

प्रो० निर्मला कुमारी शक्तावत : माननीय अध्यक्ष जी, उर्वरक मंत्रालय लगाने के लिए जो रा-मैटीरियल चाहिये वह राजस्थान में काफी मात्रा में उपलब्ध है। राजस्थान में उदयपुर के पास भामर कोटला जो स्थान है वहां पर राक-फासफेट के काफी भण्डार हैं। मैं आपके द्वारा माननीय मंत्री जी से जानना चाहती हूँ क्या उदयपुर में सरकार उर्वरक मंत्रालय लगाने का विचार रखती है ?

अध्यक्ष महोदय : यह सवाल तो उठता नहीं है।

श्री वसन्त साठे : भामर कोटला में भी फासफेट बेसड प्लान्ट लगाने का इरादा है।

प्रो० निर्मला कुमारी शक्तावत : राक-फासफेट संयंत्र लगाने का जो सरकार का विचार है क्या उसके लिए स्थान का चयन कर लिया गया है ?

श्री वसन्त साठे : स्थान अभी तय नहीं हुआ है।

#### Diversion of Funds by Companies to Establish New Venture

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\*849. PROF. RUP CHAND PAL :  
SHRI R.P. DAS :

Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state :

(a) whether Government are aware that the companies are diverting funds accumulating under the head of depreciation allowance to finance diversification or establishing new ventures ;

(b) if so, what action Government propose to take against the erring companies ; and

(c) if no action is contemplated, the reasons thereof ?

THE DEPUTY MINISTER IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI GHULAM NABI AZAD) : (a) There is no legal requirement under the Companies Act, 1956 for companies to set aside the amount provided in books of accounts by way of depreciation on fixed assets as a specific fund and for its use for any specified purpose (s). The utilisation of the depreciation provision would depend on the need circumstances of each company and is a matter of internal policy of its management.

(b) and (c) Does not arise in view of (a) above.

PROF. RUP CHAND PAL : In view of the growing incidence of sickness which had been a matter of concern to all of us, Government set up a Committee at the instance of the RBI, known as the Tiwari Committee. I do not know whether it has submitted any report or not. But from the reports Government has submitted at various times, in the Economic Surveys and others, it is seen that in 1980, 420 large scale units, about 10,000 medium and about 23,000 small scale industries had become sick, *i. e.* upto 1980-81. And it might have increased by now.

It has also been admitted by Government that one of the major factors of sickness is that the companies are siphoning off, or diverting the Depreciation Allowance Fund in new investments, and deliberately making these units sick. In view of this may I know from the hon. Minister, whether the government is thinking in terms of enacting such a law to punish these offenders who are deliberately making industries sick and holding public fund.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI JAGAN NATH KAUSHAL) : As my hon. friend knows, under the Companies Act, there is no obligation either for creating a depreciation fund or for utilizing the fund in any particular manner. It is an internal arrangement of the company and the company knows best how to make proper

use of a particular amount at the disposal of the company. Unless there is a provision in the Act itself, which obliges them either to create a fund or to spend it in a particular way, the question of taking any action against them does not arise. Even the Sachar Committee has not made any recommendation for the creation of a depreciation fund.

**PROF. RUP CHAND PAL :** It is a serious matter. Although the government is speaking in so many terms, in so many ways that they are very much interested in stopping all these malpractices, in the textile industry in our part, in the jute industry, in so many engineering industries—I could name so many industries—even in (JK Synthetic) Kota, they have diverted money, this depreciation fund also. They have started a unit in our State also. In this way, these industries are being made deliberately sick. In spite of the steps being taken by the government, we find that the number of sick industries is increasing. So, I want the government to assure this House what steps they propose to take to stop all these malpractices, to save industries from becoming sick ?

**SHRI JAGAN NATH KAUSHAL :** I have already started, that to say that it is a malpractice would be a misnomer. The Act does not specify as to how that amount is to be utilized. Therefore, it is entirely for the company to see how best to make use of that fund. The hon. member probably is thinking that if the depreciation fund is there, it should be only utilized for either bringing the same asset or bringing improvement in it. This can be one of the purposes but not the sole purpose.

**SHRI SATISH AGARWAL :** The hon. Minister cannot get away with the plea that there is no provision in the Companies Act to enforce this particular provision with regard to the investment of the depreciation allowance in a particular way. This is a serious problem. They are getting depreciation allowance, a very huge fund, they are getting, all the industries and companies under the Income Tax Law. So, the government, as a

whole, must give a thought to it that the depreciation allowance, which is permissible to them, under the Income Tax Law, is utilized for replacing all those equipments and machinery. If they are diverting those funds for other purposes, then what is the sense in giving exemption under the Income Tax Law ? So, your Ministry can very well take up this issue with the Finance Ministry or you can get it examined in your own Ministry what to do in the matter. Otherwise, they are getting depreciation allowance ; they are not replacing the old equipments and industries are sick. We are bringing pressure here on the government that you nationalise them. So, the whole money is going waste. It is a question of total policy, as I said, a complete restructuring of the tax system in a coordinated way in consultation with your Ministry, because you are the Ministry which is controlling MRTP houses, large industrial houses. They are getting depreciation allowances worth crores of rupees ; may be thousand crores even. So, this is not clear. You kindly assure this House that you will get it examined and take appropriate steps ; and if need be to amend the Law.

**SHRI JAGAN NATH KAUSHAL :** So far as the suggestion is concerned, I take full note of it. But so far as the commercial practice is concerned, may I mention, for the benefit of my hon. friend that not only in our country, even in the international commercial practice, this allowance is a matter of accounting.

The creation of depreciation fund is a different matter, but as my friend says, we are prepared to examine the matter.

**SHRI SATISH AGARWAL :** Please cite anyone instance in any other country, where the industry gets sick like this and the Government has to take over. It is in this Welfare state, in our country, that we have to take them over. Hundreds of industries—as the Finance Minister was mentioning yesterday—get sick and there is no other go but to levy taxes because otherwise the industries get sick. So, please do not compare with international standards.

SHRI JAGAN NATH KAUSHAL : I have taken note of it.

SHRI SATISH AGARWAL : Thank you very much.

PROF. MADHU DANDAVATE : I would like to ask a question in the light of what the hon. Minister has said, earlier. He has pleaded his inability to do anything in the matter, because of the present legal position. I know that. Fortunately along-with Company Affairs, he is also in charge of Law and Justice. That is why, I would like to ask a specific question. Is it not a fact that certain malpractices regarding sickness of the industry, manipulated sickness of the industry, are also prevalent, in spite of the legal provisions at present? For instance, is it not a fact that certain companies and factories, when they want diversification of their funds, the depreciation funds, for some other ventures and in the process they know probably because of lack of replacement of the machinery, which is likely to wear out, the machinery is likely to become sick, the original unit is likely to become sick, they rely on the fact that when their original unit becomes sick, the Government will take over. It will not be merely nationalisation, but it will be hospitalisation. They will see that the machinery is improved, the Government finances will be spent, and the patient is improved honourably he will be sent to the original house, the big house, and they will be told that "You have recouped your health; you can go back". So, this is a disincentive to see that the original industry is not allowed to become sick. For this, the remedy would be to re-examine the original law and see to it that this depreciation allowance is not allowed to be utilised for diversification. Thus the original industry should not be allowed to be sick and rely only on the Government. You examine this and see that the necessary amendments are made, if need be.

SHRI JAGAN NATH KAUSHAL : I have already given an answer to that. We will keep it in view.

SHRI SANTOSH MOHAN DEV : I

am a Member of the Tea Board. The Tea Board has given a proposal for creating a fund, out of the depreciation fund, for investing the money in fixed deposit which will be free of income-tax. It has been accepted by the Commerce Ministry but the Law Ministry and the finance Ministry have turned it down. May I know whether such proposals will be considered, as it is the view of this House as otherwise the money will be siphoned out for some other purposes? I know something about this, because I have studied this in the U.K. From what you say, it appears that you are not aware of the facts.

SHRI JAGAN NATH KAUSHAL : I am obliged to my friend, when he says that he is an expert in the matter. I will try to take advantage of his expert knowledge. He can write to me about his experience. But I want to mention only one fact. It so happens that the depreciation funds are at the disposal of the companies and if they invest that money in fixed deposit, as my friend was saying, later on when the company needs money, then they will have to go for external borrowings which may be at a much higher rate of interest. So, as I said, this matter needs re-examination, but to say that this is the only reason why the companies are getting sick, etc., etc., will not be very correct.

MR. SPEAKER : Shri Ghulam Rasool Kochack—Absent.

Shri Nihal Singh—Absent.

Shri Ramjibhai Mavani.—Absent.

Shrimati Madhuri Singh.

#### Non-availability of L.P.G. Cylinders

\*853. SHRIMATI MADHURY SINGH : Will the Minister of ENERGY be pleased to state :

(a) whether it is a fact that there is no shortage of liquified petroleum gas but the non-availability of cylinders has limited the number of domestic consumers ;