

higher educational facilities in the realm of agriculture to the students of the area. The college when established, be affiliated to Orissa University of Agriculture and Technology.

I would suggest that the ICAR be entrusted the responsibility of sending a team of agriculture experts to visit the district and see the possibility of establishing a college in consultation with Orissa University of Agriculture and Technology and Orissa Government.

The establishment of an agricultural College in the district is a long standing demand. The Central Government should consider the matter sympathetically and do the needful soon.

[Translation]

(viii) **Need to transfer the quarters of BALCO from Delhi to Bilaspur or Korba in Madhya Pradesh**

DR. PRABHAT KUMAR MISHRA (Janjgir): Mr. Speaker, Sir, a BALCO plant is situated at Korba in Madhya Pradesh. A BALCO factory is also situated at the same place which is earning profit. There are only two plants of BALCO in the whole of India, the Korba plant being the most important of them. But the irony is that its headquarters are in Delhi due to which the officials have to visit Delhi frequently for every work. As a result of this, a lot of money and time is wasted. If the headquarters are set up at Bilaspur or Korba then the wastage of time and money arising out of frequent tours of the officials can be avoided. Besides, allied industries connected with BALCO can also be set up there. Therefore my submission is that just as the BALCO headquarters have been shifted to Orissa, a similar provision should be made in Bilaspur or Korba as well.

14.28 hrs.

## DIRECT TAX LAWS (AMENDMENT) BILL CONTD.

[English]

MR. DEPUTY SPEAKER: The House shall now take up further consideration of the following motion moved by Shri S.B. Chavan on the 22nd February, 1989, namely:-

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Direct Tax Laws (Amendment) Act, 1987, be taken into consideration."

Shri S.B. Chavan to Continue his Reply.

THE MINISTER OF FINANCE (SHRI S.B. CHAVAN): Sir, Yesterday I had informed this Hon. House about some of the doubts which were expressed by Hon. Members as to what the position is. I would like to continue with the same.

The first point which I would like to clarify will be about the system of evaluation of the wealth tax. The Hon. Member opposite said that the evaluation of the wealth tax and the system followed should be such that a common man should be able to understand as to what exactly are the rules and the producers which he is expected to follow so that he is not required to go to any tax consultant for filing his returns. First of all, I would like to clarify that the evaluation under the wealth tax is not going to attract any common man as such, it is beyond a particular limit that persons are supposed to file their returns for the wealth tax. The procedure has been laid down and it is contained in Rule 7 which in fact is absolutely clear both about the immovable property—whether it is a free hold or a lease hold or whether it is an acquired property.

All the three have been clarified in Part B on page 41 page Taxmans publication.

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"Direct Tax Laws (Amendment) Bill 1988. It clarifies the position about the immovable property. I quote:

"3 Subject to the provisions of rules 4,5,6,7, and 8, for the purposes of subsection (1) of section 7, the value of any immovable property, being a building or land appurtenant thereto, or part thereof, shall be the amount arrived at by multiplying the net maintainable rent by the figure 12.5:

Provided that in relation to any such property which is constructed on leasehold land, this rule shall have effect as if for the figure 12.5.

(a) Where the unexpired period of the lease of such land is fifty years or more, the figure 10.0 had been substituted; and

(b) Where the unexpired period of the lease of such land is less than fifty years, the figures 8.0 had been substituted:

Provided further that where such property is acquired or construction of which is completed after the 31st day of March, 1974, if the value so arrived at is lower than the cost of acquisition or the cost of construction, as increased, in either case, by the cost of any improvement to the property, the cost of acquisition or, as the case may be, the cost of construction, as so increased, shall be taken to be the value of the property under this rule".

So this clause 3 is very clear about how the whole thing has to be calculated. There is no ambiguity about it. As regards maintainable rent clause 4 is absolutely clear. I do not think there is any scope for any kind of ambiguity and that is why I have not been able to understand what the hon. Member had in view when he said that the whole thing is so complicated and common people are

not able to understand what the provisions are and that is why they feel compelled to approach the tax consultants and thereafter through them they have to file their returns. I do not think anything of that nature is required.

Hon. Shri Vyas raised the point about the jewellery and worth of the jewellery held by previous rulers. Who is going to assess the valuation of this jewellery? If it is less than 5 lakhs there is a procedure laid down and if it is beyond 5 lakhs then expert valuers are entrusted with the responsibility of trying to find out as to what exactly is the valuation of the jewellery which is in the possession of either the Jagirdar or the Prince who must be having the possession of the jewellery. I do not think that here also there is any kind of scope for mis-interpretation or ambiguity. Might be in the case of expert valuers itself differences might arise. That cannot be helped. But when once the matter is referred to the experts, I think, we are bound by the valuation unless there is prima facie evidence that it is motivated malafides Unless that is established normally the report of the valuer is being accepted by the government.

Another point was raised by Shri H.M. Patel. He was the Finance Minister at one time and that is why it becomes very necessary to clarify the point as to why is it that the rules have been made part of the statute rather than keep them as a rule. I quite see the point. But at the same time we have to take note of the fact that different kinds of interpretations were being made by different people about the rules. There should be no ambiguity and the matter should be absolutely clear. That is why it has been brought about here. I can well understand that if the rules are framed separately flexibility obtains, if the rules are framed under the statute that give greater power to the Government to frame the rules. But I think we have curtailed our powers and brought it before the House. In fact, it is going to be difficult for the Government that if any change is to be brought about, we will have to approach this House and get the rule amended. But that is not against the parties

concerned. That is why I have not been able to exactly follow what was high point. Most probably, he just wanted to say that Government should have more powers of framing the rules. I agree with him but in these particular cases, there were a number of interpretations which were being put on the rules which were being framed. That is why we thought it necessary that it should be brought under the statute.

Another very important provision, which, in fact, was a bone of contention, was about the religious and charitable trusts and the possibility of misuse of the amounts which were invested in these trusts. The point was made by hon. Member Shri Vyas. I am sorry that he is not there I have to clarify the point that he has raised.

A point was also raised by hon. Member Shri H.M. Patel whether it is going to have any retrospective effect. As far as I have been able to read the clause, there is hardly any scope for living this kind of interpretation that this clause can be interpreted to say as if it is going to have a retrospective effect. I don't think that we propose to do it. At the time of 1987 Act, when the Bill was being passed, my predecessor had given an assurance on the floor of the House that we propose to revise the provisions for charitable and religious trusts. So, there is hardly any scope for feeling that during that period some people might have registered trusts and that is why it should be given a retrospective effect. But at least if I have understood the hon. Member Shri H.M. Patel., correctly, what he wanted to find out from me was whether it was going to have a retrospective effect or not. I can make it absolutely clear that there is no intention of making it retrospective. There is no reason also because the intentions of the Government were made clear. There is hardly any possibility of miscarriage of justice in the case of certain trusts which, not knowing that such a kind of change is going to take place, must have got themselves registered. That is why when the intentions were known, if anybody has done it, I do not think he can claim any benefit under this section. That's

why it will have prospective effect and not retrospective effect.

Another good feature that we have introduced in this provision for the trusts is about the safeguards which have been provided. In fact, cases have been brought to Government's notice that funds were being used for business purposes and some of the trusts were being utilised for that kind of purpose. But not it has been made absolutely clear in the provisions of the Bill itself that you can have a business and the profits arising out of the business can be credited to the trust and the business profit is also incidental to the objective of the trust. If it is not incidental, you are free to have your business. But it will be taxable. If it is to enjoy the exemption, then it has to be incidental to the objective and that point has been made absolutely clear in this case also.

The other conditions that we have put on the trusts is that the funds will have to be kept in specified assets, utilisation of the funds will be for the objects only, accumulation of the income has to be for some purpose which should be clearly mentioned and exemption will not be available for business income unless the same is incidental to the objective. All trusts will have to keep audited accounts and the department will look into them at the time of granting approval or renewal. Actually this is not the all-time exemption which was practised before. Now you will have to come at regular intervals for renewal of exemption which has been granted and at the time of the renewal, it will be the responsibility of the officer to see that the conditions which have been mentioned under this section have been scrupulously observed by those who would like to have exemption under this section.

Next point which was raised by some of the hon. Members was about additional tax of 20 per cent which has been proposed under section 141 (1A) if there is a difference between the assessed income and the declared income. And we have also said that since we have introduced a new system under which the voluntary returns are being

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accepted by Government, it is in 97 per cent cases that we propose to accept the returns filed by the assessee: hardly in per cent of the cases there is going to be regular scrutiny. So, it is a matter of reposing full confidence on those who are going to file their returns. And that is why in order to avoid any possibility of these concessions being misused, 20 per cent additional tax has been levied and even if it is some kind of arithmetic mistake that has been committed, he has to pay 20 per cent more. If it is proved beyond doubt that he had deliberately concealed the income which he is supposed to show under the returns, then of course, the penalty is much heavier. It was 200 per cent which has been increased to 300 per cent with a view to see that the objective of the new system which has been introduced is not defeated by some of the elements who would like to take advantage of this kind of liberal provision that was made. So, the intention is absolutely clear under this section and whether there is appeal available or not was also another point which hon. Member, Shri H.M. Patel raised. I think under the provision of rectification, he can approach the assessing officer and if he is not pleased with the decision, then of course, there is a provision for going in an appeal. So, that is the recourse of which he can take an advantage and I do not think that there can be any kind of miscarriage of justice under this.

A point was made by Shri Amal Datta which was about a case which was cited by him, that is, about Comptroller and Auditor General since there has been some sort of test audit report. According to him. There was a loss of Rs. 8 crores to the Government. Hon. Member might recollect that before the scheme was introduced, there was another scheme of voluntary assessment. Returns were filed. Previously the limit was Rs 25,000/. It was raised to Rs 50,000 and again raised to Rs 1 lakh. the maximum amount was Rs 2 lakhs. So, this was the system which was invoked. I do not know by what reasoning they have come to this conclusion. If proper scrutiny would have been

done of the returns filed, the Government could have recovered about Rs. 8 crores. That really shows that the policy decision taken by the Government is being questioned by the authorities who are saying that they have lost Rs 8 crores. Whether it is right or wrong is different. I do not think that it can be questioned by anybody. It was a deliberate and conscious decision taken by my predecessor and the assesseees were given this option of filing their voluntary returns.

SHRI AMAL DATTA : (Diamond Harbour) I mentioned about the CAG's Report. Are you saying that the CAG is not to go into matters where the Government has a policy and even though it is found that by that policy the public revenue is being lost or is he not duty bound to bring it to the public to see that pursuing the policy brings a loss of so much amount of public revenue?

SHRI S. B. CHAVAN : I would have replied to your question, but you are also the Chairman of the Public Accounts Committee and I would not like to say anything against the CAG. My understanding of the problem is, so far as the policy matters are concerned, Government is fully within its rights to take decisions as to what needs to be done; and whether the claim of 97 per cent voluntary assessment that is introduced statutorily should be done or should not be done. This is ultimately the right of the Government and the right of this House. If anybody tomorrow questions that Government seems to have lost so much amount and that is why this policy is not correct; I do not think it is within their rights to pass such a view.

SHRI AMAL DATTA : If we have to challenge a policy, how are we to say that? Unless somebody brings it concretely to our notice as CAG has done by way of its report, how are we to formulate our ideas? Are we to borrow our ideas from you only?

SHRI S. B. CHAVAN: Ideas are know because policies are know.

SHRI AMAL DATTA: But how much is the loss?

**SHRI S.B. CHAVAN:** When the Government takes the decision of voluntary schemes of filing returns, at that time the Government less consciously takes the decision and thereafter that scheme comes into operation. Now, if a statutory scheme is also being questioned by some of the people, I don't think that anybody will be within his rights to say that if Government had not followed this policy, Government would have got so much more. This is something which I am not able to understand. It is a matter of opinion also. So, I can merely say that the Income Tax Department has also gone into it. They have said that the amount was quoted by the CAG, well, I would not like to enter into this kind of controversy as to what CAG is saying. My only point was about the policy decisions and I don't think anybody can question the policy decisions taken by the Government knowing full well the implications as to how much money they are going to either get or lose.

**SHRI AMAL DATTA:** The question was whether you know the implications.

**SHRI S.B. CHAVAN :** Might be, according to the limitations that we have. We have our own limitations as also the Hon. Members have. I cannot possibly claim that I am a perfect person. According to my information I try to take decisions on certain issues.

Now, the next point, Mr. Deputy Speaker, Sir, is about the curtailment of time, i.e. it was two years before which has been brought down to six months. I don't think that two years period has been brought down to six months.

**SHRI AMAL DATTA :** I do not say that.

**SHRI S.B. CHAVAN :** Then I think I have misunderstood you.

**SHRI AMAL DATTA:** Six months remains but the time for demand is brought down from four years to two years. now.

**SHRI S.B. CHAVAN:** According to my nothing, it was two years which has been

brought down. That was the period before and that is the period even now. What is the relevance of the six months period is the main point. According to the new system, once the returns are filed, 97 per cent are going to be accepted. If there is a prima facie case, if the assessing authority feels that there is a case and the party needs to be informed, not only within that six months but within that financial year they are supposed to intimate the party that there seems to be an obvious mistake, a discrepancy, and that is why they are going to take up the case for regular scrutiny and after the scrutiny, they have to pass order within a period of two years. So, the period of two years is meant for giving a kind of notice to the party that the authority prima facie has come to the conclusion that there is a case against the party and that they would like to go deep into the matter and take decision about it. That is the only point. I do not think there is any departure either in the period of limitation or in any other point.

**SHRI AMAL DATTA :** There is a departure, but you are justifying it.

**SHRI S.B. CHAVAN :** Well it is a Government Bill and I have to justify the same.

The last point made was about making available information to people at large. Nobody can have any dispute about this point. But, if I were to inform the hon Member we are in fact trying to do the same and information is being made available to people at large with a view to enable them to find out as to what the provisions are and what they are supposed to do. I quite see the point that there is still scope for improvement. Improvement needs to be done and people at large need to be informed about the various provisions and how they are supposed to file their returns and so on. We are taking maximum advantage of the media available, but still I cannot possibly say that the whole thing is perfect and there is no scope for improvement whatsoever. Always, there is scope for improvement.

Just one last point about the backward

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areas. The hon. member who raised this point has said that this instrument of tax benefits should also be made use of for the development of backward areas. If the hon. member is interested, I can give him the full information.

First of all; there is a concessional provision for the small scale industries. Especially in the backward areas, 20 per cent concession is already available. So also in other areas, especially in the North Eastern Region, which is mostly a tribal area, concessions are available. Since the North Eastern Region is mostly a tribal area, I do not think income tax becomes leviable on them. They do get a number of concessions. In the backward areas and in the North Eastern Region, a number of concessions are available under the Income Tax Act and we are, in fact, trying to encourage parties who are interested in locating their industries in that area, by giving them central investment subsidy, income tax benefit and also concessional finances from the term-lending institutions. Persons interested in locating their units in the tribal, areas should take full advantage of these major concessions and try to bring these areas on par with the rest of the country. That is the intention behind the whole thing and that is why, deliberately and consciously we have kept these provisions to give benefits to the backward areas.

These were the few points which were raised and which I have tried to clarify. I do not propose to say anything more. I must thank the hon. members for lending me a patient ear.

MR. DEPUTY SPEAKER: The question is:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth -Tax Act, 1957, the Gift-tax Act, 1958 and the Direct Tax Laws (Amendment) Act, 1987, be taken into consideration."

*The motion was adopted*

MR. DEPUTY SPEAKER: The House will now take up clause by clause consideration

### Clause 2

*(Amendment of Section 2)*

MR. DEPUTY SPEAKER : There is an amendment to Clause 2 by Shri Shantilal Patel. He is not present in the House. The question is:

"That Clause 2, stand part of the Bill."

*The motion was adopted*

*Clause 2 was added to the Bill.*

MR. DEPUTY SPEAKER: The question is :

"That clause 3 stand part of the Bill"

*The motion was adopted*

*Clause 3 was added to the Bill.*

### Clause 4

*(Amendment section 10)*

Amendments made:

Page 4, in line 36, *after* " business" *insert* unless the business is incidental to the attainment of its objectives and separate books of accounts are maintained by respect of such business"

Page 6 in line 7, *after* " business" *insert* unless the business is incidental to the attainment of its objectives and separate books of accounts are maintained by it in respect of such business" (4)

(Shri S.B. Chavan)

MR. DEPUTY SPEAKER : The question is:

"The Clause 4, as amended, stand part of the Bill."

*The motion was adopted*

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

MR. DEPUTY SPEAKER : The question is:

"That clause 5, stand part of the Bill"

*The motion was adopted*

*Clause 5 was added to the Bill*

#### Clause 6

*(Amendment of section 32 a)*

Amendment made:

Page 8, for lines 9-13, *substitute*

'Provided that in respect of a ship or an aircraft or machinery or plant specified in sub-section (8B) this sub-section shall have effect as if for the words "twenty-five per cent" the words "twenty per cent" had been substituted.' (5)

Page 8, in line 28, *after* "April 1988" *insert* unless such ship or aircraft is acquired or such machinery or plant is installed in the circumstances specified in clause (a) of sub section (8B) and the assessee furnishes evidence to the satisfaction of the Assessing Officer as specified in that clause " (6)

Page 8, for line 39-45, *substitute*

"(8B) Notwithstanding anything contained in sub-section (8) of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S. R. 870 (E), dated the 12th June, 1986, issued thereun-

der, the provisions of this section shall apply in respect of, \_

(a) (i) A new ship or new aircraft acquired after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that he had, before the 12th day of June, 1986, entered into a contract for the purchase of such ship or aircraft with the builder or manufacturer or owner thereof, as the case may be;

(ii) any new machinery or plant installed after the 31st day of March, 1987 but before the 1st day of April, ;1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that before the 12th day of June, 1986, he had purchased such machinery or plant with the manufacturer or owner or, or a dealer in, such machinery or plant, or had, where such machinery or plant has been manufactured in an undertaking owned by the assessee, taken steps for the manufacture of such machinery or plant:

Provided that nothing contained in sub-section (1) shall entitle the assessee to claim deduction in respect of a ship or aircraft or machinery or plant referred to in this clause in any previous year except the previous year relevant to the assessment year commencing on the 1st day of April, 1989;

(b) A new ship or new aircraft acquired or any new machinery or plant installed after the 31st day of March, 1988, but before such date as the Central Government, if it considers necessary or

expedient so to do, may, by notification in the Official Gazette, specify in this behalf. (7)

Page 9, in line 4-6, for " in the said assessment year and in the four assessment years immediately succeeding such assessment year."

*Substitute* "in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year" (8).  
(Shri S.B. Chavan)

Shri Shantilal Patel—Not present .

MR. DEPUTY SPEAKER: The question is :

"The clause 6, as amended, stand part of the Bill."

*The motion was adopted*

*Clause 6, as amended, was added to the Bill*

Amendment made:

Page 9, in lines 11-13, for in the said assessment year and in the four assessment years immediately succeeding such assessment year"

*Substitute* "in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year". (9).

(Shri S.B. Chavan)

MR. DEPUTY SPEAKER : The question is:

"The clause 7, as amended, stand part of the Bill."

*The motion was adopted*

*Clause 7, as amended, was added to the Bill*

MR. DEPUTY SPEAKER: There are no amendments to Clauses 8 to 12 .

The question is:

"The Clauses 8 to 12 stand part of the Bill."

*The motion was adopted*

*Clauses 8 to 12 were added to the Bill.*

### Clause 13

*(Amendment of section 80 C)*

Amendment made:

Page 12, in line 10 after" such University" *Insert* or a local authority:" (10).

(Shri S.B. Chavan)

MR. DEPUTY SPEAKER: The question is:

The clause 13, as amended, stand part of the Bill."

*The motion was adopted*

*Clause 13, as amended, was added to the Bill.*

MR. DEPUTY SPEAKER: There are no amendments to Clauses 14 and 15.

The question is:

"That Clauses 14 and 15 stand part of the Bill."

*The motion was adopted*

*Clause 14, and 15, were added to the Bill*



**Clause 16**

*(Insertion of new section 80 HHD re: Deduction in respect of earnings in convertible foreign exchange)*

Amendments made:

Page 12, in line 37, after "hotel" insert "or of a tour operator." (11)

Page 13, in line 32, after coaches by "insert " tour operators already so approved or by" (12)

Page, 14, in line 24, after "hotel" insert "or of a tour operator". (13)  
(Shri S.B. Chavan)

MR. DEPUTY SPEAKER : The question is:

" That Clause 16, as amended, stand part of the Bill"

*The motion was adopted*

*Clause 16, as amended, was added to the Bill*

MR. DEPUTY SPEAKER: There are no amendments to Clauses 17 and 18.

The question is:

"That Clauses 17 and 18 stand part of the Bill.

*The motion was adopted*

*Clause 17 and 18 were added to the Bill*

**Clause 19**

*(Amendment of Section 115 J)*

Amendment made:

Page 16, in line 5,, after "sub-section (3)" insert or sub-section (3A)".(14)  
(Shri S.B. Chavan)

MR. DEPUTY SPEAKER : The question is :

"That Clause 19, as amended, stand part of the Bill"

*The motion was adopted*

*Clause 19 as amended was added to the Bill*

MR. DEPUTY SPEAKER : There is no amendment to Clause 20.

The question is :

"That Clause 20 stand part of the Bill."

*The motion was adopted*

*Clause 20 was added to the Bill*

MR. DEPUTY SPEAKER : Clause 21 Shri Shanti Patel. Not present

MR. DEPUTY SPEAKER: There are no amendments to Clauses 22 to 39. Clause 21 to 39 may be put together .

The question is:

"That Clauses 21 to 39 stand part of the Bill".

*The motion was adopted*

*Clauses 21 to 39 were added to the Bill.*

15.00 hrs

**Clause 40**

*(Amendment of Section 234C)*

Amendment made:

Page 22, in line 15, after "due", insert " or where no such instalment is so due by the 31st day of March of the financial year ." (15)

(Shri S.B. Chavan)

**MR. DEPUTY SPEAKER:** The question is:

"That Clause 40, as amended, stand part of the Bill"

*The motion was adopted*

*Clause 40, as amended, was added to the Bill*

#### **Clause 41**

*(Amendment of Section 244 A)*

Amendment made:

Page 22, in line 38, after "section 143 or" insert "section 144 or" (16)

(Shri S.B. Chavan)

**MR. DEPUTY SPEAKER:** 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*

**MR. DEPUTY SPEAKER:** There are no amendments. to clauses 42 to 49. The question is:

"That Clauses 42 to 49 stand part of the Bill"

*The motion was adopted*

*Clause 42 to 49 were added to the Bill*

#### **Clauses 50**

*(Amendment of Section 271)*

Amendment made:

Page 25, in line 20, for "1988" substitute "1989" (17)

(Shri S.B. Chavan)

**MR. DEPUTY SPEAKER :** The question is:

"That Clause 50, as amended, stand part of the Bill".

*The motion was adopted*

*Clause 50 as amended, was added to the Bill*

#### **Clause 51**

*(Amendment of Section 273 A)*

Amendment made:

Page 25, in line 38, for "1988 substitute "1988" (18)

(Shri S.B. Chavan)

**MR. DEPUTY SPEAKER :** The question is:

"That Clause 51, as amended, stand part of the Bill."

*The motion was adopted*

*Clause 51 as amended, was added to the Bill*

**MR. DEPUTY SPEAKER :** There are no amendments to Clauses 52 to 55. The question is:

"That Clauses 52 to 55 stand part of the Bill"

*The motion was adopted*

*Clause 52 and 55 were added to the Bill*

#### **Clause 56**

*(Amendment of Tenth Schedule)*

Amendment made:

Pages 28, on line 23 (19)

(Shri S.B. Chavan)

**MR. DEPUTY SPEAKER:** The question is:

"That Clause 56, as amended, stand part of the Bill."

*The motion was adopted*

*Clause 56, as amended, was added to the Bill*

### **Clause 57**

*(Consequential amendments)*

Amendment made:

Page 30, after line 39, insert (4) in section 273B (as amended by section 114 of the Direct Tax Laws (Amendment) Act, 1987, after the words "in the provisions of ", the words brackets, letter and figure " clause (b) of sub-section (i) of " shall be inserted.(20)

(Shri S.B. Chavan)

**MR. DEPUTY SPEAKER :** The question is:

"That Clause 57, as amended, stand part of the Bill."

*The motion was adopted*

*Clause 57 as amended, was added to the Bill*

**MR. DEPUTY SPEAKER:** There are no amendments to Clauses 58 to 67. The question is:

"That Clause 58 to 67 stand part of the Bill"

*The motion was adopted*

*Clause 58 to 67 were added to the Bill*

### **Clause 68**

*(Amendment of Section 18)*

Amendment made :

Page 37, in line 19, for " 1988" substitute " 1989" (21)

(Shri S.B. Chavan)

**MR. DEPUTY SPEAKER :** The question is :

"That Clause 68, as amended, stand part of the Bill."

*The motion was adopted*

*Clause 68, as amended, were added to the Bill*

**MR. DEPUTY SPEAKER :** The question is :

"That Clause 69 stand part of the Bill."

*The motion was adopted*

*Clause 69 was added to the Bill*

### **Clause 70**

*(Anendment of section 15B)*

**MR. DEPUTY-SPEAKER :** To Clause 70 there is an amendment given notice of by the Government.

Amendment made:

Page 38, in line 38, for " 1988" substitute " 1989" (22)

(Shri S.B. Chavan)

**MR. DEPUTY SPEAKER :** The question is:

"That Clause 70, as amended, stand part of the Bill".

*The motion was adopted*

*Clause 70 as amended, was added to the Bill*

MR. DEPUTY-SPEAKER: The question is:

"That clauses 71 and 72 stand part of the Bill"

*The motion was adopted*

*Clauses 71 and 72 were added to the Bill.*

### Clause 73

*(Amendment of Section 34 A)*

Amendment made:

Page 39, in line 25, after "Sub-section (3)" insert "or subsection (5)" (23)  
(Shri S.B. Chavan)

MR. DEPUTY SPEAKER : The question is:

"That Clause 73, as amended, stand part of the Bill."

*The motion was adopted*

*Clause 73, as amended, was added to the Bill*

MR. DEPUTY SPEAKER : The question is:

"That Clauses 74 to 77 stand part of the Bill"

*The motion was adopted*

*Clauses 74 to 77 were added to the Bill*

### Clause. 78

*(Insertion of new Schedule III)*

Amendment made:

Page 42, after line 5, insert "Provided also that the provisions of the second proviso shall not apply for determining the value of one house belonging to the assessee, where

such house is acquired or the construction whereof is completed after the 31st day of March, 1974 and the house is exclusively used by the assessee for his own residential purposes throughout the period of twelve months immediately preceding the valuation date and cost of acquisition or, as the case may be, the cost of construction, as increased, in either case, by the cost of any improvement to the house, does not exceed,—

(a) if the house is situate at Bombay, Calcutta, Delhi or Madras, fifty lakh rupees;

(b) if the house is situate at any other place, twenty-five lakh rupees;

Provided also that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of the third proviso shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf." (24)  
(Shri S.B. Chavan)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 78, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 78 as amended, was added to the Bill*

MR. DEPUTY SPEAKER: The question is:

"That Clauses 79 to 85 stand part of the Bill."

*The motion was adopted.*

*Clauses 79 to 85 were added to the Bill.*

**Clause - 86***(Amendment of section 17)*

Amendment made:

"Page 59, in line 17, for "1988" substitute "1989". (25)

(Shri S.B. Chavan)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 86, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 86, as amended, was added to the Bill*

MR. DEPUTY SPEAKER: The question is :

"That clause 87 to 89 stand part of the Bill."

*The motion was adopted*

*Clauses 87 to 89 were added to the Bill.*

**Clause 90.***(Amendment of section 39A)*

Amendment made:

Page 61, In line 11, after "sub-section (3)",

Insert, "or sub-section (5)". (26)

(Shri S.B. Chavan)

MR. DEPUTY SPEAKER:

The question is:

"That Clause 90, as amended, stand part of the Bill."

*The motion was adopted.*

*Clauses 90, as amended, was added to the Bill.*

MR. DEPUTY SPEAKER: The question is:

*"That clauses 91 to 94 stand part of the Bill."*

*The motion was adopted.*

*Clause 91 to 94 were added to the Bill*

**Clause 95***(Amendment of Act 4 of 1988)*

Amendment made:

Page 63, line 10, for "(6), substitute "(8)". (27)

(Shri S.B. Chavan)

MR. DEPUTY SPEAKER:

The question is:

"That Clause 95, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 95, as amended, was added to the Bill.*

**Clause 1***(Short title and commencement)*

Amendment made:

Page 1, in line 6, for "1988", substitute "1989". (2)

(Shri S.B. Chavan)

MR. DEPUTY SPEAKER: 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.*

### **The enacting Formula**

Amendment made:

Page 1, in line 1, for "Thirty-ninth", substitute "Fortieth". (1)

(Shri S.B. Chavan)

MR. DEPUTY SPEAKER: 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.*

MR. DEPUTY SPEAKER: The question is:

"That title stand part of the Bill."

*The Long Title was added to Bill.*

SHRI S.B. CHAVAN: Sir, I beg to move:

"That the Bill, as amended, be passed".

MR. DEPUTY SPEAKER: Motion moved:

"That the Bill, as amended, be passed"  
Shri Banatwalla.

SHRI G.M. BANATWALLA (Ponnani): Mr. Deputy-Speaker Sir, we are grateful to the hon. Minister Shri S.B. Chavan for having responded to our representations with respect to charitable trusts and wakfs in relation to direct taxation. I have risen especially to thank him for the response. However, the response was a little partial response. There are certain areas which need to be considered.

Mr. Deputy-Speaker Sir, for granting relief to a charitable trust under Section

80(F), the Central Board of Direct Taxation may impose several conditions and such conditions may include appointment of a Government nominee on the board of Trustees... (*Interruptions*)

SHRI S.B. CHAVAN: That Section is no more there.

SHRI G. M. BANATWALLA: That is exactly why I have got up to thank you. This was a very important provision that was brought by the Direct Taxation (Amendment) Bill 1987. The Government has been very kind enough to see that such serious intervention is removed. However Sir, I have particularly risen in order to impress upon the Government that the trusts for the benefit of any particular community and caste established after the commencement of the Direct Tax Laws (Amendment) Act, 1987, be held entitled to claim tax deductions. This is an area where I do not know why a discrimination has been left, and it requires a consideration from the Government. I hope that in the Finance bill that we may have, the necessary amendments will be made.

Sir, a small doubt lingers and it is necessary that the doubt should also be clarified. That is the trusts should be allowed to grant interest free loans to, which are called *Karze-Hasana* in furtherance of their objectives of the trusts. Sir, I hope this small point also will receive the consideration of the Government. Sir, the trusts should also be allowed to continue to invest in non interest bearing forms or modes including investments in immovable properties, etc. The matter is left to be prescribed and I hope at the time of necessary prescription, at the time of necessary rules, this particular point will be taken into consideration. The point has a long history into which I do not wish to go at this particular time. I hope that the trusts will be allowed under section 80F to continue to invest in non-interests bearing forms or modes including investments in immovable properties. The maximum marginal rate of taxation which comes to 52.5 per cent would be rather harsh. That also needs a particular attention with respect to