

Debates in Rajya Sabha on the Chartered Accountants (Amendment) Bill, 2005

As Members are aware, extensive changes have been made in the Chartered Accountants Act, 1949 through the Chartered Accountants (Amendment) Act, 2006 (No. 9 of 2006) which has been notified by the Central Government in the Gazette of India (Extra Ordinary) dated 23rd March, 2006.

The Act was passed by the Parliament after long debates. The relevant Bill, namely, The Chartered Accountants (Amendment) Bill, 2005 was introduced in the Rajya Sabha on 13th December, 2005. Later, the bill was debated in the Lok Sabha on 23rd December, 2005. Following are the relevant extracts from the debates (uncorrected) held in Rajya Sabha on 13th December, 2005.

OBSERVATION MADE

1. SHRI PRASANTA CHATTERJEE

- Sir, the profession of C.A. is today interlinked with the economy of the country. And the economy has changed a lot since 1990. Sir, in view of the large-scale scams, cases of bribery, large-scale corruption, accumulation of black money which is running a parallel economy, the role of audit, financial checking etc. have great importance.
- The JPC while probing the Stock Market Scams in 1992 and in 2001 observed and commented on the slow disciplinary proceedings against the erring members of the Institute. The JPC have also stated that the auditors have great responsibilities -- if they become a part of the malaise -- thus checks and balances would collapse.
- The role of financial institutions, regulatory bodies besides the Chartered Accountants are also important.
- Now, Sir, while dealing with the Bill in particular and the amendment, we must keep in mind that the Institute enjoys very special autonomy and that autonomy should not be disturbed, or, taken away in the name of strengthening the regulatory process.
- The Council is an elected body, and it has the Government nominees in it. It should be left to

the Council to deal with extreme contingency, if any. The Institute has a mechanism of internal audit as well as audit committee within the Institute. We should not take any steps, Sir, to interfere with the autonomy of such an Institute.

- As I observe, Sir, this Institute is a creation of our Parliament, and why should this provision be there?
- My final point of observation is that the institutes enjoy a very special status; a special autonomy and that should not be disturbed. But in spite of that some regulatory measures will have to be taken, some regulatory clauses will have to be enacted.

2. SHRI C. PERUMAL

- Now that there is globalisation in every field, the importance of Cost Accountants, Chartered Accountants and Company Secretaries has increased. Even as multi-national companies compete with each other in establishing business in our country, I think, these categories of persons are an important link.
- There are several companies which cheat general public and the Chartered Accountants should be careful about them.
- Last but not the least; the Institutes of Cost Accountants, Chartered Accountants and Company Secretaries may enter into agreements with colleges and other institutions for imparting basic training to students in this field so as to prepare them to meet global challenges.

3. SHRI C. RAMACHANDRAIAH

- There are other regulators also, like the RBI for banking, SEBI for capital market, and the Institution of Chartered Accountants of India

for achieving the high excellence in accounting and auditing standards, etc.

- Sir, one important aspect has to be taken into consideration--at any point of time no Government should lower the autonomy of the institutions.
- It is very, very important and under the guise of making the Council more effective and more functional, we should not erode the autonomy or independence of the Institute.
- I fully oppose some of the provisions that have been made in these Bills because they do not warrant their introduction and which ultimately erode the autonomy of the Institute. Sir, I would concentrate more on the Institute Chartered Accountants of India.
- We have become the champion of liberalisation and globalisation and such is the case that the autonomy of the professional institutes like the Institute of Chartered Accountants of India is very, very necessary. It is more relevant today than 1949. This is what I wanted to bring to the notice of the Government. Sir, this is more accountable because the scams are arising. The only reason is that the regulators are not accountable. If you erode the autonomy, you cannot make them more accountable.
- Sir, some Members have mentioned the stock market scam of 2002 and JPC's observations. Nowhere the role of auditors was pointed out. Nowhere! The only observation made by the JPC is that disciplinary cases are being disposed of with undue delay. The disciplinary mechanism has to be strengthened and the cases should be disposed of expeditiously.
- The JPC had identified 17 cases and the Janakiraman Committee, which was constituted exclusively to inquire into this, had identified 32 cases whereas the Institute of Chartered Accountants of India had ordered for an inquiry into 65 cases. Without any mention from anybody, the Institute itself had pointed out 62 cases and ordered for an inquiry. This is the independence and scrupulous the Council has got and how this Institute has been functioning. I wanted to bring it to the notice of the Minister.
- At one point of time they want to increase the strength of the Council from 30% to 40%. It, actually, increases the expenditure of the institute. In this aspect, where the services of the outside members are necessary, the Government wants to reduce this cooption to one-third! It is totally unjustified.
- Sir, this is the institute to which we have given a mandate. As has been said by an hon. Member, it is the creation of an Act of Parliament. It has been given a mandate. It will guide the format in which accounts have to be presented. It will decide how accounts have to be formulated. It will guide the members as to how audit has to be conducted. It will guide the members how the defalcations or misappropriations have to be plugged. This body enjoys the international reputation. When such is the case, how will a person, sitting in the Department of Company Affairs, guide this institute and in what form the accounts have to be presented? Or, how the audit has to be done. It is ridiculous. It is highly ridiculous. This is one way to make inroad into the independence of the institute. This is one way to encroach upon the autonomy of the institute. We fully oppose these things. It is a very reputed institution in the world. It is the third biggest institute in the world with one-lakh-and-thirty-thousand members. One or two black sheep may be there. Some members may commit errors. That does not mean that the entire profession is wrong. Yesterday, we have seen some of the Members of Parliament taking money for putting questions in Parliament. That does not mean that the entire polity in this country is corrupt. We cannot generalise it. So, my request to the hon. Minister is, let us not encroach upon the wisdom of the institute and the members of the Council.
- I am openly saying that it is an affront to the provision itself. It is degrading the provision which enjoys the international reputation in the comity of nations.
- And, it pertains to special audit. The Council can call for special audit. Who has to do the audit? Will the Secretary, Department of Company Affairs, will go and do the audit? It has to

be audited by the members of the institute. Then, why should there be directions from the Government? These thirty members, who are elected from different parts of the country, are persons of eminence and character. And, we, sitting in the administration, are questioning their character! It is highly objectionable. And, you always want to keep Damocles' sword hanging over their heads and erode their autonomy; and according to the whims and fancies of a Joint Secretary or a Secretary of the Ministry. For God's sake don't do it. You are eroding their autonomy. There will be more scams, if you do it; I am openly telling you. Once you erode the autonomy of the institute and the independence of the Members in doing the audit, you will be inviting more scams.

- The Government nominees are there -- one from the Ministry of Finance, one from the Department of Company Affairs. Had there been any dissent note in any of the committee meetings? Had there been any objections from them about the functioning of the institute? Never! Then, what made you to suspect them now? It is exclusively to make the inroads into the functioning of the institute. More than that, I can't deduce anything. So, I want to say that the elected council is wise enough. One person can indulge in corruption; one person can indulge in irregularities. But, thirty persons cannot connive.
- On the recommendation of the Naresh Chandra Committee, and on the recommendation of the JPC also an attempt is being made to make the disciplinary mechanism more vibrant. That is the only deficiency in the functioning of the Institute. Much of the time of the Council members was being taken in the disposal of the disciplinary cases. Now that this mechanism is being built, there is no necessity for increasing the strength from 30-40.

4. SHRI MANOJ BHATTACHARYA

- The original bill was enforced with effect from, if I remember correctly, 1st July, 1949 and the concept came long back in 1913. In 1949, the State economy did not also consider it much. It was not even two years of our independence.

So, the country's economy had not taken any shape; the Five Year Plans were not initiated.

- But, would you please tell us that correcting the loopholes of the regulatory authorities, like a very important regulatory authority, the Chartered Accountants Institute, would you go for more bureaucratisation?
- But, if you over-bureaucratise the autonomous institute, if the democratically elected autonomous institutes are put into place for bureaucratic scrutiny, then, the democratic process of functioning of the institute will be jeopardised, it will be hampered.
- Don't over-bureaucratise this autonomous institute.
- Now, what steps the Government of India is initiating towards this reciprocity to the Chartered Accountants of our country? Instead of doing that, you are trying to unnecessarily tinker with the democratic functioning of the organisation.
- But this Institute, for its better functioning, for its formidably better functioning, has sought for co-option of the experts from outside. Why are you standing as an embargo? Because if more experts from different fields are taken into the Committee or taken into the Council, it will be functioning better. So, what is the objection?
- It is not only an accounting Institute, it is also an educational Institute. It formulates the curriculum for the students, and it has got credibility. Over a period of time, it has got the credibility. I also understand, it is the third largest Institute in the world. Why are you denigrating this Institute? My point is, why are you denigrating this Institute? The image of this Institute should not be denigrated as such.
- Because we have doubted the Council's functioning, the Council's auditing. Now, what is the reason of special auditing for them? Because they are only setting the standards.

(To Be Continued in January 2007 issue of the journal)