

[Mr. Deputy Chairman]

5. Consideration and passing of the following Bills, as passed by the Lok Sabha—
 - (i) The Punjab New Capital (Periphery) Control (Chandigarh Amendment) Bill, 1972. 1 hour
 - (ii) The Wild Life Protection Bill, 1 hr. 30 mts. 1972
 - (iii) The Antiquities and Art Treasures Bill, 1972 2 hours
 - (iv) The Rulers of Indian States (Abolition of Privileges) Bill, 1972 2 hours
 - (v) The Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Amendment Bill, 1972 1 hour
 - (vi) The Seeds (Amendment) Bill, 1972 1 hour
 - (vii) The Mines and Minerals (Regulation and Development) Amendment Bill, 1972 1 hour
 - (viii) The General Insurance Business (Nationalisation) Bill, 1972 3 hours
6. Consideration and passing of the Insecticides (Amendment) Bill, 1972 1 hour
7. Motion for concurrence for reference of the Companies (Amendment) Bill, 1972, to a Joint Committee 1 hour
8. The Indian Copper Corporation (Acquisition of Undertaking) Bill, 1972 2 hrs. 30 mts.

In order to be able to complete this Business, the Committee recommended that the House should sit on Saturday, the 26th August, 1972, that the present Session be extended by one day and a sitting of the House held on Saturday, the 2nd September 1972 and that there would be no Question Hour on these two days.

The Committee further recommended that the House would continue to sit up to 6.00 P. M. daily and beyond 6.00 P. M. as and when necessary, for the transaction of Government Business.

THE INCOME-TAX (AMENDMENT) BILL, 1972

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R.

GANESH) : Mr. Deputy Chairman, Sir, I move :

“That the Bill further to amend the Income-tax Act, 1961, and to provide for barring, in the computation of total income in respect of certain assessment years prior to the assessment year 1962-63, deduction of amounts paid on account of wealth tax, as passed by the Lok Sabha, be taken into consideration.”

This Bill seeks to replace the Income-tax (Amendment) Ordinance, 1972, which was promulgated by the President on the 15th July, 1972.

A statement explaining the circumstances which necessitated immediate legislation by Ordinance has already been circulated among the honourable Members. I do not, therefore propose to deal with this aspect of the matter and shall only briefly explain the provisions of the Bill and their rationale.

In the recent case of Indian Aluminium Company Ltd. vs. Commissioner of Income tax, the Supreme Court has held that wealth-tax paid by an assessee in respect of his business assets is deductible as business expenditure in computing his taxable income. This decision of the Supreme Court virtually overrules its earlier decision of 1966 in the case of Travancore Titanium Products Ltd. vs. Commissioner of Income-tax. The recent decision of the Court has certain important implications. Firstly, income-tax and wealth-tax have been increasingly used in recent years as instruments for reducing disparities in incomes and wealth. Under the existing rate schedules of income-tax and wealth-tax, the combined incidence of these taxes, at higher levels of income and wealth, exceeds the entire income yielded by the wealth. If, in accordance with the latest ruling of the Supreme Court, the wealth-tax paid by a person is allowed as deduction in computing the taxable income, the combined incidence of income-tax and wealth-tax will not, ordinarily, exceed the taxable income of an individual or a Hindu undivided family. This would considerably reduce the effectiveness of the fiscal instrument for achieving our socio-economic objections.

Secondly, by reason of the legal position as it obtained before the recent ruling of the Supreme Court, wealth-tax payable by a person has not been allowed as deduction in

computing the taxable income in the assessments made during the last 15 years. If the ruling of the Supreme Court in Indian Aluminium Company's case is applied income-tax assessments of most of the wealth-tax assessee made during these years will have to be rectified. This would generate enormous administrative work and also entail the refund of substantial amounts collected by way of income-tax. Lastly, under the existing law, the income-tax due on the valuation date is allowable as deduction in computing the net wealth of the taxpayer. If the wealth-tax payable were to be allowed as deduction in computing the taxable income, there would be considerable difficulty in calculating the income-tax and wealth-tax payable by a person, particularly because the rate schedules of these two taxes are based on slab system.

In view of these considerations, the Bill seeks to amend the Income-tax Act, 1961 to secure that amounts paid by way of wealth-tax will not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession" or "Income from other sources". This amendment will take effect retrospectively from 1st April, 1962, that is, the date on which the Income-tax Act, 1961 came into force. The Bill also makes an independent provision to secure that wealth-tax will not be allowed as deduction in computing the taxable income under these heads for the assessment years 1957-58 to 1961-62 when the Indian Income-tax Act, 1922 was in force. For the purposes of these provisions the expression "wealth-tax" has been defined to include any tax on capital or wealth levied in a foreign country.

Clause 5 of the Bill specifically provides that the new provisions will not apply to cases where taxpayers have obtained a favourable ruling from the Supreme Court prior to the date of commencement of the Income-tax (Amendment) Ordinance, 1972. This exception is being made out of respect to the Supreme Court and in order to secure that persons who had taken the trouble of filing appeals before the highest court of the land and have incurred expenditure thereon should not be denied the benefit of the judgment in relation to the assessments which were the subject matter of these appeals.

Sir, this is a simple and non-controversial Bill and I am confident that it will receive the unanimous support of this House.

Sir, I move.

The question was proposed.

SHRI U. K. LAKSHMANA GOWDA (Mysore) : Mr. Deputy Chairman, Sir, as explained in the Statement of Objects and Reasons and also as explained in the speech by the hon'ble Minister this Bill has come in as a replacement for the Ordinance which the Government had to promulgate in order to counter-act certain repercussions of the recent judgment of the Supreme Court. Sir, it is true that when the income-tax and wealth-tax were thought of—Hon'ble Minister expressed the view that it was also to reduce disparities of wealth in society—it was, of course, felt that the wealth tax charged should be a deductible item as expenditure in the Income-tax Act. An earlier judgment of the Supreme Court in the Travancore Titanium Co. case had held that view but this was reversed in the Indian Aluminium Company's appeal which came up recently. So far as that is concerned, the Government had no other option but to go in for this ordinance and also to bring forward this Bill for replacement of this ordinance ; otherwise, they would have practical difficulties in reopening cases of many, many years previous to it and also it would result in the Government being brought into a position of refunding a lot of money which had been collected in the earlier year. But there is one point to be taken into consideration here. When this appeal has been brought in I find that specific exemptions have been provided in those cases which were in appeal before the Supreme Court. I am very happy that the hon'ble Minister says that he is respecting the verdict of the Supreme Court and he is doing it. If that is the case, I cannot understand why they could not have gone at least to the extent of giving relief to that particular assessment year for all those assessee covered who could not file their appeal before the Supreme Court.

He mentioned about the expenditure on the appeal and the trouble that the appellant have gone through and, therefore, he wanted to be very fair to them. But, Sir, I say that innumerable assessee could not afford to go up to the Supreme Court and they are deprived of this exemption and relief. So this is a sort of discrimination which I am not very happy about. And I feel that at least the assessee of that particular year should have been given that relief or the relief should not have been given even to the other two parties who went in appeal and whom he has mentioned in the other House, the Indian Alumi-

[Shri U. K. Lakshmana Gowda]

nium Company and I think, the Indian Oil Company or the Standard Oil Company, both very big assessees. That is one point.

Another thing very desirable about this Bill is that it takes away the discrimination between business income and non-business income. If the appeal had gone through and wealth-tax could be deductible as an item of expenditure for purposes of income-tax, then the other assessee who has non-business income would have been left out and there would have been discrimination. This discrimination has been removed now.

Then I would like to speak on some of the broader aspects of the taxation proposals. Sir, even in the Finance Consultative Committee and elsewhere when taxation matters were discussed, simplification of the procedures and forms has been demanded so many times. With more and more amendments coming in these Acts and rules are becoming more complicated, and it is not any easy matter for every assessee to go through all of them unless he has the expert advice of an auditor. So, the question of simplification of the procedures should be gone into very carefully.

Another thing is that many legislations covering income-tax are being brought in the lines of the recommendations of the Wanchoo Committee. Even this morning there was reference by my friend, Mr. Bhupesh Gupta, to the Interim Report of the Wanchoo Committee where they have suggested demonetisation, ceiling on cash holdings, etc. So far as demonetisation is concerned, it has been talked of for such a long time that its impact is already almost lost. I do not think that only higher currency notes are being held as black money is generated, even according to the Wanchoo Committee Report, not mainly because of people trying to evade tax, but because of the high incidence of tax which comes to more than 97 per cent in marginal cases. Also, accumulation of black money is not with the highest income group only but also with middle and other income groups where they can save something from the tax and keep it for themselves. The Wanchoo Committee has also said that there should be some effort made to reduce the innumerable controls which act as an incentive for generation of black money. The amending Bill which is now in the other House, Taxation Laws Amendment Bill *i. e.* about taking over property at the sale deed value which may be less than the actual value,

is certainly one of the methods. But when we go into the question of the Wanchoo Committee recommendations, we should take into consideration all these matters. There has been such a lot of talk about demonetisation. When demonetisation was tried in the past, I do not know what result it gave us. It is very difficult and it has not been a very encouraging one. But since there has been so much talk about it and everybody feels that something will come out of demonetisation, I would also like to support it. At least it will give us some psychological satisfaction that something has been done, whether the result is going to be good or bad. Black money is not being held in higher currency notes only. It is kept in various forms, gold, property, shares and so on. So, this is also a matter to which I am sure, the Ministry of Finance will give consideration.

Then, Sir, the incidence of taxation, both wealth tax and income-tax, is so high. The hon. Minister said that in order to reduce the disparity these high taxes have been brought in, so that the incidence of these two in some cases will be higher than the profit that would be assessed under income-tax. These taxation rates have gone up so high that often one has been made to pay with a combined tax much more than what he earns. I do not know to what extent this can be called fair. There is certainly a case to reduce the marginal taxation and also in the lower income group and also in the higher income group at least to provide additional allowances. Now, if you take the income-tax incidence, it is so high that the allowances one gets for children's education, health and so many other items are so very negligible in this country that it adds as a great incentive for people to evade tax it has already been calculated at a higher income group it will be much more profitable to evade tax and save something in smaller amounts rather than earn huge amounts in order to make an additional profit. This matter should be taken into consideration. There are different views whether marginal taxation should be reduced or not. But certainly I do not think there will be any difference of opinion on providing additional allowances for each assessee for medical aid, children's education for more than one child, travel, and other necessity which will definitely make him pay taxes more honestly and will act as a disincentive for evasion of tax. Sir, this is only a Bill which enables

Government to get over this difficulty and I would support this measure. But at the same time I hope the Ministry will come out with a more comprehensive Bill where the simplifications of the tax returns, the methods of payment, etc. and also the question of giving additional allowances, as I have explained, will be taken into consideration. There is also great need for raising the income-tax exemption limit from Rs. 5000 to Rs. 7500 because the value of the rupee has gone down to such an extent, and it will also give you, the Income-Tax Department, more facilities to concentrate on a lesser number of cases, by providing this increase which has been recommended and which I am sure will be a great help to the medium and small tax-payers as well.

SHRI K. CHANDRASEKHARAN (Kerala): Sir, the provisions of this Bill and the Ordinance that preceded are undoubtedly necessary in view of a decision of the Supreme Court quoted in the Statement of Objects and Reasons. But my purpose in proposing to speak a few words on this Bill is only to bring to the notice of the Government difficulties experienced by certain classes of assesseees in respect of deductions which they make on account of the statutes passed by Parliament. The deficiency of such statutes probably disabled the officers of the Income-Tax Department from allowing such deduction even though the deductions claimed may be in the public interest and in the interests of advancement of certain statutory provisions and safeguards Parliament has made in such enactments. Take, for example, the Payment of Gratuity Act that the Houses of Parliament have recently passed and which is still to become law. No doubt, a claim on the basis of that cannot be made at present, but I am only submitting what can reasonably be anticipated. The payment of gratuity is made compulsory under that enactment to the workers. So far as provident fund is concerned, provident fund is set apart every year under a separate head and the amount set apart for provident fund is undoubtedly allowed as deduction by the Department. But so far as this gratuity enactment is concerned, while speaking on the provisions of this Bill in this honourable House I pointed out that provision for setting apart the amount of gratuity as provided by the legislation should be there and that would be in the interests of the workers because that would ensure to them the payment of gratuity at a given stage when

the industry may not be in such an affluent stage as to give all the amount together unless they have provided for it by keeping apart the amount year by year. Even though there is no provision as such in the gratuity enactment compelling the management to make provision for gratuity year by year, suppose a management wants to set apart that amount year by year, what will happen? I understand that such managements have already been informally told by the officers of the Income Tax Department that no deduction could be allowed on account of the fact that there is no compulsion made in the gratuity enactment for setting apart such amount. I submit that so far as this aspect is concerned either the Gratuity Act has to be amended or there should be some enabling provision in the Income tax Act itself allowing for such deductions to be made.

I am aware that this Bill concerns the Income Tax enactment and it may not be quite proper to go outside the provisions of the main enactment itself. But then it refers to the payment of wealth tax and payment of income tax. I may take this opportunity of bringing to the notice of the hon. Minister and the Government one difficulty that is experienced by none else than the public sector corporations in this country which are not registered as companies. These corporations are liable to pay wealth tax under the provisions of Wealth Tax Act because various High Courts have already ruled that these public sector corporations are not registered as such under the Companies Act. For example, the State Finance Corporation and other corporations are registered by separate statutes. I submit that these public sector organisations are likely to be put to further difficulty on account of this amendment of the Income Tax Act and the fact that companies alone are excluded from payment of wealth tax under the Wealth Tax Act.

SHRI K. R. GANESH: I am thankful to hon. Members for making brief interventions in the discussion on this Bill. I have already explained in detail the rationale behind the Bill which we have brought before the House. There are two or three specific points which hon. Member Shri Gowda has raised and I want to give specific answers to those points. These were in relation to exemptions given. This matter was gone into and it was on the advice of the Law Ministry that the Department had decided

[Shri K. R. Ganesh]

to give a specific exemption pertaining to specific cases which were there. This was also supported by the decision given by the Bombay High Court, and Allahabad High Court.

While disposing of a challenge in the case of Jamnadas Versus the Income-Tax Commissioner, Bombay, the High Court observed as follows :—

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

The Allahabad High Court also held the exemption as justifiable solely with reference to the principle of giving sanctity to the decision of the Supreme Court.

Sir, on this basis the exemptions were given. Then, he has raised two other points also. The honourable Member may be aware that recently a committee was set up for simplifying the various forms of income-tax and other taxes. These forms have been issued and probably these forms will help the assesseees to overcome some of the difficulties that they were facing.

Then, Sir, as far as the comprehensive legislation is concerned, the honourable Members are aware that the Wanchoo Committee had made some very important recommendations and these recommendations are being expeditiously considered by the Government and it is the intention of the Government to bring forward a comprehensive legislation incorporating such of those recommendations of the Wanchoo Committee as the Government might accept and then take the opportunity at that time to make certain other amendments that may be required then.

He has also raised the larger questions of incidence of taxation and various other matters which, of course, require further consideration and it is not for me to say

anything here now. They have been discussed. The Wanchoo Committee itself has gone into the question and the Government will consider this particular aspect within its socio-economic policies, the question of raising the resources, the question of reducing the disparities, etc., etc.

Sir, Shri Chandrasekharan has raised certain very specific points which require consideration. I can assure him that we will give consideration to all those points.

With these words, Sir, I commend the Bill to the House for acceptance.

MR. DEPUTY CHAIRMAN : The question is :—

That the Bill further to amend the Income-Tax Act, 1961, and to provide for barring, in the computation of total income in respect of certain assessment years prior to the assessment year 1962-63 deduction of amounts paid on account of wealth-tax, as passed by the Lok Sabha, be taken into consideration.”

The motion was adopted.

MR. DEPUTY CHAIRMAN : We shall now take up the clause-by-clause consideration of the Bill.

Clauses 2 to 6 were added to the Bill.

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

SHRI K. R. GANESH : Sir, I beg to move :

“That the Bill be returned.”

The question was put and the motion was adopted.

THE PUBLIC DEBT (AMENDMENT) BILL, 1972

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

“That the Bill further to amend the Public Debt Act, 1944, as passed by the Lok Sabha, be taken into consideration.”

Sir, the Public Debt Act was enacted in 1944 to regulate the administration of the Public Debt of the Central Government and the securities issued by them. The Act was amended in 1949 to apply it to the administration of the Public Debt of the Government