

**HALF-AN-HOUR DISCUSSION ON
POINTS ARISING OUT OF ANSWER TO
STARRED QUESTIONS 34 AND 36
GIVEN ON THE 25TH APRIL, 1978,
REGARDING RECOVERY OF INCOME-
TAX AREARS**

DR. BHAI MAHAVIR (Madhya Pradesh):
Mr. Deputy Chairman, Sir, I realise it is a little hard on some of our Members here that this Half-an-hour Discussion should be held after such a long and rather tedious sitting we had, to pass the Finance Bill.

On the 25th April, two questions were asked in this House relating to the arrears of income-tax and how they have been growing. The figures (that were given at that time were that gross arrears of income-tax in our country totalled Rs. 1004 crores and net arrears Rs. 720.62 crores. It was not made quite clear as to how these two figures differed. I presume that the difference was perhaps due to the non-inclusion in net arrears of interest for the period these arrears had lasted. But, Sir, whatever the cause of the difference might be, I hope this will be clarified. But the figures are certainly frightening and give the impression of colossal inefficiency and perhaps glaring corruption also. Of course, the present Government is carrying somebody else's baby. These arrears have been there for quite a number of years. From the rather moderate figure of Rs. 374 crores in 1968, the figure has risen to this rather impressive figure of Rs. 1004 crores. Sir, whatever be the Government, the fact is that the Government needs revenue. Every Government will need revenue and if the revenue sources get blocked up like this or if the most important direct source of revenue, income-tax, has such a tremendous backlog of arrears, naturally there will be problems and difficulties and may be there is also scope for wrong methods being used for getting these arrears written off.

Sir, the information that was given at the time the question was answered in this House gave certain methods which were being used for the purpose

of bringing down the arrears. We were told that interest is charged on the arrears, penalty interest is charged sometimes and there is also attachment of money due to the defaulters. There is also attachment and sale of movable and immovable properties of the defaulters. In spite of these steps, if the arrears continue to grow, there must be something seriously needing improvement. What I have been able to understand about these things is that when we give these figures of arrears, they need to be divided into two parts. I hope the hon. Minister of Finance will clarify if he has the figures now or he will get the figures later on and let us know about them. There are two types of arrears as far as I have been able to understand. The first type of arrears are those which relate to demands that have been stayed or in the case of which instalments have been granted in appeal by the court or by the appellate authority within the Department. Secondly, there are those arrears which arise from non-adjustment or non-implementation of rectifications which have been asked for by the assessee. Firstly, I would like to know if it is not a fact that in quite a large number of cases, action which should be taken by the Department swiftly is delayed rather unduly. That action sometimes is desirable from the point of view of early clearance of these arrears. For example, if a demand is made by the Department for certain amount of tax to be paid and the assessee claims that there is some mistake because he has already paid a part of that tax and the demand should be corrected, then the Department does not have any time-limit within which such a request should be considered and disposed of. There is no acknowledgment of such applications and also, they are not acted upon. I have come to know of a certain case which is rather not only interesting, I would say which is even ridiculous. In that case, the assessee was asked to pay Rs. 1100 as tax as long back as in 1963-64. He said that he had already paid Rs. 300 and,

therefore, rectification should be made. He requested for a fresh challan so that he could pay the arrears due. This rectification was done in 1978. It is quite a long way from 1963-64 to 1978 and the Department took all this time to make a simple correction in the challan. If such delays were cut out, it would naturally help the department and would reduce the number of files which remain mounting up in the corridors, in the offices, of the Income-Tax Department. It would make their work easy and the same figures would not have to be placed before this House again and again, and the figures would become more palatable and easier to swallow. As I said, there is no acknowledgement of applications, no time-limit. On the other hand, in certain cases decisions are taken very quickly. I had occasion to refer to one case when this question came up in this House. In one particular case, it is quite a big party—the Bharat Steel Tubes—a refund was given of the value of Rs. 50 lakhs. The refund was even paid out. The ground of the refund was rather on a debatable point. I am not a technical man knowing much detail of how these assessments are made. But I learn that it was a debatable point. Rupees 50 lakhs were paid out. Then the department went in reverse appeal and it was decided that Rs. 30 lakhs of tax arrears were in reality due. So that amount of Rs. 30 lakhs was added to the arrears because the other party went to the court and got a stay and that amount of Rs. 30 lakhs is not being recovered. This type of delay, this type of situation, could easily have been avoided. This type of adding up arrears could be avoided if the refund was not paid till the disposal time, till the appeals were disposed of—

Similarly, the department needs other improvements. There is a practice in the department where if a particular amount of tax is assessed and the assessee claims that the amount is not correct, there arises

some sort of a dispute, and because of this dispute the department insists that the whole amount should be paid. Instead of that, a very reasonable improvement could be that the tax on the uncontested income should be accepted. If the tax on the uncontested income is accepted and a stay is given only so far as the contested income is concerned, it would help the department in getting that part of the revenue which both parties agree on. Now as the system obtains, they insist on the whole amount of the tax and the assessee is not prepared to pay the whole amount. So the whole question goes into dispute and appeals, and arrears keep mounting. I would suggest, therefore, that in the working of the department there may be improvements which are possible, such improvements should be introduced so that arrears can be brought down.

Similarly, the Income-Tax Officer has the authority to grant a stay. But often it happens that he does not grant the stay which the assessee is requesting. Because of this a dispute arises and it goes on, and delays in the disposal of these things create a situation in which rather unhealthy practices also multiply. Those people who try and who have the means of getting favours from the people who are in a position to grant favours in the bureaucracy, they use wrong methods; they grease the palms of the people concerned and that leads to wrong examples coming before the people, before other people, and also adds to the stinking corruption that we unfortunately have in this country.

Then, a recovery system has been evolved for the purpose of recovering the arrears. In these recoveries where the amounts are outstanding for more than 10 years, there is a lack of coordination. A lot of inconvenience is caused to the people because of the lack of coordination. The recovery section does not know how much has been paid by the assessee over the period during which it has remained pending. It is like the pro-verable left arm of the Government

[Dr. Bhai Mahavir]

not knowing what the right arm of the Government is doing. But here in any case the recovery arm should know what the receiving arm has already been paid by the assessee.

It happens that when people go in appeal, very often those appeals are accepted but no action is taken or no notice is taken of the wrong decisions which led to these appeals being preferred by the assessee. If, as is the practice in the case of High Courts, where, when an appeal is accepted, there is a proforma which the High Court Judge is expected to fill up, containing any remarks, favourable or innocent, regarding the judgment of the lower court, such a proforma could be introduced in the case of appeals here also, and those ITOs— of course, those who make bona fide errors of judgment or those whose views differ from the appellate authority they have nothing to fear—but the ones who, without such bona fide reasons, take wrong decisions, be asked to give some explanation for the decisions taken, it would be very proper and desirable.

(Time bell rings)

Briefly, Sir, therefore, I will just recount a few suggestions which I am making for the consideration of the hon. Minister. The figures that are given of arrears may kindly be given in a break-up form. The reasons for which these arrears have remained, whether on account of some rectification asked for, or some adjustment desired, or because of some appellate effect—some appeal has been accepted but the challan has not been issued—may also be given. Secondly, Sir, a time-limit should be fixed for acknowledgements, rectifications and adjustments and the officers concerned should have to explain if the necessary steps are not taken within that time. Thirdly, Sir, I have suggested that the uncontested tax should be accepted and only the contested part should be allowed to remain pending.

My last point is with regard to excess deposits. I find that there are certain excess deposits which arise when tax deducted at source exceeds the demand on regular assessment. At present no interest is paid by the Department on the excess payments made. Why should such a thing be there? I would suggest for the consideration of the Government that if there is any amount paid in excess by any assessee, interest should be allowed on that. Sometimes there are contractors and other people whose incomes are not fixed, whose incomes are not certain. Sometimes they are asked to pay and they pay. Later on their incomes turn out to be lesser than what they had themselves calculated. The payment which they had made in a bona fide manner, on that payment we should allow interest according to rules.

Sir, these are some of the suggestions which, I think, could go some way, if not a long way, in improving the situation and bringing forward before the people a more acceptable and a less objectionable picture of income-tax arrears in this country. Thank you.

THE MINISTER OF FINANCE (SHRI H. M. PATEL): Sir, I am very grateful to the hon. Member for the way in which he has presented his case in regard to income-tax arrears. While he has made some interesting and useful suggestions, I would like to clear him of certain misunderstandings. First of all, I may say that arrears are expressed in terms of gross arrears and not net arrears. The gross arrears at any point of time represent the amount of tax demand raised on regular assessment etc. and not paid till then. Net arrears represent the legally collectible demand at any point of time and is calculated by deducting the following four types of amounts from the gross arrears; (1) Amounts not fallen due. (2) Pre-paid tax by way of advance tax, self-assessment tax claimed to have been paid but which

are awaiting verification, adjustment.

(3) Amounts in respect of which a stay has been granted by various authorities, including courts, and (4) Amounts covered by instalments granted.

These four items are deducted in order to arrive at the figure of net arrears. Even the net arrears cannot be fully recovered at any given point of time because of one or more of the following reasons and these are important reasons, namely, (1) amounts pending settlement of total income-tax relief; (2) amounts due from companies in liquidation; (3) amounts covered by properties which have been attached but cannot be sold for the time being due to various reasons; (4) amounts due from persons who do not have sufficient assets or who have left India; (5) amounts covered "by protective assessments; (6) amounts disputed in appeals and (7) amounts which have become irrecoverable due to various reasons.

These are the technical points. It is necessary to know that these do affect the figures that you see before you.

Now, I will show the gross and net arrears outstanding as on 31st March for the last five years. I read these figures out:

	(Rs. in crores)	
	Gross Arrears	Net Arrears
31-3-1973	790	483
31-3-1974	815	471
31-3-1975	935.96	537.72
31-3-1976	993.79	603.41
31-3-1977	873.56	569.84

I wanted to give these figures for this reason that the gross arrears have been rising and so also the net arrears during these previous 4 years; but there has begun a downward trend in the years 1976 and 1977 and that is continuing now, although the figure

read out by the hon. Member was 1004, that was as on 31st December, 1977....

DR. BHAJI MAHAVIR; Actually, in reply to a question in the Lok Sabha, the figure given is 1008.76 crores.

SHRI H. M. PATEL; It is possible; that can be adjusted. The point that I am trying to mention is illustrative that figure of the net arrears on 31st December 1977 was 720 and it goes on. Now, how is the figure 873.56 of 31-3-1977 made up? It is;

Income tax	..	473 crores
Corporation tax	..	146 "
Interest	..	156 "
Penalty	..	97 "

This adds up to the figure. Then it is also an important point that these arrears of Rs. 873 crores are of a certain age. Rs. 59 crores are for 1965-66 and earlier years coming from 1966-67 to 1973-74; the arrears outstanding are Rs. 258 crores. 1974-75, it is 97.19; 1975-76, the figure is 165.41; and for 1976-77 it is 293. These add up to 873. This gives you the age of these arrears.

As I said, it is perfectly correct that even these are large enough arrears and there is no reason why we should not try to bring them down and that is precisely what we are aiming at. The trend has begun only in the sense that now the collections are increasing year to year. Our annual collection of arrears is increasing. We have organised a special drive for this purpose and we are hopeful that the results will be satisfactory. I cannot say immediately how successful we shall be but I think, judging from the trend, we should be able to do it. Now, the various suggestions that you have made about the methods to be adopted and so on are very valuable and I will examine

[Shri H. M. Patel] them further. I may mention that tax on returned income is required to be paid before filing the return. This is a point which you may note. The assessee cannot file an appeal without paying such tax. Where the point involved is really disputed or the addition is thrice or more than the returned income, the demand is generally stayed. These are merely explanations that I gave of what the position is. I do not know what additional information I can give him regarding the situation of arrears as they exist today. You mentioned Bharat Steel. I think there is a full explanation given here in the appendix. A refund of Rs. 41.98 lakhs found due for the assessment years 1970-71 and 1971-72 in February, 1975, was adjusted against outstanding demands for the assessment years 1974-75 and 1975-76. A refund of Rs. 19.29 lakhs found due in June, 1975, as a result of an appellate order was given in cash. At that time, no demand was outstanding although the Department had gone on appeal to the Tribunal against the order of the Appellate Assistant Commissioner for the assessment years 1970-71 and 1971-72. The Tribunal decided the appeal in favour of the Department. A demand of Rs. 39.08 lakhs was created, but the Supreme Court stayed it on the assessee's furnishing a bank guarantee. This explains why it appeared to you as if some money was given and then, later on, we had to recover something. But this arose as a result of the subsequent judgement or order of the High Court and our appeal.

DR. BHAI MAHAVIR: Even then, Mr. Patel, the point I made remains valid. Here, the refund was allowed and the subsequent appeal justified that the refund need not have been allowed when, in the reserve appeal, you got a certain amount by way of tax.

SHRI H. M. PATEL: I will certainly go into it.

DR. BHAI MAHAVIR: I would like to mention one thing in passing. Would you not think it proper that after an application is made, the acknowledgement is given and the time is fixed within which it should be decided, the application for adjustment or...

SHRI H. M. PATEL: I have already told you that you have made a number of suggestions. I will go into them and I shall try to accept as many as I can. I did not specify them. I said that I would examine your suggestions. So far as this case is concerned I explained the way in which this position arose. I shall consider the point whether we should have held back the refund at that time. But generally, the complaint is that we do not give refunds too early. If you feel that we are giving them in some cases. . .

DR. BHAI MAHAVIR: The complaint is that big people get it.

SHRI H. M. PATEL: We shall see that the situation is evened out for everybody. I hope the hon. Member is reasonably satisfied with my endeavour to explain the position regarding the tax arrears. But if he desires any further information, I shall be very happy to make it available.

SHRI LAKSHMANA MAHAPATRO (Orissa): Sir, with your permission, I wish to ask one or two questions. As Dr. Mahavir has said, it is not only frightening, but it is also sickening and gloomy because these arrears are mounting up every year with the big business houses and the monopolists in the country. That have been managing the affairs in such a way that they have nothing to lose by keeping arrears. Firstly, they do not pay taxes for a long time. That money remains with them and they make the best use of it for exploitation of masses. Later, when they see that they cannot avoid it, they take the matters to courts. This is evident from the reply of the Minister the other day when this was raised on the floor of the House. He said that the matter

is pending in the court and, therefore, this has got stuck up and the amount could not be recovered earlier. Also invariably in a big percentage of cases they are able to get a decision in their favour because much happens in between and we cannot easily explain the things. So, ultimately they are the gainers and they got concessions there also. We are, therefore, interested in two things. He has given figures. I had also got the figures, but since he has given the figures, I just want to ask: How could it happen that in 1977 the gross arrears were of the order of Rs. 873 crores and by 31st December, 1977 these rose to Rs. 1004 crores or Rs. 1008 crores. There is a jump of Rs. 131 crores or Rs. 135 crores in nine months' time. Also, when you go to the net side, it has gone from Rs. 569 crores to Rs. 720 crores. What are the reasons for that because that was the year when these people took over? The backlog was there, but this jump is for the year in which these people took over. And this is all in the case of big business houses. I want to know the reasons for that, because the other day when the Minister was replying, he said that there were so many measures which had been provided in the Income-tax Act of 1961 and some of which Dr. Mahavir has also referred to. I just want to know whether these provisions that are there for realisation of tax arrears have seriously been made use of. Had effective measures been taken? I do not think there would have been this sordid and sorry state of affairs in the matter of recovery of tax arrears. While replying to Question No. 36 the hon. Minister had given figures in respect of persons who were having tax arrears of Rs. 10 lakhs and above. In that he said:

Out of the gross demand of Rs. 26.17 crores outstanding in 63 such cases, as on 31.3.77, an amount of Rs. 7.15 crores has been collected/ reduced upto 31.12.1977".

During the whole year the collection that was made was of the order of Rs. 7.15 crores. This is the Blow

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rate at which we are moving, the tardy progress in the matter of recovery that these people are making. Therefore, I want to know whether these provisions that are already there, are being seriously followed. Now I want to know whether the following four steps are being taken. How much recovery has been made by implementing the provision of levy of interest for delayed payment. How much has been got by that process? The second thing is: How much have they collected by way of imposition of penalty for non-payment? How much has been got by attachment of monies of defaulters? Lastly, how much has been collected by sale of immovable or movable property of the defaulters? In all these cases I would like to know to what extent they have been successful, what amount of money they have collected through these processes. This is something which will give us the picture of how serious they are in the matter of recovering tax-arrears. In reply to Mr. Mahavir the hon. Minister has already told us that there are cases in which tax-arrears are pending for more than 7-8 years. So, we are interested in two things—early recovery and not allowing monies to be with them so that they could fleece the common man.

So that they can fleece the common man. That is what we are interested in. That is the whole question. Every day you are proclaiming that you are interested—and this is also in the Constitution—to have the concentration of wealth broken. Is it all that you are doing—allowing them to carry on in this way and something is added up to the arrears every year? Therefore, I am interested to know what he has done as far as these provisions that are there are concerned. And does he not consider that if there is not a provision already—I am not pretty sure whether there is a provision—for insisting on depositing the whole of the assessed amount—I am interested in the assessed amount and not the returned amount, as he said—the whole

[Shri Lakshmana Mahapatro]

assessed amount should be deposited before he is permitted to go to any court, or go in appeal?

SHRI H. M. PATEL: The hon. Member has asked a number of points to which I cannot possibly give him satisfactory answers just now. At least, it would take a great deal of time. I have got a lot of information which I could furnish him. My suggestion to him, if he is willing to accept it, is that I shall arrange this for him. He has put all his questions. All the information can be made available to him and he can then ask me whatever questions he still further wants to ask. But one thing he should realise that these arrears which are old—from 1965 and so on—do not all relate to persons who may be in existence. Some of them may not be. Some may relate to firms which are already in liquidation. And, in fact, a good deal of these arrears probably have to be written off. But that is also a process in which we do not like to write off too quickly until we are satisfied beyond any reasonable doubt that there is no possibility of recovering them.

In any case, you have made various points. Certainly you are entitled to have answers to them. I would give you the information if you inform me when you can come along and my officers will show you all the figures.

SHRI LAKSHMANA MAHAPATRO: You place them on the Table of the House.

SHRI H. M. PATEL: If you wish me to place it on the Table, I can do that—whichever you prefer. The only advantage in what I am suggesting to you is that you can also ask further questions if you wish to...

SHRI LAKSHMANA MAHAPATRO: Since he will be giving me information later, let him give the arrears etc. against 21 big houses.

SHRI H. M. PATEL: I can give you now.

SHRI LAKSHMANA MAHAPATRO: Not now. Later on.

SHRI H. M. PATEL: I will let you have that certainly.

श्री शिव चन्द्र झा (बिहार) : उप-सभापति महोदय, मंत्री महोदय ने कहा कि टैक्स एरियर का ट्रेंड पिछले 2-3 सालों से नीचे जा रहा है ? इस संदर्भ में मैं जानना चाहता हूँ कि टाटा और बिड़ला इन दो घरानों का ट्रेंड पिछले 5 सालों में कैसा रहा है और अभी कितना बकाया इन दोनों घरानों पर है ? यह मेरा पहला सवाल है कि टाटा और बिड़ला पर कितना टैक्स बकाया है ?

मेरा दूसरा सवाल यह है—हो सकता है आप लोग जानते हों लेकिन मैं जानकारी के लिए जानना चाहता हूँ कि क्या भूतपूर्व प्रधान मंत्री इंदिरा गांधी पर भी कोई टैक्स का एरियर है; यदि है तो कितना है और कौन से कदम आपने उठाये हैं इसको रियलाइज करने के लिए जैसे टाटा और बिड़ला के लिए उठाये हैं ?

मेरा तीसरा और आखिरी सवाल यह है कि कैल्डोर के जो एस्टीमेट थे, कि 200 से 300 करोड़ रुपये टैक्स एरियर या इवेशन प्रति साल हिन्दुस्तान में होता है। मैं यह जानना चाहता हूँ कि मौजूदा आंकड़े एवरेज और सालाना हिन्दुस्तान में क्या हैं ?

SHRI H. M. PATEL: Regarding the last point, Mr. Kaldor's estimates were really estimates. They were not even estimated they were guesstimates. We can give some guesstimates of that nature if you want them. The amount of black money that may be there in the country is really almost impossible to calculate. As Mr. Kaldor guessed it then in that year, we can guess it this year, I certainly can give him such a guess if he is so anxious to have it.

So far as the arrears of Tatas and Birlas are concerned, I shall have to collect the figures and give it to him. I shall be very glad to do so. He wants them for five years. I can give him the ones at the present moment.

SHRI LAKSHMANA MAHAPATRO:
Upto 31-3-78, how much were the arrears?

SHRI H. M. PATEL: I will tell you that. I have got that here. Recoveries outstanding of Rs. 10 lakhs as on 31-3-77, upto 31-12-77. It is number of companies.

SHRI LAKSHMANA MAHAPATRO:
Total is not there.

SHRI H. M. PATEL: Total is not there. I will add it up and give it. That is why I cannot give it now in the form in which you want it. If you want separate figures I have got it here.

THE DEPUTY CHAIRMAN: Let him supply the figures to the hon'ble Member.

SHRI H. M. PATEL: I will do that.

श्री शिव चन्द्र झा : तीसरा सवाल मेरा था कि भूतपूर्व प्रधान मंत्री इन्दिरा गांधी पर भी कोई बकाया है क्या ?

SHRI H. M. PATEL: I remember such a question on Mrs. Indira Gandhi had been asked and my recollection is that against her own name I believe there was not much arrear, there may have been arrears but not much.

श्री उपसभापति : सदन की कार्यवाही कल प्रातः 11 बजे तक के लिए स्थगित की जाती है ।

The House then adjourned at forty-six minutes past six of the clock till eleven of the clock on Wednesday, the 10th May, 1978.