

ration Act, 1963, be taken into consideration".

The motion was adopted.

MR. SPEAKER : The question is :

"That Clauses 2 to 4 and 1, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

"Clauses 2 to 4 and 1, the Enacting Formula and the Title were added to the Bill.

SHRIMATI SUSIILA ROHATGI : I move :

"That the Bill be passed".

MR. SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

13.11 hrs.

CENTRAL BOARD OF DIRECT TAXES (VALIDATION OF PROCEEDINGS) BILL

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

"That the Bill to provide for validation of certain proceedings in relation to direct taxes and for matters connected therewith, be taken into consideration."

As the hon. Members are aware, the Central Board of Revenue was replaced by two separate boards of revenue called the Central Board of Direct Taxes and the Central Board of Excise and Customs, which were constituted under the Central Board of Revenue Act, 1963. The new Boards come into existence with effect from 1-1-1964. Section 4 of the Central Boards of Revenue

Act, 1963, empowers the Central Government to make rules for the purpose of regulating the transaction of business by each Board and further provides that "every order made or act done in accordance with such rules shall be deemed to be an order or act, as the case may be, of the Board". In exercise of this power, the Central Government notified on 1-1-1964 the Central Board of Direct Taxes (Regulation of Transaction of Business) Rules, 1964 which superceded all previous rules on the subject. Under one of the provisions in these rules, the Chairman of the Central Board of Direct Taxes is empowered to distribute the business of the board among himself and other members and specify the cases or class of cases to be considered jointly by the Board. Such an order can, however, be passed by the Chairman only after obtaining the prior approval of the Central Government.

In exercise of these powers the Chairman had, from time to time, distributed the business of the Board amongst himself and other members but some of these order were passed obtaining only a formal or informal approval of Secretary, Ministry of Finance. It has been brought to the notice of the Government that the validity of such orders is open to challenge on the ground that the procedural requirement of obtaining the approval of the Central Government had not been fulfilled. If this view can be sustained, various actions taken by the Chairman and members of the Central board of direct taxes in the performance of their functions under the income tax Act and other direct taxes enactments may be regarded as being invalid merely on the ground that the member of the Board who performed the relevant function had not been validly entrusted with the necessary powers in accordance with the rules. In fact, in a recent case before the Delhi High Court, the issue of notices by the Income-tax officer under section 148 for re-opening of assessments with a view to bringing escaped income to tax was challenged on ground that the member of the Board who had granted approval to the re-opening of these assessments had not validly been entrusted with these functions as the relevant order relating to allocation of this work had not been made with the previous approval of the Central Government. This

[Shri K. R. Ganesh]

claim of the tax payer has been upheld by the High Court.

Under the provisions of the Income-tax Act and other enactments relating to direct taxes, the functions of the Central board of direct taxes cover a very wide range and include the declaration of foreign associations to be companies for purposes of taxation, distribution of jurisdiction amongst income-tax authorities, approval to the waiver or reduction of minimum penalty imposable in cases of voluntary disclosure of concealed income or wealth, as well as grant of approval to the re-opening of assessments for the assessment or re-assessment of escaped income. The effect on revenue if these actions of the Chairman and members of the Board are vitiated on account of the technical fault in the order of distribution of work amongst the members of the Board would be considerable.

The present Bill seeks to validate all such actions taken in the past, under the Income-tax Act and other direct taxation laws (not being the Estate Duty Act), in pursuance of the schemes for distribution of work amongst the Chairman and Members of the Board obtaining from time to time. The object of the Bill is a limited one, *i. e.* to validate the actions taken by the Chairman and Members of the Central Board of Direct Taxes in so far as the validity of such actions could be open to challenge on account of a procedural infirmity in the order relating to distribution and allocation of work amongst the Chairman and Members of the Board. I trust this short Bill will receive the unanimous approval of this House.

Sir, I move.

MR. SPEAKER : Motion moved :

"That the Bill to provide for validation of certain proceedings in relation to direct taxes and for matters connected therewith, be taken into consideration."

SHRI R. V. BADE (Khargone) : I beg to move :

"That the debate on the Bill No. 92 of 1971, 'The Central Board of

Direct Taxes (Validation of Proceedings) Bill', be adjourned."

I have moved this motion under rule 109, and the reasons are these.

The subject matter of the above Bill is pending in the Supreme Court by Civil Appeal No. 1108 to 1112 (N. T.) 70 of the Secretary, Ministry of Finance, New Delhi, the Central Board of Direct Taxes, New Delhi and Income-tax Officer. The petition of Government has been admitted in the Supreme Court and the petition has been entered in the Registrar of the Supreme Court of India, Civil Appellate Jurisdiction. The Assistant Registrar has asked the Union of India to prepare 20 printed copies of the appeal record and the cost will be Rs. 3,216 and should be deposited in Court in cash within 30 days. This fact has been with held by the hon. Minister while introducing the Bill and the fact that the matter is pending before the Supreme Court by way of appeal by the Ministry of Finance.

The Government cannot bring a Bill to cover and condone the lapses and mistakes of certain officers.

In view of the above facts, when very vital information has been withheld from this august House about the *sub judice* status has not been mentioned in the aims and objects of the Bill, I may be permitted to move the above motion as per rule 109 which reads :

"At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned may be moved with the consent of the Speaker."

I want to know whether the Government has filed an appeal in the Supreme Court and whether the appeal is pending. If this Bill is passed, will it not affect the appeal in the Supreme Court ? Is not the same point at issue in the appeal in the Supreme Court ?

Therefore, the matter is *sub judice* and it should not be discussed in the House.

There is also rule 41, relating to Question, which says :

“(xvii) it shall not ask for information on a matter which is under adjudication by a court of law having jurisdiction in any part of India ;

* * *

“(xxii) it shall not ordinarily ask about matters pending before any statutory tribunal”

Similarly, rule 210 (viii) reads :

“it shall not relate to a matter which is under adjudication by a court of law.....”

So, this is the spirit of the rules framed for the guidance of the Members. So, I want a ruling from you on this point, and information from the Minister whether such an appeal is pending in the Supreme Court.

SHRI K. R. GANESH : As I mentioned while moving the Bill itself, the Delhi High Court had given a certain decision in regard to the Dalmia case. Against this decision, the Central Board of Direct Taxes have gone in appeal to the Supreme Court. But the fact that an appeal is pending against the High Court decision does not stand in the way of Parliament passing the validating legislation.

MR. SPEAKER : The minister is right. There are so many rulings on it.

May's Parliamentary Practice says :

“Matters pending judicial decision : A matter awaiting or under adjudication by a court of law should not be brought before the House by a motion or otherwise. This rule does not apply to Bills.”

Some of my predecessors also have held thus. Kaul and Shakhder says :

“The Speaker has held that discussion on a Bill, the subject-matter of which is *sub judice* by virtue of a Bill pending in the Supreme Court is in order, provided

members refrain from referring to the facts of the particular case under appeal, as thereby the debate in the House could not pre-judge the hearing of the appeal by the Supreme Court.”

There are a few other rulings also, but the basic ruling is given in *May's Parliamentary Practice*. It has been elucidated a little by Kaul and Shakhder. So, the Chair will have to be very cautious in conducting the debate. Members also will have to be very cautious about it. So, this Bill can be discussed. Are you withdrawing your amendment ?

SHRI R. V. BADE : It may be put to the House.

MR. SPEAKER : I do not know what is the procedure, whether this amendment should be disposed of now or it may be taken up with other amendments latter. But because this is a basic amendment for the adjournment of the debate, common sense tell us that it must be put first.

The question is :

“That the Debate on the Central Board of Direct Taxes (Validation of Proceeding) Bill, 1971, be adjourned.”

The motion was negatived.

MR. SPEAKER : Now, we will take up general discussion, Shri Panda.

SHRI D. K. PANDA (Bhanjanagar) : Mr. Speaker, Sir, I welcome this Bill which is aimed at validating certain proceedings. With regard to the other thing which is raised on a technical ground that this Bill cannot be passed here in that connection I have to say that when very important things are to be done by introducing a Bill in the greater and larger interests of the country, then there should not be any such technical difficulty that should stand in our way in this Parliament so as to introduce any such Bill.

Now, as for this Bill is concerned, while welcoming this particular Bill I have to say that the Government is lacking in its foresight, in its basic approach and attitude as to

[Shri D. K. Panda]

how to deal with the tax evaders. Just here everybody will agree with me and the hon. Minister will also agree with me that this Bill is only a piecemeal attempt to deal with the tax evaders. It is these tax evaders who have been cheating the country, cheating the Government exchequer and this gives rise to creation of black-money by big industrial businessmen and rich persons.

13 26 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

MR. DEPUTY SPEAKER : May I draw your attention that the Bill is confined to the question of validating certain proceeding and not the whole question of tax evasion.

SHRI D. K. PANDA : I draw the attention of the hon Minister to the fact that where any thing comes before the Supreme Court or before the High Court then only such a Bill will be introduced to validate particular proceedings. If that thing goes on continuously then there will be no end to it. Because as it has been evident from the past, several such Bills had introduced and several Acts were left with lacunae that the big capitalists and rich persons evade the tax. So, the Income Tax Act has to be drastically changed so as to deal sternly with such persons who are evading tax.

MR. DEPUTY-SPEAKER : The Minister has said that the whole Income Tax Act will be looked into afresh.

SHRI D K PANDA : My friend in the ruling party, Dr. V. K. R. Varadaraja Rao has categorically declared that this Government is lacking in declaring a specific and definite policy as to how to deal with these tax evaders. That is why here again in (b) "No suit or other proceedings shall be instituted against the Government or any other persons or authority whatsoever on the ground that any such act, proceeding or thing was not done or taken in accordance with law." Now, here again "something done either on behalf of the Government or on behalf of that Board"—that is not there.

Having had some experience of the practice of income-tax law in certain appeal

matters, I can boldly say that such lacunae are left, whether deliberately or not. The reason might be that this Government is wedded to the interest of the capitalist class.

I want to be very categorical on this point and say that Government should take comprehensive steps and form a committee to discuss the legal aspects of this matter so as to bring about a thorough change with regard to the Income-tax Act.

Not only that, there are connected Acts also, which have to be changed. This is not the whole Act or the whole proceedings. Several Bills have to be introduced. Instead of doing that, in view of the Bhoothalingam Committee report, the Direct Taxes Inquiry Committee report and recommendations and of Mr. Kaldor, an European expert, who has pointed out that Rs. 350 crores of income-tax has been evaded by these big business and other rich class people, in the Parliament itself let there be a committee comprising of different persons who have got the acumen and experience in legal direction to change the law completely and drastically so as to deal sternly with such persons who are tax evaders.

Then, there is the reported allegation — it is widely rumoured; it is in the air—that some of the Members are also in huge arrears. Sir, charity begins at home. Let us set up some ideal so that we can deal with such persons outside. Therefore, a Bill can be introduced so that under the people's Representation Act, section 7, it is a disqualification and such Members, who are in arrears and who have not paid their arrears of income-tax in spite of notice, could be dealt with. A period of six months should be given and if they do not pay and obey Parliament, they should be declared as disqualified to continue.

In the Income-tax Act there is absolutely no penal provision. At present the penal provision is only imposition of a penalty of some amount of money. It is only the middle class and some few rich people who are attacked and on whom some penalty is imposed. To deal with the real tax evaders, who are evading huge sums and are creating black money, there must be a penal provision. They must be declared criminals in first round and throughout India if must be

publicised. If within a period of six months they do not pay, they must be sent to prison.

So, while accepting this Bill, I have given these suggestions so that they could be kept in view and future legislation could be made.

*SHRI J. M. GOWDAR (Nights) Mr Deputy Speaker Sir, I would like to say a few words on The Central Board of Direct Taxes (Validation of Proceedings) Bill, 1971.

Sir, the basic reason for introducing this Bill is that powers of the Direct Taxes Board have not been well defined and the prior approval of the Government had not been taken by the board for re-assessment of income which had escaped assessment. During the period from June 1964 to July 1969, the Chairman and the Members of the Board had been functioning in certain respects without the prior approval of the Government and as a result the issue was taken to the court of law. With a view to validating the proceedings of the Board during this period, this Bill has been introduced by the Government.

Sir, for five long years, the Board of Direct Taxes has been acting *quo motu* though the Rule 4 of the Central Board of Direct Taxes (Regulation of Transaction of Business) Rules, 1964 specifically provided that the previous approval of the Central Government should be taken. How did the Chairman of the Board and the Members function when they knew all the while that they had to take the previous approval of the Government of India? I would say that such important rules are not easily understandable to both the Officers and the assessee alike. That is why the Government are often placed in such a predicament of coming before this House with such Bills. The Bhoothalingam Committee in its report has given many illustrations of such rules which confound the intelligence of the people concerned. The Committee has made recommendations in this regard that the rule should be clearly and simply worded so that they may be easily comprehensible to the people and also there may be no complications in the implementation of rules. I request that the Government should implement the recommen-

ditions made by the Bhoothalingam Committee in this respect.

I do not for a moment say that it is wrong to re-assess the incomes that escaped earlier detection. The evaders of income tax should not be allowed to go scot-free. But the Board of Taxes should have strictly observed the requirements of rules, specially when the Board has very highly paid officials to assist it.

I may be permitted to state that the purpose of the Bill is merely to white-wash the unpardonable lapses on the part of the Board and the Government. Whenever the Government find themselves in soup they seek the protection of this House. They must realise that not only the valuable time of the House is wasted in such legislations but also public money is squandered. Here, I would say that the Government must stop at once the tendency to criticise the courts of law. The Courts of Law do nothing but interpreting the rules framed by the Government and in the interest of justice and fairplay wherever there are procedural infirmities, they seek to highlight them. They always go by the basic requirements expected of them. I don't think they can be found fault for judging the lacunae in the framework of rules and regulations. I would like to impress upon the Government that they should not allow these kinds of lapses to recur frequently. Finally I would suggest that the Income tax rules should be made easily understandable both to the Officers and assessee.

श्री आर. बी. बड़े (खरगान) उपाध्यक्ष महोदय, यह जो सेंट्रल बोर्ड आफ डाइरेक्ट टैक्स (वैनिडेशन ऑफ प्रोसीडिंग्स) बिल लाया गया है, उस का मैं विरोध नहीं कर रहा हूँ। मैं चाहता हूँ कि इस प्रकार के टैक्स का जो अमेसमेंट होता है, जिस का इवेजन होता है वह ज्यादा से ज्यादा रिमलाइज किये जायें, लेकिन मेरा मुख्य उद्देश्य तो यह कहने का है कि यदि सेंट्रल बोर्ड आफ डाइरेक्ट टैक्स की प्रोसीडिंग्स के वैनिडेशन के लिये गवर्नमेंट आफ इन्डिया को अनुमति चाहिये श्री

*The original speech was delivered in Tamil.

[श्री आर. बी. बड़े]

तो वह 1964 से 1969 तक क्यों नहीं मिली। अब गवर्नमेंट दिल्ली हाई कोर्ट में डालमिया का केस हारी तब उस की अपील में वह सुप्रीम कोर्ट में गई। वह अपील अभी पेन्डिंग है सुप्रीम कोर्ट में। उस के बाद उन को 3,000 रु डिपॉजिट करने की आज्ञा दी गई है। उस में अफिडेविट की पिटेड कापिया भी देनी चाहिये ऐसा लिखा है। लेकिन एम्स एन्ड आल्लेक्टस में इस के बारे में नहीं लिखा है। इस का कारण यह है कि जो इन्कम टैक्स का आफिस है उस की हालत इतनी खराब है, सागा इन्त-जाम इतना लूज है कि जब तक कोई हाई कोर्ट का दरवाजा न खटखटाये तब तक उन की अक्ल ठीक नहीं होती। इस के पास गवर्नमेंट पार्लियामेंट के पास दौड़ती है, पार्लियामेंट में बिल लाती है कि उस का वैलिडेशन किया जाये। 1964 से 1969 तक आप ने क्यों इस को नहीं किया। इस का कोई कारण नहीं बनलाया गया है। अब उनको यह रिअलाइजेशन हुआ है कि उनका सेंट्रल गवर्नमेंट में परमिशन लेनी चाहिय थी, संकशन लेनी चाहिये थी। मैं जानना चाहता हूँ कि आप ने संकशन क्यों नहीं लिया था? इस के वास्ते कौन जवाबदेह है इस तरह से हाईकोर्ट में अपील पर पब्लिक का पैसा खर्च करने के लिये? इस तरह का जो व्यवहार होता है उस के लिये कौन रिस्पॉसिबल है? इस के बारे में शासन ने कुछ नहीं किया है।

हाई कोर्ट में या दूसरी कोर्ट्स में जो केसिस पेन्डिंग है उन केसिस पर इस का क्या असर होगा, इसके बारे में आपने लिखा है :

rule, or other thing or action given made, granted, issued, done or taken or purporting to have been given, made, granted issued, done or taken by the Central Board of Direct Taxes "

इस भाषा का आपने इसके सम्बन्ध में उपयोग किया है। फिर भी जो लूपहोल रह जायेंगे उन का जिक्र उन केमिस में जो अपील में गये हैं अदालतों में आयेगा। वहां पर भी हम प्रकार के और सवाल उठ खड़े होंगे। शासन का जो व्यवहार है कि जब कभी वह हाई कोर्ट में हार जाता है तब दौड़ना हुआ पार्लियामेंट के पास आ जाना है और चाहता है कि जो लूपहोल नजर आया है उसको प्लग किया जाये और जो लुकने है उनको भरा जाय, ठीक नहीं है। हम तरह से हर बार पार्लियामेंट का दरवाजा खटखटाना ठीक नहीं है। जो टैक्स इवेड करते हैं, उनका पक्ष मैं नहीं लेता हूँ और न उन के पक्ष में मैं हूँ। लेकिन हाई कोर्ट से किसी का अगर न्याय मिलता है तो उस न्याय के विपरीत आचरण करना, उस न्याय से उसको वंचित करना और रिट्रोस्पेक्टिव इफेक्ट किसी चीज को देना ठीक नहीं है। जो भी गकट होते हैं उनको आप रिट्रोस्पेक्टिव इफेक्ट से लागू नहीं करते हैं। लेकिन इसको आप रिट्रोस्पेक्टिव इफेक्ट देना चाहते हैं और 1964 से 1969 तक जो गलतियां हुई हैं उन पर पर्दा डालना चाहते हैं। मैं इस समय शासन की केवल टीका करना चाहता हूँ, इसका विरोध मैं करना नहीं चाहता हूँ।

जो मैंने एम्बेडेज दिया है, उनको बाद में मैं भूल करूँगा।

"Notwithstanding any judgment, decree or order of any court, tribunal or any other authority, no approval, declaration, determination, recognition, direction, instruction, notification, order or

SHRI DINFISH JOARDER (Malda) : In this Bill there is nothing very important or serious to dilate upon in as much it envisages only that certain proceedings of the Central Board of Direct Taxes should be validated so that it may not come in con-

frontation with the judgement of the Delhi High Court, in connection with the case of *Shri R. Dalmia vs. Union of India* and others.

But the opportunity that led this case to be brought to the High Court is one to the functioning of the Board itself and the members of the Board. It is only due to such functioning and the irresponsible and hazardous activities of the members and Chairman of the Central Board of Direct Taxes that gave opportunities to the Capitalist Dalmia group to bring this to the High Court and also these activities gave opportunities to the tax evaders and the capitalist monopolists to frustrate the tax provisions and the tax rules that are enforced in the country and thereby the tax evaders and the monopoly capitalists are taking opportunity from such activities of the Board and the administration of the Central Revenues Department and that is why the activities and functions of the members of the Board of Direct Taxes should also be discussed in this connection.

It is the order, and this has become a practise in the administration of the Board and also in administration of the Tax Department, the Revenue Department, which give encouragement to tax evaders and the black-marketeers to accumulate such a huge amount of black money, and now, to-day, about Rs. 1000 crores has become the outstanding figure of unpaid income taxes, and these are due to non-payment of income taxes by big business houses like Birlas, Dalmias, Jains, etc. Similarly, there are unaccountable number of tax evasion cases and there is also the problem of black money, and all this has created a problem in our country that the black money is now running parallel in competition to the white money, the regular currency, in the country. No stringent efforts or strong measure have been taken against such tax evaders or accumulation of black money so far by the Board of Revenue or the Central Board of Direct Taxes or the Finance Department itself.

In this context I would like to submit that this sort of activities and functions

should be thought of once again and strict measures should be taken and if necessary the entire legal structure and the statutes should be reconstituted and a new law should be enforced so that these arrears of taxes may be recovered and black money seized. The reason which necessitated bringing forward this bill, namely, the irresponsible and haphazard activities of the members of the Board should also be condemned and censured. I would request the hon. Minister to take these facts into account and, while not opposing this Bill, I would request that some strong measures should be taken to check and seize black money and arrears of income tax should be realised and you should also see that the functions of these Boards are discharged according to the Acts and the provisions contained therein so that no encouragement or opportunity is given directly or indirectly to the monopolists, capitalists and the blackmarketeers to take chance to evade taxes and form black currency parallel to regular currency.

SHRI SURENDRA MOHANTY (Kendrapara) : The Bill is unexceptionable in its purpose, with which I may not have any serious difference. But I am opposed to certain tendencies which this Bill reveals in an unabashed manner. There are various lapses and various acts of omission and commission by the executive, to validate which, the authority of judicial bodies—like high courts and the supreme court—are being tampered with so very lightly. I am no admirer of the judiciary. Nor am I a great admirer of the executive either. So long as you have distribution of functions in the democratic set-up where you give judiciary a particular role to discharge and to operate within its own ambit, it is a very serious day for our democracy indeed if, to validate our own wrong actions we seek to tamper with that authority. The hon. Minister is usually very eloquent, but that amplitude of his eloquence was lacking when it came to the genesis of this Bill. According to me there is more than what meets the eye in this Bill.

* SHRI K. R. GANESH : I have not yet spoken.

SHRI SURENDRA MOHANTY : That is much worse still. You take the House so much for granted that you don't have the necessity to speak at all.

SHRI K. R. GANESHI : I take the House very seriously and that is why something which I say comes from serious consideration. You said, I am otherwise very eloquent, but while moving this I was not eloquent. Therefore I say, I have just moved the Bill and I have not spoken. I am sorry if I have disturbed your chain of thinking.

SHRI SURENDRA MOHANTY : I was submitting, you are eloquent otherwise but you are so laconic when it came to moving this Bill.

MR. DEPUTY-SPEAKER : You wanted a better speech from him.

SHRI SURENDRA MOHANTY : Yes, revealing all the skeletons in the cupboard.

As I was saying, the genesis of this Bill is very intriguing. As the Statement of Objects and Reasons states, in the case of *R. Dalmia vs the Government of India*, the Delhi High Court had passed a certain order because a certain amount of income of the Dalmias had 'escaped assessment', and when a subsequent notice had been issued for reassessment, that action had challenged in the Delhi High Court. The hon. Minister may kindly take the trouble of letting this House know whether that escape was deliberate or accidental, how it came to the notice of the Central Board of Direct Taxes or the authorities concerned whether they have made any investigations into the matter, and whether the authorities that were entrusted with that job had deliberately evaded the assessment. We would like to know whether that escape was deliberate or accidental. However, after the escape was noticed and detected the notice had been issued by a member of the Central Board of Direct Taxes who had no authority to do so.

The hon. Minister has said in the course of his brief speech that during all these five years, the Government of India have been giving formal or informal

approval to various divisions of duties among the members of the Board of Direct Taxes. This only emphasises in what cavalier fashion the Government had been functioning.

The Central Board of Direct Taxes is a statutory body created under the authority of this very Parliament, and its functions are well delineated in the statute. The hon. Minister owes a reply to this House as to why Government or the Finance Minister did not approve of the division of duties among the various members of the Board as a result of which a member had to sanction the issuing of a notice for which he had no authority. As I was saying, this once again emphasises and highlights how this Government is treating in a most cavalier fashion the most sacred principles and objects which we are all eager to uphold.

I have no quarrel with the aims and objects of this Bill, but what I am disturbed about is the cavalier fashion in which the Government has been functioning and how in seeking to validate its invalidated actions it is tinkering with the judiciary.

SHRI K. R. GANESH : This is a very simple Bill. It only seeks to rectify certain procedural infirmities that have come to the notice of the Central Board of Direct Taxes. But the discussion has gone on to the entire working of the board of taxes and also to the tax arrears and various other things.

As I had pointed out while moving the Bill, the chairman of the Central Board of Direct Taxes is empowered to distribute the business of the board among himself and other members in specific cases to be considered jointly by the board. Such an order should have the prior approval of the Central Government. What was done was that the chairman took the approval, formal and informal, of the Finance Secretary.

SHRI SURENDRA MOHANTY : Was it formal or informal ?

SHRI K. R. GANESH : I have indicated that already. Let me read it out again.

SHRI SURENDRA MOHANTY : I am not asking this question in a spirit of partisanship. I would just like to have information on one point, can he define what is informal approval and how it is distinct from formal approval ?

SHRI K. R. GANESHI : In exercise of these powers, the chairman had from time to time distributed the business of the board amongst himself and other members but some of these orders were passed after obtaining only a formal or informal approval of the Secretary, Ministry of Finance.

Sir, this is a procedural infirmity that the orders of the Central Government which means the orders of the Minister were not taken and orders of the Finance Secretary were taken. It was found out by the Board and it is what is sought to be rectified.

It may be said that it is a lapse, but it is not a lapse in the direction of helping somebody, it is not a lapse in that direction of all the cases that the hon. Members have tried to make. It is, of course, a procedural lapse and the hon. House has certainly a right to ask that when the rules were very specific that the orders of the Central Government were to be taken, why this procedure was not gone into. But it is a lapse which does not vitiate any proceedings which the Board has taken.

You take this particular case of Dalmia. After all it is the Board which authorised re-assessment. The matter was before the Delhi High Court and the Delhi High Court considered this and on the basis of this procedural defect, the assessee was given the benefit.

The basic point is that the re-assessment of the income was authorised by the Board, a Member of the Board and in pursuance of this duty, certain defects were found. Therefore, Sir, as I told, this is a very small procedural infirmity which this Bill tries to validate because it will involve a large number of cases. A considerable amount of income is involved and it is necessary to validate all the proceedings that have been taken only for the specific purpose that wherever this defect has been there, that defect should be removed.

Sir, the hon. Members have, of course, gone on to the larger questions of various other things. Shri Panda mentioned that this is a piece-meal attempt to deal with the tax evaders. This Bill does not deal with tax evaders ; it deals only with removing an infirmity that has been found in the procedure. It is not that in the assessment of cases or various other things that are there, which the hon. Members have mentioned, the Board can be criticised on that.

Some hon. Members, Sir, have also criticised the irresponsible actions of the Chairman of the Board and all sorts of things. I do not want to go into all these things, but it is necessary to see that this particular procedural defect that was found out was only a defect of technical nature and this should not be used for an attack on the entire working of the Board.

The entire question of tax arrears and various other things have been discussed in this hon. House. Only the other day, the Finance Minister mentioned that the evasion is a serious matter and it has to be tackled in a vigorous manner. There is no doubt about that. What the Department itself is doing, it is also necessary that that should be brought before the hon. Members.

If you take the tax arrears, from 1964 to 1970 there has been a continuous increase in the realisation of tax arrears. The collection of taxes arrears is :

1964-65	—	59.94 crores
1965-66	—	63.85 crores
1966-67	—	62.76 crores
1967-68	—	100.52 crores
1968-69	—	110.52 crores
1969-70	—	129.75 crores
1970-71	—	159.61 crores (provisional)

Therefore, this aspect has got to be kept in mind that there has been a continuous increase.....

AN HON. MEMBER : What about tax arrears ?

SHRI K. R. GANESH : We have supplied all the facts that you wanted ; no facts have been hidden. If he asks me a question like this, I will not be able to give an answer off hand. What I was trying to say was from 1964 till 1970-71, there had been a continuous increase in the collection of arrears.

14 hrs.

The arrears were estimated at Rs. 1,000 crores. This is not correct. As on 31-12-70, the net arrears are Rs. 565.73 crores. Hon. members are confusing the gross demand with the net arrears. The gross demand is Rs. 731.54 crores and the net arrears Rs. 565.73 crores. Of these quite a lot to be written off. Some relate to persons who have left for Pakistan, to Indian registered companies which are in Pakistan and various other things—I have got the details here but I do not wish to take the time of the House on them. My only intention in saying this is that it is a matter of genuine concern to us that such large arrears have accumulated.

SHRI D. D. DESAI (Kaira) : Several times such demands are made on an arbitrary basis and they are also included in this figure. Unfortunately, it gives a false impression to members here.

SHRI K. R. GANESH : That is one difficulty. There are so many procedures so far as income tax laws are concerned ; it takes a lot of time for the department to get through all the hurdles. Speaking yesterday on the Appropriations Bill in the other House, I expressed my personal view that the taxation laws are heavily weighted in favour of the assessee. There are various procedures through which the machinery has to go ; there is the Appellate A-stt. Commissioner, there is the Appellate Tribunal ; on points of law, the assessee can go to the High Court and the Supreme Court. Over and above that, he can take advantage of art. 226. I am told in one High Court alone, there are 800-900 cases pending on this score. *

This is a serious problem. The Finance Minister mentioned this morning that in the context of the huge problem of resources we are facing with the Bangla Desh refugees increasing every day, it is necessary to see that all these arrears are realised in the shortest possible time. It is also necessary to create a climate against such social crime in the country. The crime of tax evasion should be considered on par with other social crimes. It is also necessary to have a second look at some of our laws to see if more deferent and penal provisions cannot be incorporated. As I said yesterday, our resources position is becoming tighter ; with the narrow tax base we have and the expectations of the people rising, with the need of more resources becoming urgent, we have to generate the necessary resources in the most effective manner and shortest possible time. I Commend the Bill.

MR. DEPUTY SPEAKER. The question is :

"That the Bill to provide for validation of certain proceedings in relation to direct taxes and for matters connected therewith, be taken into consideration."

The motion was adopted

MR. DEPUTY-SPEAKER : We shall now take up clause-by-clause consideration.

Clause 2— (1) Validation of certain proceedings)

SHRI R. V. BADE : I move :

Page 2, after line 11, insert—

"Provided that this section will not have any effect on the pending suits or appeals or proceedings in any Civil or Revenue Court or High Court." (2)

I just want to explain this amendment. In clause 2, it is said, "Notwithstanding any judgement or decree..." etc. If the judgement or decree has already been passed, then it is all right. But if it is pending in the Court, it is *sub judice*, and then this provision will not be made applicable, because,

here the language of the clause is like this. In the case of decrees passed or judgment already delivered, then, of course, it will have effect. But if it is pending already in the court, this enactment will have no effect. That is my point in this amendment.

श्री शशि भूषण (दक्षिण-दिल्ली): उपाध्यक्ष महोदय, यह बहुत महत्वपूर्ण बिल तो नहीं है लेकिन अतिआवश्यक है। हमारे जो न्यायालय हैं उनके प्रति श्रद्धा प्रकट करते हुये भी इतना कह सकता हूँ कि यह एक साधारण सी प्रक्रिया की त्रुटि थी, उन को जनहित को अपने सामने पहले रखना चाहिये था। इस त्रुटि के रहते हुये न जाने कितने और डालमियाँ बच सकने थ, दसी लिए इस मंशोधन को लाकर मंत्रालय अपनी जिम्मेदारी को पूरा कर रहा है।

अभी हमारे माननीय सदस्य श्री आर.बी. बडे ने कहा कि जो केस अभी तक न्यायालय के सामने पेंडिंग है और या जिन पर फंसला हो चुका है, उन को इस प्रक्रिया में शामिल न किया जाय। लेकिन मैं यह समझता हूँ कि जब भी कोई गलती सामने आ जाये, तो उस गलती को दूर करना ही चाहिए। हालाँकि यह बड़ी साधारण-सी त्रुटि थी, लेकिन पता नहीं माननीय सदस्य का हमेशा ऐसा रुख क्यों रहता है कि जिस से टेक्स-इवेडर्स छूट जाय। इस से सरमायेदारों का लाभ होगा, जनता का लाभ होने वाला नहीं है। कुछ सदस्यों की यह नीति रही है कि अदालत की आड में जो टेक्स-चोर हैं, उनकी मदद करें, अदालत का पर्दा हमेशा सामने रखा जाता है। मैं अदालतों के बारे में तो कुछ नहीं कह सकता हूँ, लेकिन इतना अवश्य कहना चाहता हूँ कि यदि कोई साधारण त्रुटि रह जाय तो उन्हें भी जनहित को पहले देखना चाहिये, बजाय इस के कि वह उनकी छोड़ दें।

उपाध्यक्ष महोदय, मैं इस बिल का समर्थन करता हूँ और चाहता हूँ कि सरकार एक कम्प्रीहेन्सिव बिल लाये, जिससे कि अभी कोई

भविष्य में त्रुटि न रह जाय—क्योंकि सर-मायेदारों के हाथ बहुत लम्बे होते हैं, हमारे आफसर जब रिटायर होने हैं तो रिटायर होकर सरमायादारों के एडवाइजर बन जाते हैं, रिजर्व बैंक के उच्च-अधिकारी, या डायरेक्टर, उनके कार्यालय में नौकरी कर लेते हैं, उनको मलाह मणविरा देने है, जिससे वह टैक्स चोर छूट जाने हैं। आपने अभी बतलाया कि 560 करोड़ रूपया टैक्स बकाया है। पहले तो उन पर टैक्स ही कम लगता है, जो बड़े बड़े पूँजीपति हैं उन पर कम लगता है और जो छोटे हैं उन पर ज्यादा लगता है। उसके बाद फिर अदालतों में जाते हुए, दिवाला निकालते हुए, सरकार के पास कुछ नहीं पहुँच पाता है। इसलिए जरूरी है कि बोटों के अधिकारों को बढ़ाया जाय और अपनी अदालतों और न्यायालयों को ऐसे अधिकार दें, जिसमें उन के हाथ मजबूत हो, ताकि जो टैक्स चोर हैं, वह उनके हाथ से न छूट सकें। यह बहुत बड़ी जिम्मेदारी है—जैसा कि अभी मंत्री जी ने कहा, बंगला देश का प्रश्न हमारे सामने है—यह बिल्कुल सही बात है, युद्ध के बादल हमारे देश पर मट्टा रहे हैं, ऐसे समय में टैक्स की चोरी वर्गों वाले भी उतने ही बड़े देश के दुश्मन हैं, जितने देश पर हमला करने वाले हैं, उन दोनों में कोई फर्क नहीं है। टैक्स की चोरी को आनरेबल आफिस न समझा जाए, समाज में ऐसे व्यक्ति की इज्जत नहीं बढ़नी चाहिए, बल्कि इसको क्रिमिनल आफिस समझा जाय। मैं तो यह चाहता हूँ कि जो टैक्स की चोरी करते हैं उन को डिब्लेयर किया जाय उनकी लिस्ट छापी जाय। आज तक बड़े टैक्स चोरों को सजा होते नहीं देखा गया है, डालमियाँ भी थोड़े में छूट गये, बहुत से और भी छूटने वाले हैं, जो भी पकड़ा जाए, उसके साथ सख्त कार्यवाही होनी चाहिए। हम सब

[श्री शशि भूषण]

को मिलकर ऐसा प्रयत्न करना चाहिए कि टैक्स चारो के बिनाफ सग्त कार्यवाही हो, जिस बिना जनता न हमको यहा चुन कर भेजा है, वह हमस एसी ही आशा रखती है ।

SHRI K R GANISH The imendment of the hon Member is not acceptable because it will defeat the very purpose underlying the Bill I wish to clarify his doubt It may be mentioned that the proceedings which are pending before the appellate authorities courts on matters other than relevant to the validity of the action taken by the income tax department on account of the procedural irregularity will not be adversely affected by the proposed legislation

MR DEPUTY SPEAKER I shall now put the amendment of Mr Bide to the vote of the House

Amendment No 2 was 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

MR DEPUTY SPEAKER The question is

"That clause 1 the Enacting Formula and the Title stand part of the Bill "

The motion was adopted

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

SHRI K R GANISH Sir I beg to move

"That the Bill be passed "

MR DEPUTY-SPEAKER The question is

"That the Bill be passed "

The motion was adopted

14 12 hrs

STATUTORY RESOLUTION RE MYSORE STATE ELECTRICITY BOARD

THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE (SHRI K R
GANISH) Sir I beg to move the following
Resolution

"Whereas in pursuance of sub-section (3) of section 65 of the Electricity (Supply) Act 1948 (54 of 1948) the Government of Mysore has with the approval of the Mysore Legislative Assembly, fixed under its Order No PWD—100 I F B 69 dated 15th November, 1969 the maximum amount as rupees fifty crores for the purposes of sub section (1) of the said section 65 with effect from the 10th September, 1969,

and Whereas the Government of Mysore proposes to raise the aforesaid maximum amount to rupees seventy five crores,

And Whereas the Mysore Legislative Assembly has been dissolved,

And Whereas under the proclamation dated 27th March, 1971, issued by the President under article 356 of the Constitution, the powers of the State Legislature are exercisable by Parliament,

Now, therefore, it is hereby resolved that Lok Sabha do accord approval to the proposal of the Government of Mysore to fix, under sub-section (3) of section 65 of the Electricity (Supply) Act,