

get if this Bill is passed by this Parliament. The second point is a larger one. I have touched upon it. On principle I have said that we are bringing forward an integrated textile policy wherein we shall take care of the problem of price rise and I can assure you that every attempt will be made by the Ministry to see that the cess is not reflected in the higher price. I will see to it.

MR. CHAIRMAN: Now, the question is:

"That the Bill be passed"

The motion was adopted.

16.43 hrs.

DIRECT TAXES (AMENDMENT)
BILL

MR. CHAIRMAN: Now, we take up the Direct Taxes (Amendment) Bill.

THE MINISTER OF FINANCE (SHRI YESHWANTRAO CHAVAN): Sir, I move:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits): Surtax Act, 1964 and to provide for certain related matters, be taken into consideration'.

Sir, in my Budget speech this year, I had given an indication of certain measures which Government had in mind for encouraging industries in selected sectors and these in backward areas, as also for promotion of research and development and exports. I had also assured the hon. House that necessary legislation to give effect to these proposals would be sponsored in the course of the year. One of the principal objects of the present Bill is to implement that assurance. The Bill also contains a number of other proposals for removing difficulties experienced in the administration of direct taxation laws

and for providing tax exemption in respect of certain categories of income.

With a view to encouraging industries in selected sectors, it is proposed to grant an initial depreciation allowance of 20 per cent of the cost of machinery and plant installed after 31st May, 1974. The initial depreciation allowance will be available in respect of new machinery and plant installed for the purposes of production of articles and things specified in the Ninth Schedule proposed to be inserted in the Income-tax Act.

Selection of industries for the proposed tax concession has been made, keeping in view the priority from the angle of exports, essential needs of intermediate and investment goods, essential needs of mass consumption, the existence of capacity, constraints on production and other relevant factors.

New machinery and plant installed for the purposes of generation and distribution of electricity or any other form of power, and new ships or aircraft acquired by shipping or aircraft enterprises will also qualify for initial depreciation. Secondhand ships which were not previously used by any person resident in India and recondition machinery and plant imported from abroad will also be eligible for the initial depreciation allowance.

The initial depreciation allowance will not be deductible in computing the written down value of the asset. It will, however, be taken into account in the year in which the asset is sold, discarded, demolished or destroyed or in the year in which the normal depreciation tends to exceed 80 per cent of the cost. The aggregate amount of initial depreciation and normal depreciation allowance

[Shri Yeshwantrao Chavan]

will thus be limited to the cost of the asset to the taxpayer.

In order to provide a stimulus to investment in backward areas, the Bill provides for a deduction equal to 20 per cent of the profits derived by new industrial undertakings set up in specified backward areas in computing their taxable profits. The backward areas specified in this behalf are the same as have been identified by the Planning Commission for the grant of concessional finance by public financial institutions. Some of the districts listed as backward areas in the Bill have been reorganised and a few other districts have been added to the list of backward areas qualifying for concessional finance. I would like the Bill to bring the list of backward areas in line with the up-dated position.

In the case of industrial undertakings which commence production after 31st March, 1973, the concession will be available for a period of ten years from the year in which the undertaking commences production. In the case of industrial undertaking which commenced production after 31st December, 1970 but before 1st April, 1973, the concession will be available only for the unexpired portion of the ten-year period from the commencement of production. Approved hotels set up in backward areas will likewise be eligible for the proposed tax concession.

With a view to encouraging the development of indigenous technology and self-reliance in industry, it is proposed to enlarge the area of fiscal incentives for promoting research and development. At present, capital expenditure incurred on scientific research related to the taxpayer's business during three years immediately preceding the commencement of the business is allowed to be written off against the profits of the year in which the business is commenced. This concession is, however, not available in

respect of revenue expenditure incurred on such research during the pre-investment period. It is proposed to provide that expenditure incurred by taxpayers on payment of salaries to research personnel and on material inputs during the three years immediately preceding the commencement of the business will be deductible in computing the taxable profits of the year in which the business is commenced. The deduction will be available only in respect of expenditure incurred after 31st March 1973 and will be limited to the amount certified by the prescribed authority have been actually spent on the qualifying items. It is further proposed to grant a weighted deduction in an amount equal to one and one-third times the amount paid by taxpayers for sponsored research related to their business in approved laboratories. Payments made for such sponsored research during the three years prior to the commencement of the business will also be deducted in computing the taxable profits of the year in which the business is commenced.

Under an existing provision in the law, a weighted deduction equal to one and one-third times the amount of expenditure incurred on development of export markets on a long-term basis is allowed in computing the taxable profits. The Bill seeks to increase the weighted deduction, in the case of widely-held companies, to one and one-half times the amount of qualifying expenditure.

Under the Income-tax Act, penalty is impossible in the case of a taxpayer for delay or default in furnishing the return of income. The penalty is calculated at two per cent of the tax payable by the assessee for every month during which the default continues subject to a maximum of 50 per cent of the tax. For this purpose, the expression "the tax" has consistently been construed by the Income-tax Department to mean the tax determined in the basis of assessment as reduced

by the tax, if any, deducted at source or paid in advance. In a recent case, the Supreme Court has, however, held that the penalty is to be calculated with reference only to the net tax payable by a person after deducting the tax paid by him on self-assessment or provisional assessment. In view of this ruling, taxpayers will be able to delay or withhold their returns of income without exposing themselves to the risk of any penalty. This is because a delinquent taxpayer when detected by the departments could furnish the return of income, promptly pay the tax on the basis thereof and thus save himself from penal consequences. This will defeat the intention underlying the provision.

Another effect of the judgment will be that in a very large number of cases where penalty has already been imposed for delay or default in furnishing returns of income on the basis hitherto adopted by the department, penalty orders will have to be vacated or rectified in the light of the ruling of the Supreme Court. This would generate enormous administrative work and will also entail refund of large amounts already collected by way of penalty.

In view of the foregoing considerations the Bill seeks to make an amendment in the Income-tax Act to secure that for the purposes of imposing a penalty for delay or default in furnishing returns of income, the penalty will be calculated with reference to the tax determined on assessment as reduced only by the tax, if any, deducted at source or paid in advance.

This amendment will take effect from 1st April 1962 that is the date of the commencement of the Income-tax Act 1961. The Bill, however, specifically provides that the proposed amendment will not apply in relation to cases where taxpayers have obtained a favourable ruling from the Supreme Court prior to the introduction of the Bill. This exception is

being made to preserve the sanctity if the decisions of the Supreme Court and also on the ground that taxpayers who have brought the case up to the Supreme Court and incurred expenditure thereon should not be denied the benefit of its judgment.

As the ruling of the Supreme Court relating to imposition of penalty under the Income-tax Act will also have relevance for the purposes of penalties imposed under the other direct taxes enactments, it is proposed to make similar provisions in relation to penalties for delay or default in furnishing returns of net wealth, taxable gifts and chargeable profits.

Receipts of a casual and non-recurring nature were brought within the ambit of taxation under an amendment made in the Income-tax Act by the Finance Act 1972. With a view to encouraging activities in the sphere of science, literature, arts and sports, it is proposed to make a specific provision for the exemption of awards for literary, scientific and artistic work, as also for proficiency in sports and games, instituted or approved by the Central Government. It is also proposed to make a provision in the law for the exemption of rewards given by the Central Government or any State Government for such purposes as may be approved by the Central Government in the public interest.

Under an existing provision in the law, foreign technicians employed in India under approved agreements enjoy certain tax concessions. One of the important conditions for the grant of the tax concessions is that the foreign technician should not have been resident in India in any of the four financial years immediately preceding the year in which he arrives in India. This condition has resulted in certain practical difficulties in the case of the same or similar types. This is because in the case of such projects, it sometimes becomes necessary to employ the same foreign technician from project to project. In

[Shri Yeshwantrao Chavan]

view of the condition regarding non-residence for four preceding years, a technician ceases to be entitled to the tax concession on a second assignment within four years and the undertaking has to pay tax on behalf of the technician on 'tax-on-tax' basis. This places a very heavy burden on the financial resources of the undertaking. In order to remove this difficulty, it is proposed to amend the relevant provision in the Income-tax Act with a view to enabling the Central Government to waive the condition regarding non-residence in India in the immediately preceding four years in cases where it is considered necessary to do so in public interest. This concession will, however, be available only in the case of foreign technicians engaged for designing erection or commissioning of machinery or plant or for supervising activities connected therewith.

Our public financial institutions and banks have sometimes to raise commercial loans in foreign countries. If the interest on such loans is charged to income-tax in the hands of the foreign lender, it becomes difficult for our financial institutions and banking companies to raise such loans at reasonable rates of interest. It is accordingly proposed to provide for exemption of interest income paid to foreign lenders by specified public financial institutions. Similar exemption will also be available in respect of interest by other financial institutions or banking companies on loans raised under approved agreements for the purposes of making advances to industrial undertaking in India for import of raw materials or capital plant and machinery or for the import of other essential supplies. The tax exemption will, however, be limited to the interest payable at the rate approved by the Central Government.

Under the provisions of the Income-tax Act, the Central Board of Direct Taxes is empowered, subject to the Control of the Central Government, to make rules for carrying out the

purposes of that Act. Similar rule-making powers are available to the Board under the Wealth-tax Act, the Gift-tax Act and the Companies (Profits) Surtax Act. It sometimes becomes necessary for the Board to give effect to the rules from a date prior to the date on which the rules are notified in the Official Gazette. Sometimes lacunae and deficiencies in the rules come to notice and it becomes necessary to give effect to the changes made in the rules from an earlier date. It is, therefore, proposed to empower the Board to make rules to give retrospective effect to subordinate legislation which is not prejudicial to the interests of tax-payers.

Sir, the proposals in the Bill are laudable and I hope they will receive the unanimous support of the House.

Sir, I move.

श्री मयू लियये (बांका) : मेरा एक सुझाव है कि मंत्री जी का जो भाषण है वह लम्बा है, कल उसकी एक कपी हमें मिल जाये तो अच्छा होगा।

श्री इयासनन्दन मिश्र (बेगूसराय) : इसमें कोई कठिनाई नहीं होनी चाहिए।

सभापति महोदय : वह डिबेट में चली जायेगी।

श्री मयू लियये : डिबेट में पूरी तो नहीं मिलती है।

सभापति महोदय : नहीं, डिबेट में पूरी मिलती है।

MR. CHAIRMAN: Mr. Sezhiyan, there is an amendment in your name. Are you moving it?

SHRI SEZHIAN: (Kumbakonam): Yes, Sir. I beg to move:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Sur-tax Act, 1964 and to provide for certain related matters, be referred to a Select Committee consisting of 10 members, namely:—

Shri R. Balakrishna Pillai,
 Shri S. M. Banerjee,
 Shri Tridib Chaudhuri,
 Shri Y. B. Chavan,
 Shri D. Deb,
 Shri Jagannathrao Joshi,
 Shri P. G. Mavalankar,
 Shri Prasannbhai Mehta,
 Shri H. M. Patel; and
 Shri Era Sezhiyan,

with instructions to report by the last day of the first week of the next session." (12)

17 hrs.

MR. CHAIRMAN: The time for this Bill is three hours.

SHRI D. K. PANDA (Bhanjanagar): According to the statement of Objects and Reasons the present Bill is more for exemption of taxes than for increase in taxes on the affluent sections or the monopoly sections in the country. It says that the main object of the amendments proposed to be made in the Income Tax Act is to provide for certain tax concessions for encouraging industries in selected sectors or in backward areas as also for the promotion of research and development and export. The uneven development of the country and backwardness of certain States have been discussed times without number. All sections of the people know that this is all due to the growth of monopoly. When the Government has accepted that the growth of monopoly is the root cause of the backwardness of the different States

and at the root of the uneven economic development, they have liberalised the monopolies and trade restriction also especially with regard to monopolies. Licenses are going to be granted to these sections to start their industries in backward areas in conformity with the changed policy. These things have been brought in. Some exemptions will be given to these industrialists who will venture to go to the backward areas. That means the Tatas and Birlas who have amassed wealth and who are also circulating black-money will amass more fortunes in the name of starting industries in backward areas. They will again cheat the whole country, cheat the Government and cheat the masses. I am opposed to this clause especially because the idea is contrary to the very recommendations of the Wanchoo Committee.

Secondly, this Bill seeks to provide for exemption of taxes in respect of interests payable by financial institutions and banking institutions established in India on loans raised in foreign countries in certain cases. Here also the same monopolies and the same affluent sections will take advantage of this because it is not a small industrialist who can raise a loan in foreign countries. It is the same big monopoly houses who are given an opportunity to gain profits to a greater extent.

"(vi) to remove a practical difficulty in the working of the provision relating to tax exemption in respect of remuneration of certain foreign technicians."

Nothing has been mentioned as to why and under what conditions such foreign technicians should be given concessions.

"(v) to provide for exemption from tax in respect of rewards given by the Central or any State Government for approved purposes."

What are those approved purposes? That is not mentioned.

[Shri D. K. Panda]

Then para 3 of the statement of objects and reasons says:

"The object of the amendments to the Wealth-tax Act, the Gift-tax Act and the Companies (Profits) Surtax Act is to bring the provisions therein relating to penalties for late submission of returns of net wealth, gifts and chargeable profits and the provisions relating to the power to make rules in line with the corresponding provisions proposed to be made in the Income-tax Act."

This is the only welcome feature in the whole Bill. But can Government remain satisfied only with imposing certain penalties in such cases? It has been demanded in this House several times and the Government also has promised that it will provide for deterrent punishment to such evaders. Suppose there is a great delay in submission of the returns. During the period of delay they earn more money and crores of rupees of interest also. So, penalty is not at all sufficient. Some deterrent punishment should be provided.

For starting industries in backward areas, for approved scientific research, for export market, for depreciation—in all these cases more and more concessions are provided in this Bill, which I totally oppose on behalf of my party. This will go against the interests of the general public and result in less of revenue to Government also.

All these years, we have been talking of so many symposiums, conferences, seminars, cells etc. There is already a cell in the Finance Ministry, but we do not get the correct picture. In June there was a conference of Income-tax Commissioners and Directors of Investigation of Income-tax. The idea was to reduce the arrears to 50 per cent. We do not know what has been the achievement. On the other hand, we are more anxious to give more concessions and exemptions.

We find that up to 31st March, 1973, the gross demand of income-tax disclosed by the Finance Ministry is Rs. 790.02 crores. The net arrears is Rs. 483 crores. This is alarming and is also admitted to be alarming. Still, what is the action that the Government have taken?

We find that the direct tax is on the decline while the indirect tax is on the increase. To give one example, while in 1951-52 direct tax constituted 44 per cent, in 1971-72 it declined to 27 per cent whereas the indirect tax increased by 14 times. Because of the new concessions now proposed in this Bill the ratio between the two will further increase. At present 80 per cent of the revenue comes from indirect taxes and 20 per cent from the direct taxes. The question is whether the direct taxes on the affluent sections and the monopoly houses will be increased by this measure or not. The Government were accepting a class approach to this problem all these years.

On the face of it, it is apparent that these concessions will only increase the proportion between the direct and indirect taxes because small and medium enterprises never go in for foreign loans, nor do they go to open industries in backward areas or set up research institutes. So, these provisions will be taken advantage of only by big industrial houses. That is why we suggest that the functions of research and opening industries in backward areas should be taken over by the public sector instead of giving these concessions to big monopolies.

Now the income-tax officers are terribly afraid of going for an investigation of the affairs of any Birla concern. In some cases, the investigations were stopped and then again initiated. So, mere penal provisions cannot solve the problem. The present approach of the Government to this problem cannot solve the crisis.

If the Government come forward with proposals for increase in wealth tax, estate duty, sur-tax and gift tax then we can say that the Government are standing by their pronouncements and they mean business. Now in the whole country there are only 300 persons paying wealth-tax. In Orissa there is only one assessee; so also in Madras while there are five in Calcutta. This is the position even though there are so many rich people in both the agricultural and industrial sector. It is ridiculous. Why should they leave out so many people from the net of wealth tax? Then, as far as agricultural wealth tax is concerned, we have reached only the figure of Rs. 69.51 lakhs when the target is Rs. 8 crores. This shows how the Government is moving.

With regard to the Wealth Tax, let us take an example of one Birla house. In the case of J. K. Birla house, the Wealth Tax has decreased from Rs. 22,415 in 1965-66 to Rs. 5,911 in 1968-69. The Wealth Tax has been on the decline. In the case of R. D. Birla house, the Wealth Tax has declined from Rs. 96,961 in 1965-66 to Rs. 41,810 in 1969-70. Further, in the case of B. N. Birla house, it has declined from Rs. 58,314 in 1965-66 to Rs. 31,125 in 1968-69. This is the position. Of course, you may say that these are irrelevant things. But this shows the trend. The capital gains are never taxed. The poor sections of the people are more taxed. Indirect taxation is on the increase. This is the trend. Even when these exemptions and concessions are going to be given, the same trend is continuing. I just wanted to bring to the notice of the House how the Wealth Tax in the case of Birlas, in the case of the entire family of Birlas, has been going down.

Similarly there was a test audit and so many suggestions had been made. There is absolutely no purpose to bring forward such a Bill in the name of industrial development, in the name of development of backward areas. Without this Bill, we could

have proceeded and, rather, we expected stringent measures against those people. When so many things have been discussed, specially after the test audit, that there was a lower rate of income-tax, an incorrect determination of house property, an incorrect determination of business and profession, mistakes in computing depreciation and development rebate, non-levy of additional tax, non-distribution of dividends, all these things, we now find that we are giving more concession to the same houses. We discussed all these things and we come to a conclusion that in the name of depreciation and other things how Tatas, Birlas and all these big monopoly houses are cheating the Government and the exchequer. Instead of taking steps to curb them, we are giving more concessions to them. We have not done anything to curb them. Therefore, I say, further concessions on no account should be given to them. All the provisions of the Bill are meant to give more and more concessions to them.

With these words, I oppose the Bill.

SHRI N. K. P. SALVE (Betul):
 Mr. Chairman, Sir, as I rise to support the Bill, I realise I have to be exceedingly cautious in the observations which I make while speaking on the Bill because the Taxation Laws (Amendment) Bill, 1973 is already being considered by Select Committee of which I have the privilege to be the Chairman.

Of the 21 clauses of this Bill which actually seek to modify and amend various Sections of the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Sur-tax Act, 1964, nine Sections are common and overlapping and they are already being considered by the Select Committee as such though the subject-matter is a little different here. Therefore, I have to be cautious and I have to ensure that I do not state anything which has direct nexus are an indirect

bearing upon what is being deliberated in the Select Committee. I must readily concede that it was necessary to bring this Bill so far as it relates to the difficulties of the Finance Minister to supersede the decision of the Supreme Court in the case of Vegetable Products Ltd. reported in 1973 88 LTR 192. That decision created a very great hardship to the Department and, as pointed out by the Finance Minister, unless the section was amended retrospectively, it was going to cause both administrative difficulties and hardship and also difficulties to the revenues, to the exchequer—large amounts of penalties would become refundable and penalty orders would require to be vacated.

I want to point out to my hon. friend, Shri Panda, that this is not a Bill which is completely exhaustive of the various penalties for recalcitrant and delinquent assesseees and for tax-evaders. It is only to supersede a particular decision of the Supreme Court that section 271 (1)(a)(i) is sought to be amended retrospectively.

SHRI D. K. PANDA: That is only one of the provisions. What about the other provisions?

SHRI N. K. P. SALVE: Other stringent provisions requiring very strong actions, heavier penalties, prosecutions and imprisonment, are already being considered by the Select Committee to which I have referred earlier in which the hon. Member's Party is already contributing a great deal. We are collecting evidence and as soon as we finish deliberating in that, we will be submitting our report to the House. But this is so far section 271(1)(i) is concerned which has an extremely limited purpose of superseding the decision of the Supreme Court which

is, as Mr. Chavan pointed out, creating hardship to the exchequer. It is no more and no less.

SHRI D. K. PANDA: You have referred to only one provision. What about the other provisions—exemptions and concessions?

SHRI N. K. P. SALVE: I will come to the other provisions also. I will come to the initial depreciation; I shall explain to you the rationale behind it; I shall also come to the other important provision regarding deductions to be allowed in the backward areas, what are the merits and what are the demerits according to me; I shall try to explain all these things. But here I was only on a limited question because you were very critical of that matter.

But the Finance Minister has not explained one thing which in fairness was due to us—apart from my great personal esteem for the Finance Minister, it is in his regime that I expect tremendous and revolutionary improvement in the entire fiscal legislation and fiscal administration and that is why I wish to know as to why this important piece of legislation, these massive amendments, was not brought along with the first Taxation Bill itself. In fact, in this 'Statement of Objects and Reasons', seven objects, (i) to (vii), have been stated, and excepting object (ii) which relates to supersession of the decision of the Supreme Court, objects (i), (iii), (iv), (v), (vi) and (vii) are entirely covered by the object of the Bill which is now being deliberated before the Select Committee; they all relate to exemptions from taxes and deductions which are covered by the object of the earlier Bill. The main object of the earlier Bill which is being considered by the Select Committee states, *inter alia*, "to rationalise the exemptions and deductions available under the relevant enactments".

My respectful submission is this. Our main law has been riddled with several amendments aggregating to over 900, with the result the law itself is being eroded from a system or order. It is incomprehensible to anybody, to even the most asoteric expert; the best way to deal with the law is to read only when necessary and never think about its logic or rationality and forget as soon as possible. It is becoming incomprehensible, with massive amendments coming one after another, and is causing very great hardship. I would, therefore, like to suggest a remedy to the Finance Minister. Once and for all, if he wants to give a stable law to the country which is very necessary—stability is necessary for taxation law both from the point of view of growth and development of the law itself and also from the point of view of curbing evasion and giving any encouragement to tax-evaders and from the point of view of minimising the hardships and difficulties of the tax administration and the assessees—now take a bold step and have one consolidated taxation law, and one code of procedure of taxation law, and work it for five or six years without tinkering with it unduly and unnecessarily?

And this sort of legis'ation must come after a considerable amount of thinking and after sufficient time being allowed to the draftsmen and not as a result of hasty draftsmanship, careless and worthless draftsmanship. It is that aspect which this particular decision of the Supreme Court has exposed regarding the system of fiscal legislation relating to direct taxation which I want to respectfully point out to the Finance Minister. I wonder whether he knows this, that it has taken twelve years—the law was enacted in 1961 and in January 1973 the Supreme Court decided what exactly is to be the basis of penalty for an assessee who without reasonable cause delays the filing of his return. Sub-section 1 of Sec. 271 of the Income tax Act,

1961 is an extremely important section which directly attacks a contumacious and delinquent assessee who does not file his return, without sufficient reasons, in time. The section prescribed a certain penalty and it took us thirteen years to determine how that penalty is leviable. The Supreme Court came to the conclusion that the way the Act was drafted, the penalty is leviable, not with reference to the entire tax that is payable but it was held that the penalty contemplated under the law is 2 per cent per month of delay and that the penalty of 2 per cent is not on the total tax which is payable on the entire total income but only on the net income which remains payable after deducting any tax paid by the assessee either on self-assessment or provisional assessment. In other words, the effect of the Supreme Court's decision would be that penalty leviable will look ridiculous. I want to bring out the very basic weakness in our system of fiscal legislation and how we err in hastily drafting our tax laws. It was contemplated by the legislature very clearly that assuming that the tax was a lakh of rupees and that there is six months' delay, that is, the delinquent assessee has not filed his return for six months, then the penalty would be 12 per cent of Rs. 1 lakh, i.e. Rs. 12,000. Put the Supreme Court says, 'No'. The way you have written your particular section, the penalty would be—in case the tax is Rs. 1 lakh and the self-assessment is Rs. 90,000, then the 12 per cent penalty is only on the balance of Rs. 10,000. That is Rs. 1,200. What an absurd penalty? An absurd proposition. But should it take us 12 years to understand how absurd is the penalty leviable? In this connection, I would like to point out to our respected Finance Minister as to what the Supreme Court has observed, the compliment the Supreme Court has paid to the Parliament for the language used in this section. That is the result of hasty drafting, reckless and thought-

[Shri N. K. P. Salve]

less drafting and as a result of that this decision came. This is the compliment which has been paid to the Parliament. It does not matter if once a while it happens that the Supreme Court takes a certain view of the matter in which we find that two views are possible and that they have taken one view. If it happens once in ten years, once in five years, I can understand, but every third day we are confronted with these difficulties. It is nothing but the outcome and result of improper and reckless drafting...

THE MINISTER OF FINANCE (SHRI YESHWANTRAO CHAVAN): May I just point out one thing. This 1961 law which is being commented upon and which was decided by the Supreme Court—did it not pass through a Select Committee? That Bill was also taken through the Select Committee. The fact that it was passed by the Select Committee means the approval of the drafting.

SHRI N. K. P. SALVE: I do not for a moment say that the Select Committee is a complete guarantee. No one other than good draftsmen can be a complete guarantee. What I am submitting is that the Selection Committee Members are Members of Parliament. The Members of Parliament are not experts in the law of taxation. They are not and can not be experts in drafting.

SHRI VASANT SATHE (Akola): I hope you were not the Chairman in 1961.

SHRI N. K. P. SALVE: I was not the Chairman then. Even if I were the Chairman, there is no guarantee for the drafting part of it. We can only suggest the language in drafting. And it is for the Minister of

State for Law who is sitting here to see that the drafting is correct. Everytime we find that legislation is rushed through without giving sufficient time to the draftsmen to think over the matter. And this is what it comes to. And this is what the Supreme Court observed in a case. This is what they have stated in 88 I.T.R. 1920 page 195 and I quote:

'There is no doubt that the acceptance of one or the other interpretations sought to be placed on section 271, (1) (a) (i) by the parties would lead to some inconvenient results, but the duty of the court is to read the section under and its language and give effect to the same. If the language is plain, the fact that the consequence of giving effect to it may lead to some absurd results is not a factor to be taken into account in interpreting a provision. It is for the Legislature to step in and remove the absurdity. On the other hand, if two reasonable constructions of a taxing provision are possible that construction which favours the assessee must be adopted. This is a well-accepted rule of construction recognised by this court in several of its decision. Hence, all that we have to see is, what is the true effect of the language employed in section 271(1)(a)(i). If we find that language to be ambiguous or capable of more meanings than one, then we have to adopt that interpretation which favours the assessee, more particularly so because the provision relates to imposition of penalty.'

The Parliament does not deliberately or wilfully make absurd laws. It never was intended that the assessee should be penalised at 2 per cent for every month of delay with reference to only the balance of the tax payable. He must pay with reference to the entire tax payable. Whose fault is it that Supreme Court comes to declaring? I only want to submit

one thing. The Finance Minister, of course, has gone but, the Minister of State for Finance is here. Even, today if a conscious effort is made to find out whether the drafting of the Bill which has been brought before this House is immaculate and is meticulously done, I should like to know how much time was given for drafting of this Bill. Parliament cannot be expected to be an expert body on drafting of such a complicated law. It is an extremely super-complicated and complex law. Even the best among the experts are not supposed to understand its complexity. It is only the officials and the draftmen who can suggest changes. It is they who can only be blamed if something is wrong in the drafting. If sufficient time is given to them and if our ideas are clear in the matter, then only we should proceed further.

So far as the weaknesses relating to the legislation on direct taxation are concerned, as I submitted, this sort of miserable drafting really leads to complexity. Also it leads to uncertainties. It also leads to evasion. Also it leads to harassment both to the officials and also to the tax-payers. Therefore, I say, this has to be avoided.

I would now like to make a brief reference to two of the important provisions of this Bill. Clause 3 of the Bill contemplates substitution of initial depreciation in place of development rebate from 31st May, 1974. That is what I want Shri Panda to realise. It is a new provision, no doubt, but not for the sake of a few industrialists or a few monopoly houses only. It is meant for all those small and big ones covered by the industries listed in the Ninth Schedule. In fact, it is also my grievance that the way it is enacted shows that no care has been taken to give relief to a small entrepreneur. I do not know what relief the monopoly houses will have, but hardly any relief for a small man. I welcome

this measure because this is simpler as compared to development rebate, there are some aspects to which I would like the hon. Minister to give rebate is a simpler provision, supposed to give relief to the assessee by subsidising the installation of plant and machinery, but it has led to massive litigation. Any amount of litigation has arisen because of faulty drafting of the provision relating to some reserves to be created. The dispute is still not settled. The law was enacted decades ago, and even today litigation is being fought as to in which year the reserves have to be created. Development rebate would have gone out of the statute-book on 31st May, 1974, but the litigation will continue long thereafter, thanks to the utterly unimaginative drafting bereft of precision I submit that initial depreciation is a welcome provision in principle, because more than anything else, it is utterly simple, but it has some aspects to which I would like the Finance Minister to give very serious thought. Whereas development rebate was available on all plant and machinery, the initial depreciation is available only in selected sectors of industry. In other words, from our economy, we have selected a few industries. I do not know the rationale of the 22 industries listed in the schedule. If one were to go through the Ninth Schedule, one would be surprised; some bureaucrat it seems, sitting in an air-conditioned room or in a room with cooled air has just thought of some industries and put these 22 industries in the schedule. Why have the other industries been excluded?

At any rate, in principle. I want to submit this. Has our country reached a stage of industrialisation where we feel that industries other than these 22 do not need to be encouraged at all anywhere in the country? Have we reached a stage of production where we can withdraw one of the most important fiscal concessions and stimuli by way of development

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debate and not substitute it for all industries when production and more production is the crying need of the day?

I was listening to the debate yesterday, and whatever may have been the criticism from different sections of the House, one point was utterly clear namely that only production and more production could solve the problem. Is this sort of fiscal stimulus which does not touch even the fringe a small entrepreneurs even going to help growth of production? If it is not going to help it, I should like to ask the hon. Minister the rationale behind enacting a measure in such a way that it is so hopelessly inadequate and so hopelessly inefficient to achieve the laudable objective that he has in mind. Therefore, I submit that the Ninth Schedule in which the list of the industries to which this initial depreciation is confined is given should be scrapped completely, and the initial depreciation should be available to every plant and machinery installed as an outright deduction at 25 per cent.

Among these 22 industries, I would like to know why the hotel industry has been left out. Do Government not want the tourist traffic to grow?

SHRI VAYALAR RAVI (Chirayinkil): Backward areas also.

SHRI N. K. P. SALVE: It is a different provision, and I shall come to that presently.

SHRI SHYAMNANDAN MISHRA: There are backward areas which are centres of scenic beauty and they require to be developed.

SHRI VAYALAR RAVI: For instance, the Kovalam beach.

SHRI N. K. P. SALVE: There are very many other industries that one can think of, I was just noting down here the list of the other industries. For instance, what about industries which are manufacturing agricultural parts and feeding the country all over the place? They have been left out. What about those industries which are manufacturing bricks in the mofussil areas? Are they not important? Do we not need houses? Have we reached a stage in this country when everyone has been provided with shelter? Again, what about electronics industry? Do we not want the development of electronics in this country? Similarly, what about engineering goods. The Finance Minister has said that Government want to encourage industries which have a good export outlook. What about engineering industries in Punjab, UP and elsewhere? How will they be helped hereafter? Therefore, I submit with great respect to the Finance Minister that the bureaucrats are cheating the whole country and the Parliament by enacting this schedule which contains only these 22 industries, which have no basis at all whatsoever.

The Minister of State for Finance is here. Nothing is lost. We only want an assurance from him that he will look into this matter. An amendment to this can be brought. Therefore, to every industry, to every plant and machinery, initial depreciation should be provided; or, at any rate, let the Finance Minister himself have a good look at the Ninth Schedule. Ninth Schedule is the most irrationaly drafted Schedule. There is no basis for limiting the relief in this manner. This is so far as initial depreciation is concerned.

Lastly, a word about the backward areas. Backward areas have been enumerated in the Eighth Schedule. It appears therefrom that the list of the districts might have been existing in the archives of the Secretariat

and from that the backward areas have been taken and have been put in the Eight Schedule.

What is the relief given? Twenty per cent of the profits earned for a period of 20 years. Do you think people will take industries to these backward areas whether there is no infra-structure available to them for installation of the industries, there is no adequate water, there is no power, there are no housing facilities, there are no transport arrangements? By this wholly meagre, niggardly incentive of 20 per cent, how will you reach your objective? I submit this aspect is very important. Then why are you hushing this amendment through? We are actually working through the taxes law for eradication of regional imbalances, disparities in different regions. Will this bring about the slightest eradication of imbalance in the different regions? Would anyone leave Bombay and say, 'All right. Out of a lakh of rupees profits, my twenty thousand will be exempt. So I will go three hundred miles into the deep interior jungle where I will have to spend three times the amount for putting up an industry and three times the amount for finding a saleable market'. Is there any imagination in this kind of enactment that is being made? This needs to be considered very carefully.

One of the suggestions that I make is this. In backward areas, Government are undertaking subsidisation to the extent of 10-15 per cent in cash on their gross block investments, on their capital investments. I submit this is likely to create more difficulties to the Government. Let them scrap this entire subsidisation business. Let them through fiscal incentive draw the industries to this area. I suggest the Minister should consider exempting outright 100 per cent for five years all the profits of industries in the backward areas. Do not give any subsidy. Let them earn

profit. Thereby your deficit finance problem will not arise, the problem of the subsidies being mis-utilised will also not arise, and through fiscal legislation, you would have taken a step which will be a substantial step. One is not sure how industrialists would react to this because one has to see and juxtapose all these incentives and correlate them in the context of the element of overall profit.

Therefore, I submit in the two most important matters, that is initial depreciation and profits in backward areas, whereas the objects of the Bill are utterly laudable, looking at the manner in which the legislation is made, it falls extremely short and is utterly inadequate to achieve the objects.

SHRI VIRENDRA AGARWAL (Moradabad): Mr. Chairman, Sir, we as a nation are passing through the worst and unprecedented economic crisis, and it is amply proved that the Government of the day has lost completely its control over the deteriorating economic situation. I simply ask the Government and its leaders, will this Bill help in improving the situation? Will it help in raising production? Will it check regional imbalances? Will it hold the price line? My own submission is, let the Government leaders ask for themselves what they actually want to achieve. I am entirely in agreement with whatever Mr. Salve has just said about the provisions of the Bill, though they are meant to remove the hardships of the taxpayers, are so halting and inadequate that I have got grave doubts whether they will achieve their objectives.

What is the purpose of taxation? Why do we tax? Of course, taxation is meant, firstly, to raise revenues to meet the twin demands of defence and development; and secondly, to accelerate the pace of growth. But,

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we have seen during the last so many years that while we raise resources in the name of defence and development, we are very fond of squandering our scarce resources on non-plan and unproductive expenditure. Secondly, the fiscal policy which is being pursued today in the country does not accelerate but decelerate the rate of growth. We all know that the fiscal incentives are almost coterminous with production. There cannot be any production unless you provide certain fiscal incentives for production.

I would like to quote what Dr. C. D. Deshmukh said in 1956. He said:

"In the last few years, there has been a demand for an increase in the amount of depreciation allowances so as to take into account increased costs of replacement. The Commission have examined this matter in considerable detail and have come to the conclusion that the principle of revalorisation or continuous revaluation of an asset for purposes of depreciation is not merely defective in theory but certainly unworkable in practice. Instead, they have suggested that while the existing system of initial and double depreciation allowances may be retained with certain modifications for all industries, certain other new industries might be given a 'development rebate' equivalent to 25 per cent of the cost of new fixed assets in the year of installation. For certain special industries of national importance, they have suggested a tax holiday for six years. These proposals require further detailed consideration. Meanwhile, I propose to allow a Development rebate of 25 per cent cost of all new plant and machinery installed for business purposes instead of the present initial depreciation allowance of 20 per cent. For purpose

of calculating ordinary and double depreciation allowances, this rebate will not be taken into account."

The object of development rebate, was partly to provide funds for replacement at increased costs and partly to serve as an incentive for setting up of new industries. Rehabilitation of old plants is a universal and imperative need. But in 1971, while the Finance Minister presented the Union Budget, fiscal incentives for setting up of new industries, for undertaking expansion, modernisation or replacement of assets, and for engaging in a priority industry were substantially curtailed. The partial tax-holiday for new industrial undertakings was reduced by excluding long term borrowings from the purview of capital employed in calculating the relief. Notice was given for withdrawal of development rebate on machinery or plant installed after 31st May, 1974. The deduction out of income of priority industries was reduced from 8 per cent to 5 per cent. The curtailment of these incentives has adversely affected industrial development, slowed down employment generation and delayed the establishment of industries which is a pre-condition for a self-reliant economy.

In the course of parliamentary debate on the Budget for 1971-72, the Union Finance Minister, Shri Y. B. Chavan, had indicated that Government would consider giving some incentives to industry on selective basis with an emphasis on the development of relatively backward areas and on creating job opportunities.

The present Bill, which of course I welcome, has provided fiscal incentives, and that is why I shall call it a Bill of incentives, to various sections

of the community like foreign technicians, interests on moneys borrowed outside India, awards for technical, scientific or artistic work initial depreciations, replacement of development rebate, expenditure on scientific research, export market development allowance, exemption for non-companies etc.

This new Bill which is a substitute to the development rebate provides initial depreciation allowance at the rate of 20 per cent only to the 22 items specified in the Ninth Schedule. I agree with Mr. Salve that a large number of industries had been left out and unfortunately those which had been left out seem to be so important for industrialisation of India that one wonders whether the Government is really serious about the industrial development in this country or not. If the Government is sincere about accelerating the phase of industrial growth, the Government must ponder seriously and provide such fiscal incentives for industrialisation. It seems to me that there is a consensus that this Bill should be sent to the Select Committee. Why do we say so? Suppose in this Bill there is one item which is mentioned like this: Cotton and jute textiles, but there is a great deal of confusion about one particular item, suppose I want to ask the Government: what about the mixed fabrics, that sort of confusion can be clarified only when a Bill of this nature is sent to the Select Committee. There are so many provisions in this Bill which are likely to create further complications so far as tax assessment is concerned, rather than help in solving the problems. A point has been made that in respect of development rebate the provisions which are incorporated in this Bill are so inadequate that the Finance Minister should reconsider the whole question whether the initial depreciation allowance is adequate enough to accelerate the phase of industrial growth.

I feel that while the Government is so much committed to build the socialist society, it should see to it that the employment oriented industries are developed. These need to be given some special incentive. Additional or weighted deductions could have been provided to employment oriented industries. Similarly in the case of industries in backward areas I think the facilities which are being provided either in terms of subsidy or financial interest are so inadequate that the Government must consider providing additional facilities to those going to the backward areas in terms of raw material, infra-structure like roads, schools, dispensaries, and other basic civil amenities. If we really want that the industries should move into such areas and develop at a fast phase must do this. Similarly, while this Bill lays a great deal of emphasis on the first year or first two years, I do not really know why the rate of 20 per cent and the period of 10 years should not be further extended.

Two points have been constantly made in this House. One is that the rate of savings, which constitutes the crux of the entire process of development, is not going up. What are we doing really to raise the rate of saving? It has been suggested that the exemption limit on dividend incomes should be raised from Rs. 3000 to 5000. I feel this should be done if Government is really interested in accelerating the pace of industrial development. Similarly, while prices are shooting up at the rate of 25 per cent a year, I really do not know why Government is not considering the raising of the tax exemption limit from Rs. 5000 to 10,000. This is always being argued and discussed. While we are considering a Bill of this nature, this very important exemption which needs to be provided to the weaker sections is not being provided. I do not know what sort of socialistic pattern of society this Government is com-

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mitted to build in this country if the weaker sections in whose name we always speak and clamour every day are not taken care of.

If we consider industrialisation to be the key of economic prosperity, Government must provide every possible encouragement to set up new industries in backward areas. Something similar to the development rebate should have been given in the case of new industries. With the increased interest payable on account of borrowings for purchase of the machinery—interest on borrowed capital from nationalised banks is 11 to 12 per cent and on private borrowings is 15 to 18 per cent—Government should provide some special incentives so that the new industries may instal new plant and machinery in backward areas. We must provide for the aggregate allowance on account of depreciation being the actual cost of asset plus the amount of initial depreciation. This will give impetus to the installation of new machinery and plant which is sure to result in increased produc-

tion and consequent reduction in prices.

SHRI VASANT SATHE (Akola): Sir, at the outset, I would like to state that a Bill of this type has nothing to do with the concept of socialism. My friend was unnecessarily worried about this. The idea of socialism cannot take into its compass the concept of taxation exemption and incentives of this type. Therefore, let us not confuse this with socialism. This is within the framework of a mixed economy, which we have accepted. But when we are talking of the exemption system, I entirely agree with my friend Mr. Salve—I also support many of the contentions made by Mr. Agarwal—that we must go the whole hog and not in a half-hearted manner as is being done in this Bill.

MR. CHAIRMAN: He can continue tomorrow.

18 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, November 14, 1973/Kartika 23, 1895 (Saka).