR) Schemes to convert their loan into equity. The problem is that the fair value of equity shares was less than its par value. However, the bar in the Act against issuing shares at a discount would force a banker to convert the loans at least at par value of the equity. The provisions of Section 53 are proposed to be amended to permit conversion of loans into equity at less than the par value. Please clarify this position.

Further, I want to know the provisions relating to forward dealing and insider trading to be omitted from the Companies Act, 2013. Why is such a proposal necessary? I want to know why such a proposal is necessary. Now under what Act will the insider trading be dealt with?

In addition to that I want to seek some clarifications. Dr. Kirit Somaiya, Shri Bhartruhari Mahtab and also Prof. Saugata Roy told here about some companies. Kirit Somaiya Ji told about 30 companies. He has huge information with him, including Saradha scam. I know, and also I think Dr. Kirit Somaiya also knows that Saradha Company and Rose Valley Company are under the CBI inquiry, under the CBI scanner. I am sorry to say that during interrogation, some MPs were also interrogated and one MP is still now in jail. In spite of that, I am sorry to say that the CBI is conducting its inquiry in a very, very slow pace. There is no effort to refund the money to the actual losers, the people whose money was looted. There is no effort. Then what will be done in future?

In the future also, some fake companies will be registered but not for doing any business. They will collect money and launder it to others and launder it to foreign countries also. In such a way, the companies are being registered still now in India. What do you do about that? What is the thinking of our Minister about all these ponzi and fake companies? What action are you going to take about these companies? Now it is a very serious matter in India. What kind of inquiry is being done by the CBI? The CBI is doing the inquiry. The ED is also making the inquiry by the ruling of the Supreme Court. But I am sorry to say that there is no progress in the inquiry.

The CBI is directed by the Prime Minister. Then, my question is, whether the Prime Minister has directed the CBI to go slow and not to take action and not to close their inquiry. It is a never ending process, and finally, the public will be refunded nothing. They will suffer. So, I request the Government to take action. Also, I request Dr. Kirit Somaiya that if you have huge information, then please give it to the Minister to make an inquiry into that. Why are you speaking only here? Why are you making the statement here? You give it to the Minister and let them conduct an inquiry.

Now, you have the SFIO; you have the ED; and you have the CBI. They can make inquiry and take action. So, this is my request to the Minister that please to try to finalise this inquiry and refund the money to the losers. It is the need of the hour, and give punishment to the culprits who have taken money from them.

I am concluding my speech. I hope our Minister who is present here, will take necessary action. Thank you.

SHRI VARAPRASAD RAO VELAGAPALLI (TIRUPATI): Hon. Chairman, Sir, I thank you for giving me this opportunity to speak.

We appreciate the amendments which are being brought into the company law, particularly with regard to the set-up of Company Law Tribunals and Appellate Tribunals. It has also tried to take some initiatives to protect the interest of the investors on a large scale. Similarly, it has tried to bring in some accountability of the Directors, the auditors and the managerial persons. It has also tried to improve the corporate governance. It also wants to help in ease of doing business, particularly for the start-up companies and to simplify some of the procedures like private placement process, self-declarations. It is also doing away with separate offer letters. It also wants a register to be maintained of significant beneficiary-owners of the company.

We appreciate these positive aspects, but as Shri Bhartruhari Mahtab mentioned, a law is as good as it is administered. Therefore, merely bringing laws does not take us anywhere. The implementation of the law has to be good and monitoring has also to be done. All that we need is mostly on account of corporate governance, particularly dealing with the banking sector as well as corporate sector. That is totally lacking on professional lines as far as India is concerned. We are far behind in comparison to the advanced countries and the European countries.

Sir, I am not able to appreciate some of the clauses which have been incorporated for the simple reason that a relative of an independent director could give a loan to the company or to the promoters and its subsidiaries. It is definitely an unhealthy trend. I do now know why it has been considered. Many of the Members, who spoke before me, have already mentioned that there is no reason as to why it has to be considered. Already, there is lot of nepotism and corruption taking place and still you want to bring down the independence of independent directors. It is very unfortunate. The very logic of bringing in independent directors, as earlier speakers mentioned, is lost the moment you permit a relative of an independent director to give a loan to the company or to the promoters.

I thank the Ministry for having done a lot of consultations and formed committees and all that before bringing in this Bill, but there is one thing missing. They have involved the RBI, the SEBI, industrial bodies, ICWAI, ICAI, ICSI etc., but the real stakeholders, the investors, are totally missing. I do not think that representatives of the investors, who are the real shareholders and stakeholders, is mentioned anywhere. I do not think that any of the document shows that they have had discussions with the bodies of shareholders. It is an extremely important thing. Perhaps they can consider one thing now. As of now, India does not have a system or a committee at the highest level to protect the interests of the shareholders. Both the Ministers, who are sitting here, are learned Ministers. They may consider to have a high level committee to protect the interests of the investors. Most of them are very small time investors and the money belongs to them. Every time, the other institutions are taking initiatives. It does not take them anywhere unless we really involve the investors and the shareholders.

Sir, I would like to ask the hon. Minister as to why they have given a big concession with regard to managerial remuneration. Earlier, beyond a stipulated limit, the proposal was supposed to come to the Government. Now, you are removing that also. I have a classical example. Here, I am not talking politics and I am not prejudiced. The Reliance Industries company exploits – I am saying this in a positive sense and not a negative sense – the oil and gas in our country. Whatever be the pricing policy, it is giving enormous profit to the company, running in lakhs of crores and crores of rupees. We all know about the house constructed by owners of Reliance Industries. I do not think that in the entire world, you have a parallel to that. They have spent crores and crores of rupees to construct that house. We do not deny it, but the point is that he has exploited the natural resources which belong to the State, to the country and to the poor people of this country. Therefore, I am of a very strong opinion that managerial remuneration beyond a stipulated limit should be with the Government because the money belongs to the people and the land belongs to the people and these are the national resources. Therefore, allowing it just like that is not required because as we see it now, one per cent of the people in India own 60 per cent of the interest by way of national wealth.

16.00hours

Kindly see this irony. Unless you take these kinds of steps, the gap between the rich and the poor can never be filled up. So, I would request the hon. Minister to please give a thought to it, and managerial remuneration should be restricted beyond a point.

There are Company Law Tribunals and Appellate Tribunals. It is fine, but as of now you consider that it will reduce the burden of the High Courts. There is no doubt about it because the work could be transferred to these Tribunals, but the point is that you have a very limited number of Tribunals all over the country and most of the States do not have it. Ultimately, it will again lead to pendency of cases unless you open more. For example, unless you have more number of Company Law Tribunals in the very highly industrialised States like Gujarat, Maharashtra, Andhra Pradesh and Tamil Nadu, I do not think that it will serve any purpose. So, kindly have a re-look at this issue.

Many people have spoken in favour of prohibition of more than two layers of subsidiaries. We appreciate it as perhaps it wants to plug the loophole of siphoning off money illegally, and corruption also will be brought down. But certain industries, particularly, the infrastructure companies just cannot handle without having more number of layers of subsidiaries. So, that aspect needs to be considered because the infrastructure companies are extremely important. ... (*Interruptions*)

Sir, very few speakers are there. Kindly bear with me as there are a few more points. Therefore, at least for infrastructure companies it should be considered.

One more point is a buzzword in the Government for the last three years, which is 'ease of doing business'. Why are we pampering the industries so much? What did they do for the last three years? Why are we pampering the start-up companies also to this extent? It is at what cost and whose cost? If you see the Non-Performing Assets (NPAs) for the last three years, it has doubled as much as from Rs. 5 lakh crore to Rs. 10 lakh crore and in some cases even Rs. 16 lakh crore has been mentioned. When the performance of the private sector banks is so good, then why are these Government sector banks lagging behind? Therefore, 'ease of doing business' should have some logic because the money does not belong to anybody. It belongs to the poor people and whatever taxes are paid by a poor fellow like a sweeper is being given here. So, the money of the banks belongs to the poor people. Therefore, while 'ease of doing business' to some extent could be encouraged, but not beyond a point, and a blanket permission should not be given. Kindly re-look at this issue because I do not think that in the last three years any of these so-called companies have produced any employment. So, I would once again request the hon. Minister to re-look at these things.

माननीय सभापति : अब आप समाप्त कीजिए।

SHRI VARAPRASAD RAO VELAGAPALLI: Okay, Sir. Lastly, as regards the Corporate Social Responsibility (CSR), I would request the hon. Minister that CSR is extremely important because unless that is done, then there is no point in it. I would suggest that unless there is an Act for CSR it will not serve any purpose. It is for the simple reason that instead of spending on smaller things, bigger things like rural infrastructure, housing, hospital buildings, roads, etc. should be constructed, and in this way the two per cent of annual profit of the companies could be better utilized than squandering it away. Thank you very much for this opportunity, Sir. Thank you.

श्री सुभाष चन्द्र बहेड़िया (भीलवाड़ा) : महोदय, आपने मुझे कंपनी (संशोधन) विधेयक, 2016 पर बोलने का मौका दिया, इसके लिए आपका धन्यवाद।

महोदय, इस सरकार का एक उद्देश्य मिनिमम गवर्नमेंट, मैक्सिमम गवर्नेंस है और दूसरा उद्देश्य यह है कि व्यापार और उद्योग में सुगमता है। इसी उद्देश्य को लेते हुए यह कंपनी (संशोधन) विधेयक लाया गया है। काफी समय तक कंपनीज एक्ट 1956 के तहत कम्पनियाँ काम करती थीं। उसके बाद विचार हुआ, जब इन्वेस्टर का पैसा, आम

गरीब जनता का पैसा इधर-उधर होने लगा, तो यह चर्चा हुई कि कंपनीज एक्ट नया बनना चाहिए और उस पर चर्चा शुरू हुई।

2013 में नया कंपनीज एक्ट लागू हुआ पर उस कंपनीज एक्ट में इतनी कमियाँ थीं कि उसके जो कुल 470 सैक्शंस हैं, उसमें से आज तक 284 सैक्शंस ही लागू हुए हैं, बाकी 186 सैक्शंस सरकार अभी तक लागू नहीं कर सकी, क्योंकि उनमें काफी कमियाँ थीं। इन्हीं कमियों को दूर करने के हिसाब से बीच में कंपनीज अमेंडमेंट एक्ट 2015 भी पास किया गया और उस समय डिसकशन में यह आया कि अभी कंपनीज एक्ट में और अमेंडमेंट करने की ज़रूरत है ताकि जो छोटी कंपनियाँ हैं, जो प्राइवेट कंपनियाँ हैं और जो वन मैन कंपनियाँ हैं, उनको कुछ फॉर्मैलिटी कम करनी पड़े जो कि बड़ी कंपनियों को ज्यादा करनी पड़ती हैं। उसी उद्देश्य से कंपनीज एक्ट 2016 आया है।

16.06 hours

(Shri Hukum Singh in the Chair)

जैसा अभी महताब साहब बोल रहे थे कि अभी और अमेंडमेंट की ज़रूरत पड़ेगी और मैं भी उनकी बात से सहमत हूँ। क्योंकि आज जो छोटी कंपनियाँ हैं, जो प्राइवेट लिमिटेड कंपनियाँ हैं, जिनको पहले कंपनीज एक्ट 1956 में कुछ स्पेशल सुविधाएँ थीं, वे इस कंपनीज एक्ट 2013 ने हटा लीं। मेरा आपके माध्यम से माननीय मंत्री जी से आग्रह है कि इस बारे में भी एक बार स्टेकहोल्डर्स को बुलाकर, चर्चा करके जो भी आवश्यक अमेंडमेंट है, वह भी आगे किये जाएँ। इसमें सबसे बड़ा जो काम किया है, वह काम यह किया है कि जो छोटी कंपनियाँ हैं और अनलिस्टेड कंपनियाँ हैं, उनको एजीएम या जनरल मीटिंग कंपनी शेयरहोल्डर्स की करनी होती है। अभी कंपनीज एक्ट में प्रावधान है कि इसमें 21 दिन का नोटिस पीरियड चाहिए। पर जो अनलिस्टेड कंपनियाँ हैं, उनको कोई मीटिंग करनी है, और उसके 95 परसेंट शेयरहोल्डर्स, यानी 95 परसेंट जो मालिक हैं, वह एग्री हो जाएँ तो वह कम समय में भी एजीएम काल कर सकते हैं। यह एक बहुत बड़ा चेंज उन्होंने किया है।

दूसरा, कंपनीज प्रॉस्पैक्टस जो मिलते हैं, पब्लिक इश्यू में जाते हैं, डायरेक्टर उसमें साइन करते हैं और उसमें कुछ गलतियाँ होती हैं, उसमें कुछ फ्रॉड होता है तो उनकी ज़िम्मेदारी होती है, लेकिन अगर उन डायरेक्टर्स ने किसी एक्सपर्ट की रिपोर्ट पर अपनी राय दी है कि यह एक्सपर्ट रिपोर्ट है और इसके आधार पर सरकार की तरफ से जो घोषित एक्सपर्ट है, उनकी रिपोर्ट के आधार पर कोई राय दी और कोई स्टेटमेंट दिया है तो इस अमेंडमेंट में यह प्रावधान किया गया है कि वह दोषी नहीं होगा, जबकि उसकी जगह जिस एक्सपर्ट ने रिपोर्ट दी है, वह दोषी होगा। यह बहुत बड़ा प्रावधान है क्योंकि कंपनीज डायरेक्टर बहुत मामलों में एक्सपर्ट नहीं होते हैं। अगर वे किसी एक्सपर्ट से रिपोर्ट लेते हैं तो उसकी रिपोर्ट की गलती की वजह से उनको सज़ा न मिले, यह प्रावधान इसमें लाया गया है। इसके साथ ही पहले 2013 के कंपनीज एक्ट में जो नियम थे कि कंपनी का कोई भी पेपर कंपनी का ऑफिसर ही साइन करेगा, वह भी ऑथराइज्ड बाय द बोर्ड, लेकिन अब इसमें यह प्रावधान किया है कि ऑफिसर हो या इंप्लॉई हो, क्योंकि कंपनी का ऑफिसर भी कंपनी का नौकर ही होगा और कंपनी का इंप्लॉई भी नौकर ही होगा, तो इसमें अमेंडमेंट किया कि कंपनी की तरफ से कोई भी जो डॉक्यूमेंट साइन करना है, अगर बोर्ड ने किसी इंप्लॉई को या किसी नौकर को भी ऑथराइज़ किया है तो वह कर सकता है, यह अमेंडमेंट अभी आया है।

महोदय, अभी सभी माननीय सदस्य स्माल कंपनीज की बात कर रहे थे। अभी स्माल कंपनीज की डैफिनिशन भी चेंज की है और आज की स्थिति को देखकर उसको बढ़ाया गया है। उसमें एक बड़ा काम इस अमेंडमेंट में किया है, वैसे पूरा नहीं किया है लेकिन शुरूआत की है कि जो बड़ी कंपनियों में पैन्ल्टी का क्लॉज़ लागू होता था, अभी जो अमेंडमेंट आया है, क्लॉज़ 86 के तहत छोटी कंपनियों को, 1 परसेंट कंपनियों को उसमें जो मैक्सिमम लिमिट है, उसकी आधी कर दी गई है। महोदय, यह एक बहुत बड़ा कदम है। पर, इसमें और कुछ करने की ज़रूरत है क्योंकि

छोटी कंपनियां काफी फॉर्मैलिटीज़ पूरी नहीं कर सकती और उनकी अपनी मर्यादाएं होती हैं। उनके पास उतना स्टाफ भी नहीं होता है। इस कारण मेरा आग्रह है कि इसको उनकी कैपिटल के साथ लिंक करके और उस हिसाब से पेनल्टी के क्लॉज़ लगाए जाएं।

महोदय, शुरू से ही, जब से 'कंपनी (अमेंडमेंट) एक्ट, 2013' लागू हुआ और उसके बाद से जगह-जगह एस.एम.ईज़. से, छोटी कंपनियों से यह रिक्वेस्ट आ रही है कि कम से कम डिपॉजिट के मामले में उनका ध्यान रखा जाए। बड़ी कंपनियों ने बाजार में हेराफेरी की होगी, बाजार से पैसे लाए होंगे और इन्वेस्टर्स के पैसे खा गए होंगे। लेकिन, छोटी कंपनियां, जो अपने रिश्तेदारों और अन्य लोगों से पैसे इकट्ठे करती हैं और इस पर जो रोक लगाई गई है, उसको हटाकर कंपनी के जो भी शेयरहोल्डर्स हैं, वे उस कंपनी में डिपॉजिट कर सकें, ऐसा रिलैक्सेशन आपको इस बिल में करना चाहिए, ताकि जो छोटे व्यापारी हैं, जो टेक्नोक्रेट्स हैं, जो अपना काम या व्यवसाय कोई भी कंपनी बनाकर स्टार्ट-अप में शुरू करना चाहते हैं, उन्हें कैपिटल की वज़ह से दिक्कतें आती हैं। इसलिए वे अपने रिश्तेदारों से, अपने शेयरहोल्डर्स से पैसे लेकर कंपनी में डिपॉजिट कर सकें और उन दिक्कतों को दूर कर सकें। जब भी आगे इस पर अमेंडमेंट हो, ऐसे प्रावधान और आने चाहिए।

तीसरा, मैं यह कहना चाहता हूँ कि बड़ी कंपनियों में काफी लोगों के, इन्वेस्टर्स के पैसे फंसे हुए हैं। मेरे एरिया में भी ऐसी एक कम्पनी है और वह पूरे भारत की कम्पनी है, जिसका नाम है - 'पी.ए.सी.एल.।' माननीय उच्चतम न्यायालय ने आदेश दिया है कि इसके जो भी इन्वेस्टर्स हैं, जिनसे पैसे लिए गए हैं, गरीब जनता से जो पैसे इकट्ठे किए गए हैं, उन्हें वे लौटा दिए जाएं। उस कम्पनी के पास काफी एसेट्स भी हैं। उन्हें लिक्विडेट करके उनके पैसे लौटाए जा सकते हैं, परन्तु माननीय उच्चतम न्यायालय के आदेश के बावजूद भी इस पर कोई कार्रवाई नहीं हो रही है और जान-बूझ कर उसको इधर से उधर किया जा रहा है, जबकि इसमें करोड़ों गरीब आदमियों के पैसे फंसे हुए हैं। इस बारे में भी माननीय मंत्री जी को थोड़ा संज्ञान लेना चाहिए।

माननीय सभापति: अब समाप्त करें।

श्री सुभाष चन्द्र बहेड़िया : सभापति महोदय, मैं समाप्त कर रहा हूँ।

महोदय, एक और जो दिक्कत आ रही है, वह यह है कि डायरेक्टर्स रिपोर्ट में इनको इन्क्लूड करना पड़ता है। सेक्शन-134 में कंपनीज की जो डायरेक्टर्स रिपोर्ट होती है, उसमें उन्हें 'मैटेरियलिटी चेंज' को इन्क्लूड करना पड़ता है, पर कंपनीज एक्ट में कहीं पर भी 'मैटेरियलिटी' को डिफाइन नहीं किया गया है, जिसके कारण सब लोग इसका इंटरप्रेटेशन अलग-अलग ढंग से करते हैं।

महोदय, मेरा आग्रह है कि इस बिल में इसे भी एक बार डिफाइन कर दिया जाए तो ठीक होगा।

बहुत-बहुत धन्यवाद।

SHRI N.K. PREMACHANDRAN (KOLLAM): Thank you very much, Sir, for giving me this opportunity to speak on the Companies (Amendment) Bill of 2016.

I rise to speak on this Bill with so many reservations and so many objections for which I am seeking clarifications from the hon. Minister. At the outset, I would like to congratulate the hon. Minister Shri

Arjun Ram Meghwalji for having piloted such an important legislation which is having drastic implications on the company administration in future. I also thank the Minister for having such patience to hear to the detailed discussion on this Bill.

The Companies Act of 2013 was enacted to consolidate and amend the laws relating to the companies. The original Companies Act of 1956 was drastically amended at the time of the UPA Government and the Act has come into force on 1st April, 2014. But, it is quite unfortunate to note that out of 470 sections of the Act, only 284 sections have been brought into force and the rest of the sections have not yet been brought into force. You may kindly see that the heart and soul of the Companies Act of 2014 was the constitution or establishment of the National Company Law Tribunal and the National Company Law Appellate Tribunal. These are the two major drastic changes which took place by virtue of 2013 Act. Unfortunately, even after four years of passing of that Act in the year 2014, three years have elapsed. So far, the Government is not able to establish the National Company Law Tribunal and the National Company Law Appellate Tribunal throughout the country. Even the aims and objects of the Bill says that it is at the final stage.

You may kindly see that almost all the powers, which were being governed by the Courts, even the High Court, the Supreme Court, the Company Law Board and the Boards of Industrial and Financial Reconstruction (BIFR), all the bodies were vested with the National Company Law Tribunal as well as National Company Law Appellate Tribunal. But it has not been constituted and it is going at a snail's pace. Even in my home State of Kerala also, the Company Law Tribunal has not been established yet.

Coming to 2013 Act, what were the circumstances because of which the UPA Government enacted such a legislation? Such a legislation was enacted because of the huge scam in company affairs or in the corporate affairs. We know about the Satyam scam, Sahara scam as well as the Saradha Chit Fund scam. So many scams took place. In order to control and check the companies in the country, such an amendment was brought in by the UPA Government. I do agree that because of these circumstances, it became a reactive one rather than a proactive one.

There are some stringent provisions also. In order to avoid the stringent and regressive provisions in the (Amendment) Bill, the Government is claiming or arguing that this 2016 Bill is being brought in. The pertinent question to be considered at this juncture is whether this 2016 (Amendment) Act is sufficient to meet the purpose of ease of doing business. That is the question to be considered when we analyse the provisions of 2016 (Amendment) Bill.

According to me, if you see, from the first day in Office, this Government has been talking about ease of doing business and giving so many slogans like Make-In-India, Skilled India and Digital India but, Sir, if you go through the entire scenario of these three years of the NDA Government in Office, you can very well see that almost all the slogans are on paper but not in practice. Let us see as to what is the situation of ease of doing business, what is the global scenario and what is the India's position?

At the time when the NDA Government came to power, the global ranking of India was 134, now it has come to 130. I do agree that out of 189 countries, it has come to 130. It is accepted. But if you do a micro analysis of the situation, it can be seen that there is an improvement in starting a business, getting a construction permit and there is an improvement in accessing electricity. There is an improvement in three aspects when it is about ease of doing business. But in all other sectors, situation has worsened further, especially, in accessing credit and in paying tax etc. The ease of doing business is going in the reverse direction. That is why I am saying that ease of doing business is on paper but not in practice.

I am again coming to the 2013 Act. You may kindly see the delegated legislation by the rule making provision. In 2013 Act, there are 470 Sections and there are 28 sets of rules in various chapters. In more than 300 provisions of the 2013 Act, it ends with “as may be prescribed by the notification”. That means it is a *pukka* delegated legislation. At 300 places in the Act, it is being stated “as may be prescribed by notification by the Central Government” which means ‘delegated legislation’. Therefore, a lot of ambiguity is there.

I will cite one example. What is ‘related party’ transaction? If you want to find it out, half of the portion is there in the 2013 Act and half of the provision is there in the Rule. To my belief and to my information, even now the Companies Act of 1956 has not been repealed. Even 2-3 Sections of the Companies Act, 1956 are still in existence. So, not only Rule and 2013 Act is there, but also the 1956 Act is also there. Total confusion is there. If all the authority is being given to the Government instead of having clarity in the legislation, then the Government will be overpowered and more confusion will also be there. You may kindly see that after the passage and after the 2013 Act came into force, so many circulars were issued by the Corporate Affairs Ministry in order to clear the doubt and to remove the difficulty. So, giving rule-making power in almost all the provisions of this Act will never hold good as far as a good legislation is concerned. I will conclude within a short span of time, Sir, I may kindly be allowed time.

Sir, I now come to the provisions of the Bill clause by clause. I would like to seek clarification from the hon. Minister on a very contentious provision in Section 4 of the Bill. Hon. Finance Minister is also sitting here. The proposed amendment to Section 4 allows too much flexibility to use the objects clause of the Memorandum of Association of a company. Part 3 of the Memorandum of Association is the objects clause. The aims and objects of a particular company are well established and enunciated in the objects clause of the Memorandum of Association.

What is said in the amendment is that a company can have the business only within the scope and within the limit of the objects which are stated in the Memorandum of Association. That is why the Memorandum of Association is there. By virtue of this amendment to Section 4(c):

“A company may engage in any lawful act or activity or business or any act or activity or business to pursue any specific object or object as the law for the time being enforced.”

That means, a company which has been incorporated for commencing a hospital business, a multi-specialty hospital business, can also take part in the trading business, can also take part in the tourism business, and can also take part in any other business. The only condition which is stipulated in the Amendment Act is that it should be lawful. Is this sufficient? I would like to ask the hon. Minister: what is the scope and what is the significance of having objects clause in the Memorandum of Association? The objects clause may well be removed. Any legal and lawful act can be done within the purview of the company. If it is lawful or legal, the company is entitled or empowered to enter into the business. That means the significance of the objects clause is lost. That is the first objection which I would like to make.

The impact of Section 4(c) would be that it will definitely be misused by unscrupulous players resulting in corporate fraud. Just now my learned friend has stated that an IT company is importing apples. That is the way this is being misused by the corporate houses and this will be resulting in corporate fraud. That is my objection.

Then there is a lot of ambiguity in Section 42 of the Act.

HON. CHAIRPERSON: Please conclude.

SHRI N.K. PREMACHANDRAN: This is clause-by-clause discussion also, Sir, kindly give me five more minutes. There is ample time available too. Three hours are allotted for this.

HON. CHAIRPERSON: There are many Members who want to speak on this. Please conclude.

SHRI N.K. PREMACHANDRAN: Sir, the proposed amendment to Section 42 is very ambiguous about the rights issue and private placement. Private placement means issuance of shares to a select set of persons. The rights issue is something different. By virtue of Section 42, for private placement there are stringent provisions that the receipt of funds should be placed in a separate bank account, and specific timeline is prescribed for issuance or allotment of shares. However, under the rights issue the existing shareholders can renounce their shares in favour of a third party. Suppose you have allocated shares under private placement. As per the rights issue, the existing shareholder has the right to renounce those shares for issuance to a third party. If share are renounced, what is the remedy which is available? There is ambiguity in that and things are not clear.

HON. CHAIRPERSON: Please conclude. I am now going to call the next speaker.

SHRI N.K. PREMACHANDRAN: Sir, I am coming to my last point on penal provisions.

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): It is a very constructive intervention, Sir.

HON. CHAIRPERSON: There are many hon. Members to speak. I have got a list with me.

SHRI K.C. VENUGOPAL (ALAPPUZHA): Sir, the hon. Member is speaking only on the Bill. Please allow him time.

HON. CHAIRPERSON: It cannot go on for ever.

SHRI N.K. PREMACHANDRAN: Sir, I will conclude within two minutes.

The issue is not properly addressed in the Companies (Amendment) Bill, 2016. There is a conflict between the rights issue and private placement. That issue has not been addressed.

As regards penal provisions, if a company fails to pay back the amount with interest to its depositors, there was a fine which may extend from Rs. 1 crore to Rs.10 crore. Now it has been limited to one crore of rupees or double the amount of the deposit. It is now being limited to a particular amount. I think a review is required into the penal provision. But at the same time, as far as an auditor is concerned, suppose an auditor resigns from a company but has not intimated it to the Registrar of Companies, he will be fined an amount of fifty thousand rupees to five lakh rupees. So, the penal enforcement is disproportionate compared to the gravity of the offence which is being committed.

Now I would like to mention section 149 which is also proposed to be amended and that is about the Resident Director. According to the proposed amendment, for a Resident Director, 182 days of residing in India is required. I would like to know how it will be possible in terms of ease of doing business which is the sole aim and object of the Bill.

My next point is that two per cent of the annual profit has to be earmarked for Corporate Social Responsibility. Unfortunately, there is no mandatory provision so as to implement the Corporate Social Responsibility.

My last point is that too much flexibility has been given by way of this amendment in the name of transparency and ease of doing business. This is not transparency but pure nakedness.

With these words, I conclude.

श्री रत्न लाल कटारिया (अम्बाला) : सभापति महोदय, आदरणीय मेघवाल जी ने कंपनी लॉ अमेंडमेंट से संबंधित बिल इस सदन में रखा है, मैं इसके पक्ष में बोलने के लिए खड़ा हुआ हूँ। आज जननायक भारत माता के लाल नरेन्द्र मोदी जी के नेतृत्व में एक के बाद एक कदम देश की तरक्की के लिए उठाए जा रहे हैं। देश के अंदर ब्लेकमार्केटियर या कालेधन के व्यापारियों और बोगस कंपनियां खड़ी करके देश का धन लूटने वालों को कड़ी सजा देने के लिए सदन से कानून पास किए जा रहे हैं। चाहे वह इन्सोल्वेंसी एंड बैंकरपसी का बिल हो, चाहे एनेमी प्रोपर्टी बिल हो। आज जो

बिल लाया गया है वह बिल श्री पिलर पर खड़ा है, इसमें Ease of doing business and encouraging start up and need more harmonious various laws. जिनसे इज ऑफ डुइंग बिजनेस को सुगमता मिले।

महोदय, आदरणीय वीरप्पा मोइली जी की अध्यक्षता में जो फाइनेंस कमेटी बनी है मैं उसका भी सदस्य हूँ। कमेटी ने समय-समय पर कई महत्वपूर्ण बैठकें कीं। 25 मई, 2016 को बैठक की, 22 सितम्बर, 2016 को बैठक की, जिसमें कॉरपोरेट अफेयर्स मिनिस्ट्री के कई अधिकारियों को बुलाया गया, देश के अंदर विभिन्न औद्योगिक संगठन काम करते हैं, चाहे वह फिक्की हो, चाहे सीआईआई हो, एसोचेम हो, देश के अंदर कार्य करने वाले विभिन्न सीएस हों, उन सभी के विचार लिए गए और स्टैंडिंग कमेटी ऑन फाइनेंस ने अपनी बहुत ही महत्वपूर्ण सिफारिश दीं। इनमें से अधिकतर रिक्मेंडेशन्स सरकार ने मानी है। 2016 का बजट आदरणीय जेटली जी ने पेश किया, उस समय महान सदन में कंपनी लॉ में अमेंडमेंट लाने की घोषणा की थी ताकि देश में ईज़ आफ डुइंग बिजनेस में राहत मिल सके।

महोदय, महामहिम राष्ट्रपति श्री कोविंद जी ने सेंट्रल हॉल में शपथ ली। उस दिन उन्होंने बाबा साहब भीमराव अम्बेडकर का जिक्र करते हुए कहा था - संविधान सभा में डॉ अम्बेडकर जी ने कहा था कि अभी हमने राजनैतिक आजादी प्राप्त की है, लेकिन अभी आर्थिक आजादी प्राप्त करनी है। आदरणीय मोदी जी और आदरणीय जेटली जी के नेतृत्व में हिन्दुस्तान में आर्थिक सुधार हो रहे हैं। आज दलित का बेटा भी स्टार्ट अप ऑफ बिजनेस के बारे में सोच सकता है और वह अपनी छोटी सी कंपनी खड़ी कर सकता है। माननीय प्रधानमंत्री जी ने विज्ञान भवन में दलित चैम्बर आफ कामर्स में कहा था क्योंकि दलित उद्यमियों ने कहा था कि हम जॉब मांगने वाले नहीं बल्कि जॉब प्रोवाइड करने वाले बनना चाहते हैं। इस अमेंडमेंट में कंपनी खड़ी करने में राहत मिलेगी, भारत के दलित समाज का एक ऐसा वर्ग होगा जो इस बिल का फायदा उठाकर अपने पैरों पर खड़ा होगा और देश के निर्माण में अपनी भूमिका निभाने में सफल रहेगा।

माननीय सभापति जी, लोगों ने बोगस कंपनियां खड़ी करके देश का पैसा लूटा, कोई विदेश भाग गया और किसी ने एक कंपनी के अंतर्गत सब्सिडियरी कंपनियां खड़ी कर दी, हवाला और मनी लांड्रिंग के माध्यम से देश का पैसा लुटता चला गया, इस पर बिल के माध्यम से रोक लगेगी। देश में ग्रोथ का नया युग शुरू हुआ है।

सभापति जी, अभी मेरे कुछ मित्रों ने डिमोनेटाइजेशन का जिक्र किया कि इसके बाद देश को कुछ खास फायदा नहीं हुआ है। मैं अपने मित्रों से कहना चाहता हूँ, आप देश के स्लम एरियाज़ में चले जाइए, गरीब की झोपड़ियों में चले जाइए, आपको मालूम हो जाएगा कि किस प्रकार से जन-धन योजना, स्टार्ट अप और मोदी सरकार की फाइनेंशियल इन्कलूजन की विभिन्न योजनाओं का लाभ किस तरह से पहुंच रहा है। हालांकि इस बिल का इससे बहुत बड़ा संबंध नहीं है। अभी जीएसटी बिल पास हुए एक महीना भी नहीं हुआ है, एक रिपोर्ट आई है कि जो 30 परसेंट ट्रक के चलने में वृद्धि हो गई है, यानी हिन्दुस्तान में जो ट्रक सारा दिन ढाई सौ किलोमीटर सफर करता था, जिस दिन से जीएसटी लागू हुआ है, उस दिन से साढ़े तीन सौ किलोमीटर का सफर प्रतिदिन तय करने लगे हैं। सुधार हो रहे हैं, उसे देखकर हमारे जो परंपरागत विरोधी हैं, उनके पेट में मरोड़ उठ रहे हैं। हम इस देश को लूटते रहे और 70 साल तक किसी ने नहीं पूछा। लेकिन आज मोदी जी के रूप में एक जन नायक ऐसा आया है, जो खोज-खोज कर इनकी लूट को निकाल कर सजा दे रहा है। ...(व्यवधान)

माननीय सभापति: कटारिया जी, अब आप अपनी बात समाप्त कीजिए।

श्री रत्न लाल कटारिया: सभापति महोदय, मैं अंत में एक बात जरूर कहना चाहूंगा कि जो लोग हमारी सरकार के बारे में टीका-टिप्पणी करते रहते हैं, उनके ऊपर मुझे तरस आता है। अब पता नहीं कोई होमवर्क होता है या नहीं,

सारी दुनिया की जितनी भी एजेंसीज हैं, वे मोदी सरकार को 73 परसेंट बेस्ट गवर्नमेंट ऑफ दी वर्ल्ड का खिताब दे रही हैं। लेकिन ये लोग पता नहीं कहां से आंकड़े लाते हैं और हमारे में कोई न कोई नुक्ताचीनी करते रहते हैं। आने वाला समय यह बतायेगा कि किस तरह से भारत का निर्माण हुआ।

अंत में, मैं इस बिल का समर्थन करता हूं। बहुत-बहुत धन्यवाद।

श्री राजीव सातव (हिंगोली) : सभापति महोदय, हम कम्पनीज बिल, 2016 पर चर्चा कर रहे हैं। जिन्हें टर्बन मंत्री और साइकिल मंत्री के रूप में जाना जाता है, इस सदन के वरिष्ठ सदस्य और मंत्री श्री अर्जुन राम मेघवाल जी ने इस बिल को सदन में रखा है। इस बिल पर बहुत सारी चर्चा हो रही थी। मैं अपने साथी का बड़ा अभ्यासपूर्ण भाषण सुन रहा था। उन्होंने बहुत सारी बातें यहां पर कहीं। मुझे उनकी कम्पनीज पर जो पढ़ाई और स्टडी दिखी, उससे मैं बड़ा प्रभावित हुआ हूं।

सभापति महोदय, प्रधान मंत्री मोदी जी ने चार्टर्ड अकाउंटेंट्स डे के दिन चार्टर्ड अकाउंटेंट्स को जो एड्रेस किया था, उसके कुछ अंश मैं आपके सामने रखना चाहता हू। प्रधान मंत्री जी ने यह कहा था कि--

‘The CA community looks after the economic health of society’.

प्रधान मंत्री जी ने यह भी कहा था कि--

“A country where a select few loot, cannot scale new heights; Government will continue to take tough stand against those who have looted.”

जिन्होंने देश को लूटा, जिन्होंने कहीं न कहीं गलत किया है, उनके खिलाफ हम एक्शन लेंगे। यह प्रधान मंत्री जी ने उस दिन कहा था।

सभापति महोदय, मैं आपके माध्यम से सरकार से पूछना चाहता हूं कि आप यह टफ स्टैंड लेना चाहते हैं, लेकिन आप एक्शन न लेकर सिर्फ बातें क्यों कर रहे हैं? यूपीए के समय कम्पनीज एक्ट, 2013 बनाया गया था, उसमें जो-जो प्रोविजन्स, सैक्शन्स लगे थे, उनमें से कितने सैक्शन्स पर कार्रवाई हुई? कितने सैक्शन्स अमल में आये, इस बारे में हम चर्चा करेंगे, तो समझ में आयेगा कि कम्पनीज एक्ट, 2013 में 470 सैक्शन्स थे। अगर आप पिछले तीन साल का आंकड़ा देखें, तो इन 470 सैक्शन्स में से 284 सैक्शन्स पर अमल हुआ है। इसका मतलब यह है कि इस सरकार ने पिछले तीन साल में करीब 190 सैक्शन्स के ऊपर कोई काम नहीं किया है। यहां पर एस्टैब्लिशमेंट ऑफ नैशनल कम्पनी लॉ ट्रिब्यूनल की बात थी, तो वह अभी तक बना नहीं है। आपने अपने स्टेटमेंट ऑफ ऑब्जेक्ट्स में कहा है कि हम उसे बनायेंगे, तो उसे कब बनायेंगे, यह हमें पता नहीं है। आपने यहां यह भी कहा है कि हम नैशनल कम्पनी लॉ ऐपिलेट ट्रिब्यूनल लायेंगे, तो वे कब लायेंगे, इस बारे में यहां कोई स्पष्टता नहीं है।

सभापति महोदय, अभी तक 186 सैक्शन्स अमल में नहीं लाये गये। यह क्यों अमल में नहीं लाये गये, यह सवाल देश की जनता पूछना चाहती है। यह इसलिए अमल में नहीं लाये गये, क्योंकि ये कहीं न कहीं कॉरपोरेट्स को कंट्रोल करने वाले हैं, कहीं न कहीं उनकी गलतियों को रोकने वाले सैक्शन्स हैं, इसलिए सरकार उसे अमल में नहीं लाना चाहती। यह सवाल देश के सामने है।

सभापति महोदय, यहां वित्त मंत्री और वित्त राज्य मंत्री जी बैठे हुए हैं, इसलिए उन्हें यह जवाब देने की जरूरत है। वर्ष 2013 में यह एक्ट बना। इसे तीन साल हो गये, लेकिन आप 200 सैक्शन्स इम्प्लीमेंट नहीं कर रहे। आप ट्रांसपेरेंसी की बात करते हैं, आप कहते हैं कि जीरो टॉलरेंस है, आप बातें बहुत कर रहे हैं, लेकिन उसका इम्प्लीमेंटेशन पिछले तीन साल में दूर-दूर तक कहीं नहीं दिखा है। अगर इसकी इम्प्लीमेंटेशन होती तो कारपोरेट्स के लिए कई सारी कठिनाइयां आतीं और इस वजह से गलत बातें यहां पर होती रही हैं। यहां पर मैं बात रखना चाहता हूं कि नेशनल फाइनेंशियल रिपोर्टिंग अथॉरिटी के इस्टैबलिशमेंट की बात उस एक्ट में हुई थी, लेकिन आपने पिछले तीन साल में इस बारे में कोई काम नहीं किया है। इसके लिए जो कमेटी बनाई गयी थी, उसने कहा था:

“The Committee deliberated on the matter in detail and felt that in view of the critical nature of responsibilities wherein lapses have been seen to cause serious repercussions, the need for an independent body to oversee the profession is a requirement of the day.”

यह कमेटी ने भी कहा है कि आप जल्दी से जल्दी इसको इस्टैबलिश कीजिए। उसे आप कब तक इस्टैबलिश करेंगे, उसकी तारीख बताने की जरूरत है। जब तक इस प्रकार के मैकेनिज्म में काम नहीं होगा, तब तक सही मायने में आपकी ट्रांसपेरेंसी की बात हवा में रहेगी और उसमें कुछ भी होने वाला नहीं है। वर्ष 2013 के एक्ट में यह लिखा गया था कि रिश्तेदार या आपसे सम्बन्धित व्यक्ति ऑडिटर नहीं हो सकते हैं। अब वर्ष 2016 का यह जो बिल आप लाए हैं, उसमें रिश्तेदार की डेफिनिशन बदल दी गयी है :

“Spouse, parent, sibling, child and financially dependent person who consults that person for taking decision...”

अब यह डेफिनिशन आप इस बिल में लाए हैं। जब स्टैंडिंग कमेटी ने इस पर विचार किया, उसकी क्या रिकमेंडेशन थी। स्टैंडिंग कमेटी ने कहा था कि “financially dependent person who consults that person for taking decision” इसको आप निकालिए, लेकिन बाकी पूरी डेफिनिशन वैसी ही रहने दीजिए। आपने वह पूरी डेफिनिशन ही निकाल दी, अब रिश्तेदार कौन है, पता ही नहीं है। अब कौन रिश्तेदार है और किस प्रकार से काम होगा, वह पता ही नहीं है। वीरप्पा मोइली जी की अध्यक्षता में स्टैंडिंग कमेटी ऑन फाइनेंस ने इस बारे में बात की है। रिश्तेदार की कोई परिभाषा नहीं है, ऑडिटर कौन बनेगा, इसके बारे में कोई क्लैरिटी इस बिल में नहीं है। इसलिए मंत्री जी से मेरी विनती है कि इसके बारे में क्लैरिफिकेशन दें। वर्ष 2013 के एक्ट की सेक्शन 2 और सेक्शन 87 में यह प्रॉविजन था। There are provisions under Section 87 of 2013 Act which prohibit companies from making investment in other companies through more than two layers of intermediary companies. दो लेयर से ज्यादा आप नहीं जा सकते हैं, यह प्रॉविजन वर्ष 2013 के एक्ट में था। अब क्या ऐसी बात आई कि आपने इस प्रॉविजन को निकाल दिया? क्या दो लेयर्स कम नहीं हैं? क्या दो लेयर्स से ज्यादा लेयर्स की जरूरत महसूस की गयी, इसके बारे में भी चर्चा होनी चाहिए। क्या ईज़ ऑफ़ डूइंग बिजनेस के नाम पर आपने इन प्राविजन्स को निकाल दिया है? दो से ज्यादा कंपनीज को आपने इसमें एलाऊ किया है तो इससे बहुत ज्यादा शेल कंपनीज तैयार होने की संभावना है। आपने कंपनी स्थापित करने के प्रोसेस को भी आसान बनाया है। क्या इससे नए टैक्स चोरी के मामले सामने आएंगे और टैक्स चोरी के नए रास्ते खुलेंगे, यह भी देखने की जरूरत है।

यहां पर कहा गया था कि बिल की इंटेंट कम्पलायंस को कम करना है। अब आप कम्पलायंस कम करने के लिए बिल लाए हैं, लेकिन कम्पलायंस कम करने की जब बात है तो कंपनी का वाल्यूम कितना है, उसकी साइज कितनी है, क्या इसके बारे में कभी बात होगी या नहीं होगी? एक 10,000 करोड़ रुपये टर्न ओवर वाली कंपनी है और एक कंपनी जिसका टर्न ओवर 10 लाख रुपये है, अगर आप दोनों कंपनीज के लिए एक जैसे प्रॉविजन्स रखेंगे, एक जैसा लेवल ऑफ कम्पलायंस रखेंगे तो 10 लाख रुपये टर्न ओवर वाली कंपनी कम्पलायंस करते-करते ही परेशान हो जाएगी। इसलिए इस बारे में सरकार की तरफ से स्पष्टता आने की जरूरत है कि किस प्रकार से इसमें लेवल ऑफ कम्पलायंस होगा। यहां पर आपने कई ऐसे प्रॉविजन्स रखे हैं, जिनसे सरकार का कंट्रोल आपने हटा दिया है। कंपनी में जो इम्पोर्टेंट मैनेजरियल पर्सन्स हैं, उनकी रिम्यूनरेशन को आपने सेंट्रल गवर्नमेंट के दायरे से हटाने की बात की है। यह बहुत अच्छी बात है, लेकिन अगर इसको फेज्ड मैनर में हटाते तो आने वाले समय में इससे जो दिक्कतें होने की संभावना है, वे कम हो सकती थीं। आपने यहां पर कहा है कि मल्टीनेशनल कंपनीज और कारपोरेट्स को ईज़ ऑफ डूइंग बिजनेस के लिए रेगुलेशन में कमी की है। अच्छी बात है, लेकिन इसमें आने वाले समय में टैक्स चोरी के मामले कितने बढ़ने वाले हैं, क्या इसके बारे में सरकार ने कोई अध्ययन किया है?

इसमें मनी लॉन्ड्रिंग के बारे में क्या पॉसिबिलिटीज होगी, इसके बारे में सरकार की क्या कोई सोच है, यह भी हम मंत्री जी से सुनना चाहेंगे। यह सब करते वक्त आपने कॉरपोरेट्स का ख्याल रखा, लेकिन कॉरपोरेट्स का ख्याल रखते वक्त जो शेयर होल्डर्स हैं, जिनके पैसे उसमें है, उसके बारे में आपने कोई ख्याल नहीं रखा है। आप देखेंगे कि आपने पैनल प्रोविजन्स ज्यादा से ज्यादा एक करोड़ रुपये का रखा है। जो 100 करोड़, 200 करोड़, 400 करोड़ अगर किसी के कोई लूटेगा और उसको एक करोड़ रुपये में आप सैटल करेंगे यानी इस एक्ट के तहत अगर देखा जाए तो विजय माल्या जी को एक करोड़ रुपये में पूरी तरह से मुक्ति मिल सकती है। इस तरह के प्रोविजन्स आपने बनाये हैं। जो 2013 के एक्ट में नहीं थे, जो डबल था। यानी जितने पैसे गये हैं, उससे डबल का प्रोविजन था। आपने कॉरपोरेट्स को मदद करने के लिए वे प्रोविजन्स पूरी तरह से हटा दिये हैं।

अंत में, मैं कहना चाहूंगा कि जिस प्रकार से कॉरपोरेट्स को मदद करने की बात आप ease of doing business के नाम पर कर रहे हो, अच्छी बात है, लेकिन यह सब करते वक्त हमारे आदरणीय नेता राहुल गांधी जी ने दो साल पहले जो बात कही थी, वह बात मुझे याद आ रही है। राहुल गांधी जी ने कहा था कि यह सरकार सूट-बूट की सरकार है। इस सरकार के पास किसान की कर्ज माफी के लिए पैसे नहीं हैं। इस सरकार का ध्यान स्वामीनाथन आयोग के इम्प्लीमेंटेशन की तरफ नहीं है, लेकिन यह सरकार कॉरपोरेट्स की मदद करने के लिए यह सब कर रही है। यह सूट-बूट की सरकार है और यह आम आदमी की हितैषी सरकार नहीं है। बहुत-बहुत धन्यवाद।

माननीय सभापति: किसानों की एक लाख करोड़ रुपये की कर्ज माफी हुई है।

श्री राजीव सातव: सर, कॉरपोरेट्स की डेढ़ लाख करोड़ रुपये की हुई है।

SHRI PREM DAS RAI (SIKKIM): Hon. Chairman, Sir, I rise to support the Companies (Amendment) Bill, 2016.

Much has been said in terms of how the provisions or the amendments will ensure Ease of Doing Business. If you look at the stock markets, the way they are going up and if you actually see, the way

business is increasing and the GST coming in, it is the correct time in which all these amendments are coming.

I completely agree with the views of previous Members. This is again work in progress and I think such a huge piece of legislation will continue to have a call for amendments even as stakeholders will come to the doors of the Government to place their views.

Sir, I actually, I do not want to take much time. I would just like to state that in the Companies Act, 2013, Section 465 was not notified. This particular Section is the one which repeals the Sikkim Registration of Companies Act, 1961. This is an old law in Sikkim. The merger making Sikkim as the 22nd State was done through the 36th Amendment by inserting Article 371F (k) in the Constitution of India. This provision seeks to protect the old laws of Sikkim. Therefore, this particular repealing of 1961 Act of Sikkim is something which the people of Sikkim are deeply worried about.

In so doing, the then hon. Minister, Shri Sachin Pilot, in the other House had given a full-fledged assurance and I want to quote that assurance. The hon. Minister had said:

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

This was the assurance given in the other House and I would like to request hon. Minister, through you, that this particular assurance be kept.

Sir, finally while supporting the Bill I would like to submit that the Bill seeks to provide a fillip to the entire corporate and business communities of India. To that end, there are so many other issues that seem to be impinging. For instance, the Non-Performing Assets. It is something which has been debated. It comes up repeatedly in the Standing Committee on Finance; it comes up repeatedly in the media and so on and so forth. But every time we see that it is the promoter or the people who run the company who are taken to task, but never have we seen the Chairmen of the banks or the authorities being taken to task. I think, there is a balance that we need to strike somewhere and the provisions of this piece of legislation that we are discussing and debating now will take that into consideration.

Thank you very much.

श्री अजय मिश्रा टेनी (खीरी) : सभापति महोदय, मैं माननीय वित्त मंत्री जी द्वारा प्रस्तावित और श्री अर्जुन मेघवाल जी द्वारा प्रस्तुत कंपनी संशोधन विधेयक, 2016 का समर्थन करता हूँ। अभी जो चर्चा हुई है, उसे मैं दोहराना नहीं चाहता हूँ। निश्चित रूप से जब से यह सरकार बनी है तब से प्रत्येक क्षेत्र में पारदर्शी व्यवस्था हो, उसी तरह से व्यवसाय भी

सुगम हो, काम करने में आसानी हो, पारदर्शी हो और व्यवसाय सिस्टम में आ जायें, इसके लिए सरकार ने लगातार प्रयास किया है।

मैं बहुत विस्तार में नहीं जाना चाहता हूँ, मैं सिर्फ इतना कहना चाहता हूँ कि डिमॉनिटाइजेशन के बाद, जब फाइनेंस बिल, 2017 लाया गया, उसके बाद हमने जीएसटी को लागू किया और अब हम कंपनी संशोधन विधेयक लाये हैं, इन सभी को एक क्रम में देखा जाये तो निश्चित रूप से यह बात स्पष्ट होती है कि सरकार की मंशा बहुत स्पष्ट है कि सारा व्यवसाय अच्छे ढंग से किया जाये, ठीक तरीके से हो, पारदर्शी हो और लोगों को काम-काज करने में आसानी हो। यह सरकार की मंशा और उद्देश्य है, उसी को लेकर हम कंपनी संशोधन विधेयक लाये हैं। अभी हमारे एक साथी चले गये हैं, वह कह रहे थे कि अभी हम लोगों ने 186 प्रावधानों का प्रयोग नहीं किया है। मैं उनको बताना चाहता हूँ कि हमारे जो अपेलेट न्यायालय हैं, उनसे संबंधित ज्यादातर वे धाराये हैं, जब राष्ट्रीय कंपनी विधि अधिकरण और हमारे अपीलीय अधिकरण की व्यवस्था विधिवत् हो जायेगी तो उन प्रावधानों का भी उपयोग किया जायेगा।

सभापति महोदय, मैं आपके माध्यम से दो-तीन बातें कहना चाहता हूँ। हम यह बिल लेकर आये हैं, हमारा स्पष्ट उद्देश्य है कि व्यवसाय में सरलता आये, सारी चीजें हों, लेकिन उसमें मेरी दो-तीन शंकाये हैं, जो मैं आपके माध्यम से माननीय वित्त मंत्री जी से कहना चाहता हूँ। हम लोग जानते हैं कि पिछले समय में बहुत बड़े-बड़े घोटाले हुए और इस देश का बहुत सारा धन विदेशों में जमा किया गया। यह सरकार पहले दिन से ही चिंतित है। अभी जो छोटी-छोटी सील कंपनियां, फर्जी कंपनियां बन रही हैं, हवाला पर जैसे रोक लगायी गयी, उसके कारण इन कंपनियों का दुरुपयोग धन को विदेशों में जमा करने में हो रहा है।

हवाला का प्रीमियम बढ़ा है, इसकी वजह से भी ट्रेड चैनल्स के माध्यम से काले धन को इधर से उधर करने का लगातार प्रयास किया जा रहा है। इम्पोर्ट और एक्सपोर्ट की वैल्यू को कम करके जिस तरह से दिखा देते थे, जीएसटी की वजह से इस पर रोक लगेगी। कई छोटे-छोटे द्वीप जैसे पनामा, मॉरीशस आदि हैं, जिन्हें टैक्स हैवन भी कहा जाता है, वहां दो-तीन माले की बिलिंगों में अंतर्राष्ट्रीय बैंकों की स्थापना है, जिनके माध्यम से काले धन को सिस्टम में लाकर इधर से उधर करने का काम किया जाता है। हमने कम्पनी का रजिस्ट्रेशन बहुत सरल कर दिया है। हम लोगों ने देखा था कि किस तरीके से नवभारत टाइम्स अखबार में बताया गया था कि कम्पनियों का दुरुपयोग करके कितना बड़ा घोटाला किया गया। ऐसे ही दिल्ली में जिनकी सरकार है, चार कम्पनियों ने उन्हें दो करोड़ रुपया चंदा दिया, जिसके बारे में उनके डायरेक्टर को भी मालूम नहीं था कि यह पैसा कहां से आया। उन्होंने यह तो कह दिया कि पैसा दिया है, लेकिन कैसे दिया, कहां से दिया, इसकी कोई जानकारी नहीं थी।

महोदय, मैं यह भी कहना चाहता हूँ कि ऐसी जो छोटी कम्पनियां हैं, जिनके माध्यम से इस तरीके के काम हो सकते हैं, उन्हें भी रोकने का काम करना चाहिए। हमारे देश में टैक्स एडवाइजर्स को उन कम्पनियों की भी इन्कायरी मिल रही है जिनके यहां ज्यादातर विदेशी काम करते हैं। जैसा कि भारत में सिस्टम है कि यहां दो-तीन साल रहने पर विदेशियों को रेजिडेंट का दर्जा मिल जाता है। ये लोग भी इस तरीके की कम्पनियां बनाकर अपने देश में भी व्यवसाय करते हैं और हमारे यहां भी कर रहे हैं तथा ऐसा करके भी वे धन को इधर से उधर करते हैं। हालांकि उन्हें यहां इनकम टैक्स की रिटर्न देनी पड़ती है, लेकिन फिर भी इसमें गलत करने की संभावनाएं रहती हैं। मैं यह कहना चाहता हूँ कि ऐसे विदेशियों पर भी और उनके स्पाउस पर भी ध्यान देने की जरूरत है। मैं एक विशेष बात कहना चाहता हूँ कि एपिलेट न्यायालय के लिए हमने जो प्रावधान किए हैं, जो मेरी जानकारी है कि फाइनेंस से संबंधित बहुत-सारे एपिलेट न्यायालय और ट्रिब्यूनल्स हैं, जहां जितने पदों पर नियुक्तियां होनी चाहिए, वह बहुत कम हैं। इस वजह से इनकम टैक्स के अन्य जो फाइनेंस संबंधी न्यायालय हैं, उनमें 75 प्रतिशत न्यायालय काम करने की स्थिति में नहीं हैं।

आपने अधिनियम क्रम-78 में संशोधन दिया है, जिसमें 'ड' में कहा गया है कि ऐसे लोगों को इसमें नियुक्त किया जाएगा जो प्रसिद्धि, योग्यता, सत्य निष्ठा और प्रतिष्ठा वाला ऐसा व्यक्ति होगा, जिसे औद्योगिक, वित्त औद्योगिक प्रबंधन, पुनर्निर्माण ऐसे कामों में 15 वर्ष का कम से कम वृत्तिक अनुभव हो। क्रम-79 में आपने कहा है कि लेखाक्रम, विशेष ज्ञान और कम से कम 25 वर्ष का वृत्तिक अनुभव हो। मैं समझता हूँ कि अनुभव के वर्ष बहुत ज्यादा हैं। जानकारी और योग्यता होना तो ठीक है, लेकिन अनुभव की कमी सामने आ रही है, जिसकी वजह से हमारे जो स्वीकृत पद हैं, उनके सापेक्ष भर्तियां नहीं हो पा रही हैं। इसलिए ट्रिब्यूनल न्यायालयों में इस तरीके की नियुक्तियां हो सकें, इसके लिए हम लोगों को इस बात पर जरूर ध्यान देना चाहिए।

महोदय, क्रम-81 संशोधन नहीं है, लेकिन एक प्रस्ताव है, जिसमें कहा गया है कि आवश्यकतानुसार न्यायालयों को बनाया जाएगा। इसमें संख्या को स्पष्ट नहीं किया गया है। मैं चाहता हूँ कि इसका असेसमेंट करना चाहिए कि कितने न्यायालयों की संख्या होगी, इस पर विचार करना चाहिए। बहुत साफ-सुथरी मंशा के साथ हमारी सरकार पहले दिन से ही काम कर रही है। हम लोगों ने काम करने का जो तरीका रखा है, उसमें स्पष्ट है कि जो सबसे गरीब लोग हैं, उनकी आर्थिक स्थिति को कैसे अच्छा बनाया जाए और उनकी आर्थिक स्थिति अच्छी हो, इसके लिए जरूरी है कि जो लोग सिस्टम से बाहर चले गए हैं, उन्हें भी सिस्टम में आना चाहिए। माननीय वित्त मंत्री जी ने हम लोगों की बैठक के बीच में कहा था कि 125 करोड़ की जनसंख्या में केवल 80 लाख लोग हैं, जो टैक्स देते हैं। कहने का मतलब यह है कि 160 लोगों में से केवल 1 आदमी सिस्टम में टैक्स देता है। यह बहुत दुर्भाग्यपूर्ण है। 125 करोड़ लोगों में से यदि एक करोड़ लोग भी टैक्स नहीं दे रहे हैं, तो निश्चित रूप से देश का विकास करने की संभावनाएं बहुत क्षीण हो जाती हैं। जिस तरीके से सरकार काम कर रही है, हमारे माननीय वित्त मंत्री जी काम कर रहे हैं, मैं उनसे यह अनुरोध करूंगा कि ऐसे ही काम करने से देश आगे बढ़ेगा और ज्यादा से ज्यादा लोग सिस्टम में भी आएंगे तथा पारदर्शी व्यवस्था होगी।

मैं पुनः इस विधेयक का समर्थन करते हुए अपनी बात समाप्त करता हूँ।

कुँवर हरिवंश सिंह (प्रतापगढ़) : माननीय सभापति महोदय, मैं आपको धन्यवाद देता हूँ, आपने मुझे बोलने का मौका दिया। यह बहुत ही अच्छा बिल है, इसका सपोर्ट करने के लिए मैं खड़ा हुआ हूँ। इस बिल पर काफी चर्चा हो चुकी है, इसके संबंध में केवल दो-तीन बातें मैं बोलना चाहूँगा।

मैं गांव से आता हूँ। वहाँ जो घटनाएँ हो रही हैं, उनको मैं वित्त मंत्री जी को बताना चाहूँगा। यह बिल 'स्टार्ट अप' और 'इज़ ऑफ़ ड्रूइंग बिज़नेस' से जुड़ा है। लेकिन जब हमारे गांव का नौज़वान पैसा लेने के लिए बैंक में जाता है तो पैसे नहीं मिलते हैं। मेरे संसदीय क्षेत्र प्रतापगढ़ में बैंकों में 4650 करोड़ रुपये एफडी है और 550 करोड़ रुपये का लोन दिया गया है। वहाँ का पैसा मुम्बई-कोलकाता हेड ऑफिस भेजा जाता है। यह पैसा तमाम बड़े उद्योगपतियों को दिया जाता है और वे लोग उसे किसी न किसी तरह से एनपीए बना लेते हैं।

इसलिए मेरा वित्त मंत्री जी से अनुरोध है कि कम से कम हमारे गांव के बैंकों में जो पैसे हैं, वह हमारी एफडी है। उसमें से ज्यादा से ज्यादा पैसा हमारे गांव के नौज़वानों को दिया जाए, ऐसा प्रयोजन किया जाए। वे 'स्टार्ट अप' में भाग लेकर वहाँ छोटे-छोटे उद्योग स्थापित करके आगे बढ़ सकें। यही हमारे प्रधानमंत्री जी की भी इच्छा है। यही एनाउंसमेंट भी हुआ है। लेकिन वहाँ ठीक तरह से पैसे नहीं दिये जा रहे हैं।

नेशनलाइज्ड बैंकों में एजेंट्स काम कर रहे हैं। एजेंट्स के माध्यम से उनको बताया जाता है कि फलां उद्योग में तुम्हें दस लाख रुपये सब्सिडी मिलेगी। वे कहते हैं कि तुम मुझे दो-ढाई लाख रुपये रिश्त दे दो, तो हम तुम्हारा लोन पास करेंगे। अन्यथा कोई न कोई लैकुना निकालकर उनको लोन नहीं दिया जाता है।

कुछ छोटी-मोटी फाइनेंस कम्पनियाँ बनायी जाती हैं और हमारे यहाँ किसानों को ज्यादा ब्याज का लालच देकर उनको लुभाया जाता है। इससे विशेष रूप से उत्तर प्रदेश और बिहार की महिलाएँ ज्यादा प्रभावित होती हैं क्योंकि वे चुपके से पैसे जमा करना चाहती हैं। कोई एजेंट आता है और 15-18 पर्सेंट ब्याज की बात कहकर उनके पैसे ले जाता है, बाद में वह कम्पनी गायब हो जाती है और उनके पैसे डूब जाते हैं। वे औरतें किसी से कह भी नहीं पाती हैं।

भारत सरकार में जो प्रमुख सचिव होते हैं, उनका वेतन लगभग 2.50 लाख रूपए होता है। जबकि प्राइवेट कंपनियाँ अपने डाइरेक्टर को 5 लाख रूपए वेतन देती हैं, भले ही वे घाटे में चल रही हों। इनकी योग्यता भले ही मैट्रिक या इंटरमीडियट शिक्षा हो, लेकिन तनख्वाह मनमाने ढंग से लेकर ये कंपनी को

बर्बाद करते हैं। मेरा माननीय वित्त मंत्री जी से अनुरोध है कि कंपनी के डाइरेक्टर का वेतनमान उनकी योग्यता के हिसाब से तय किया जाए। इसके लिए भी भारत सरकार द्वारा कड़े नियम बनाए जाए जिससे जनता के पैसे की लूट-पाट को बचाया जा सके।

इसी के साथ मैं इस बिल का समर्थन करता हूँ क्योंकि शेष बातें डिटेल् में हो चुकी हैं।

धन्यवाद।

SHRI E.T. MOHAMMAD BASHEER (PONNANI): Sir, this Bill is, of course, the need of the hour. If we look into the background of the case, you may find that Companies Act, 2013 was really a revolutionary and significant legislation which we had in the history of company laws.

We really had high hopes and we all know that in the present scenario, this kind of a legislation is having its relevance. We all know that India is becoming an international destination of investment. It is our duty to remove all the hardships and ambiguity in the way of implementing various causes of the Companies Act.

Similarly, corporate governance is also coming in a big way in India. We should give more attention and emphasis there also. As regards amendment in the CSR, it was a progressive legislation which we had in the Companies Act. I think, we must concentrate and pay more attention there also.

We have many other areas which need to be addressed. We all know that as far as this Bill is concerned, it made the companies more accountable in relation to structuring, disclosure and compliance requirements. In that way, it is the most welcome step.

The Companies Act, 2013 limits the number of intermediary companies through which investment can be made. Similarly, it also limits the number of layers of subsidiaries in a company to have this kind

of an investment. This amendment makes it mandatory that the technical member must at least be at the level of an Additional Secretary.

It is true that this legislation is intending to address the difficulties faced by the stakeholders and improve ease of doing business in our country. In a way, these proposals are giving clarification and removing ambiguity. This legislation is a most welcome step.

I would only like to say two points and they should be discussed in detail considering the timeframe. I do not want to say much on this. The first point is regarding the role of independent directors as per the Companies Act. It is also a most welcome amendment. As per the Act, 2013, the role of independent director was well-explained. It was brought with a very good intention. It helps the companies to protect the interest of minority shareholders and ensure that the Board does not favour any particular stakeholder. The role of the independent directors is very relevant. It ensures clean governance among the corporates. In that way, it was a very important piece of amendment in the Companies Act.

There are certain essential qualifications for independent directors. What are those qualifications? He should not be a promoter of the company. He should not have any kind of special interest in the economic affairs of the company. He should not have any kind of financial relationship with the company. None of his relatives has any kind of financial interest in the company. He is having completely independent nature of assignment as an independent director.

As far as this piece of legislation is concerned, my apprehension is this. I would like to know whether the independence of the independent directors is diluted or not. The hon. Minister is aware of all these things. I would, once again, like to know from him whether the independence of the independent directors will be encroached upon through this amendment. That is one thing.

At the end, I would like to say something about CSR. By the introduction of CSR, India may, perhaps, be a model to the entire world. CSR was a very progressive and revolutionary measure which we had taken. Unfortunately, CSR policy was not implemented properly. Some industrial heads are diluting it. In the proposed amendments, there is a provision for that. We are giving exemption to certain categories. I would request the hon. Minister to take such things into consideration. Any kind of dilution of CSR activities should not be there. CSR should be adhered to properly.

I would, once again, like to appeal to the hon. Minister to take these two things into consideration.

With these few words, I conclude my speech. Thank you very much.

श्री भैरों प्रसाद मिश्र (बांदा) : सभापति जी, आपने मुझे कंपनी (संशोधन) विधेयक, 2016 पर बोलने का अवसर दिया, इसके लिए मैं आपको आभार व्यक्त करता हूँ।

माननीय वित्त मंत्री जी द्वारा जो यह कंपनी (संशोधन) विधेयक, 2016 लाया गया है, मैं इसका समर्थन करता हूँ। वास्तव में कंपनियाँ व्यापार को सरल बनाने के लिए और देश की प्रगति में हाथ बँटाने के लिए बनाई गई थीं, लेकिन आज उनका जिस प्रकार से दुरुपयोग हो रहा है, वह चिंता का विषय है। इस उद्देश्य से कि लोगों के लिए व्यापार करना सरल हो, इसमें समय-समय पर संशोधन होते रहे हैं। इस संशोधन को इसलिए लाया गया है ताकि कंपनियाँ आर्थिक अनियमितताएं एवं दुरुपयोग न कर सकें। मैं इसके लिए माननीय वित्त मंत्री जी को बधाई देता हूँ।

मान्यवर, अभी मेरे साथी कह रहे थे कि कंपनियों द्वारा 2 पर सेंट सी.एस.आर. फंड खर्च करने का एक निश्चित नियम बनाया गया है, लेकिन कंपनियाँ इस सी.एस.आर. फंड से कोई खर्चा नहीं करती हैं। मैं मानव संसाधन विकास संबंधी स्थाई समिति का सदस्य हूँ। अध्यक्ष जी के साथ हम लोगों ने देश भर में उनको प्रेरित किया, कि वे वहाँ खेलों में खर्चा करें और खेलों को बढ़ावा दिए जाने के ऊपर खर्चा करें। इस पर हम लोगों ने पूरे देश में कई बैठकें की हैं। इन बैठकों में हमने उद्योगपतियों और बैंक के लोगों को भी बुलाया था, लेकिन फिर भी उनकी हालत में कोई सुधार नहीं हुआ है। मैं इसे लगातार 3 सालों से देख रहा हूँ। मैं माननीय वित्त मंत्री जी से अनुरोध करूँगा कि वे कृपया इस मामले को इन्श्योर करें। इस संबंध में वित्त मंत्रालय की ओर से भी कंपनियों को एक निर्देश जाना चाहिए। हम लोगों के सामने भी वे निर्देश देने का काम करते हैं। हम सब लोग आग्रह करते हैं, लेकिन वे सी.एस.आर. फण्ड को खर्चा नहीं करते हैं। आज तमाम देश की जो स्थितियाँ हैं, उन कंपनियों के सहयोग की जरूरत है, लेकिन फिर भी चाहे बात उसमें खेल-कूद को बढ़ावा देने की हो या कहीं जैसे आदिवासी क्षेत्र में शिक्षा को बढ़ावा देने का विषय हो, इसमें उनको खर्चा करना चाहिए। कम से कम इसमें ऐसा प्रावधान जरूर हो, जिससे कि उन पर बंधन लगाने का काम हो कि वे सी.एस.आर. फण्ड को ठीक से खर्चा करें। उनको दो परसेंट खर्च करने के लिए निश्चित ही कहा ही जाए, नहीं तो उनके खिलाफ कार्रवाई करने का भी प्रावधान होना चाहिए।

दूसरा यह कि जैसा मेरे अन्य साथियों ने भी बात कही है कि जो छोटी-छोटी कंपनियाँ गरीबों का पैसा लेकर भाग जाती हैं। उसमें जो तमाम, वर्ष 2013 में जो प्रावधान था, सदन में भी इस पर चर्चा हुई। लेकिन इस पर अंकुश लगाने का काम नहीं हो रहा है। मैं समझता हूँ कि इस बिल में निश्चित रूप से उस बात को जोड़ा जाएगा। वैसे तो वे कंपनियाँ स्थापित ही न हों, उनको लाइसेंस इश्यु करने के कड़े प्रावधान हों। उनके लिए शर्तें रखी जानी चाहिए, तभी उनको लाइसेंस देना चाहिए। छोटी-छोटी चिट-फण्ड कंपनियाँ भी लोगों का धन हड़प कर भागने का काम करती हैं। वास्तव में यह बहुत चिंता का विषय है। मैं समझता हूँ कि इस बिल में उसे जोड़ा जाएगा। ऐसी कंपनियों के लिए यह सुनिश्चित किया जाएगा कि वे कंपनियाँ पैसे लेकर भाग न सकें।

माननीय सभापति: अब आप अपनी बात समाप्त करें।

श्री भैरों प्रसाद मिश्र: दूसरा यह कि दिवालिया कानून, वास्तव में जो कंपनियाँ अपने को दिवालिया घोषित करके शेयरधारकों का पैसा हड़पने का काम करती हैं। उसमें समय-समय पर संशोधन हुए हैं। उसके लिए तमाम समितियाँ भी बनाई गई हैं, लेकिन उसमें भी अभी अंकुश लगाने का काम नहीं हो रहा है। मैं यह निवेदन करना चाहूँगा कि इसमें भी ऐसे कड़े प्रावधान होने चाहिए। इस दिवालिया कानून को और भी सख्त बनाने का काम होना चाहिए। अभी जैसा मेरे कुछ साथी भी कह रहे थे कि कंपनियाँ बनाकर अवैध पैसे को सफेद करने का काम किया जाता है, जैसे तमाम प्रकरण आए हैं और तमाम जांचें भी हो रही हैं। सी.बी.आई. इन्कायरी भी हो रही है। मैं उनका नाम नहीं लेना चाहता हूँ। हम कैसे इन पर अंकुश लगाने का काम करें कि फर्जी कंपनियों के माध्यम से अवैध धन को वैध करने का काम न किया जाए। उस पर भी ऐसा प्रावधान होना चाहिए कि जिससे ये कंपनियाँ अपने उस अवैध पैसे को वैध न कर सकें। तमाम समितियों का भी गठन किया गया था, दिवालियापन सुधार समिति, सी.एस.आर. संबंधी सभी उच्चस्तरीय

समिति बनायी गयी थी। जो सलाह आई हैं, उन सलाह को ठीक से लागू करने इन बातों का ध्यान दिया जाए। मैं आज यही बातें कहते हुए इस बिल का समर्थन करता हूं। बहुत-बहुत धन्यवाद।

HON. CHAIRPERSON: Before I invite the hon. Minister, I want to make a small comment. No doubt, the debate was very fruitful. There were certain Members who had pointed out some questions. They wanted reply from the Minister. I have noted down their names also and their questions also. But, fortunately or unfortunately, luckily or by chance, they are not present here. They expected reply from the Minister. I do not know whether they will switch on their TVs at their residences or some other place, but they are not here. Anyway, this is the situation which I have pointed out before you.

Now, the hon. Minister.

श्री अर्जुन राम मेघवाल : सभापति जी, धन्यवाद। कंपनीज़ अमेंडमेंट बिल, 2016 पर बहुत सार्थक चर्चा हुई है। इस चर्चा में 18 लोगों ने भाग लिया है। काँग्रेस के बहुत ही विद्वान साथी प्रॉफेसर के.वी. थॉमस साहब ने इस चर्चा को प्रारंभ किया। मैं सबका धन्यवाद करता हूं और जो कुछ बिंदु आए हैं। वह मुझे लगता है कि हमने ऑफिशियल अमेंडमेंट मूव किए हैं, वे शायद नहीं देख पाए होंगे, इस वजह से आए होंगे। जैसे दो बिंदुओं पर बहुत से लोगों ने चर्चा की, करीब-करीब सभी ने चर्चा की है। restriction on layers of companies, allowing unrestricted object clause for companies. इन दो बिंदुओं पर बहुत चर्चा की और इसके अलावा सी.एस.आर. पर भी बहुत चर्चा की। मैं आपके माध्यम से इनको कहना चाहता हूं कि ये जिन दो बिंदुओं पर चर्चा कर रहे थे, I propose to drop this because official amendments have been moved. Already our hon. Minister has moved official amendment for that. The official amendment, therefore, should satisfy the concern of the above matter raised by some of the Members. इस संबंध में मेरा पहला कमेंट यह है। दूसरा सी.एस.आर. के बारे में भी करीब-करीब सभी लोगों ने चर्चा की है। कंपनीज एक्ट की धारा 135 सी.एस.आर. की परिभाषा को परिभाषित करती है और सैक्शन 134/3 यह प्रावधान करता है कि ऐसी कंपनियां जो सैक्शन 135 में एलिजिबल हैं, वे अपने प्रोफिट का दो परसेंट खर्च करेगी और सभी मैम्बर्स ने यह कहा कि मंत्रालय इस पर कोई कार्रवाई नहीं कर रहा है। मैं आपके माध्यम से बताना चाहता हूं कि कारपोरेट अफेयर्स मंत्रालय ने नोटिसेज दिये हैं, कुछ कंपनियों ने जवाब नहीं दिया, उनके खिलाफ प्रोसीक्यूशन सैक्शन अलाऊ किया है। हमने कार्रवाई प्रारम्भ कर दी है। मैं इस संबंध में कहना चाहता हूं कि जिन लोगों को भी सी.एस.आर. के बारे में डाउट है, वे मंत्रालय में भी जाकर चर्चा कर सकते हैं। यह पहली ऐसी सरकार है, जिन्होंने सी.एस.आर. में खर्चा करना शुरू नहीं किया है, उनके खिलाफ मोदी जी के नेतृत्व में कार्रवाई करनी प्रारंभ कर दी है।

दूसरा एक विषय बार-बार आया कि 2013 का जो एक्ट था, उसके कई सैक्शन का राजीव सातव साहब भी जिक्र कर रहे थे। मैं आपकी जानकारी के लिए बता दूं कि आज की तारीख तक कंपनीज एक्ट, 2013 के खाली तीन सैक्शंस हैं, जो कमेंस नहीं हैं, बाकी सारे हो गये। यह 184 का फिगर आप कहां से लाये, मुझे जानकारी नहीं है... (व्यवधान) आप शायद पुराना बिल पढ़ रहे होंगे।... (व्यवधान) उसे इंट्रोड्यूस हुए भी महीनों हो गये हैं। इसके अलावा प्रो.सौगत राय समेत करीब-करीब सभी सदस्यों ने जिक्र किया और जो हमारे पुराने साथी श्री निशिकान्त दुबे हैं, जो उस कमेटी के बहुत पुराने साथी हैं, शायद वह परमानेंट सदस्य हैं, मैं उनसे भी चर्चा कर रहा था।... (व्यवधान) 15वीं लोक सभा में भी आप फाइनेंस कमेटी के सदस्य थे। एन.सी.एल.टी. और एन.सी.एल.ए.टी. ये 1 जून, 2016 से ऑपरेशनल हैं।... (व्यवधान) Yes Sir, it is operational. आप कभी जाकर देखिये, जो हमारा आर.ओ.सी. का दफ्तर

है, जो आर.डी. का दफ्तर है, उसके आसपास देखिये, एन.सी.एल.टी. और एन.सी.एल.ए.टी. चालू हैं, हां उसमें कुछ स्टाफ की कमी है।...(व्यवधान) ये फंक्शनल हैं। I can tell that it is functional in your State also. लेकिन आपने कहा चालू नहीं हैं, ऐसा कैसे हो सकता है, ये फंक्शनल हैं। मैं खुद एज ए मिनिस्टर जाकर आया हूँ। कई जगह हाई कोर्ट यह कहता है कि एल.सी.एल.टी. जहां हमारा हाई कोर्ट स्थित है, यहां होना चाहिए, वह कार्रवाई भी सरकार कर रही है। मुझे यही इनिशियल कमेन्ट्स करने थे, उसके बाद जो दो-तीन बिन्दु आए हैं, उनके बारे में भी मैं चर्चा करना चाहता हूँ। थॉमस साहब ने जिक्र किया कि आपने 2013 के एक्ट के उद्देश्य को डाइल्यूट कर दिया, ऐसा हमने बिल्कुल नहीं किया है। जो आपने टू लेयर और ऑब्जेक्ट क्लाज का जिक्र किया, वह मैंने आपको बता दिया कि ऑफिशियल अमेंडमेंट में जो आपका कंसर्न है, उसे हमने इस अमेंडमेंट के माध्यम से हल किया है।

इसके अलावा आपने जिक्र किया कि 8 नवम्बर के डीमोनेटाइजेशन के बाद कंट्री को क्या फायदा हुआ। इस बिंदु का और कई माननीय सदस्यों ने भी जिक्र किया। मैं बताना चाहता हूँ कि इसके कई फायदे हुए हैं, लेकिन मैं आपको एक फायदा गिनाता हूँ कि डीमोनेटाइजेशन के बाद इस देश में 91 लाख नये करदाता जुड़े हैं, यह देश को डीमोनेटाइजेशन का सबसे बड़ा लाभ हुआ है। टैक्स बेस बढ़ेगा तब आपके संसदीय क्षेत्र में पानी के लिए पैसा मिलेगा? तब आपके संसदीय क्षेत्र के स्कूलों के लिए कक्षाएं बनेंगी? तब आपके यहां, जिनके सर पर छत नहीं हैं, उन सबको छति मिलेगी? डीमोनेटाइजेशन के बाद टैक्स बेस बढ़ा है, ये आंकड़ें बोलते हैं।...(व्यवधान) हमारे दल की तरफ से किरीट सोमैया साहब बोल रहे थे और उन्होंने कुछ जिक्र किया है, एक्स डिप्टी सी.एम. महाराष्ट्र और उस बारे में, आपने कहा है कि पचास की लिस्ट है, आप लिस्ट दे दीजिए, जो एज पर लॉ होगा, निश्चित रूप से कार्यवाही होगी। यह सरकार भ्रष्टाचार के खिलाफ है। यह सरकार ईमानदार लोगों के पक्ष में खड़ी है। आपने सी.ए. डे पर माननीय प्रधान मंत्री जी का भाषण सुना होगा, जिसका जिक्र राजीव जी कर रहे थे। उस भाषण का सार क्या है? राजीव जी, उस भाषण का सार यह है कि यह सरकार भ्रष्टाचारियों के खिलाफ है और ईमानदारों के पक्ष में है। यही तो सार है उसका और कोई सार ही नहीं है। इसलिए किरीट जी, आपने जो चिंता प्रकट की है, उसका भी मुझे लगता है कि जल्द ही समाधान होगा।

एन.के. प्रेमचन्द्रन साहब ने एक बड़ा विषय रखा और आपने इन योजनाओं को स्लोगन बता दिया। You are a very senior Member and I think you are the best parliamentarian also. डिबेट भी आप बहुत अच्छी करते हैं। लेकिन यह स्टार्ट-अप इण्डिया, स्टैण्ड अप इण्डिया, मेक इन इण्डिया, डिजिटल इण्डिया, स्किल इण्डिया, क्लीन इण्डिया, मुद्रा ये सब स्लोगन हैं क्या? एन.के. प्रेमचंद्रन जी मैं आपको बताना चाहता हूँ कि अकेले मुद्रा में 7 करोड़ 78 लाख लोगों को लोन दिया है। मैं कल ही स्टैण्ड अप इण्डिया का रिव्यू कर के आया हूँ। 40 हज़ार के आस-पास लोगों को, एस.सी., एस.टी. और महिला एंटरप्रिन्योर जो नए बने हैं, जिनको दस लाख रूपये से ले कर एक करोड़ रूपये का लोन मिल रहा है। ये योजनाएं धरातल पर उतर रही हैं। जब धरातल पर ये योजनाएं उतर रही हैं और तब ये स्लोगन नहीं हैं, ये भारत की तकदीर और तस्वीर बदलने वाली योजनाएं हैं। एक जिक्र आया कि एनएसीएल, पीएसीएल और एल्डर फार्मा का जिक्र आया। हमारे अरूण जेटली साहब सही कह रहे हैं कि ये सब आपकी विरासत है, जो हमें मिली है और हम इसको हल कर रहे हैं। मैं इसमें बताना चाह रहा हूँ कि एनएसीएल के केस में एक मीटिंग महाराष्ट्र के मुख्य मंत्री के साथ हुई है, किरीट जी के पत्र इस संबंध में बहुत आते रहते हैं। जो छोटे निवेशक हैं, उनका पैसा वापस दिलाने में यह सरकार दृढ़ संकल्प है। चाहे पीएसीएल का इश्यु हमारे सुभाष बहेड़िया जी ने उठाया हो।

सभापति जी, पीएसीएल में लोढा कमेटी बनी हुई है। एल्डर फार्मा का इश्यु आपने उठाया है। शारदा हो, रोज़ वैली हो चाहे जो भी हो, हमारी सरकार का स्पष्ट मंत्र है, माननीय मोदी जी के नेतृत्व में जो सरकार चल रही है कि ये जो छोटे-छोटे निवेशक हैं, जिन्होंने भरोसा कर के कैपिटल मार्केट में अपना पैसा जमा किया है, उनको राहत देनी है और

मैं आपके माध्यम से जिम्मेदारी से कहता हूँ कि उन्होंने स्पष्ट निर्देश दे रखे हैं कि इनको राहत देनी है। इसीलिए भरोसा इस सरकार के प्रति बढ़ा है।

सभापति जी, अभी-अभी ओईसीडी एक सर्वे रिपोर्ट आई है। जिसमें कहा गया है कि भारत के 73 प्रतिशत नागरिकों ने जो सरकार चल रही है, उस पर भरोसा किया है, जो कि सबसे ज्यादा है और विश्व में फर्स्ट है, हमारे बाद विकसित देश हैं तो यह भरोसे की सरकार है। मैं आपसे कहना चाहता हूँ कि हमारी लोटा कमेटी की भी रिपोर्ट आई हुई है, अलग से भी मंत्रालय काम कर रहा है, एसएफआईओ भी काम कर रहा है, ई.डी. भी अपने काम में लगी हुई है, सीबीआई भी काम कर रही है। लगातार छोटे निवेशकों के पक्ष में यह सरकार खड़ी है। अभी एक विषय आया कि कैपिटल मार्केट में ब्लैक करने वाली कंपनियां हैं। क्या बात कर रहे हो साहब? कैपिटल मार्केट इस देश की हेल्थ होती है। आपने कहा कि इसमें छोटे निवेशकों के प्रति भरोसा घटा है। अगर निवेशकों का भरोसा घटता, तो कैपिटल मार्केट का सेंसेक्स 32 हजार को पार नहीं करता। यह 32 हजार को पार कर रहा है और स्टे कर रहा है। जब 31 हजार को पार किया था, तो बहुत से लोगों ने, जो फाइनेन्शियल मैनेजमेंट के एक्स्पर्ट हैं, उन्होंने कहा कि यह टेम्पेरी फेज है, 31 हजार पर स्टे किया, 32 हजार क्रॉस कर दिया और स्टे कर रहा है। इसका मतलब यह है कि कैपिटल मार्केट में भारत की हेल्थ ठीक हो रही है और यह इसे दर्शा रहा है।

महोदय, मैं आपके माध्यम से दो-तीन विषयों को और टच करना चाह रहा हूँ। शायद भर्तृहरि महताब साहब ने कहा कि इकोनॉमी की साइज सिकुड़ रही है। आपने यह भी कहा कि बार-बार अमेंडमेंट क्यों आ रहे हैं। देखिए, वर्ष 2013 का बिल, आप साक्षी हैं, रात को यहाँ बहुत देर तक बैठना पड़ा था, शायद 10 बजे गये होंगे और उसके बाद कितने लोगों ने प्रतिवेदन दिए, बहुत लोगों ने प्रतिवेदन दिए। हमारे कोरपोरेट अफेयर्स मंत्रालय में सचिव स्तर की जो कमेटी बनी, उसने सुझाव लिए। जब राज्य सभा में यह बिल चर्चा में आया तो राज्य सभा ने कहा कि कांप्रिहेंसिव अमेंडमेंट बिल लाइए, इसलिए जो कमेटी बनी, फाइनेंस कमेटी में यह गया और यह कांप्रिहेंसिव अमेंडमेंट बिल है। राज्य सभा में चर्चा के दौरान यह विषय आया, इसलिए हम अमेंडमेंट ला रहे हैं। वर्ष 2015 में हमने अमेंडमेंट किया। राज्य सभा में चर्चा के बाद यह एक विषय आया, उसके बाद यह बिल ला रहे हैं। हम यह बिल अपनी मर्जी से नहीं ला रहे हैं, जो सदस्य सुझाव देते हैं, जो संसद सुझाव देती है और जो कमेटी सुझाव देती है, उसके आधार पर हम यह कांप्रिहेंसिव बिल लेकर आए हैं। कमेटी की जो रिपोर्ट है, उसकी ऑलमोस्ट ऑल रिकमेंडेशंस हमने इसमें मंजूर की हैं, स्वीकार की हैं और जो थोड़ी-बहुत रह गई हैं, उनको अमेंडमेंट के माध्यम से ला रहे हैं।

मैं इकोनॉमी के साइज के बारे में बताना चाह रहा हूँ। अभी एक सर्वे आया है। आपने भी उस सर्वे को पढ़ा होगा। वह सर्वे हमने नहीं किया है। वेस्टर्न वर्ल्ड की एक एजेंसी है, जिसने इस सर्वे को किया है। वे कहते हैं कि भारत की इकोनॉमी की साइज वर्ष 2030 तक इतनी हो जाएगी कि वह चार डेवलपड देशों को क्रॉस करेगी। वह जापान, जर्मनी, फ्रांस, यू.के. को क्रॉस करेगी और India will be the third largest economy by 2030. भर्तृहरि महताब साहब सिकुड़ कहाँ रही है। जितने हम इकोनॉमिक रिफार्म के...(व्यवधान) शायद आप कुछ बोलना चाह रहे हैं।

श्री भर्तृहरि महताब: दिसंबर, 2016 के बाद ये जो पिछले पाँच-सात महीने हो गए हैं, including July, the credit outgo from banks has come down to five per cent, which is the lowest in the last 60 years. यही बात मैंने कही, यही उदाहरण मैंने दिया।

श्री अर्जुन राम मेघवाल : आपने इसके साथ-साथ इकोनॉमी की भी बात की कि वह सिकुड़ रही है।

SHRI BHARTRUHARI MAHTAB: This is an indication.

श्री अर्जुन राम मेघवाल : भर्तृहरि महताब साहब, मैं आपको बताता हूँ। यह 2017 का वर्ष है और वर्ष 2017 का जब भी कोई असेसमेंट करेगा, इतिहासकार, प्लानर या हमारी नीति-निर्धारण करने वाले लोग असेसमेंट करेंगे, तो यह 2017 का वर्ष आर्थिक सुधारों का वर्ष कहलायेगा। हमने वर्ष 2016 में 8 नवम्बर को डीमोनेटाइजेशन किया। वर्ष 2017 के जनवरी से यह देश तेजी से डिजिटल ट्रांजेक्शन की ओर बढ़ा। उसके बाद हमने यूनियन बजट 28 फरवरी से एक फरवरी किया। उसके बाद हमने रेलवे बजट को यूनियन बजट के साथ मर्ज किया। उसके बाद हमने फाइनेंस बिल पहली बार देश के इतिहास में 31 मार्च तक पास कर दिया और एक अप्रैल को राज्य सरकारों और केन्द्र सरकार को खर्च करने के लिए अधिकृत कर दिया। उसके बाद जीएसटी इस देश में एक जुलाई से लागू कर दिया और यह कंपनी बिल का भी अमेंडमेंट आज यह सदन कर रहा है। मुझे लगता है कि यह 2017 का वर्ष आर्थिक सुधारों का वर्ष होगा। जब यह आर्थिक सुधारों का वर्ष होगा, तो इकोनॉमी की साइज निश्चित रूप से भर्तृहरि महताब साहब बढ़ेगी, मैं यह कन्विक्शन के साथ कह रहा हूँ।

एक विषय आधार का आया कि इन्फॉर्मेशन टेक्नोलॉजी का यूज हो रहा है। मैं भर्तृहरि महताब साहब आपको कहना चाहता हूँ कि यह पहली सरकार है, जिनमें ऑन गोइंग स्कीम्स में जो भ्रष्टाचार हो रहा था, उसको इन्फॉर्मेशन कम्युनिकेशन टेक्नोलॉजी का यूज करके रोकने का प्रयास किया है। जैसे चंडीगढ़ कैरोसीन जा रहा था। अगर हम टेक्नोलॉजी का यूज नहीं करते तो हम कहते कि आपके पास तो गैस है, आप कैरोसीन क्यों ले रहे हैं? जब पहले कभी कैरोसीन बंद करते थे, कुछ सरकारों ने करने की कोशिश की होगी, तो उन्होंने कहा कि आप तो छोटे लोगों का हक मार रहे हो। जब हमने टेक्नोलॉजी का प्रयोग किया तो चंडीगढ़ कैरोसीन फ्री हो गया। ऐसा करके इस सरकार ने अलग-अलग योजनाओं में मोदी जी के नेतृत्व में 57 हजार करोड़ रुपये ऑनगोइंग स्कीम्स में बचाए हैं। ...(व्यवधान)

मैं आपके माध्यम से कहना चाहता हूँ कि यह कंपनीज़ अमेंडमेंट बिल 2016 सबके साथ चर्चा के बाद आया है। सभी माननीय सदस्यों ने बहुत अच्छे सुझाव दिये हैं। हमने सब सुझाव नोट भी किये हैं। मैं चाहता हूँ कि सदन इस बिल को पास करने की पूरी व्यवस्था करे, कृपा करे ताकि आने वाले समय में हमारी इकोनॉमी का साइज़ जो वैस्टर्न वर्ल्ड के लोगों ने तय की है और जो हमारे माननीय मोदी जी का सपना है कि भारत 2022 तक विकसित राष्ट्रों की श्रेणी में खड़ा हो जाए, इसके लिए यह बहुत ज़रूरी है, यह पास करने की अपील करते हुए मैं आप सबको बहुत बहुत धन्यवाद देता हूँ।

HON. CHAIRPERSON: The question is:

“That the Bill further to amend the Companies Act, 2013, be taken into consideration.”

The motion was adopted.

HON. CHAIRPERSON: The House will now take up clause-by-clause consideration of the Bill.

Clause 2**Amendment of Section 2**

Amendments made:

Page 2, *after* line 32, *insert*—

'(ixA) in clause (72), in the proviso, in clause (A), *after* the words "State Act", the words "other than this Act or the previous company law" shall be *inserted*;' (3)

Page 2, line 39, for "a company", substitute "the company". (4)

Page 2, *after* line 39, *insert*--

'Explanation. -- For the purpose of this clause, "the investing company or the venturer of a company" means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.' (5)

Page 3, *for* lines 3 to 7, *substitute*--

'(xii) in clause (87), in sub-clause (ii), for the words "total share capital", the words "total voting power" shall be substituted.'

(6)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: There are Amendment Nos. 50 and 51 given by Shri N. K. Premachandran. Are you moving your Amendments?

SHRI N.K. PREMACHANDRAN (KOLLAM): Sir, I beg to move:

“Page 1, line 17,--

omit “the arrangement have”. (50)

“Page 2, line 11,--

for “in consultation with”

substitute “with the approval of.” (51)

I have moved Amendment Nos. 50 and 51 to Clause 2, that is, 'in consultation with' the Central Government. I would like to have the amendment with the approval of the Central Government in respect of instruments, which are to be signed by the concerned people.

HON. CHAIRPERSON: I shall now put Amendment Nos. 50 and 51 to Clause 2 moved by Shri N. K. Premachandran to the vote of the House.

The amendments were put and negatived.

HON. CHAIRPERSON: The question is:

“That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3 was added to the Bill.

Clause 4 Amendment of Section 4

Amendment made:

Page 3, for lines 22 to 46, substitute—

'4. In section 4 of the principal Act, in sub-section (5), for clause (i), the following shall be substituted, namely:-

"(i) Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of twenty days from the date of approval or such other period as may be prescribed:

Provided that in case of an application for reservation of name or for change of its name by an existing company, the Registrar may reserve the name for a period of sixty days from the date of approval.".' . (7)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: There are Amendment Nos. 52 and 53 given by Shri N. K. Premachandran. Are you moving your Amendments?

SHRI N.K. PREMACHANDRAN: Sir, I am moving Amendment Nos. 52 and 53 to Clause 4.

I beg to move:

“Page 3, line 28,--

after “specific”

insert “lawful”. (52)

“Page 3, lines 35 and 36,--

for “such other period as may be prescribed”

substitute “forty-five days from the date of the application.” (53)

The hon. Minister has not responded to the query or clarification made by us regarding the Object Clause in the Memorandum of Association. This should be specific and lawful, but unfortunately the Minister has not responded to it. Most of the Members from this side have ... (*Interruptions*)

HON. CHAIRPERSON: He has already spoken on it.

SHRI N.K. PREMACHANDRAN : Okay, Sir. I am moving it because ‘specific’ and ‘lawful’. So, I would like to add the term ‘lawful’ also.

HON. CHAIRPERSON: I shall now put Amendment Nos. 52 and 53 to Clause 4 moved by Shri N. K. Premachandran to the vote of the House.

The amendments were put and negatived.

HON. CHAIRPERSON: The question is:

“That clause 4, as amended, stand part of the Bill.”

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clauses 5 and 6 were added to the Bill.

Clause 7 Amendment of Section 21

SHRI N.K. PREMACHANDRAN : Sir, I beg to move:

“Page 4, line 7, -
for “employee”

substitute “director”. ” (54)

This is a very important amendment to Section 26 of the Act, that is, an instrument has to be attested by any employee. How can it be possible?

My amendment is, instead of employee, let it be the director of the company. It is a material amendment that is to be incorporated. That is why I have moved it.

HON. CHAIRPERSON: I shall now put amendment No.54 to clause 7 moved by Shri N.K. Premachandran to the vote of the House.

The amendment was put and negatived.

The question is:

“That clause 7 stand part of the Bill.”

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8 Amendment of Section 26

Amendment made:

Page 4, for line 18, *substitute-*

“(ii) clauses (a), (b) and (d) shall be *omitted.*” (8)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 17, as amended, stand part of the Bill.”

The motion was adopted.

Clause 17, as amended, was added to the Bill.

Clauses 18 to 20 were added to the Bill.

Clause 21 Amendment of Section 89

Amendment made:

Page 7, for lines 23 and 24, substitute-

21. In section 89 of the principal Act,-

(i) in sub-section (6), the words and figures, “within the time specified under section 403”, shall be *omitted*;

(ii) in sub-section (7), for the words and figures, “under the first proviso to sub-section (1) of section 403”, the word “therein”, shall be *substituted*;

(iii) *after* sub-section (9), the following sub-section shall be *inserted*, namely:-’
(10)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 21, as amended, stand part of the Bill.”

The motion was adopted.

Clause 21, as amended, was added to the Bill.

Clause 22 was added to the Bill.

Clause 23 Amendment of Section 92

Amendments made:

Page 9, lines 9 and 10, *for* “One Person Company and small company”, *substitute* “One Person Company, small company and such other class or classes of companies as may be prescribed.”.

(11)

Page 9, *after* line 14 *insert-*

(iii) in sub-section (4), the words and figures, “within the time as specified, under section 403”, shall be *omitted*;

(iv) in sub-section (5), *for* the words and figures, “under the section 403 with additional fees”, the word “therein”, shall be *substituted*.’. (12)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 23, as amended, stand part of the Bill.”

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Clauses 24 to 27 were added to the Bill.

Clause 28 Amendment of Section 101

Amendment made:

Page 9, lines 42 and 43, *for* “not less than ninety-five per cent.”, *substitute* “majority in number of members entitled to vote and who represent not less than ninety-five per cent.”. (13)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON : The question is:

“That clause 28, as amended, stand part of the Bill.”

The motion was adopted.

Clause 28, as amended, was added to the Bill.

Clause 29 was added to the Bill.

Clause 30 Amendment of Section 117

Amendments made:

Page 10, *after* line 11, *insert* –

‘(i) in sub-section (1), the words and figures “within the time specified under section 403” shall be *omitted*;’. (14)

Page 10, *for* line 12, *substitute* –

‘(ii) in sub-section (2), --

(a) *for* the words and figures “under section 403 with additional fees”, the word “therein” shall be *substituted*;’. (15)

Page 10, line 13 *for* “(a)”, *substitute* “(b)”. (16)

Page 10, line 15 for “(b)”, substitute “(c)”. (17)

Page 10, line 17 for “(ii)”, substitute “(iii)”. (18)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: Shri N.K. Premachandranji, are you moving your amendments no. 55 and 56?

SHRI N.K. PREMACHANDRAN : Sir, I am not moving.

HON. CHAIRPERSON: The question is:

“That clause 30, as amended, stand part of the Bill.”

The motion was adopted.

Clause 30, as amended, was added to the Bill.

Motion Re: Suspension of Rule 80 (i)

SHRI ARJUN RAM MEGHWAL: I beg to move:

“That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 19 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

HON. CHAIRPERSON: Motion moved:

“That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 19 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

... (Interruptions)

SHRI N.K. PREMACHANDRAN: I am on a point of order.

HON. CHAIRPERSON: I have already put the question.

... (*Interruptions*)

SHRI N.K. PREMACHANDRAN: My point of order is under Rule 331N of the Rules of Procedure and also under Rule 376 of the Rules of Procedure. Kindly have a hearing. There are so many other motions that are also coming. I would like to highlight my point. The hon. Minister has circulated 43 amendment proposals out of which five new clauses also have to be incorporated – Clauses 47A, 73A, 75A, 78A and a New Provision Clause 88. My point is, out of these 43 amendments, five new clauses have to be incorporated. This Bill had been referred to the Standing Committee. The Standing Committee had a detailed scrutiny of almost all the provisions. But, unfortunately, these five clauses have not been scrutinized by the Parliamentary Standing Committee. By virtue of Rule 331N of the Rules of Procedure and Conduct of Business in the Lok Sabha:

“The report of the Standing Committees shall have persuasive value and shall be treated as considered advice given by the Committees.”

In this case, the Standing Committee had a detailed scrutiny and the Company Law Committee has given the recommendations. All these five amendments come out of all these things. My point is, it is not proper – let me conclude – to suspend Rule 80 (i) by virtue of Rule 388 because the Standing Committee has not considered these five new clauses. That is my point of order. Kindly give the ruling.

HON. CHAIRPERSON: Please refer to Rule 376. It says that a point of order is not point of privilege when a question on any motion is being put to the House. I have told you earlier also.

The question is:

“That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 19 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

The motion was adopted.

New Clause 30A

Amendment made:

Amendment
of section
121.

Page 10, *after* lines 25, *insert-*

Amendment
of section
121.

‘30A. In section 121 of the principal Act,-

(i) in sub-section (2), the words and figures “within the
time specified, under section 403” shall be *omitted*;

(ii) in sub-section (3), for the words and figures “under section 403 with
additional fees”, the word “therein” shall be *substitued.;*’ (19)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That new clause 30A be added to the Bill”.

The motion was adopted.

New clause 30A was added to the Bill.

Clause 31 Amendment of Section 123

Amendment made:

Page10, *for* lines 26 and 27, *substitute-*

'31. In section 123 of the principal Act,-

(a) in sub-section (1),-

(i) in clause (a),-

(A) for the words "both; or", the word "both:" shall be *substituted*;

(B) the following proviso shall be inserted, namely:-

"Provided that in computing profits any amount representing unrealised gains, notional gains or revaluation of assets and any change in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded; or";

(ii) in the second proviso, *for* the words "transferred by the company to the reserves", the words "transferred by the company to the free reserves" shall be *substituted*;

(b) for sub-section (3), the following sub-section shall be substituted, namely:-'. (20)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 31, as amended, stand part of the Bill”.

The motion was adopted.

Clause 31 as amended was added to the Bill.

Clause 32 Amendment of Section 129

Amendment made:

Page 10, line 50, *after* “subsidiary or subsidiaries”, *insert* “and associate company or companies”. (21)

HON. CHAIRPERSON : The question is:

“That clause 32 stand part of the Bill”.

The motion was adopted.

Clause 32 as amended was added to the Bill.

Clause 33 was added to the Bill.

Clause 34 Amendment of Section 132

Amendment made:

Page 11, for lines 15 to 17, substitute-

'34. In section 132 of the principal Act,-

(i) in sub-section (4), in clause (c), in sub-clause (A), in item (II), for the words "ten lakh rupees", the words "five lakh rupees" shall be *substituted*;

(ii) in sub-section (5), for the words, brackets and figure "the Appellate Authority constituted under sub-section (6) in such manner as may be prescribed", the words "the Appellate Tribunal in such manner and on payment of such fee as may be prescribed" shall be *substituted*;

(iii) sub-sections (6), (7), (8) and (9) shall be *omitted*.'. (22)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON : The question is:

“That clause 34, as amended, stand part of the Bill”.

The motion was adopted.

Clause 34, as amended, was added to the Bill.

Clauses 35 and 36 were added to the Bill.

Clause 37 Amendment of Section 136

Amendment made:

Page 12, lines 25 and 26, *for* "agreed by ninety-five per cent. of the members entitled to vote at the meeting", *substitute-*

"agreed by members-

(a) holding if the company has a share capital, majority in number entitled to vote and who represent not less than ninety-five per cent of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or

(b) having, if the company has no share capital, not less than ninety-five per cent of the total voting power exercisable at the meeting." (23)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 37, as amended, stand part of the Bill”.

The motion was adopted.

Clause 37, as amended, was added to the Bill.

Clause 38 Amendment of Section 137

Amendments made:

Page 13, *for* lines 6 and 7, *substitute-*

'38. in section 137 of the principal Act,-

(i) in sub-section (1),-

(a) the words and figures "within the time specified under section 403" shall be *omitted*;

(b) in the second proviso, the words and figures "within the time specified under section 403" shall be *omitted*;

(c) after the fourth proviso, the following proviso shall be inserted, namely:- (24)

Page 13, line 12, *omit* "listed". (25)

Page 13, *after* line 15, *insert-*

'(ii) in sub-section (2), the words and figures "within the time specified, under section 403" shall be *omitted*;

(iii) in sub-section (3), for the words and figures "in section 403", the word "therein" shall be *substituted*.'. (26)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 38, as amended, stand part of the Bill”.

The motion was adopted.

Clause 38, as amended, was added to the Bill.

Clauses 39 and 40 were added to the Bill.

Clause 41 Amendment of Section 141

Amendment made:

Page 13, *for* lines 21 to 27, *insert-*

"41. In section 141 of the principal Act, in sub-section (3), for clause (i) the following clause shall be substituted, namely:-". (27)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 41, as amended, stand part of the Bill.”

The motion was adopted.

Clause 41, as amended, was added to the Bill.

Clauses 42 to 47 were added to the Bill.

Motion Re: Suspension of Rule 80(i)

SHRI ARJUN RAM MEGHWAL: I beg to move:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha insofar as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No.28 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

HON. CHAIRPERSON: The question is:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha insofar as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No.28 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

The motion was adopted.

New Clause 47A

Amendment made:

Page 15, *after* line 21 , *insert-*

Amendment of section 157

'47 A. In section 157 of the principal Act,-

(i) in sub-section (1), the words and figures, "within the time specified under section 403" shall be *omitted*;

(ii) in sub-section (2), the words and figures, "before the expiry of the period specified under section 403 with additional fee", shall be *omitted*.'. (28)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That new clause 47A be added to the Bill.”

The motion was adopted.

New clause 47A was added to the Bill.

Clause 48 Amendment of Section 160

Amendment made:

Page 15, line 27, *after* "178", *insert*, "or a director

recommended by the Board of Directors of the Company,

in the case of a company not required to constitute Nomination and Remuneration Committee.". (29)

HON. CHAIRPERSON: The question is:

“That clause 48, as amended, stand part of the Bill.”

The motion was adopted.

Clause 48, as amended, was added to the Bill.

Clauses 49 to 58 were added to the Bill.

Clause 59 Substitution of Section 185

Amendment made:

Page 18, for lines 29 to 36, substitute-

"(4) If any loan is advanced or a guarantee or security is given or provided or utilised in contravention of the provisions of this section,-

(i) the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees;

(ii) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees; and

(iii) the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with

imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both." (30)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 59, as amended, stand part of the Bill.”

The motion was adopted.

Clause 59, as amended, was added to the Bill.

Clause 60

Amendment of Section 186

Amendments made:

Page 18, *omit* line 38. (31)

Page 19, line 10, *after* "section", *insert*, ", except sub-section (1),". (32)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 60, as amended, stand part of the Bill.”

The motion was adopted.

Clause 60, as amended, was added to the Bill.

Clauses 61 to 63 were added to the Bill.

Clause 64 Amendment of Section 196

Amendment made:

Page 19, *for* lines 43 and 44, *substitute*—

‘64. In Section 196 of the principal Act,-

(a) in sub-section (3), in clause (a), after the proviso, the following proviso shall be inserted, namely:-

“Provided further that where no such special resolution is passed but votes cast in favour of the motion exceed the votes, if any, cast against the motion and the Central Government is satisfied, on an application made by the Board, that such appointment is most beneficial to the company, the appointment of the person who has attained the age of seventy years may be made.”;

(b) in sub-section (4), for the words “specified in that Schedule”, the words “specified in Part I of that Schedule” shall be *substituted*.’ (33)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That Clause 64, as amended, stand part of the Bill.”

The motion was adopted.

Clause 64, as amended, was added to the Bill.

Clause 65 Amendment of Section 197

Amendments made:

Page 20, *for* line 5 to 7, *substitute-*

“Provided also, that where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor,”. (34)

Page 20, line 18, *for* “of”, *substitute* “or”. (35)

Page 20, *for* lines 25 to 27, *substitute-*

“Provided that where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the”. (36)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That Clause 65, as amended, stand part of the Bill.”

The motion was adopted.

Clause 65, as amended, was added to the Bill.

Clause 66

Amendment of Section 198

Amendment made:

Page 20, *for* line 47 to 49, *substitute-*

‘(i) in sub-section (3)-

- (a) in clause (a), after the words “sold by the company”, the words and figures “unless the company is an investment company as referred to in clause (a) of the *Explanation* to section 186” shall be *inserted*;
- (b) *after* clause (e), the following clause shall be *inserted*, namely:-
“(f) any amount representing unrealised gains, notional gains or revaluation of assets.” (37)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That Clause 66, as amended, stand part of the Bill.”

The motion was adopted.

Clause 66, as amended, was added to the Bill.

Clauses 67 to 73 were added to the Bill.

Motion Re: Suspension of Rule 80 (i)

SHRI ARJUN RAM MEGHWAL: I beg to move:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No.46 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved. ”

HON. CHAIRPERSON: The question is:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No.46 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved. ”

The motion was adopted.

New Clause 73A

Amendment made:

Amendment
of section

374

‘73A. In section 374 of the principal Act, *after* clause (d), the following proviso shall be *inserted*, namely:-

“Provided that upon registration as a company under this Part a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 shall be deemed to have been dissolved under that Act without any further or deed.”.

(38)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That new clause 73A be added to the Bill.”

The motion was adopted.

New clause 73A was added to the Bill.

Clauses 74 and 75 were added to the Bill.

Motion Re: Suspension of Rule 80 (i)

SHRI ARJUN RAM MEGHWAL: I beg to move:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No.47 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved. ”

HON. CHAIRPERSON: The question is:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No.47 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved. ”

The motion was adopted.

New Clause 75A

Amendment made:

Page 21, *after* line 41, *insert-*

Amendment of section 391 ‘75A. In section 391 of the principal Act, *for* sub-section (2), the following sub-section shall be *substituted*, namely:-

391

“(2) Subject to the provisions of section 376, the provisions of Chapter XX shall apply *mutatis mutandis* for closure of the place of business of a foreign company in India as if it were company incorporated in India in case such foreign company has raised monies through offer or issue of securities under this Chapter which have not been repaid or redeemed.”’.

(39)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That new clause 75A be added to the Bill.”

The motion was adopted.

New clause 75A was added to the Bill.

18.00 hours

Clause 76 Amendment of Section 403

Amendments made:

'(i) in sub-section (1), for the first and second provisos, the following provisos shall be substituted, namely:-

--

"Provided that where any document, fact or information required to be submitted, filed, registered or recorded, as the case may be, under section 92 or 137 is not submitted, filed, registered or recorded, as the case may be, within the period provided in those sections, without prejudice to any other legal action or liability under this Act, it may be submitted, filed, registered or recorded, as the case may be, after expiry of the period so provided in those sections, on payment of such additional fee as may be prescribed, which shall not be less than one hundred rupees per day and different amount may be prescribed for different classes of companies :

Provided further that where the document, fact or information, as the case may be, in cases other than referred to in the first proviso, is not submitted, filed, registered or recorded, as the case may be, within the period provided in the relevant section, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded, as the case may be, on payment of such additional fee as may be prescribed and different fees may be prescribed for different classes of companies :

Provided also that where there is default on two or more occasions in submitting, filing, registering or recording of the document, fact or information, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded, as the case may be, on payment of a higher additional fee, as may prescribed and which shall not be lesser than twice the additional fee provided under the first or second proviso as applicable.";

(ii) for sub-section (2), the following sub-section shall be substituted namely:---

"(2) Where a company fails or commits any default to submit, file, register or record any document, fact or information under sub-section (1) before the expiry of the period specified in the relevant section, the company and the officers of the company who are in default, shall, without prejudice to the liability for the payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default."

(40)

(Shri Arjun Ram Meghwal)

Page 22, *omit* lines 1 to 20. (41)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 76, as amended, stand part of the Bill.”

The motion was adopted.

Clause 76, as amended, was added to the Bill.

Clauses 77 and 78 were added to the Bill.

HON. CHAIRPERSON: The time of the House has to be extended up to the passing of the Bill. Do you all agree?

... (Interruptions)

THE MINISTER OF CHEMICALS AND FERTILIZERS AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI ANANTHKUMAR): Sir, the time of the House has to be extended till the passing of the Companies (Amendment) Bill and also for the initiation on the discussion on the IIM Bill. ...
(Interruptions)

SHRI K.C. VENUGOPAL: Sir, it is unfair. ... *(Interruptions)*

SHRI ANANTHKUMAR: Sir, we will initiate the discussion. We want only five minutes. ...
(Interruptions)

HON. CHAIRPERSON: I think there is no problem since the Minister wants to speak for only five minutes. There should not be any problem in that.

... (*Interruptions*)

SHRI ANANTHKUMAR: Sir, he will only initiate the discussion. ... (*Interruptions*)

HON. CHAIRPERSON: It is up to him whether he wants one minute, two minutes, or five minutes.

... (*Interruptions*)

HON. CHAIRPERSON: The Minister may now move for suspension of rule 80 (i)

Motion Re: Suspension of Rule 80 (i)

SHRI ARJUN RAM MEGHWAL: I beg to move:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No. 42 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

HON. CHAIRPERSON : The question is:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No. 42 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

The motion was adopted.

New Clause 78A

Amendment made:

Amendment of section 410. ‘78A. In section 410 of the principal Act, for the words, “orders of the Tribunal”, the words, “orders of the Tribunal or of the National Financial Reporting Authority” shall be substituted.’. (42)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That new clause 78A be added to the Bill.”

The motion was adopted.

New Clause 78A was added to the Bill.

Clauses 79 to 87 were added to the Bill.

HON. CHAIRPERSON: The Minister may now move for suspension of rule 80(i)

Motion Re: Suspension of Rule 80 (i)

SHRI ARJUN RAM MEGHWAL: I beg to move:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application

to Government amendment No. 43 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

HON. CHAIRPERSON : The question is:

“That this House do suspend clause (i) of rule 80 of the Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to Government amendment No. 43 to the Companies (Amendment) Bill, 2016 and that this amendment may be allowed to be moved.”

The motion was adopted.

New Clause 88

Amendment made:

Page 24, *after* line 22, *insert* –

Amendment of “**88.** In section 458 of the principal Act, in

Section 458 sub-section (1), the proviso shall be *omitted.*”.

(43)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That new clause 88 be added to the Bill.”

The motion was adopted.

New clause 88 was added to the Bill.

Clause 1 Short title and commencement

Amendment made:

Page 1, line 3, *for* “2016”, *substitute* “2017”. (2)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That clause 1, as amended, stand part of the Bill.”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment made:

Page 1, line 1, *for* “Sixty-seventh”, *substitute* “Sixty-eighth”. (1)

(Shri Arjun Ram Meghwal)

HON. CHAIRPERSON: The question is:

“That the Enacting Formula, as amended, stand part of the Bill.”

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Long Title was added to the Bill.

HON. CHAIRPERSON: The Minister may now move that the Bill, as amended, be passed.

SHRI ARJUN RAM MEGHWAL: I beg to move:

“That the Bill, as amended, be passed.”

HON. CHAIRPERSON: The question is:

“That the Bill, as amended, be passed. ”

The motion was adopted.

THE MINISTER OF CHEMICALS AND FERTILIZERS AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI ANANTHKUMAR): Sir, I would request you to kindly take up the next item, the IIM Bill, for consideration.

SHRI K.C. VENUGOPAL (ALAPPUZHA): How much time will it take?

SHRI ANANTH KUMAR: Only two minutes.