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after line 44, insert—

“(9) Nothing in this section shall apply to any person born in India on or after the independence of India and such person shall be deemed to be a citizen of India for all purposes.” (11)

The purpose of these Amendments is that, instead of the detection work being done under the Foreigners' Act, it should be done by the Tribunals set up by the Illegal Immigrants (Determination by Tribunals) Act, 1983. That does not mean that I like the Bill; it is only by way of trying to rescue or aslvice whatever is possible.

SHRI S. B. CHAVAN : The whole purpose seems to be that all those who came after 1971 upto 1983 should be brought within the purview of this Bill which, in fact, is not the intention of the Government. This is only the Assam Accord which is now being given a legal shape. I am sorry I cannot accept the amendments moved by Shri Banatwalla.

MR. DEPUTY-SPEAKER : I shall now put the Amendments moved by Shri Banatwalla to the vote of the House.

Amendments No. 1 to 11 were put and negatived.

MR. DEPUTY-SPEAKER : The question is :

“That Clause-2 stand part of the Bill”.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

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

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN) : I beg to move :

“That the Bill be passed”.

MR. DEPUTY-SPEAKER : The question is :

“That the Bill be passed.”

The motion was adopted.

SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) BILL

[English]

THE MINISTER OF FINANCE (SHRI VISHWANATH PRATAP SINGH) : I rise to move :

“That the Bill to make in the public interest, special provisions with a view to securing the timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto, be taken into consideration”.

The Honourable Members are aware that the sick Industrial Companies (Special provisions) Bill, 1985 was introduced in the Lok Sabha during the last session of Parliament. I trust the Honourable Members have had the opportunity to study it in detail and I look forward to a constructive debate about this proposed legislation.

Growing industrial sickness has been a cause of serious concern to the Government. Sickness in industrial units involves loss of production, loss of employment and loss of revenue to the Central Government and the State Governments. It also involves looking up of investible funds of banks and financial institutions which affects recycling of funds and impinges on the overall commercial viability of the banks and financial institutions.

The underlying objectives and reasons for bringing this legislation before this august House have been set out in the Statement of Objects and Reasons appended to the Bill. While the Government of India has been laying great stress on timely

[Shri Vishwanath Pratap Singh]

detection of sickness in industry and remedial measures for taking care of it, it has been the experience that the existing institutional arrangements for dealing with sick units so as to nurse them back to health are not adequate and also the process of working out the rehabilitation programmes of the sick units takes a great deal of time. A multiplicity of laws and agencies makes the adoption of a coordinated approach for dealing with sick industrial companies difficult. It has, therefore, been increasingly felt that a special legislation should be enacted so that the sickness in industrial units could be detected timely and also suitable measures may be worked out for its rehabilitation expeditiously. The Bill seeks to establish a quasijudicial body designated as the Board for Industrial and Financial Reconstruction. This Board would have the power to have rehabilitation schemes prepared through the financial institutions. The measures that the Board can consider for rehabilitating sick units could include change of management; reconstruction of share capital, amalgamation, sale or leasing out of a part or whole of the industrial undertaking of the sick industrial companies and other preventive, ameliorative and remedial measures. It is proposed to give to the Board powers of specified authority and of the Central Government under Section 72 (a) of the Income Tax Act for granting tax reliefs in cases of merger of sick industrial companies with another company. Where the Board feels that a company may be able to overcome its sickness on its own, it could even given it time to do so.

The responsibility of reporting sickness is being laid on the management of the sick industrial companies. Further, the Central Government, State Government, Reserve Bank of India, any public financial institution, a State-level financial institution or a scheduled commercial bank may also make a reference to the Board with regard to sickness in an industrial company. In order to enable the shareholders to know about incipient sickness in a company, it has also been provided in the Bill that when 50% of the net worth is lost, a company

would be required to report the matter to its shareholders. The company is also required to report the matter to the proposed Board for Industrial and Financial Reconstruction. It is hoped that the shareholders would take suitable steps to arrest the decline in the company and prevent it from becoming sicker.

The Bill also seeks to provide for an Appellate Authority to hear appeals against the orders of the Board. The jurisdiction of civil courts is being barred with regard to matters falling within the purview of the Board and the Appellate Authority.

Government feel that it is an important piece of legislation and hence the Bill is being given over-riding effect over all other legislations except FERA and the Urban Land (Ceiling and Regulation) Act.

The Bill seeks to define a sick industrial company as a company which has incurred cash losses for two consecutive financial years and its accumulated losses eroded its entire net-worth at the end of the second year.

The Bill seeks to cover all sick companies, excluding small scale and ancillary units, engaged in all industries specified in the first schedule of the Industrial (Development and Regulation) Act, 1961 except the Shipping industry. The shipping industry has been excluded considering the fact that it has got its own peculiar problems for which the solutions have to be of a totally different nature. The small scale industries have been left out because the number of such units is very large and the Board would not be able to deal with such a large number, at least to begin with. It is noteworthy to mention that the unit for determining sickness has been taken to be the company and not the industrial undertaking as such. The underlying idea is that if only a particular unit in an industrial company is sick while the company is not sick, then the company would be in a position to itself take measures to revive it to health. The Government feel that the setting up of SIFR would help in getting over the problem of growing industrial sickness and in the expeditious implementation of the rehabilitation packages

for the revival of the potentially viable sick units.

With these words, I move the House to take up consideration of the Bill.

MR. DEPUTY SPEAKER : Motion moved :

“That the Bill to make, in the public interest, special provisions with a view to securing the timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto, be taken into consideration.”

SHRI MOOL CHAND DAGA (Pali) :
I beg to move :

“That the Bill to make, in the public interest, special provisions with a view to securing the timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto, be referred to a Select Committee consisting of 11 members, namely :—

1. Shir G. M. Banatwalla
2. Prof. Madhu Dandavate
3. Shir Y. S. Mahajan
4. Shir Shantaram Naik
5. Prof. Narain Chand Parashar
6. Dr A. K. Patel
7. Dr G. S. Rajhans
8. Shri C. Madhav Reddy

9. Smt. Krishna Sahi

10. Shri Vishwanath Pratap Singh; and

11. Shri Mool Chand Daga

with instructions to report by the last day of the first week of February, 1986.” (45)

SHRI INDRAJIT GUPTA : What about the responsibility of those who made them sick ?

SHRI VISHWANATH PRATAP SINGH : I will reply in the debate.

SHRI INDRAJIT GUPTA : But there is nothing in the Bill. Bad managers should go out of circulation like bad currency.

SHRI VISHWANATH PRATAP SINGH : I remember my words.

SHRI INDRAJIT GUPTA : You remember your words ?

SHRI C. MADHAV REDDI (Adilabad) : I rise to extend my qualified support to this Bill. This is a very welcome measure. We have been waiting for this Bill for a long time since the Finance Minister on the floor of the House at the time of the presentation of the budget announced that such a Bill will be brought and I am happy that we are able to discuss the Bill to-day even though I thought that the Bill should have been discussed and passed in the last session itself.

That apart, just now the Finance Minister explained that this Bill excludes two important segments of our industrial sector. One is the small scale sector because as he said this Bill only relates to the sick companies and not sick industries and since small scale industry is outside the corporate sector—at least that is presumption but I do not agree with him—so small scale industries are outside the purview of the Bill. There are small scale industries which are run by companies. They should be included. In any case we should find some device in the Bill to see that even the partnerships and other forms of management are also brought under the purview of the Bill. That is a lacuna in the Bill because

[Shri C. Madhav Reddi]

we find that a lot of industries which are sick to-day belong to this sector.

In 1979 we were told there were 22,000 sick units. In 1981 the number became 26,000 and in 1982 it went up to 68,000. In 1984 the number became 83,000 sick units. Many of these units which are sick belong to the small scall sector. It is about 80 per cent. That means you are leaving 80 per cent of the sick industrial units from the purview of this Bill which I object to.

The industrial sickness as the Finance Minister has rightly pointed out has become a very very serious matter in this country. Though in all the developing countries industrial sickness is there yet the proportion of sick units in this country is certainly very alarming and something has to be done for that.

For the first time we are considering Comprehensive Bill to remove sickness of industries. Hitherto, we made certain attempts and we failed miserably. In 1971 we set-up the Industrial Re-construction corporation of India. Earlier it was not a statutory body. Last year we converted it into a statutory body. Now, this Corporation which has a paid up capital of Rs. 50 crores and authorised capital of Rs. 200 crores was not able to do much to remove the sickness of industries.

In 1971 when the Corporation was incorporated it was thought that the problem of sickness was confined to West Bengal only and as such, its headquarters were located in Calcutta. At that time it was thought that it would take over the industries and try to manage them and not just finance them because financing is not the only thing that we have to see to revive sick units. Many of the units in the later period which were helped financially their management was completely left in the hands of the promoters. As these promoters and the company management were mostly big people they tried to exploit the funds of the corporation and ultimately they landed the corporation into difficulties with the result that today I see that this corpora-

tion itself how called bank. Bank itself needs re-construction.

Industrial re-construction is a very very complicated matter. It is very difficult. The entire concept of rehabilitation of industries as conceived in the Bill is welcome. The concept of an operating agency; the concept of a Board; the concept of an appellate authority all these are well integrated. What it lacks is little more dynamism because I find that after doing all this what is it that we are going to do. Certainly, we require two things. One is the management. How are you going to smprove the management? The other is 'funds'. Where are you going to get the funds from? In the financial memorandum I find that a mention has been made that since it is difficult at this stage to know what funds would be required that is why nothing has been mentioned in the memorandum. But we know that it is estimated that about Rs. 300 crores would be required to rehabilitate all these units. That is no exaggeration. We have certain agencies such as IDBI, etc. There are other financial institutions. They can also contribute and we can have a fund created called "Reconstruction Fund". This Bill should have cneated such a Fund so that we may have a pool to which every year we can go on adding. Now, what action should follows I have some some suggestions.

I feel that since the reconstruction is the responsibility of the sector itself, the funds must also come from the same sector, that is the industrial sector and the moment the industries start working they should be responsible contribute something to the industrial health so that we may go on adding to a revolving fund to help the sick industries.

My second suggestion is that we can have industrial health insurance scheme through which we can force the industries to go on contributing to the industrial health fund so that the funds can be utilised for helping the sick units. Another disturbing factor I have noticed in the Bill is that one clause says that as long as the unit is sick and when the reconstruction scheme is under preparation or the whole thing is being examined for which it may

take one or two years all the earlier agreements already entered with the sick units will have to be suspended. I agree with the Government regarding other agreements. But the agreement the sick company had signed with the workers, what are you going to do? Are you going to make the workers suffer? In this connection, I have heard criticism that if the industry is sick, it is because the workers had given trouble to it. But I may point out here that the Reserve Bank of India in 1983 conducted a very interesting survey. They had selected about 100 units which were sick and they tried to understand the reasons for sickness and the revealing fact is that out of 100 units, only two units were sick because of the labour trouble and 66 units had gone sick because of the mismanagement, syphoning off the funds of the company, its profits, capital and everything. This is the main reason for the sickness of major industries, in this country though there are other reasons such as the difficulty about getting the raw materials or the marketing difficulties or sometimes the industry not getting power supply, so on and so forth. But the main reason was that the industry was not properly managed. Now, what are you going to do with regard to this? How are you going to improve the management? Because under this Bill, there may be some units which you may have to take over, this Board has to take over or on behalf of the Board or instructions from the Board or on the orders passed by the Board, the operating agency is to take over. The operating agency can be IDBI or the Industrial Reconstruction Bank of India or the ICICI or any other agency. Now, are you not going to keep the sick units for two or three years? May be these sick units after two or three years, you would transfer them to private sector or you would amalgamate them. But for some years these units are going to be with us. Now, what are you going to do with these units? How are you going to manage? Do you have a conception of a management pool to be created? In this connection, I would like to give a suggestion. The Government has been thinking of workers' participation in the management. You have been referring to such schemes and the model schemes are being circulated to the various industries. But so far not even a single

public sector undertaking has adopted any scheme. Can you not make a beginning when you are going to revive a sick unit and the public financial institutions are going to invest the money? At that stage, why don't you induct this particular concept of workers' participation in the management? After all, you have to improve the management. How are you going to do that? By giving incentives to the workers, by taking them as shareholders, you can certainly improve the management. You can have a management pool of workers also. You can take competent people, train them and put them in a pool so that they may be sent as managers of these units.

Now, I come to the question of finances. There is a feeling that sufficient funds are not being provided in time. Particularly, the experience with the Industrial Reconstruction Bank of India was that it took 2-3 years. After the rehabilitation scheme had been formulated and approved, it took many years before actual funds were ploughed in the sick units. That should not happen.

I find that in this Bill sixty days' time has been given. Why sixty days? It is too much. When you know that a particular industry has become sick, one month time for the report to come should be enough. And immediately, the operating agency should be asked to formulate a scheme. In this connection, I would also like to say that the time taken even by the operating agencies the likely agencies in future, is going to be more. For the preparation of rehabilitation scheme, they may take one year. What are you going to do during that period?

Again, for declaring a particular units sick, as has been pointed out by the Minister, three criteria have been laid down. One is that the industry should suffer cash losses for two years and the other is that the company should have continuously existed for seven years after registration. What happens is that the registration is done and the company actually comes into business after 3-4 years. It is not as though the company is registered and it goes into business immediately;

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it may go into business even after four years. This has to be seen. It should be seven years from the date of commencement of business, not actual registration. The third criterion is that the net worth of the company is eroded hundred per cent. Why should you have two criteria? If the net worth of the company is eroded, that is enough to say that it is sick. Why should you say that it should also suffer cash losses? They may not suffer cash losses; they may go on some how and the net worth of the company may be completely eroded.

There is another provision regarding declaring an industry potentially sick.

Now, there also, if the net worth of the company has been reduced to the extent of 50 per cent, you are not taking action, you are waiting for a period of five years, even after net worth of the company is reduced to 50 per cent. There must be some method by which some advance action could be taken. The operating agencies or the banks which are the financing institutions for the concerned unit should be able to give a report that this particular industry is likely to become sick and then the action should follow.

These are some of the comments that I would like to make and I hope that the hon. Minister would go through them and accept some of these suggestions, particularly in regard to workers' participation in management and management pool and also regarding reaction of the "Industrial Reconstruction Fund", which can help the sick industries in future.

[Translation]

SHRI BANWARI LAL PUROHIT (Nagpur): Mr. Deputy Speaker, Sir, I wholeheartedly welcome the Bill moved by the hon. Minister. The programme of nursing the sick mills to health is an important one. It is a big step by Government to help the sick industries.

I have gone through the Bill very carefully. A few things have struck me.

Firstly, there is no provision to help the small scale industries. It is true that it will be a difficult task for Government to handle so many large scale units and small scale units. But the small scale units which are sick should be helped. The State Governments should be directed to enact similar legislation and help the sick small scale units. This would be helpful to the small scale sick units and would enable them to know where the trouble lies.

There is one more shortcoming in the Bill. There are some companies which have many units. Sometimes a company has as many as 10 units and in case 3 of them become sick, it should be made obligatory for the company to take care of those units. If a provision to this effect had been made in the Bill, it would have been better. I hope that the hon Minister will seriously think about it.

One more thing has come to our notice that the large scale companies pay more attention to the units with modern technology and earn crores of rupees from them but the old units are neglected and made sick. There should be some provision in the Bill which may not allow them to do so. There is the MRTP Act for big industrial houses. They too should be brought within the purview of this Bill so that they do not turn two of their units sick and earn profits from the other eight. It is in this respect that the Bill seems to be moderate to me. There should also be a provision in the Bill to prevent any company from deliberately turning its units sick. A company which deliberately turns its unit sick should be punished. But there is no such provision so far in it. So long as there is no such provision, this practice will continue.

It has often been observed that the companies take loans upto 80-90 per cent from the financial institutions and manipulate the rest 10 to 20 per cent. In this way if any of their unit does not function properly they are least bothered. If the unit incurs loss, it is Government money that is lost. If that unit goes on incurring loss, the

owner allows it to become sick. There should be some effective provision to deal with such people. Some type of obligation should be put on them.

It has been suggested that one of their obligations should be to finalise the accounts within a particular time and report about a sick unit within a stipulated period. The hon. Minister should know that if a businessman reports about a sick unit after two months, he may, if he so likes, take another 2 to 3 years in finalising the accounts and the balance sheet in spite of many provisions in the Income Tax and the Companies Act, a person who wants to delay the submission of the balance sheets deliberately may easily pass a time of two to three years. There should be a provision in the Bill that the balance sheet should be filed within six months of the closing of the financial year and the sick units should be reported within 2 to 3 months. But there is no such provision in the Bill and those who deliberately turn their units sick, will take undue advantage of this loophole. Today what is required most is money. You will set up a board and collect statistics and conduct a study to know and decide how to help it. Now the problem is that just sanctioning an amount of Rs. 5 crores for a unit for modernising it for its proper functioning and circulating to the banks to make payment of this amount will not serve the purpose because before turning the unit sick, the owner must have knocked the doors of each and every bank and financial institution in a bid to modernise that unit. He is also an expert and knows everything about it. He must have sent a number of proposals to all concerned and the unit must have been declared sick only when there was no response. So how it is possible that he will get money merely because the Government has circulated the information to all. Had there been a provision that the Central Government, after sanctioning the amount approved by the Board, would act as a guarantor also, only then he could have been able to get the money. But there is no such provision in the Bill, Provision to this effect will have to be made in the Bill if the law is to be made effective in the real sense.

It is a matter of happiness that the hon. Minister has suggested income-tax exemptions to these sick units. It is essential that they should be made economically viable by allowing them income-tax exemptions etc. I would go to the extent of saying this much that making them viable would be like their re-birth. Under these circumstances these units should get all the facilities extended to new units so that they can become viable.

I would, therefore, request the hon. Minister to pay attention to the small scale sector and if the Government is determined, it is not impossible to rejuvenate the small units. In the small scale sector the worker are unemployed and being a labour intensive sector the situation can be improved easily and employment provided to them. We come across press reports in the regional newspaper about the large scale closure of small units and, therefore, attention should be paid to it. This Bill seeks to provide for the units which shall fall sick henceforth but Government must pay attention to the thousands of units which are already sick and the workers who have been rendered unemployed as a result thereof. This would help in restarting those units. Whatever may be the assets shown in books of sick textile mills in Bombay or value thereof may have been depreciated but the land and, the buildings are worth crores of rupees and therefore, the proposal of restarting them should be paid serious consideration. The funds can be raised after selling the land of these sick mills. I hope that the hon. Minister will pay attention to the few points raised by me during the discussion. I once again support the Bill.

[English]

MR. DEPUTY-SPEAKER : You can speak for two minutes.

[Translation]

DR. G. S. RAJHANS (Jhanjarpur) : Mr. Deputy Speaker Sir, I believe that this is the most interesting Bill introduced so far. There is a saying on dowry in Bihar : *Dan Dahej Kha lo, Bahu Ko Jala do.*

[Dr. G. S. Rajhans]

18.00 hrs.

(Consume the dowry, burn the bride). Similarly these units take the help from financial institutions and then fall sick. I do not think there can be a better business than this. I speak from my experience, Sir.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, November 21, 1985/Kartika 30, 1907 (Saka)

[English]

MR. DEPUTY-SPEAKER : If you want you can continue tomorrow.
