

Wealth-tax (Second Amendment) Kates, 1979, under sub-section (4) of Section 46 of the Wealth Tax Act, 1957.

**Notification under the Gift Tax Act, 1957**

SHRI JAGANNATH PAHADIA: Sir, I also beg to lay on the Table a copy (in English and Hindi) of the Ministry of Revenue (Department of Revenue), Notification SO. No. 611(E), dated the 29th October, 1979, publishing the Gift-tax (Amendment) Rules, 1979, under sub-section (4) of section 6 of the Gift Tax Act, 1957.

**Notification under the Companies (Profits) Surtax Act, 1964**

SHRI JAGANNATH PAHADIA: Sir, I also beg to lay on the Table a copy (in English and Hindi) of the Ministry of Finance (Department of Revenue), Notification S. O. No. 613(E), dated the 29th October, 1979, publishing the Companies (Profits) Surtax (Amendment) Rules, 1979, under sub-section (3) of section 25 of the Companies (Profits) Surtax Act, 1964.

**Notification under the Interest-Tax Act, 1974**

SHRI JAGANNATH PAHADIA: Sir, I also beg to lay on the Table a copy (in English and Hindi) of the Ministry of Finance (Department of Revenue), Notification S. O. No. 614(E), dated the 29th October, 1979, publishing the Interest-tax (Amendment) Rules, 1979, the Interest-tax Act, 1974.

**Notification under the Finance Act, 1979 and related papers**

SHRI JAGANNATH PAHADIA: Sir, I also beg to lay on the Table a copy (in English and Hindi) of the Ministry of Finance (Department of Revenue), Notification G.S.R. No. 12(E), dated the 22nd January, 1980, under section 41 of the Finance Act, 1979, alongwith an Explanatory Memorandum on the Notification.

**Notification under the Customs Act, 1962 and related papers**

SHRI JAGANNATH PAHADIA: Sir, I also beg to lay on the Table a copy each (in English and Hindi) of the Ministry of Finance (Department of Revenue), Notifications (G.S.R. Nos. 21(E) and 22(E), dated the 29th January, 1980, under section 159 of the Customs Act, 1962, alongwith the Explanatory Memoranda on the Notifications.

**1. Report U977-78) of the commissioner for Scheduled Castes and Scheduled Tribes.**

**2. Report (31st May, 1979) of the Commission of Inquiry on Maruti Affairs and related papers**

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI YOGENDRA MAKWANA): Sir I beg to lay on the Table:

I. A copy (in English and Hindi) of the Twenty-fifth Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1977-78 (Parts I and II), under sub clause (2) of article 338 of the Constitution.

II. (i) A copy of the Report (May 31, 1979) of the Commission of Enquiry on Maruti Affairs and its Appendices, together with an Explanatory Memorandum (in English and Hindi) giving reasons for not laying simultaneously the Hindi version of the Report.

(ii) Statement (in English and Hindi) giving reasons for not laying the Memorandum of Action Taken on the Report mentioned at (i) above.

**RE. QUESTION. OF PRIVILEGE ARISING OUT OF THE STATEMENTS MADE IN THE HOUSE ON THE 29TH JANUARY, 1980 REGARDING THE REPORTED ARREST OF SHRI N. K. SINGH DIG, CBI**

MR. CHAIRMAN: Hon. Members, you have had, for two or three days, a question of privilege raised in this

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House. I took time to consider it, and having carefully considered it from all angles and in view of the law such as I found, I am now going to deliver my ruling.

On January 29, 1980 news items appeared in several newspapers, of the arrest of Mr. N. K. Singh, DIG of the CBI and the chief investigating officer in the *Kissa Kursi Ka* case. The purport of the news item, was that this arrest was made on the basis of complaint filed before the Gurgaon Police in May, 1977. The news item, went on to say that Mr. Singh, after being detained at Gurgaon Police Station House for over 24 hours, was released on a personal bond of Rs. 2,000 after his statement was recorded. On the same day, Mr. Rabi Ray, Mr. L. K. Advani and some others raised in the Rajya Sabha, through Special Mention Procedure, the subject of this arrest. Present in the House, at the time, was Mr. Yogendra Makwana, Minister of State in the Ministry of Home Affairs. A number of Members spoke on the subject. When Mr. Makwana began his reply, the Home Minister Giani Zail Singh also was present though not earlier. Mr. Makwana began his reply by saying that although there was no practice of replying to the Special Mention in the House, he wished to set the record straight. His statement was:

"What has been stated by Mr. Rabi Ray, Mr. Advani and others, is far from facts. Mr. N. K. Singh is not arrested as they have stated in this House. . ."

"This concerns the State of Haryana. Nowhere are we involved. But when we came to know that Mr. N. K. Singh has been arrested, we immediately contacted the Chief Minister of Haryana and ascertained that he is not arrested. So, whatever is stated by Mr. Rabi Ray and Mr. Advani is not correct. . ."

The hon. Members at this stage interjected, "Let the senior Minister say something". Before the Minister of State could say anything, the Minister of Home Affairs took on himself to make a statement. He said, *inter alia*, that although he was in the House in the latter part only he wished to say this:

"माननीय सभापति जी, जब यह प्रश्न उठा मैं इस हाउस में मौजूद नहीं था इसलिये मुनासिब यह समझा गया कि मिनिस्टर आफ स्टेट ने सारी बातें सुनी हैं वही उस का जवाब दे दें। आनरेबल मेम्बर, साहेबान के जज्बात की मैं कद्र करता हूँ और इस बात से इतिफाक करता हूँ कि अगर मिनिस्टर इनचार्ज खुद वहाँ हो तो दूसरे मिनिस्टर को उस का जवाब देने की जरूरत नहीं, वही जवाब दें। लेकिन इस बात का भी ख्याल रखना चाहिए कि जब मैं मौजूद ही नहीं था सबाल उस वक्त उठा और उसके साथ पूरक प्रश्न भी उठाये गये। वे भी मैंने आधे सुने, आधे नहीं सुने, इसलिये मैं नहीं उठा था। इसका मैंने स्पष्टीकरण किया।

मगर यह बात एक अफसर की गिरफ्तारी की बात है। यह मामला सेंट्रल गवर्नमेंट से कोई संबंध नहीं रखता, ताहम जब हम को पता चला कि किसी अफसर की गिरफ्तारी की जा रही है तो हमने इस बात का पता लगाया स्टेट गवर्नमेंट से और स्टेट गवर्नमेंट ने यह बताया है कि उस ने गिरफ्तारी नहीं की। केवल उन से कुछ जानकारी लेने के लिये उनको बुलाया गया। (Interruptions) लेकिन उन की गिरफ्तारी की बात बिलकुल गलत है। उनको गिरफ्तार नहीं किया गया।"

आनरेबल सभापति जी, इसी तरह से आनरेबल मेम्बर, जगजीत सिंह जी ने भी कहा है। मैं चाहता हूँ कि यह राज्य

सभा है, एलडर्स की सभा है। इसको सुन कर और देख कर तो दूसरों को सब सीखना है कि पार्लियामेंट कैसे चलती है। लेकिन मैं उनका भी जवाब देना चाहता हूँ। अभी उन्होंने यह बात नोटिस में लायी है कि बंगलौर में एक फैक्टरी जो आनरेबिल मेम्बर, अम्बिका के भाई की थी उसको कुछ नुकसान पहुँचा। इस बात की हम जानकारी करेंगे, मगर इतना ख्याल जरूर रखना चाहिए कि जो बातें स्टेट सब्जेक्ट की हैं और जिन के बारे में स्टेट को अपने अख्तियार से काम करना है उन को इस सभा में उठा कर बक्त जाया करने की जरूरत नहीं है। ताहम मैं मेम्बर साहब का अदब करता हुआ पता लगाऊंगा कि वाक्या क्या हुआ था।”

After a lot of cross-questioning on other than this subject to a reply to the Chairman's query whether the Minister has concluded his statement, the Minister replied:—

"I have completed my statement." Mr.

Advani then said:

"....I used my words very carefully. I said that he has been apprehended and physically taken to Gurgaon against his will. He has not gone there voluntarily. And I do not know whether this is a case of illegal confinement if it is not arrest. But what I would have expected is here is a senior official of the IPS of the Central Government—not of Haryana Government—and, in what case, when the Minister makes a statement, he would also let the House know as to in what connection has the Haryana Government taken him there. Unless the Government comes out with the full facts, this House is not going to be satisfied -----"

The Chairman then observed:

"As the hon Minister was not present during a part of the Mention and had not heard what had been said by Mr. Advani, Mr. Advani is entitled to explain to him. And will he kindly answer, if he wishes what is the distinction between arrest, apprehension and taking away?"

Many interruptions followed and the Chairman twice said—"I have said quite clearly to the hon. Minister that 'if he chooses' he could make a statement and that 'the matter was left fairly and squarely in his hands'." The Home Minister then made the following final statement:

“श्रीमान्, सभापति जी, हमारे आडवानी जी ने जो पहले बात कही उसका जवाब देने की जरूरत नहीं है। वह सी० आर० पी० सी० को देख सकते हैं कि अरेस्ट, बुलाने और जानकारी कराने में क्या फर्क है और मैं यह भी बता देना चाहता हूँ कि स्टेट गवर्नमेंट को हम से पूछने की जरूरत नहीं है। वह ला एण्ड आर्डर या किसी मुकदमे के केस का मसला है, स्टेट सब्जेक्ट है। उस के बारे में हर बार पूछ कर बात नहीं करते हैं, बेशक कितना बड़ा अफसर हो, कितना बड़ा न हो। मैंने स्पष्ट शब्दों में यह कहा था कि वह बड़ा अफसर है इसलिये हमारे पास इतला मिली। हम ने उसी वक्त स्टेट गवर्नमेंट से पूछा तो उन्होंने बताया कि हम ने गिरफ्तारी नहीं की है। हमने उनसे जानकारी लेने के लिए उनको बुलाया है।

The matter did not end there. On the next day more details of the incident followed in the newspapers and they were directed to establish that there was in fact an arrest and release on a recognisance. On the same day

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a number of notices purporting to be made under Rules 187, 188 etc. of the Rules of Procedure of the House were sent seeking to raise the issue of privilege against the two Ministers, on the grounds that the earlier statements of the Ministers were deliberately misleading and the Ministers were guilty of a breach of the privilege of the House.

On receipt of these notices, of a privilege Motion I ordered that they be brought to the notice of the Ministers. The Ministers have sent explanations which are *ipsissima verba*. They claim that first on phone, next by a demi-official letter and lastly by wireless message they were assured by the Chief Secretary that there was no arrest as reported in the newspapers. As enclosures to their own copies, they sent the other communications to me. It was pointed out that "... from the perusal of these enclosures it would be seen that the information furnished by the Government of Haryana has consistently been that Shri N. K. Singh has not been arrested. The statement made by me in the House was merely on the basis of information furnished by the Government of Haryana."

The Chief Minister of Haryana, Shri Bhajan Lai, in his D.O. letter to the Home Minister wrote *inter alia* as follows :

immediately after receiving these telephone calls I contacted the Senior Superintendent of police, Gurgaon to enquire the facts. He has informed me that Shri N. K. Singh and some other CBI officials had to be interrogated in connection with some inquiries/cases pending with the Gurgaon Police and that, therefore, these officials had been contacted by his subordinates and asked to make themselves available at Gurgaon. He has denied that any of these officials had been arrested by the Gurgaon Police. The interrogation in the matter will proceed strictly-

ly in accordance with the law and procedure.

2. Since the matter is reported to have been raised in the Parliament this morning I have separately issued a Press Release (copy enclosed) clearly indicating therein that the CBI officials concerned had been called to Gurgaon for purposes of interrogation in some matter and that none of them had been arrested. I thought that I should keep you informed in this matter."

A press item was also issued dated the 29th January, 1980, by the Joint Director, Public Relations, Haryana. In it, it is stated that the Chief Minister, Haryana, Shri Bhajan Lai, denied the rumour that three officials of C.B.I. including Shri N. K. Singh, Superintendent of Police, had been arrested in Gurgaon. Some persons, including a few MPs, also met him here in this connection. He said that he had already contacted the Senior Superintendent of Police, Gurgaon, and was told that some CBI officials had been called only for interrogation in connection with some pending enquiries cases. A special radio message was also received from the Home Secretary, Haryana, on 31-1-1980. That was after his statement in the Rajya Sabha. It is not necessary to refer to it. It only added that a report of abduction was lodged at the Police Station by a certain Ramchander of Gurgaon on the 27th January, 1956 against Shri N. K. Singh and others. The incident was said to be of 26th May 1977 and a previous report was lodged by his nephew, Raj Kapur, the same day, which is First Information Report 129 dated 26-5-1977. Mr. N. K. Singh was asked to go with the police party to Gurgaon for questioning and he went voluntarily to Gurgaon where his statement was recorded. Later, he was provided transport for his return. It was emphasized that—I quote:

"In this connection it may be mentioned that his allegation that he was forced to give a personal bond

of Rs. 2,000/- before being allowed to leave the Police Station is absolutely incorrect and misleading. The question of taking bond does not arise because Shri N. K. Singh was never put under arrest. It is reiterated that he had accompanied the Haryana Police officials to Gurgaon voluntarily."

This is all the material at present before me. I am not concerned with the truth or falsity of any statement emanating from the Haryana authorities, the Chief Minister of Haryana downwards.

I am concerned only with the question whether the Home Minister and/or the Minister of State in the Home Ministry can be said, to be guilty of a breach of privilege and to see whether a *prima facie* case exists to grant leave under Rule 190 to refer the matter to the Committee of Privileges on the motion of the members.

The law appears to be well-settled that the making of a deliberately misleading statement may be treated as a contempt of the House. In England in 1963 the affair of Profumo and Christine Keller was inquired into by Lord Denning M. R. and Profumo, who had made a Statement in the House which he later admitted was not true, had to resign. He was held by Lord Denning to have committed a breach of the Privileges of the House by deliberately misleading it. The question arises before me if I can say that there was a deliberate misleading of this august House by (the two Ministers when they made their statements.

The subject seems to have been given scant attention in defining the circumstances in which an inference of misleading by uttering a falsehood would constitute the gravamen of contempt of the House. Perhaps, this is because the text books deal with only cases which have actually arisen. I hope to clear the field.

'Mislead' in this connection must mean only that the Ministers drew the House into error by falsely stating that Shri N. K. Singh was not arrested and this was contrary to fact. The test to apply is not a general one but in relation to the conduct of the maker of the statement. A person may know, believe or suspect that what he is saying is false. The responsibility increases in proportion to the increase of knowledge and belief. The test to apply is: Does the maker of the statement know that the statement he is making is false or again that the maker is making the statement which he does not believe to be true. In either case, there would be deliberate misleading. A third or borderline case also exists when the maker is utterly indifferent whether what he is saying is true or false. Here any person, without ascertaining for himself the truth of the matter, asserts something as true and he must take the consequences if it turns out that it was false. No person is expected to make a statement about a fact as to which he made no inquiry to ascertain its truth or falsehood. If he is so foolhardy as to maintain that what he is saying is true without any evidence in his possession, he must pay the price for his negligence and indiscretion, should it later turn out that what he asserted was false and thus misled others. This last proposition does not apply if the person after making due inquiry in proper quarters where he must make inquiries and approaching those who are likely to know the facts makes a statement believing it to be true, he is then saved even if he was himself misled by others from whom he inquired. The gravamen of the charge is a deliberate misrepresentation of a fact knowing it to be false or not believing it to be true or being so indifferent to truth as not to care what is said is false or true.

[Mr. Chairman]

Judged from this standard it is clear that the Minister cannot be said to have acted without due care and attention. They had in their hands the statement repeated twice and even confirmed after the event in radio version. They had no reason to think that what they were being told was perhaps not true. Coming as it from the highest authority the State on a matter which is essentially a State subject they did not go beyond the bonds of truth or propriety when august House. As situated on the day they relayed the information to this morning of the 29th of this month the Ministers were assured of the truth of what they relayed to the House. In these circumstances no question of privilege arises and I refuse my consent to raise it.

SHRIMATI PURABI MUKHOPADHYAY (West Bengal): May I be permitted to say something about the ruling "that you have given?"

MR. CHAIRMAN: There can be no argument on it. You can examine the propositions outside the House.

SHRIMATI PURABI MUKHOPADHYAY: Let it be circulated then.

[Mr. Deputy Chairman in the Chair.]

#### THE PAYMENT OF BONUS (AMENDMENT) BILL, 1980

THE MINISTER OF TOURISM AND CIVIL AVIATION AND LABOUR (SHRI J. B. PATNAIK): Sir, I beg to move:

"That the Bill further to amend the Payment of Bonus (Amendment) Act, 1977, as passed by the Lok Sabha, be taken into consideration."

Sir, this is a very simple and non-controversial Bill for a limited pur-

pose. It is to validate the Bonus Ordinance Act of 1979 which enables the payment of bonus to workers in the accounting year beginning on any date in 1978. Accordingly, the bonus has been paid to a large sections of workers of this country and payment of bonus is due to certain sections of workers who have not yet been paid. If this Ordinance is not validated, either the payment of bonus will not be made to large sections of workers in this country or they would be given a discriminatory treatment on this account. Hence the necessity and urgency of passing this Bill in this House which has already been passed in the Lok Sabha.

*The question was proposed.*

SHRI S. W. DHABE (Maharashtra): Sir, This Bill which has been brought for validating the payment of bonus for the year 1978 gives rise to a number of questions relating to the payment of bonus. Sir, *ad hoc* payments have been made from the year 1976. The first amendment was made in 1975 when the workers were deprived of bonus by the Amending Act No. 23 of 1976, for the year 1975. The amendment by the previous Government only restricted the payment for the year 1976. Then it was extended for the year 1977 and now 1978. Sir, I take this opportunity, through you, to bring to the notice of the Government that all the trade unions are demanding that this *ad hoc* arrangement is not good. A comprehensive look is necessary at the entire Bonus Act so that it is reviewed and proper arrangements are made in order that the payment of bonus becomes a statutory obligation. Sir, I need not go into the history. But I would like to say shortly that the bonus is a question which has given rise to a large number of strikes in our country. Starting with the appointment of a Bonus Committee in 1923, and then the Labour Appellate Tribunal decision in 1950 recognising the right to the workers to raise the dispute of bonus and saying that the