

THE UNION BUDGET 1983-84

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By

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The proximity of 1984 brings to mind the despairing words of George Orwell: "We have sunk to a depth at which restatement of the obvious is the first duty of intelligent men". Some obvious facts and figures may be restated without the need for apology. The revised estimate of the deficit for the year 1982-83 is shown in the Budget as Rs. 1,935 crores. In reality it is Rs. 3,678 crores. The difference of Rs. 1,743 crores represents clearance of the States' overdrafts as on 31st March 1982 which is in reality a loan by the Union to the States. This amount was not accounted for in the Budget figures for 1981-82 and should, therefore, undoubtedly go to increase the deficit of the year 1982-83.

The deficit on revenue account for the year 1983-84 is estimated to be Rs. 1,794 crores, even after taking credit for Rs. 615 crores which represents the Union's share of the new levies. This deficit of Rs. 1,794 crores is the highest ever on revenue account. It is reduced to Rs. 1,555 crores by taking the surplus of Rs. 239 crores on capital account to meet the current expenditure. In plain language, the nation is now reduced to living partly on its capital borrowings.

The Budget imposes fresh levies in the amount of Rs. 716 crores. But if the pre-budget levies—aggregating to about Rs. 1,900 crores—are taken into account, the total increase in the burden on the

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nation would be of the order of Rs. 2,600 crores. **By a curious perversion peculiar to our times, the maxi-levies are imposed earlier,—thus reducing the regular budget to a mini-budget.**

While oil prices are falling throughout the world, India is the only significant country where oil prices have been increased by the Government which has the exclusive monopoly of producing, importing and distributing oil.

The relations between the Centre and the States are so warm that they would almost freeze the Ganges. At such a juncture it is unfortunate that a budget should be introduced which is unfair to the States: the increases in income-tax and corporation tax are in the surcharge which is not shared with the States.

The unemployment situation, which was difficult before, is now getting desperate. A measure of the magnitude of the problem is afforded by the fact that just to keep the number of the unemployed at its present level, we would need to create 35 million new jobs during the current Sixth Plan — an impossible dream. In 1980-81, which was the first year of the Sixth Plan, only half a million new jobs were created in the organized sector. Thus on a conservative estimate, unemployment is increasing at the rate of six million a year.

While it is true that the Wholesale Price Index has shown a rise of only 3% during 1982-83, the All India Consumer Price Index has risen by 8%; and in cities like Bombay the prices of rice, vegetables and some other essentials have increased by 25% to 32%.

The self-assuring tone of the official hand-outs indicates that the authorities are on vacation from reality. Officialdom has become a prisoner of its own myth.

For the past several years, the Indian economy has been neither totally well nor totally ill. Around the end of February it is customary for the Finance Minister to send a Get-Well-Soon card to the economy, expressing his concern and sympathy and stating his belief that the ailments afflicting the economy are more psychological and mental rather than real. The custom has been scrupulously followed this year.

Sweeteners

There are, no doubt, some stray sweeteners in the Budget for individuals: the reduction in the rate of income-tax (apart from surcharge) for the first slab from 30% to 25%; the increase in exemption for gratuity from Rs. 30,000 to Rs. 36,000, in the standard deduction for salaried employees from Rs. 5,000 to Rs. 6,000, and in the relief for bank interest and dividends from Rs. 6,000 to Rs. 7,000. Exemption from tax on long-term capital gains will now be available in respect of transfers effected after 28th February 1983 if the sale proceeds are invested in a new series of 3-year Rural Development Bonds or other notified assets—whereas till last year such exemption was available only if the sale proceeds were invested in 7-year National Rural Development Bonds.

On the other hand, the surcharge has been increased across the board from 10% to 12.5%. The net effect of the Budget is to give the benefit of a paltry sum of Rs. 2.4 crores to the income-tax-paying citizens who constitute one-half per cent of the total population.

In the field of corporate taxation, the Budget proposals are much harsher. But here again, there are some palliatives. The general rate of depreciation in respect of plant and machinery is increased from

10% to 15%, while the monetary limit for 100% write-off in respect of small items of plant and machinery is raised from Rs. 750 to Rs. 5,000. Full 100% depreciation can now be written off in the first year in respect of devices and systems for energy saving. The investment allowance is increased from 25% to 35% in regard to devices and systems for checking environmental pollution and for conservation of natural resources. Increased customs duties on imports of certain commodities like chemicals will counteract the adverse effect on Indian industries of "dumping" by foreign countries. These benefits to the corporate sector are more than outweighed by various onerous measures. The net effect of the Budget is to increase the burden of corporation tax by Rs. 104 crores.

A rudderless Budget

Apart from the above-noted small concessions, the Budget has little to commend it. It would not be unfair to describe it as a rudderless Budget. It contains pronouncements but no philosophy. It deals with themes but not with policies. What was needed was a budget which would leave its mark on history. But we have been presented with a budget the effect of which will be as ephemeral as the scent on a pocket handkerchief.

It is difficult to justify several provisions of the Budget on grounds of justice or reason. The sacred cows of economic theology (as distinct from economic rationalism) graze more plentifully at the North Block than in any other pasture.

The fact that a Finance Minister so able, receptive and reasonable as Shri Pranab Mukherjee did not present a better budget, only shows how the system swallows the individual.

The hydra-headed bureaucracy of India contains some exceptionally able individuals, but they too get swallowed up by the system. Lord Curzon referred to the Indian administrative service as the strongest bureaucratic machine in the free world—so strong that even powerful viceroys found it difficult to correct or control it. The bureaucracy is impervious to all suggestions which come from outside sources. Their utter self-complacency resembles that of Mussolini who said, "Often I would like to be wrong, but so far it has not happened".

Four forces in North Block

There are four basic forces in the universe: the electro-magnetic force which governs the interaction of electrically charged particles; the weak nuclear force which controls, for instance, the burning by fusion of hydrogen in the Sun; the strong nuclear force, or binding force, which is released when the atom is split; and gravitation which represents the interaction between objects because of their mass.

In the North Block, the four elemental forces are—instability, complexity, injustice bred by a total disregard of constitutional morality, and pettiness compounded by obscurantism. This year's Budget offers some telling examples of the operation of these four forces.

Instability and complexity

Apart from changes in several other laws, no less than 62 amendments are sought to be made in the Income-tax Act, by the Finance Bill — which should be more appropriately called and debated as the Income-tax (Amendment) Bill, 1983.

Section 89A was inserted in the Income-tax Act only last year, to encourage exports. Vague and

insubstantial, it was as soft as a souffle. Public criticism of the proposal had no effect, and it was finally enacted into law in the same unsatisfactory form in which it appeared in the Bill. It was to come into force from the assessment year 1983-84. But it will never come into force because it has now been repealed and replaced by the equally inadequate Section 80HHC with effect from 1983-84.

History will regard it as one of the cardinal errors of our generation that we mistook amendment for improvement and change for progress. The damage to the economy of our country and the welfare of our people, arising from the maddening instability of our laws, is truly incalculable. Look at the avalanche of new laws at the Union level. Between 1971 and 1981 the Centre amended the Constitution 22 times, passed 724 Acts, 161 Ordinances and 128 President's Acts for States which were under the President's rule. For good measure, during that decade no less than 53,000 rules, orders and notifications were issued by the Central Government. In addition, the laws passed by the 22 States during the same decade are past all count or care.

In 1981-82, 68 changes and clarifications were announced in the law relating to imports, and 76 in the law relating to exports!

Contrast our infantile addiction to law-making with the position in a mature democracy like Britain where the number of statutes in force is deliberately reduced. As the Lord Chancellor, Lord Hailsham, pointed out last year, while there were 3,680 British statutes in force in 1964, the number came down to 3,109 in 1981.

This year's Budget heaps complexity upon complexity and makes confusion worse confounded. It

will give rise to a spate of litigation which will end its dreary course in the first quarter of the next century. The back-log of pending cases today in the Supreme Court is about 60,000, and in the 18 High Courts around 900,000.

Constitutional morality

When laws offend constitutional limitations, they can be invalidated by the Courts. But when they offend against the basic notions of justice and proceed upon a total disregard of constitutional morality, in many cases they can be rectified only by a strong, mobilized public opinion. There are several amendments proposed in the Finance Bill which have no truck with constitutional morality.

For instance, provisions were inserted last year in the Income-tax Act, the Wealth-tax Act and the Gift-tax Act granting exemptions in respect of Capital Investment Bonds. There was no exclusion of any category of assessee from the benefit of exemption. Only eight months have passed since the Capital Investment Bonds were first issued. This year's Budget now proposes to restrict the exemption only to those assesseees who are taxed in the status of an individual or a Hindu Undivided Family. What happens to those who subscribed to the Bonds in their individual names but with the specific purpose of holding them as assets of a partnership or an association of which they were members?

Section 80MM which grants a deduction to Indian companies in respect of royalties, technical fees, etc. received from enterprises in India, is sought to be repealed by the Finance Bill without any prior notice. Is it fair to high technology concerns which have entered into contracts and arranged their affairs on the faith of the law which assured them exemption?

Some more significant deviations from constitutional morality are dealt with below.

Pettiness and nit-picking

It cannot be repeated too often that small minds and large republics go ill together. Our fiscal proposals are singularly devoid of vision and imagination.

The new Budget continues the hallowed tradition of a nit-picking attitude — major attention to insignificant trivia. It follows the unailing ritual of annual variations in rates of tax. In a Budget dealing with total receipts of more than Rs. 33,000 crores, the framers of the Budget applied, what they are pleased to call their minds, to the deletion of relief which can be measured in coffee spoons. The Finance Bill repeals Section 80JJ which gave the princely deduction of Rs. 15,000 from the profits of livestock breeding, poultry and dairy farming, and Section 80JJA which gave the bewildering relief of Rs. 10,000 from the profits of the business of growing mushrooms.

Some Major Amendments

The implications of some major amendments sought to be made by the Finance Bill 1983 may now be examined.

I. Charities.— The provisions proposed in the Bill denying exemption to the entire income of a charitable trust if any part of its capital or income is invested otherwise than in the ten permissible modes, are inequitable. First, charity should be permitted to invest in at least debentures of sound limited companies. The mindless complexity of our laws is such that while the Bombay Public Charities Act permits investment in debentures of approved

limited companies, the income-tax law does not permit it for the purposes of exemption; and while the income-tax law permits deposits with corporations owned by the Central Government, the State law does not permit such deposits except with the specific approval of the Charity Commissioner. **Secondly, for all the past decades, exemption was always available to charity in respect of profits of a business carried on in the course of carrying out a primary purpose of the trust,—for instance, the business of making cane furniture by the inmates of the National Association for the Blind or the business of selling articles of food prepared by ladies who are the inmates of a home for relief of poverty. The Bill proposes to take away exemption even in such cases.** Thirdly, shares or other assets held by a trust as part of its “original corpus...as on the 1st day of June 1973” are allowed to be retained, but not even bonus shares received after that date as an accretion to the corpus. This is patently unjust. Moreover, the word “original” is misleading here. The law should unambiguously permit retention of “the corpus” as on 1st June 1973.

II. Export Markets Development Allowance.— The denial of weighted deduction under Section 35B in respect of export markets development expenses incurred after 28th February 1983 is a retrograde step which will hit Indian exports at the present time of world recession, when they need more succour from the Government. The new Section 80HHC (which, incidentally, does not apply to the important export of services) is not, and was never intended to be, a substitute for Section 35B.

In 1955, the exports of India (US \$ 1,280 million) were larger than those of South Korea (US \$ 18 million), Hong Kong (US \$ 444 million), Indonesia (US \$ 945 million), and Singapore (US \$ 1,101

million). In sharp contrast, by 1981 the exports of these countries were substantially higher than those of India: Singapore's exports were worth \$ 21 billion, Taiwan's \$ 25 billion, Indonesia's \$ 22.3 billion, South Korea's \$ 21 billion, as compared to India's \$ 7.3 billion.

India's share has dropped from 2.2% of world exports in 1950 to 0.4% in 1981. Among the exporting countries, India ranked 16th in 1950, 21st in 1960, 31st in 1970; and by 1981 its rank dropped to 46th!

III. Rural Development Allowance.— The amendment of Sections 35CC and 35CCA which deal with rural development, amounts to unashamed politicization of an essential national service. Hereafter no company or other assessee can incur deductible expenditure on rural development but can only make contributions for that purpose to a new fund to be started—the Prime Minister's Rural Development Fund. It virtually amounts to a back-door method of legalizing political donations with full tax relief, i.e. at the expense of the nation,— while Section 293A of the Companies Act continues (in theory) to prohibit political donations. The cause of rural development is bound to suffer as a result of the change in the law, while the needs of rural areas continue to remain desperate. Dr. Gopalan, Director of the Nutrition Foundation of India, stated a few months ago that out of the 23 million children to be born in India in 1983, 20 million will be physically and mentally impaired as a result of malnutrition.

In order to understand the consequences of the proposed change dispassionately, one must view the issue in principle, irrespective of party considerations or the personalities involved.

In his Budget Speech, the Finance Minister has sought to justify the amendment as being made,

“with a view to preventing possibility of misuse”. The truth of the matter is that there is no such possibility of misuse under the prevailing law. No assessee can claim any relief under the existing Section 35CC unless “the approval of the prescribed authority has been obtained by the assessee in respect of such programme before incurring the expenditure”. Likewise, no deduction can be claimed under the existing Section 35CCA in respect of any contribution made by the assessee to an association or institution which undertakes a programme of rural development, unless such association or institution is specifically approved by the prescribed authority (for not more than three years at a time) and, further, the programme is also specifically approved by the prescribed authority. When the Government of India has the final voice in the approval of both the association or institution undertaking rural development, and also the programme to be undertaken by the institution, where is the scope for “misuse”?

There is no doubt that the constitutional validity of the proposed amendment regarding rural development would have to be decided in the court of law. It is to be hoped that the Government of India will not drive citizens to make such a challenge. Quite clearly and obviously, it is not the present law which lends itself to the “possibility of misuse” but it is the proposed amendment which will lend itself to the probability of misuse. One would have thought that sufficient lessons had been learnt from the Bombay High Court’s Judgment in the case of the Chief Minister’s “trust” funds.

IV. Travelling, Advertisements and Publicity.—

The Budget proposes to disallow 20% of all expenditure on travelling, advertisements and publicity on the ground that such expenditure is “lavish and wasteful” and amounts to “unproductive,

avoidable and ostentatious spending". These are strong words which may be partly justified in some cases and wholly unjustified in the majority of cases. How can an absolute rule of thumb be applied which provides for a flat disallowance of 20% in every case without reference to the merits, and even in the case of professionals who travel only when they must? The proposed amendment would in effect levy tax on an amount of "total income" higher than the income actually earned. It is on a par with a law which says that everyone's income shown in the return should be increased by 20% because some assesseees underestimate their income.

Incidentally, the only modes of travel which will suffer no disallowance under the proposed amendment are—bullock-carts, tongas, rickshaws and scooters. Modern India can ill afford to have a bullock-cart budget. Perhaps the Minister is right to the extent that expenditure in many cases of travelling to Delhi is wasteful, unproductive and avoidable. Much of it would certainly be avoided if only one could get rid of the permit-licence-quota regime.

V. Taxes and Duties as deductible expenses.—

The new Section 43B provides that no taxes or duties should be allowed as a deduction, even under the mercantile system of accounting, except in the year in which it is actually paid. There is no rational justification for disallowing an undisputed liability to pay tax or duty when the assessee is charged on accrual basis. Excise, sales tax, etc. pertaining to the last month or quarter of the accounting year is usually paid after the close of the year. It is poor consolation that the amount would be allowed as a deduction in a subsequent year in which it is paid because, among other iniquities, the assessee would have to bear the interest charges on the amount

of the tax unjustly collected in an earlier year as a result of the disallowance.

VI. Penalty for dynamic companies.—The two most indefensible provisions of the Budget are the proposed amendment of Sections 35CC and 35CCA dealt with earlier, and the introduction of Section 80VVA which enacts that the 27 tax “incentives” enumerated in the section cannot be availed of by a company beyond 70% of its pre-incentive profits. The companies hit by this new provision would probably number between 50 and 65 in the whole country. They are the most dynamic enterprises in our corporate sector. They undertake plans of development and expansion which result in capital formation, productive investment, increased employment and larger revenues for the Union and the States by way of excise, sales tax, etc.

Economists seldom agree with one another. But there is a three-word maxim on which all economists are totally agreed, namely,—investment produces employment. Now it is proposed to penalize those very companies which make the maximum investment and contribute most to employment and capital formation. Such a taxing provision would be tantamount to an individual selling off his family silver to pay the grocer’s bill. At the present time of recession, the new section virtually directs some of our best companies to walk slowly backward on a conveyor belt which is moving slowly forward. It constitutes an indulgence in arbitrariness well beyond the limits of justice and reason.

Take for instance the case of Telco which would be one of the companies hit by the new section. It is true that Telco has not paid any corporation tax for the last six years. But it gives employment to 10,000 more persons than it did six years ago—

the increase in the number of its employees from 30,000 to 40,000 is an increase of 33%. The aggregate amount of taxes paid by it by way of excise, customs duties, sales tax and octroi was Rs. 89 crores six years ago, while it is now Rs. 295 crores. Can it possibly be said that Telco is not making its fair contribution to the national exchequer? The fallacy lies in shutting one's eyes to the total tax burden discharged by a company and focussing attention only on the corporation tax.

In other countries, such dynamic and vigorous companies are put on the Roll of Honour as national benefactors. If we had more companies of this type our economic problems would be resolved much faster. But our fiscal administrators look with great disfavour upon such companies. **A perceptive scientist observed that insects have their own viewpoint about human civilization; a man thinks that he amounts to a great deal, but to a flea or a mosquito a human being is merely something good to eat. The attitude of the Finance Ministry towards our finest corporations is not much different.**

One of the so-called "incentives" disallowed to a company under the new provision is deduction of expenditure on scientific research. The Soviet Union spends 4.4% of its gross domestic product on research and development, the USA and West Germany 2.2%, the United Kingdom and Japan 2%, while in the case of India it is 0.6%. We boast of the fact that we have the third largest number (2.5 million) of qualified scientists and technologists in the world, but in scientific productivity, research products, innovations, discoveries and breakthroughs, we rank between 10th and 18th. Expenditure on scientific research deserves greater support, instead of the disallowance now proposed.

Relief to non-residents

The provisions giving tax reliefs to non-residents are very welcome and are eminently in the public interest. It is true that these sections will be availed of for laundering or recycling of black money earned by Indian residents; but it is any day preferable that the black money should come back to India from abroad rather than that it should remain undetected outside the country.

Wealth-tax on limited companies

It is proposed to levy wealth-tax at the rate of 20% on closely held companies in respect of the value of specified assets such as jewellery, bullion, motor cars, and buildings and lands not used for business. The Public Accounts Committee of Parliament in its Report made last year had recommended the abolition of wealth-tax. It is strange that despite this recommendation, the tax is now sought to be extended to limited companies which have been exempt from wealth-tax since the assessment year 1960-61. The objective of the Government could have been better achieved by charging the individual shareholders to wealth-tax in respect of the assets indirectly held by them through the company, rather than by acting on the wrong principle of charging limited companies themselves.

Consequences of the Budget

The Budget is calculated to underwrite stagnation. It will not prove to be the production engineer of economic growth. It will have no effect on the Misery Index, i.e. the index comprising inflation, poverty and unemployment. The repeated official reference to the abolition of excise on pressure cookers is quite appropriate—the common man's goose has been properly cooked!

The proposed Central Plan expenditure of Rs. 13,870 crores is not likely to result in a great spurt in the economy, even as last year's Central Plan expenditure of Rs. 11,000 crores did not have any such effect. During the current financial year ending on 31st March 1983 the rate of growth of industrial production in the private sector is not likely to exceed 2%. The overall growth rate of 4.5% in industrial production is principally due to the gains in the areas of petroleum and coal which are in the public sector.

Finally, the indigestible changes and complications introduced by the Bill, which may be compendiously called "legal litter", are bound to affect further the poor quality of our tax administration. In the United Kingdom there are 29 million taxpayers, but the number of references filed in the High Courts is only around 30 in a year. In India there are only 4 million taxpayers, but the number of references filed in our High Courts is around 6,000 in a year, plus about 1,000 writ petitions. These figures reflect the tremendous public dissatisfaction and discontent with the quality of the law and of the fiscal administration.

When one takes into account what the Budget could have accomplished and what its proposals in substance amount to, one is inclined to echo the last words of Cecil Rhodes, "So little done; so much to do".

Based upon the public talk in Bombay on 4th March, 1983, and the articles which subsequently appeared in "The Indian Express".

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