

[17 December, 2002]

RAJYA SABHA

be the reverse of it because indirect taxation is always regressive taxation. Now, we are moving in the direction of simplification, uniform rates and absence of discretionary authority, also eliminating the interface between the citizen or the taxpayer and the authorities. We are moving in this direction.

Demat Share Scam

*387. SHRI JIBON ROY: Will the Minister of FINANCE AND COMPANY AFFAIRS be pleased to state:

- (a) whether it is a fact that an official complaint has been lodged with SEBI to probe into Demat Share Scam;
- (b) if so, what is Government's reaction thereto; and
- (c) whether Government propose to issue a White Paper on this scam?

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH) (a) to (c) A Statement is laid on the Table of the House.

Statement

(a) The Securities and Exchange Board of India (SEBI) has informed that they have received a complaint from the Investors' Grievance Forum to investigate the issue of excess demating of shares. A complaint was also received by SEBI, from Shri Kirit Somaiya, Member of Parliament, requesting to look into the matter.

(b) SEBI called for explanation from both the depositories and it was found that in case of a depository, 27 companies were admitted into the demat system and their equity was dematerialised without obtaining appropriate "in-principle" approval from the concerned stock exchange. SEBI has directed both the depositories to put up a coordinated effort alongwith the National Stock Exchange and Stock Exchange, Mumbai to reconcile the demat figures and report the measures that need to be taken in this regard. SEBI is further examining the matter.

(c) No, Sir.

SHRI JIBON ROY: Mr. Chairman, Sir, it is good that the hon. Minister has agreed that some fraudulent activities are going on even in the

dematerialising system of stock exchange. Even if the electronic system is rigged, all confidence will be lost. I am glad that the SEBI has also taken some steps. But the SEBI has not captured the main problem, that is, the fraudulent part of the deals. The part of the thing that the SEBI is dealing is about the companies which had not listed their shares, but had dematerialised. The Mumbai edition of the Times of India, dated 15th November, had reported that the fake shares....(*Interruptions*)

श्री सभापति : आप अपनी बात कहिए। यह ठीक है कि in support of your point you are referring to it

SHRI JIBON ROY: The quantum of scam was Rs. 2000 crores. The case is that the companies had demated shares more than the issued share capital. In your reply, that point has not been covered. On the very next day, that is, on 16th November, the Calcutta edition of the Times of India had reported that about fifty companies, those had been listed, had demated share more than the issued share capital. But the reply of the hon. Minister has not covered that point regarding the fraud that had appeared in the newspaper item. It is not a case which not only violates the SEBI rules, but it attracts criminal proceedings also. It is a case of defrauding the investors. What steps is the Government taking in this regard?

SHRI JASWANT SINGH: Mr. Chairman, Sir, this question is very important. With your permission, I will take a little time to explain it. An irregularity has been committed. This irregularity had, in fact, come to the notice of the Ministry of Finance in March, 2001. And the Ministry of Finance has, consistently, been cautioning; and writing to the depositories concerned, as also to the SEBI to correct it. What is the irregularity? Today, as per the provisions of the existing rules, more than 99 per cent of trading of shares on the Stock Exchange is in a dematerialised form because the materialised form, like the physical carriage transfers etc.— the hon. Members know — has its own problems. Those who issue shares do have the right to "keep their securities either in a physical form or a dematerialised form. There are two agencies which deal with the dematerialized/demating form. They are CDSL or the NDSL. These are the two depositories where the corporation can go and get the shares demated. They can get them dematerialised, but they cannot be listed unless the appropriate certificate from the Stock Exchange concerned

has been obtained. In this case, what has happened is that some companies numbering about 47 — because they were already listed — have issued additional share capital, and the additional portion of the share capital has not got the appropriate certificate of listing. The amount involved here is not Rs. 2000/- crores, as the hon. Member mentioned. We have our estimates. Although this estimate is a very preliminary estimate, it shows that the amount involved in illegal trading of shares is, roughly, Rs. 200 to 300 crores. He has referred to a newspaper report. The newspaper report says that the depositories concerned had reported to SEBI; but, the depositories had not reported to the SEBI that any such action has taken place. What is the lacuna? It is two-fold. The difference between demating and listing is that you can get your securities demated, but you cannot trade unless you have the certification for listing. The difficulty arises when you are already listed and you issue fresh capital. This is a shortcoming. This should have got rectified. We have already taken steps to rectify it. I have already initiated the following steps. Firstly, I have instructed the Department of Company Affairs to immediately initiate action against these companies that have so acted. Secondly, I have instructed the SEBI to examine whether these 47 companies could be delisted altogether. Thirdly, it is already a part of the provisions of Law that in this illegal trading of shares, should any investor or citizen lose any money, then, the depository concerned, whether it is the NDSL or the CDSL, shall have to make good the full amount to the investor. These steps have already been taken. But I can assure the hon. Member, we will also, simultaneously, correct the shortcomings and the gap which exists between listing and demating must be set right, and quickly.

SHRI JIBON ROY: Mr. Chairman, Sir, to address the frauds, two-way directions are required from the Government. One thing is that it is a fraud. I would like to know from the Minister what steps the Government are taking to check these frauds. And is any inquiry by the CBI or any other agency going on? This is one aspect of the question. But the hon. Minister has not replied to that. Another aspect to the fraud is that it is a system failure. It has been reported in the newspaper that most of the listed companies are having two kinds of shares. Some of the shares are listed and some of the shares are not listed. They go to market and probe into the shares, both the listed shares and the unlisted shares. As a result, it becomes very difficult for the SEBI to identify which companies

are making frauds. That is why I said that it is a system failure and requires an indepth study. I would like to know from the hon. Minister whether the case will be referred to the JPC for an indepth study.

SHRI JASWANT SINGH: I accept the concern of the hon. Member, and this is why the Ministry of Finance, through the Department of Company Affairs, is, in fact, thinking of coming to Parliament with a legislation for setting up the Serious Frauds Office. Because the frauds that are taking place are of complex nature. Let me again share with you and assure the hon. Member that, after investigation, the strictest possible action will be taken against the people who are involved in any irregularity, in this particular matter or any other matter, whether in the company concerned or in the authority of the depository receipt. Sir, with your permission, let me also repeat that no fake share has been dematerialised. You cannot dematerialise a fake share because demat has not been done beyond the issued capital. I have already said it, and I repeat that it might have been done beyond the listed capital, but not beyond the issued capital. A detailed reconciliation is going on. The Security and Exchange Board of India is looking into it. I have also shared with you what I have asked the Department of Company Affairs to do. We will ensure, firstly, that strict action is taken against any irregularity, and, secondly, if any investor has lost any money, then, the listing company or the demat company shall make good of the full amount.

SHRI NILOTPAL BASU: Mr. Chairman, Sir, the major problem here is not the activities in the capital market, but how the corporates are behaving. In our country, we hear, more often, about the necessity of labour reforms but not about the corporate governance. The Department of Company Affairs performs two functions, administrative function and regulatory function. As far as the regulatory functions are concerned, we are finding that it has abysmally failed. The main issue here is the complicity of the promoters' company, to the extent they have violated regulations, and to the extent they have, actually, misappropriated investors' money. Will the hon. Minister consider separating the regulatory and administrative functions of the Department of Company Affairs, so that a closer watch on the corporate activities, in so far as capital market is concerned, could be kept?

SHRI JASWANT SINGH: Sir, indeed, I am addressing myself with it. The hon. Member has made a point that as far as regulatory functions

of the Department of Company Affairs are concerned, there is an overlapping between SEBI and the DCA, and, therefore, what kind of regulatory functions can I exercise in the absence of teeth, as it were. Therefore, the proposed Serious Frauds Office is all part of the Ministry of Finance efforts to reform the Department of Company Affairs. And, whatever reforms are done, of course, we will keep the House fully informed about them.

SHRI DINESH TRIVEDI: Mr. Chairman, Sir, I am on a much larger and broader issue. It is quite evident that the hon. Minister has taken a serious note of this. But, it is also evident that there has been a failure on irregularity. And, as the hon. Member puts it, the system is open to corruption. My question to the hon. Minister is, today, computer hacking is a very common thing. It does not have any boundaries. Interest rates have come down. Small investors are also getting into stock market. Will the hon. Minister ensure that the system is foolproof, and no hacking is done? If not, what steps are being taken to ensure this?

SHRI JASWANT SINGH: If the hon. Member is enquiring about the computerisation of NBSL, I wish to inform him that I am really, in fact, very proud of the computerisation that has been carried out by the NBSL. The extent of data that is generated by the NBSL and the efficiency with which the computerisation has been achieved by it, is today, in my conviction, perhaps, the best in the world. The question is: Is it foolproof? It is not foolproof in the sense of manipulation of loopholes in the system. About that, I cannot give a guarantee to the House because it is as foolproof as human ingenuity permits. Is it proof against hacking? That is a technical matter. So far as the hacking of the NBSL system is concerned, I do believe that — without breaching their security — they have adequate provisions of preventing that from happening.

SHRI PRANAB MUKHERJEE: Sir, the hon. Minister has stated in his statement that the SEBI has directed both the depositories to reconcile along with the National Stock Exchange and the Bombay Stock Exchange. Can he indicate the time-frame by which this reconciliation would be completed? Why I am saying it is because, perhaps, after the reconciliation is done, it would be possible for him to assess the loss incurred by investors, so that they can be compensated. Can he indicate the time-frame by which this exercise is likely to be completed?

SHRI JASWANT SINGH: Yes; Sir, I can share with the hon. Member what I have today, or, earlier given instruction as to when it should happen, I want it to be done within a week's time. I was informed that it is not possible to do it within a week's time, and they have sought a time of one month to complete the reconciliation exercise. I had to defer to the convenience of those who are reconciling it, and, therefore, I have agreed to one-month period for the reconciliation.

Surplus in the current account of Government

~~*388DR~~TSUBBARAM REDDY:†

SHRI RAVULACHANDRASEKAR REDDY:

Will the Minister of FINANCE AND COMPANY AFFAIRS be pleased to state:

(a) whether surplus in the current account of Government was recorded in 2001-2002 for the first time in 24 years;

(b) if so, what is the total surplus during the current year;

(c) whether there has been any further improvement upto now; and

(d) what efforts are being made to have a further surplus in the current account during the remaining period of the current financial year?

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): (a) to (d) A Statement is placed on the Table of the House.

Statement

India recorded a surplus in current account of Balance of Payment (BOP) of US \$1351 million in the year 2001-02. The country last had a surplus in the current account in the fiscal year 1977-78.

The latest data on the balance of payments available so far in the current financial year with RBI is for the first quarter April-June 2002. During this period, the current account recorded a surplus of US \$325 million.

† The question was actually asked on the floor of the House by Dr.T. Subbarami Reddy.