

Sinha, Shri Nawal Kishore
Sinha, Shri R. K.
Sinha, Shri Satyendra Narayan
Sohan Lal, Shri T.
Sokhi, Shri Swaran Singh
Sonar, Dr. A. G.
Stephen, Shri C. M.
Subramaniam, Shri C.
Sudarsanam, Shri M.
Sundar Lal Shri
Surendra Pal Singh, Shri
Swaminathan, Shri R. V.
Swamy, Shri Sidrameshwar
Swaran Singh, Shri
Swatantra, Shri Teja Singh
Tarodekar, Shri V. D.
Tayyab Hussain, Shri
Tewari, Shri Shankar
Thakre, Shri S. B.
Thakur, Shri Krishnarao
Tiwari, Shri R. G.
Tiwary, Shri D. N.
Tiwary, Shri K. N.
Tombi Singh, Shri N.
Tula Ram, Shri
Tulsiram, Shri V.
Uikey, Shri M. G.
Ulaganambi, Shri R. P.
Unnikrishnan, Shri K. P.
Veeriah, Shri K.
Vekaria, Shri
Venkatasubbaiah Shri P.
Venkatswamy, Shri G.
Verma, Shri Balgovind
Verma, Shri Sukhdeo Prasad
Vikal, Shri Ram Chandra
Virbhadra Singh, Shri
Viswanathan, Shri G.
Yadav, Shri Chandrajit
Yadav, Shri Karan Singh
Yadav, Shri N. P.
Yadav, Shri R. P.

NOES

Mody, Shri Piloo

MR. SPEAKER : The result of the division is : Ayes—384; Noes—1

SHRI K. MANOHARAN (Madras North): Sir, he has supported all the clauses of the Bill but at the final stage, of course; he has voted against.

MR. SPEAKER : He might have pressed the wrong button.

So, the result of the division is : Ayes—384; Noes—1.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

The motion was adopted

15.48 hrs.

INCOME-TAX (AMENDMENT)
BILL—Contd.

MR. SPEAKER : Now, we move on to the next item—Item No. 12—Income-tax (Amendment) Bill. Shri Baladhandayutham to continue his speech.

I may also tell the House that the time allotted is almost finished.

SHRI K. BALADHANDAYUTHAM (Coimbatore) : Yesterday, I was referring to socioeconomic objectives as elaborated by the Minister. I referred to that because I welcome this amendment not because it will achieve the socio-economic objective, and whether it will achieve the socio-economic objective or not is not a matter for discussion. We have been following this policy of taxation even with regard to direct taxes in the last 25 years in the hope that it will do away with the disparity in income and will achieve socio-economic justice.

15.49 hrs.

[SHRI SEZHIYAN *in the Chair*]

I now find that it has not achieved the purpose. So, let us not indulge in platitudes. Where the question of taxation is concerned, restricted to this, the Bill means more income and more revenue for the exchequer and it will also, as Mr Saive was explaining yesterday, do away with the inequity between two types of assesses.

When I come to the Bill itself, I am surprised at the fact that exemption is being contemplated for those cases where the court has decreed in their favour. My first objection to this exemption clause is based upon the following principle. The Supreme Court in its field is entitled to interpret the law. Supreme Court is not concerned with the socio economic objectives or with the purpose of the Bill; the Supreme Court can

[Shri Baladhandayatham

interpret the law as it is. So, the field of legislating and achieving socio-economic objectives is left to Parliament. So, Parliament is supreme in its sphere and the Supreme Court is supreme in its sphere. As such, when the Supreme Court has found a lacuna in the Bill and interprets it, the Parliament accepts the interpretation of the law; Parliament accepts the judgment of the Supreme Court in this case and wants to achieve the objective or the purpose for which this taxation was contemplated. To achieve this purpose, Parliament wants to amend the law. So, Parliament is here concerned with the amendment to suit their objective. While doing so, there is no question of courtesy or gesture to the Supreme Court. We thank the Supreme Court for having interpreted the law, and based upon their judgment, we are bringing about a change in the law by means of this amendment. Therefore, I do not see why we should exempt those cases where judgment has been given.

It would also mean another thing. I am afraid that it would also be unfair to the other persons. There are many people who have not gone to the court. If exemption is given only to those persons who have gone to the court, then it means that they are very clever and they are a fortunate lot and they are litigation-minded and therefore they can get the advantage. So, by means of this provision, Government seem to prefer and condone the people who are litigation-minded. The whole Income-tax Act has been put into shame because of the numberable cases that have been taken to the High Court and the Supreme Court, and the Government have not been able to collect the arrears. I feel that it would be unfair to discriminate between those who went to the court and those who did not go to the court.

I am opposed to this exemption clause even from the point of view of practical experience. If this exemption clause is passed, tomorrow, again the Supreme Court may intervene and say that it is discriminatory, because there are two types of assesses, one who went to the court and won the case and the other who did not go to court. This discrimination between an

assessee who has gone to the court and an assessee who has not gone to the court may be construed as discrimination under the Constitution because there are two types of assesses. So, from the point of view of practical experience, from the point of view of fairness and from the point of view of equality before law, from the point of view of the sphere with which it is concerned, this will not stand scrutiny.

Further, when we are having retrospective effect, we must be fair to all. Either we should not have retrospective effect and we should say that the old cases are gone, whether paid or not paid and Government are not going into those cases now or we should be fair to all. Since, whoever Government are going into the past cases, I would submit that they must cover all the cases and not give exemption to any particular class.

In general, I welcome this Bill, but I would submit that there must be an end to this process of going on amending as and when something is found wrong or some lacuna is found. Government must come forward with a simple comprehensive Bill on income-tax which will be intelligible to the ordinary man and which can be enforced more easily and which will not bring in all the complications of law and also drag in auditors who will go on giving ideas about how to circumvent the law by using every small word here or there. Government must attempt to bring forward a very comprehensive and simple Bill with regard to income-tax.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH) : This is a very simple Bill, and except Shri R. V. Bade, all sections of the House have supported this Bill. The reasons for bringing forward this Bill before the House have been explained in the statement that I have placed before the House and the necessity for the Ordinance that was issued has also been explained there.

There are only two or three points pertaining to the Bill on which I should like to reply. During the course of the discussion, of course the whole gamut of income tax law was gone through, also the question of arrears, the Wanchoo Committee Report, evasion of tax and various other matters.

These have been discussed from time to time in the House. The House is also aware that Government are considering the recommendations of the Wanchoo Committee report and vary expeditious steps are being taken to finalise their decisions on the recommendations so that whatever loopholes are there are plugged.

Shri Baladhandayutham raised the question of exemption. Cl. 5 specifically provides that the new provision will not apply to the assessment of an assessee for a particular assessment year where before the commencement of Ordinance the Supreme Court has on an appeal in respect of the assessment of the assessee for that year held that wealth tax paid by the assessee is deductible in computing the total taxable income for that year. The reason for giving this exemption is that these taxpayers had gone to the Supreme Court and obtained a verdict and we wish that the sanctity of the decision of the Supreme Court should be respected. We have also been advised by the Law Ministry that it would be equitable if these exemptions to one or two firms which had gone to the Supreme Court were given.

In a previous decision, in the case of *Jamnadas vs the Commissioner of Income Tax*, the Bombay High Court had observed as follows :

"They took the trouble to prefer the appeal, they took the trouble to prosecute it, they incurred cost and they succeeded in getting a judgment from the Supreme Court. A possible view also was that the judgment of the Supreme Court should be respected, as it should always be respected by the legislature of the land, and although they dealt with future cases, Parliament perhaps did not intend that actual judgment delivered by the Supreme Court in a particular reference before them should be altered or modified by the law that the Legislature was passing".

On this basis, these exemptions have been included in the Bill.

As the hon. member pointed out, the main object of the Bill is that the socio-economic policies pursued by Government, the fiscal strategy they adopt should be used

to see that wealth and income above a particular ceiling become non-productive. This would have been defeated if the decision of the Supreme Court had not been honoured. I Commend the Bill to the acceptance of the House.

MR. CHAIRMAN : The question is :

"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".

The motion was adopted.

MR. CHAIRMAN : There are no amendments. The question is :

"That clauses 2 to 6 stand part of the Bill".

The motion was adopted.

Clauses 2 to 6 were added to the Bill.

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

SHRI K. R. GANESH : I move :

"That the Bill be passed".

MR. CHAIRMAN : Motion moved :

"That the Bill be passed".

16 hrs.

श्री शिव नाथ सिंह (झुनु) : एग्जम्पशन के बारे में मैंने सोचा था कि मंत्री महोदय जो जवाब देंगे उससे हमें संतोख होगा। उन्होंने जो जवाब दिया है वह बही है जो उन्होंने इस बिल को इंट्रोड्यूस करते समय दिया था। इस जवाब में उन्होंने कोई नई बात नहीं कही। उन्होंने कहा कि सुप्रीम कोर्ट की जजमेंट को मान्य करने के लिए हमने एग्जम्पशन रखा है। दूसरी बात उन्होंने यह कही कि जो बादमी सुप्रीम कोर्ट में चले गए उनको कुछ राहत मिलती चाहिए। ये दोनों ही बातें हमें अपील नहीं करती। सुप्रीम कोर्ट ने एक जजमेंट दे दिया। जब उस जजमेंट को छात्र हम यहाँ बँज कर रहे

[श्री शिवनाथ सिंह]

है। जजमेंट के खिलाफ हम यहाँ एपेल्डमेंट ला रहे हैं। यह तो सुप्रीम कोर्ट के जजमेंट को आनर करने वाली बात नहीं है। सुप्रीम कोर्ट की जजमेंट को आनर करे, लेकिन उसको वही आनर किया जा सकता है, जहाँ कि वह हमारी भावना के अनुकूल हो। लेकिन इस बिल में जो एग्जेंप्शन रखा गया है, उसके बारे में मुझे डाउट है। और माननीय सदस्यों ने भी इस बारे में शंका प्रकट की है। सुप्रीम कोर्ट के दो जजमेंट हैं : एक तो ट्रांबकोर टिटैनियम प्राइवेट्स लिमिटेड के केस में और दूसरा इण्डियन एलुमिनियम के केस में। मेरे मन में शंका पैदा होती है कि ऐसे कितने केसिज हैं जो सुप्रीम कोर्ट के जजमेंट से कवर होंगे और इस प्रोवाइजो के तहत एग्जेंट हो जायेंगे। हो सकता है कि और भी बहुत से केसिज हों। सुप्रीम कोर्ट ने इण्डियन एलुमिनियम के केस में जो जजमेंट दिया है, वह पहले जजमेंट से भिन्न है। सवाल यह है कि कहीं मन्त्री महोदय इण्डियन एलुमिनियम के केस को एग्जेंट करने के लिए तो यह प्रोवाइजो नहीं रख रहे हैं। कहा गया है कि जो लोग सुप्रीम कोर्ट में गये और जिन्होंने खर्च किया, उन को राहत मिलनी चाहिए। मैं इस सिद्धान्त के खिलाफ हूँ। सुप्रीम कोर्ट में वे लोग जाते हैं, जिन के पास पैसा है और जो लास्वो रूप में खर्च कर सकते हैं। यह सिद्धान्त सही नहीं है कि जिनके पास पैसा है और जो लिटिगेशन माइंड के हैं, केवल उन्हीं को एग्जेंप्शन दिया जाये। मन्त्री महोदय को चाहिए कि इस पार्टिकुलर एसेसमेंट यीअर में जिस जिस का एसेसमेंट था, उन सब को एग्जेंट कर दिया जाये। लेकिन उन सब से वसूल किया जा रहा है और जिन्होंने सुप्रीम कोर्ट से अपने हक में डिफ्री हार्सिल कर ली, उनको एग्जेंट किया जा रहा है। मैं यह जानना चाहता हूँ कि इस बिल के तहत कितने कितने इंडिविडुअल केसिज को एग्जेंप्शन मिलेगा। कहीं इण्डियन एलुमिनियम को सेफगार्ड करने के लिए तो वह एग्जेंप्शन नहीं रखा जा रहा है ?

SHRI K. R. GANESH : There is no question of safeguarding the Indian Aluminium Co. or anybody else. I have given the reasons in the Statement of Objects and Reasons. We have explained why the ordinance was necessary. we have said that it would have involved a tremendous administrative problem and the loss of a tremendous amount of revenue. As I indicated, the sanctity of the decision of the Supreme Court had also to be preserved and taken into consideration. It was also the view of the Law Ministry that it should be done.

There are only two assesseees who will come under this exemption. One is Indian Aluminium and the other is the Standard Vacuum Oil Co. The total estimated revenue involved is Rs 3 lakhs to Rs 4 lakhs.

The further points that the hon. Member has raised have already been answered.

SHRI SHIVNATH SINGH : Only two companies are exempted. Why this exemption and discrimination ?

SHRI K. R. GANESH : I have replied to that I may not have been able to convince him, but I have given him the Judgment to the high court, and it is the sanctity of the Supreme Court which is being preserved and which is being respected.

SHRI SHIVNATH SINGH : Only for two cases you are putting this proviso.

MR CHAIRMAN : Order, order. I shall put the motion to the vote. The question is—

“That the Bill be passed.”

The motion was adopted

16.04 hrs.

PUBLIC DEBT (AMENDMENT) BILL

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

“That the Bill further to amend the Public Debt Act, 1944, be taken into consideration.”