

MR. SPEAKER : The question is :

“That leave be granted to introduce a Bill further to amend the Companies Act, 1956, the Securities Contracts (Regulation) Act, 1956 and the Monopolies and Restrictive Trade Practices Act, 1969.”

*The Motion was adopted*

SHRI RAGHUNATHA REDDY :  
I introduce the Bill.

MR. SPEAKER : We now adjourn;  
when do we reassemble? 2 or 2.30 ?  
SOME HON. MEMBERS 2.30.

MR. SPEAKER : Yes.

13.35 hrs.

*The Lok Sabha adjourned for Lunch till thirty Minutes past Fourteen of the Clock*

*The Lok Sabha re-assembled after Lunch at thirty one minutes past Fourteen of the Clock*

[MR. DEPUTY SPEAKER : in the Chair]

SHRI JYOTIRMOY BOSU (Diamond Harbour) : Sir, I had written to the Speaker that I want to raise an issue. It is about Mr. D. P. Malhotra, the State Bank cashier. It has come out in papers twice; nothing is being done. An enquiry was instituted about a year ago. I am told he is going to be rewarded. Would you kindly ask the knowledgeable hon. Minister Shri K. R. Ganesh to make a statement on what steps have been taken against Mr. D. P. Malhotra, whether the enquiry has been completed in the last one year's time and if not the reasons therefor and also whether there is any truth in the statement that he is going to be rewarded.

14.32 hrs.

INCOME-TAX (AMENDMENT) BILL  
1972.

THE MINISTER OF STATE IN THE  
MINISTRY OF FINANCE (SHRI K. R.  
GANESH) : Sir, I beg to move:

“That the Bill further to amend the Income-tax Act, 1961 and to provide for barring, in the computation of total income in respect of certain assessment years prior to the assessment year 1962-63, deduction of amounts paid on account of wealth-tax, be taken into consideration.”

This short Bill seeks to replace the Income-tax (Amendment) Ordinance, 1972 which was promulgated by the President on the 15th July, 1972.

The circumstances which necessitated immediate legislation by an Ordinance have been explained in a statement placed on the Table of the House. I do not, therefore, propose to go into these reasons and shall only explain the provisions of the Bill and the rationale behind them.

In a recent case, the Supreme Court has held that wealth-tax paid by a person in respect of his business assets is deductible in computing his taxable income. In arriving at this decision, the court has virtually over-ruled its earlier judgement given in 1966. The recent Supreme Court ruling has certain important implications. Firstly, income-tax and wealth-tax have been increasingly used in recent years as instruments for reducing disparities in incomes and wealth. Thus, at higher levels of income and wealth, the combined incidence of income-tax and wealth-tax exceeds the entire income yielded by the wealth. If wealth-tax were to be allowed as a deduction in computing the taxable income, the combined incidence

[Shri K. R. Ganesh]

of income-tax and wealth tax will not, ordinarily, exceed the taxable income of an individual or a Hindu undivided family. This would considerably reduce the effectiveness of the fiscal instrument for achieving our socio-economic objectives. Secondly, having regard to the view hitherto accepted wealth-tax has not been allowed as a deduction in computing the taxable income in the assessments completed during the last 15 years. If the Supreme Court's latest ruling is applied, income-tax assessments of most of the wealth-tax assessees made in the past will have to be rectified. This would generate enormous administrative work and would also entail refund of crores of rupees collected by way of income-tax. Finally, the income-tax due on the valuation date is, under the existing law, allowed as a deduction in computing the net wealth of a taxpayer. If the wealth-tax payable were to be allowed as a deduction in computing the taxable income, there would be enormous difficulties in calculating the income-tax and wealth-tax payable by a person, particularly in view of the position that the rate schedules of these two taxes are based on slab system.

In view of the foregoing considerations, the Bill seeks to make an amendment to the Income-tax Act, 1961 to the effect that amounts paid by way of wealth-tax will not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business and profession" or "Income from other sources". This amendment will take effect from 1st April, 1962, that is, the date of commencement of that Act. The Bill also makes an independent provision to secure that wealth-tax will not be allowed as a deduction in computing the taxable income under the aforesaid head for the assessment years 1957-58 to 1961-62, when the Indian Income-tax Act, 1922

was in force. For the purposes of the aforesaid provisions, the term "wealth-tax" as defined will include any tax on capital or wealth levied in a foreign country.

The Bill specifically provides that the new provisions will not apply in relation to cases where taxpayers have obtained a favourable ruling from the Supreme Court prior to the commencement of the Income-tax (Amendment) Ordinance, 1972. This exception is being made to preserve the sanctity of the decision of the Supreme Court in these cases and also on the ground that taxpayers who have brought the cases upto the Supreme Court and incurred expenditure thereon should not be denied the benefit of its judgement.

Sir, the objects of the Bill are simple and non-controversial and I hope that it will receive the unanimous support of this House.

Sir, I move.

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill further to amend the Income-tax Act, 1961, and to provide for barring in the Computation of total income in respect of certain assessment years prior to the assessment year 1962-63, deduction of amounts paid on account of Wealth-tax, be taken into consideration".

\*SHRI MADHURYA HALDAR (Mathurapur) : Mr. Deputy Speaker, Sir, there is nothing much to oppose in the amending Bill that has been introduced here. At the outset I would like to say that the Income-tax Act was passed in 1961 and Wealth Tax Act in 1957. In between this period and thereafter too, nothing has happened or whatever that has happened, can warrant a refund of the money a provision that has been made in the present Bill. We would have been really

\* The Original speech was delivered in Bengali.

happy if this provision was not there because we need lot of moeny for the reconstruction of our country.

Secondly, there are many small traders, industrialists or factory owners who have a small capital say two to three lakhs of rupees. These industrialists will be required to pay Wealth Tax and then the Income-tax. After making these payments, not much will be left with them for ploughing it back in their enterprises nor they would be able to expand their enterprises. Most of the money that will be left with them will be utilised by them for running their family establishments. These enterprises are mostly labour intensive and if they are able to make more investment in these enterprises then it will offer better employment opportunities. I will therefore urge that these small enterpreneurs may be exempted from payment of Wealth Tax. Excepting this we have nothing much to say.

SHRI Y. S. MAHAJAN (Buldana) :  
Sir, I rise to support this Bill. The Wealth-tax Act was passed in 1957. Since then, till recently, the position was clearly understood that wealth-tax paid by a person should not be deducted from his income for tax purposes. The Supreme Court had also given a decision in this matter in Travancore Titanium Products Ltd. *Vs.* Commissioner of Income-tax. This well-understood position was reversed by the Supreme Court in Indian Aluminium Co. Ltd., *Vs.* Commissioner of Income-tax in March 1972. So, to get over this awkward situation the Government promulgated an Ordinance and this Bill has been brought forward to replace that Ordinance.

In order to make the wealth-tax deductible from income for the purposes of taxation one must prove that the wealth-tax is directly and intimately connected with the

business of the person. Under the income tax law of 1961 we allowed a number of deductions. For instance, we allowed water rates, electricity charges etc. because they are directly connected with the expenditure of the business. We allowed even foreign trade development allowance, because the expenditure is connected with the nature of the business. But it is not possible to say that wealth-tax is something which is directly and intimately connected with the nature of the business. To make it deductible the expenditure must be incurred for purpose of the business whereas the wealth-tax is a tax on the ownership of property. Wealth-tax is not an expenditure which is directly connected with the nature of the business. Therefore, it is not deductible. This is a logical and correct position which was taken by the Supreme Court in Travancore Titanium Products Ltd., *Vs.* the Commissioner of Income-tax. Unfortunately, this decision was reversed by the Supreme Court in 1972 and hence this Bill.

Till the beginning of the 20th century it used to be said that the purpose of taxation is to raise revenue for the purpose of the State. But now it is universally accepted that one of the objects of taxation is to reduce inequalities of income and wealth in the community. Therefore, in all the advanced as well as economically backward countries steeply progressive rates of taxation were introduced for reducing the inequality. We also enacted our Wealth-tax Act in 1957. If we now allow the wealth tax to be deducted from the income for purposes of calculation of income, our object would be defeated.

If a person is allowed to do so, he will be paying a low rate of income-tax. He will come down to a lower bracket and will be assessable to a lower rate of income-tax. By this, he will not only be avoiding a part of the Income-tax liability but will be

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paying income-tax at the expense of the State. The State will be a loser thereby and our object of reducing inequalities will not succeed. Hence, this amending Bill is necessary because it will help in reducing inequalities of income and wealth.

Apart from this matter of principle, there are certain difficulties of an administrative character which will necessitate the adoption of this Bill. Between 1957 and 1966, a number of cases have been decided on the principle that wealth tax should not be deducted from income for the purpose of taxation. If we allow this principle to be changed, there will be thousands of cases where the assessments will have to be reversed. It will be a very difficult position. Perhaps, crores of rupees will have to be returned to the persons concerned. Therefore, for the sake of convenience, we cannot accept the judgement in the Indian Aluminium Co. Vs. Commissioner of Income-Tax case. But I believe we are doing this mainly for the sake of principle and not for the sake of administrative convenience.

MR. DEPUTY SPEAKER : All these arguments have been set out by the Minister when he move the Bill for consideration. You are repeating the same arguments.

SHRI Y. S. MAHAJAN : I may explain further that in regard to cases which have been decided by the Supreme Court, we have decided to accept those judgments out of respect for the Supreme Court and with a desire to give sanctity to the decisions of the Supreme Court.

In this connection the term "wealth tax" has to be taken in the sense in which it is defined in the Wealth Tax Act of 1957. It also means any tax of a similar character chargeable under any law in force in any foreign country. The law will apply to

such a tax and it will not be deductible from income.

The Bill is very simple. I support the Bill I feel sure the House will accept it.

\*SHRI E. R. KRISHNAN (Salem) : Hon. Mr. Deputy Speaker, Sir, On behalf of my party, the Dravida Munnetra Kazhagam, I would like to say a few words on the Income-tax (Amendment) Bill introduced by the hon. Minister Shir K. R. Ganesh.

The Supreme Court gave a judgment stating that the wealth-tax paid by an assessee in respect of business assets is deductible as a business expenses in computing the assessee's income from business. In order to nullify the effect of this judgment the President promulgated the Income-tax (Amendment) Ordinance on July 15, 1972 just 16 days before the Lok Sabha is to sit in session. This Bill seeks to replace the said Ordinance. I do not think that heavens would have come down if the Government had waited for 16 days more and introduced this Bill straight away, which this House would not doubt have approved. No serious consequences would also have arisen if the President had not promulgated the Ordinance just 16 days before this House is to meet. I do not find any plausible reasons for the promulgation of this Ordinance except that the Government wanted to react immediately in a huff to the judgment of the Supreme Court invalidating certain provisions of the Incometax Act.

Sir, if you look at the provisions of this Bill you will also agree with me that there is no justification at all for the President to issue the Ordinance 16 days before the sitting of this House. All that this Bill says is that the wealth tax paid by an assessee is not deductible from the taxable income and this provision is given effect to retrospectively from April 1, 1962. Especially when there is need for amending

\*The original speech was delivered in Tamil.

omprehensively the Incometax bearing mind the recommendations of many Committees and Commissions constituted by the Government during, the course of three or four decades, I am not able to reconcile myself to this small piece of legislation.

In the year 1963 the Government set up Ayers Committee to go into this question. In the year 1947 the Incometax Investigation Commission was constituted. In 1953-54 Mr. Nicholas Kaldar, who is known as as the economic wizard, gave his report to the Government. The Direct Taxes Administration Enquiry Committee was set up in 1958. Again, in 1968 a Committee of Departmental Officers of the Ministry of Finance was constituted to enquire into this question. The Working Group of the Administration Reform Commission submitted its report on incometax administration to the Government. In the begining of this year the Direct Taxes Enquiry Committee headed by Shri Wanchoo gave its report to the Government.

The Government are taking their own time for implementing the valuable recommendations made by so many financial experts. They may take also many years to remove the innumerable lacunae in the Incometax Act. But, the Government should act forthwith to counteract the judgment of the Supreme Court by bringing forward this Solitary amendment to the Incometax Act.

What is the present position, inspite of the fact that so many Committees and Commissions have gone into this question? It is estimated that for the year 1968-69 alone there was evasion of tax on Rs. 1400 crores. Upto the end of 31-3-1970, according to the statistics supplied by the Government, the tax arrears were Rs. 840.70 crores. If you look at the fact as to how far the penal provisions contained in the Act have been

exercised stringently by the Government, you will find that during the year 1965 to 1970, only 20 persons—I mean 20 tax defaulters— have been sent to civil prisons. Either the penal provisions are not implemented earnestly or there are some lacunae in the penal provisions of the Act. Many a tax payer takes undue advantage of his right to file Writ Petitions under Article 226 of the Constitution to delay and defeat tax proceedings. As many as 1648 Writ Petitions relating to direct taxes are reported to be pending in the Calcutta High Court alone during 1970-71.

**SHRI K. R. GANESH :** I would ask the hon. Member to tell me the number of writ petitions pending before the Madras High Court.

**SHRI E. R. KRISHNAN:** I am sure, Sir, that the hon. Minister will agree with me if I say that tax evaders and the tax dodgers are people with resources and not poor people from whom indirect taxes are collected on the spot. Many times on the floor of this House, the Finance Ministers have stated that adequate steps would be taken to collect the tax arrears mounting year after year. But the tax arrears continue to mount and even the existing penal provisions are not made use of properly and effectively. If you take the whole country, the Writ Petitions throughout the country against direct taxes might total more than 10,000.

I do not know how long the Government will take to bring forward a comprehensive legislation plugging all the loopholes and lacunae in the Incometax Act so that they can come with a heavy hand on the tax evaders and tax dodgers. I am sure that by getting such a minor amendment to the Act passed by this House, the Government will not be able to touch even the fringe of the problem. I begin to doubt whether

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this Government are capable at all to solve the massive problem of tax evasion and the black money which is holding at ransom the economy of the country.

I urge upon the hon. Minister of Finance that the Government should come forward as early as possible with a comprehensive amending Bill to tackle the problems I have enumerated and I am sure the whole House will definitely welcome such a legislation.

With these words, I conclude.

SHRI PILOO MODY (Godhra) : Any Government which brings forth legislation which expects a citizen to pay more than 100% tax is not only uncivilized but barbaric. I am not at all surprised that the incidence of black money goes on increasing because I cannot see how a citizen will find an answer to this sort of absurd legislation which asks a man to give more than what he earns. That is all that I have to say.

श्री सतपाल कपूर (पटियाला) : डिप्टी स्पीकर साहब, मैं यह समझता हूँ कि सुप्रीम कोर्ट के नये फैसले से एक काफी बड़ी क्राइसिस खड़ी हो गई थी, और यह बिल लाकर सरकार ने बहुत अच्छा और सही कदम उठाया है।

जहाँ तक वैल्यू टैक्स के प्रिन्सिपल का ताल्लुक है नये फैसले ने वैल्यू टैक्स का प्रिन्सिपल ही चेंज कर दिया था, वैल्यू टैक्स के सारे करेक्टर को ही चेंज कर दिया था। इसलिये इस कन्ट्रिब्यूशन को, इस लैक्युना को पेश भ्रप करना बहुत जरूरी था। इसलिये यह बिल, मैं समझता हूँ पूरी तरह मुकम्मल है और लाया जाना चाहिये था और इस बिल के लिये मैं सरकार को मुबारकबाद देता हूँ कि उन्होंने एक बहुत बड़ी खामी को जो सुप्रीम कोर्ट के फैसले से पेश आ रही थी, उस को इस बिल के जरिये पेश भ्रप करने की कोशिश की है।

मैं इस हाउस के जरिये महकमा फाइनेंस से एक्साइस्त करना चाहूंगा कि एक नया प्रमेडिग बिल लाये ताकि जो बिल मोनोपली हाउसेज को बहुत बड़ी रकमे टैक्स की देनी हैं, जिन के बारे में मल्टलिफ हाई कोर्ट्स और सुप्रीम कोर्ट में अपील कर के, रिट पेटिशनस कर के स्टे प्राईर ले रखे हैं, उन को किमी तरह बैकेट कराया जाय। जब हमविग मोनोपली हाउसेज की लिस्ट देखते हैं तो मालूम होता है कि सैकड़ों करोड़ रुपये जो उन लोगों को टैक्स का सरकार का देना है वह जल्दी से वसूल किया जा सके, और जो रिट पेटिशनस कर के 10-10 साल तक उन केसेज में कोई फैसला नहीं हो पा रहा है और जिस की वजह से इन्कम टैक्स की वसूली रुकी हुई है, उस सिलसिले में महकमा फाइनेंस को कोई कदम उठाना चाहिये, कोई नया सिस्टम सोच कर नया बिल लाना चाहिये। इन्कम टैक्स के बारे में हम सोच सकते हैं कि छोटा दुकानदार है, छोटा कारखानेदार है, किसी पर इस बात की लिमिट रख सकते हैं कि 10 हजार, 50 हजार या एक लाख जिन की लिमिट हो उस को स्टे प्राईर मिल सके, लेकिन बिग मोनोपली हाउस को जिस को करोड़ों रुपये टैक्स का देना हो उस को स्टे मिल जाय और उस का फैसला न हो, इस की कोई रोकथाम डिपार्टमेंट को करनी चाहिये। इसलिये मैं इस हाउस में रिक्वेस्ट करना चाहता हूँ कि महकमा इस तरफ ध्यान दें।

यह बिल मुकम्मल है क्यों कि वैल्यू टैक्स और इन्कम टैक्स की जो कांट्रोवर्सी खड़ी हो गई उस कांट्रोवर्सी को यह बिल दूर करता है। लेकिन एक कामप्रोहेसिव प्रमेडमेंट डिपार्टमेंट को लाना चाहिये जिस के जरिये से इस मुल्क में जो कैपिटलिज्म कोर्ट की पावर को ऐक्सप्लायट कर रही है उस को रोका जा सके। मैं कहना चाहता हूँ कि विधान की पावर का भ्रगर कोई इस्तेमाल कर रहे हैं जो बिग मोनोपली हाउसेज कर रहे हैं। उन को किस तरह रोका जाय इस तरह ध्यान देने की जरूरत है।

में उम्मीद करता हूँ कि फ़ाइनेंस मिनिस्टर साहब इस तरह ध्यान दे कर कामप्रीहेंसिव इन्कम टैक्स प्रमोडमेंट बिल लायेंगे ।

श्री शार० बी० बड़े (खरगोन) : माननीय उपाध्यक्ष महोदय, जो बिल आया है उस का मैं और प्रिन्सिपल विरोध करता हूँ, और इसलिये करता हूँ क्योंकि सुप्रीम कोर्ट ने जो यह रूलिंग दी है कि इन्कम टैक्स वैल्यू टैक्स को डिडक्ट कर के लगाया जाय क्योंकि दो वफा एक आदमी पर टैक्स नहीं लगना चाहिये, यह बिल इस सिद्धान्त के खिलाफ जाता है ।

MR. DEPUTY-SPEAKER : The hon. Member may continue on Monday.

15 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

Sixteenth Report

SHRI J. MATHA GOWDER (Nilgiris) : I beg to move the following :

"That this House do agree with the Sixteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th August, 1972".

MR. DEPUTY-SPEAKER : The question is :

"That this House do agree with the Sixteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th August, 1972."

*The motion was adopted.*

15-01 hrs.

RESOLUTIONS RE : PER - CAPITA INCOME—Contd.

MR. DEPUTY-SPEAKER : The House will resume consideration of the Resolution moved by Shri Bibhuti Mishra urging upon the Government to fix the minimum limit of *per capita* income. Shri Jhar-

kande Rai was on his legs. He has taken 13 minutes. He must conclude now.

श्री शारदकान्धे राय (घोसी) : उपाध्यक्ष महोदय, मैं पिछली बार यह बता रहा था कि हिन्दुस्तान के कम आय और बहुत आय वाले लोगों में कितना अन्तर है। हमारे देश में 57 फीसदी ऐसे खेतिहर लोग हैं जो खेती करते हैं और जिन के पास दो एकड़ से भी कम भेत है। दूसरी ओर सारे देश में पांच प्रकार के बड़े-बड़े जमीन चोर हैं। जिन के पास हजारों एकड़ जमीन हैं। बन-श्यामदास बिड़ला के पास 80 हजार एकड़ हैं, माहोली शकर मिल के पास 2800 एकड़ हैं, हिन्दुस्तान शकर मिल के पास 3300 एकड़, महाराजा पटियाला के पास 1500 एकड़ हैं, महारानी गायत्रीदेवी के पास 4000 एकड़ के पास के फार्म हैं इसी प्रकार अन्य के पास भी उत्तर प्रदेश में नैनीताल की तराई के इलाके में 5,000 एकड़ से ऊपर के तीन फार्म, 1,000 से 5,000 एकड़ तक के 12 फार्म, 500 से 1,000 एकड़ तक के 250 फार्म और 100 से 500 एकड़ तक 1,000 फार्म हैं : करियप्पा और बिमैया जो हमारे यहां के कमान्डर इन चीफ रह चुके हैं, उन के पास मैसूर में 5,000-5,000 एकड़ के फार्म हैं। हिन्दुस्तान में खेती योग्य जमीन दुनिया के करीब-करीब सब देशों से ज्यादा है। जैसे हिन्देशिया में 29%, अमरीका में 14% और कनाडा में 14% ही जमीन कृषियोग्य है। ढाई करोड़ एकड़ जमीन हिन्दुस्तान के पुराने सामन्तों और भूस्वामियों के पास है। पिछले बीस वर्षों में 2 हजार करोड़ खेती की पैदावार बढ़ाने पर व्यय किया गया है ऐसी स्थिति में देहातों में कम भ्रामवनी और अधिक भ्रामवनी का अन्तर बढ़ता जा रहा है। जमींदारी मुद्रावजा के रूप में केवल 1961 तक 164 करोड़ मुद्रावजा दे कर इस अन्तर को और बढ़ा दिया गया है। तीसरी योजना में धरखों खपया खर्च कर के भी प्रति व्यक्ति आय में वृद्धि नहीं हुई। चौथी योजना के बाद भी केवल नाम मात्र की बढ़ोतरी हुई है।