

Debate in Rajya Sabha on The Chartered Accountants (Amendment) Bill, 2005

Following is the last part of the debate on The Chartered Accountants (Amendment) Bill, 2005 in Rajya Sabha, portions of which were published in December 2006 and January 2007 issues of the Journal. Following are the relevant extracts from the debate (uncorrected) held on 13th December 2005.

OBSERVATION MADE

9. SHRI AJAY MARU

- Deputy Chairperson Sir, I support the spirit behind three Bills and I accept that amendments are required in the old bills. As we are discussing the three bills, I would like to mention that in the last 4-5 years many issues of corporate governance cropped up at the global level which led to criticism of the functioning of the Chartered Accountants, Costs and Works accountants and Company Secretaries, and our country too has not remained unaffected. The three bills were introduced in Parliament in the year 2003 after the recommendations of the Naresh Chandra Committee and the Joint Parliamentary Committee on Stock scams.
- Sir, the Chartered Accountant Act was passed by the Parliament in 1949. At that time there were only 1600 Chartered Accountants in the country, now their number has increased to 1,30,000. Sir, every year nearly 7000-8000 students clear the examinations of the Chartered Accountancy and nearly 3,00,000 students are pursuing the Chartered Accountancy course. So, it can be understood how much this profession has expanded.
- I am not against the amendments in the original bill, but the amendments must be such that the independence of such an important profession is not affected, the self-respect of these professionals remains unaffected, and the interference of the government must be as little as possible. One must remember that the Institute of Chartered Accountants is an important Institution, the government has made a number of rules and regulations for the running of the Institution, but it cannot be run like a government department.
- Sir, while preparing the draft outline of the bill, the opinion of Assocham, CII and the Institute of Chartered Accountants had been sought. But it seems that while preparing the final draft, some of their important suggestions were left out. As a result, there are some points in the bill that are not appropriate. For Example, the question of the term of the Council of the Institute. At present the term of the Council is 3 years. The Institute had, for the sake of continuity of its work, recommended that this be increased to 4 years. The amendment bill presented by the NDA government had proposed the term to be 4 years, but the government has now again changed it to 3 years, so that the present situation will continue. Even the Parliamentary Committee had agreed to a term of 4 years, yet this was ignored. Therefore, my suggestion to the Minister is that the term of the council be increased to 4 years. If this happens, the council can prepare and implement long term programmes.
- Sir, the Council constitutes several technical committees to implement the various provisions of the Bill. The original bill had a provision that the elected members of the constituted committees could include, subject to the acceptance of the Council, a number of non-elected members of the Institute, and these members would enjoy the same powers as the elected members. The maximum number of these co-opted members could be up to two-thirds of the strength of the committee. The amendment bill now presented has reduced the maximum number of these members to one-third of the strength of the committee. There was no

need of this amendment, as in the opinion of experts and the Institute, the original system had been working well, and there was no need to change it. Sir, the biggest harm this amendment is going to cause is that the involvement of the members of the Institute and outside experts will be reduced. There are many members in the Institute who do not want to take part in elections. These include many experts and specialists in various fields. Their expertise can be utilised only when they can be co-opted or nominated to the various committees.

- Another related point is that nominated members of the committees need necessarily be members of the Institute. I feel that co-opting members from outside the Institute should be allowed. For example, chiefs of CBDT, IRDA, chairmen of nationalised banks, managing directors of major companies, retired judges of the High Courts and representatives of SEBI can provide valuable contributions.
- An amendment has been proposed in Article 18 of the original bill, which is related to the financial affairs of the council. It has been stated in the amended provision that if the Council feels that the financial Account books of the council do not present a true picture, the Council can order a special audit. The question is why was it needed? Does the government feel that the Institute of Chartered Accounts cannot properly audit its own accounts? The Institute of Chartered Accountants is a respected institution that sets standards of Audit and regulates the functioning of its members in the whole country. If a provision of special audit of its account is made, it will harm the reputation of the Institute and will send a wrong message.
- Sir, I wish to draw the attention of the hon'ble Minister towards another amendment, again in Article 18 of the bill. This too was not in the original bill. It has been mentioned in the Bill that the annual budget of the council, the account keeping and audit will be done as per standard set by the government. Sir,

this provision is not OK. I request the Hon'ble Minister that there should not be any provision that the government will time and again issue directives regarding the Accounting policy of the Institute. The institute is itself reputed to do this, and the accounting standard of the Institute is followed throughout the country.

- Deputy Chairperson Sir, the profession of Chartered Accountancy is a reputed profession. As per the code of conduct of these professions, it is improper to advertise or plead to get work. It is a profession, not a business. Those who are proficient are renowned and clients come to them on their own. This situation should be maintained. It is not improper to inform about one's talent or one's standard of service, but this has to be done in a very balanced way and within the limits of decorum and code of conduct. This amendment bill fully allows the advertisement of professional works. The result of this provision will be that those individuals or firms that are better off, or those who spend more on advertisement will be able to better influence the client. I agree that in this globalised era, one must have the right to inform about oneself, but this must be done within the limits of decorum and code of conduct. Therefore, the responsibility to set related standards for this should be left to the Institute.
- Deputy Chairperson sir, it is true that the Institute of Chartered Accountants has been formed under an Act of Parliament and it is responsible to the Parliament and the government, but the Institute is also a professional organisation. Therefore, government interference and control must be kept to a minimum. Discipline and control is important but it should not be imposed from above, or else it will not be effective. At the same time, I expect that members of the Chartered Accountants and CAs throughout the country will maintain the high level of professional standards.
- In the end, I would like to mention that economic liberalisation and globalisation has

made the role of chartered Accountants more important, the scope of their involvement has broadened and now after the implementation of VAT, their responsibilities have further increased.

- Sir, I would like to draw the attention of the hon'ble minister to the fact that Indian Chartered Accountants have least recognition abroad. In this globalised environment, nearly 10,000 Indians practise accountancy in various countries...but they are called accountants, not Chartered Accountants. If the qualification of the Indian Chartered Accountants get recognised internationally, our CAs too would contribute to the recognition of the country abroad, in the same way as our IT professionals are doing. However, they are facing numerous hurdles, like our CAs do not get Visa. At the moment we probably have a pact with Malaysia, our CAs can work there. I would like the government to contact the appropriate authorities, and the Commerce Ministry and the company affairs ministry take full interest in this.

... With these words, I support the passage of the three bills along with my suggestions. Thank You

10. SHRI RAJIV SHUKLA

- Thank you, Deputy Chairperson Sir... I have stood up to support this bill... Sir, There is no denying the fact that Institute of Chartered Accountants of India is a very prestigious one. We respect it. It has some of the best people, talented people, and it has a proven track record. But Sir, the time has come that they are made accountable. This government has made the first attempt to fix accountability and responsibility on the Chartered Accountants.
- The government has reserved the power to dissolve the Council. Many have objections to this. Some have talked of autonomy. But I feel that it is a right step. The government must have some power, by any means, even if indirectly
- There is provision for 32 and 8, total 40 members in the council. Why so many

members? I would like the minister to justify this. I do not feel that so many members are required, as this will also increase the expenditure...

- In Bollywood, most of the raids are being conducted on the information given by the Chartered Accountants. But the provisions regarding giving awards or rewards should not be for the Chartered Accountants but for others... Deputy Chairperson sir, it is nice to know that the Minister has made a discipline authority. The minister has made provisions to fix accountability and responsibility, but in my opinion, the authority does not have investigating powers, it should have investigating powers as well. Further, its scope should be elaborated and outside members should be appointed in it.

11. THE MINISTER OF STATE (INDEPENDENT CHARGE) IN THE MINISTRY OF COMPANY AFFAIRS (SHRI PREM CHAND GUPTA)

- The role of the Chartered Accountants became absolutely important because an investor would only see a balance sheet certified by an auditor or by a Chartered Accountant. That is the only thing that is available to an investor.
- That revealed a total lack of urgency on the part of the institute. The Enron scam, which took place in the United States, ended up with the dissolution of one of the biggest institutions, Arthur Anderson, in the world. So, some sort of check and balance is required.
- The Naresh Chandra Committee, in its report of December 2002, had commented adversely on the quality of audit and slow disciplinary mechanism. It had noted the general reluctance in the professional councils to expeditiously carry out disciplinary actions against its members, and had made several suggestions in this regard.
- The question of university came. Shri R.P. Goenka had raised this issue. Sir, the ICAI Council decided, in principle, to set up an ICAI University in 1994. Following legal opinion against setting up the University on its own, it

decided to set up the University through ICAI-Accounting Research Foundation, a Section 25 company, set up by the ICAI. The ICAI decided to set up the University in Rajasthan utilising its enabling legal framework and promise of land allotment at concessional price. The project cost estimated to be Rs. 80 crores, to be financed mainly from financial support of ICAI, ICAI-ARF and voluntary contributions from members. The ICAI has advanced Rs. 5 crores so far towards this University. The objections are as follows :

Setting up of ICAI-ARF is disputed, since its functions go beyond the mandate of research provided for in the CA Act. Sir, you know the issue. Sir, advancing of funds for University is against the law since ICAI can do so only for research purposes, and activities of Universities are much beyond research.

- Sir, at present, the Indian professionals are unable to adopt modern competitive practices such as forming of multi-disciplinary firms or advertising or bidding for tenders, because the Schedule of Offences treat such activities as misconducts. Because of this, they are unable to grow and compete with foreign

firms such as Price Water House or Earnst & Young. These Schedules are proposed to be amended, so as to enable formation of multi-disciplinary firms, participation in tenders and allow limited advertising to make professional firms more competitive.

MR. DEPUTY CHAIRMAN: Another thing is that there was an impression by the ICAI university, as you rightly clarified, that the Council took the decision of establishing the university, it is not a fraud, it is not a diversion. The council took the decision, according to you, to establish the university. It may not be that, it is an interpretation. So, a message should not go that there is diversion of funds or the institute had done something wrong.

SHRI PREM CHAND GUPTA: There is no such feeling.

MR. DEPUTY CHAIRMAN: From the debate, some impression came. So, a Body's image should not be spoiled.

SHRI PREM CHAND GUPTA: Sir, it is clarified that there is no diversion of funds. There is no such feeling.

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