

*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

the charitable trusts and wakfs. I am, of course, thankful to the Government for responding favourably to several matters which we represented with respect to charitable trusts and wakfs. But there are, as I pointed out, a few areas which require the necessary attention and favourable response from the Government. I hope that when the Government comes forward with the Finance Bill, these will receive favourable response from the Government.

SHRI. A. CHARLES (Trivandrum): I am thankful to the hon. Minister for bringing forward such a comprehensive legislation. In 1987 when the Amendment Bill was passed there was a complaint that it was rushed through and the House did not get enough time either to study or to participate in the discussion on the Bill. In fact, several complaints have subsequently been made that some of the provisions of that Act were detrimental to the common man especially to some of the charitable trusts. I am thankful that the hon. Minister was very positive and he looked into the whole matter, heard the complaints and then brought forward this comprehensive legislation.

As I pointed out earlier, there were big charitable trusts which were looking after 36,000 orphans all over the country. When the exemption given to those charitable trusts was taken away by the 1987 amendment, all the orphans were on the streets. We were afraid as to what would happen to them. I understand that there are so many institutions which were badly affected by that amendment. Though there are certain restrictions, I feel that those restrictions should be there. I am thankful to the hon. Minister for giving these exemptions to the charitable trusts. This will benefit the organisations which are looking after the orphans in the country.

Another salient feature is the uniform year that has been accepted. That has taken away the confusion in that area. I think, the evasion of tax can also be detected very easily.

While going through this big Bill, one wonders how a common man will be able to study the details of it. Any way, it is an improvement on the existing structure. I congratulate the Minister on that and I warmly welcome the Bill.

SHRI. S.B. CHAVAN: I am thankful to both the hon. Members for expressing happiness over the amendments which have been brought now by the Government. There seems to be some kind of a misunderstanding which the hon. Member, Shri Banatwalla, is having. Actually, we are not taking away any of the concessions which were available under the old Act. Prior to 1987 all the trusts which were enjoying the exemptions, they have enjoyed so far because the operation of the 1987 legislation was postponed till 1st of April, 1989. I was done deliberately because of the feeling that was expressed on the floor of the House. So, those concessions remain and after this Bill becomes an Act, they will be continued. So, there is no break in the exemption. If they had enjoyed before, they are enjoying thereafter. But now the procedure is that they will have to apply and get the permission, and this exemption will be for a limited period.

For the properties about which the hon. Member has spoken, the guiding principle is that the investment has to be in the prescribed manner and in certain assets - Bonds and other things of the Government - and if there is any other business which is carried out or any investment being made, it has to be incidental to the objective. So long as that basic principle is being followed, I do not think there is any scope for any kind of misinterpretation so far as that aspect is concerned. I think that was the only point which was raised by both the hon. Members... *(Interruptions)*.

SHRI G.M. BANATWALLA: Trusts for the benefit of any particular community and caste and established after the commencement of Direct Tax Laws (Amendment) Act, 1987 should also be entitled to claim the deductions.

SHRI S.B. CHAVAN: Mr. Deputy Speaker, Sir, in fact, I did not want to clarify that point. But since he has now repeated the point, I will have to say that no exemption is being granted by the Government to the Trust of any particular community. Ultimately, it has to be for the benefit of the entire community. It cannot be for a particular community. I do not think that any such exemption was granted before... (*Interruptions*).

SHRI A. CHARLES: I welcome that, Sir. So, any particular community can constitute a trust provided it is useful for the entire community. That is what we stand for and we welcome that.

SHRI S.B. CHAVAN: Sir, the objective of the Trust should be to give the benefit to the community at large. It should not be restricted to a particular community.. That is my understanding of the problem. I am sure, the hon. Member will also be fully convinced that though the members of his community might create a Trust but the Trust has to be for the benefit of the entire community. There is no distinction of caste and creed made in the beneficiaries. That is the approach that we have to take in the matter.

SHRI EBRAHIM SULAIMAN (Manjeri) The intention of the person who creates a Trust may be to benefit a particular community or a particular religion.

SHRI S.B. CHAVAN: I will be very difficult for me to assume all kinds of situations and try to clarify the whole things. Ultimately, if there will be any doubt, the officers are there to whom you can approach and get a clarification.

SHRIG.M. BANATWALLA: You should not run away; you should also be there.

SHRI S.B. CHAVAN: May I clarify the position? The position is that there were charitable trusts and religious trusts which were created and the amount was being used for dominating particular companies. Whether it is with interest or without interest,

is immaterial. The material fact is whether that has anything to do with the objective of the trust. I think even if it is without interest, so long as it is not in furtherance of the objective, I do not think that we will be able to accept that proposition.

MR. DEPUTY SPEAKER: The question is:

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

*The motion was adopted.*

15.24 hrs.

#### MOTION OF THANKS ON THE PRESIDENT'S ADDRESS

[*English*]

MR. DEPUTY SPEAKER: Now we go to item No. 12 — Motion of Thanks on the President's Address. Shri V.N. Gadgil.

SHRI V.N. GADGIL (Pune): Sir, I beg to move:

"That an Address be presented to the President in the following terms:

"That the Members of Lok Sabha assembled in this Session are deeply grateful to the President for the Address which he has been pleased to deliver to both Houses of Parliament assembled together on the 21st February' 1989. "

Sir, in the parliamentary life, the Motion of Thanks on President's Address is an occasion to review various problems facing the nation and also it gives an opportunity to the Government to spell out its policies and programmes. But it is also possible to convert this occasion, to convert this House, into what Mr. Churchill called the Grand Forum of the Nation and the "Grand Inquest of the nation." Therefore, my endeavour will be to