# SELLING THE FAMILY SILVER

(By D Gopalakrishnan)

On 18th May 2020 Finance Minister Ms. Nirmala Sitharaman said, un-connected with Rs.20 lakh crore stimulus package, “there will be a maximum of four public sector companies in strategic sectors, and state-owned firms in other segments will eventually be privatized”. She also said that the Centre has set a budget target of Rs.2.10 lakh crore from disinvestment in the current fiscal, of which Rs.1.20 lakh crore is expected from CPSE disinvestment.

On 2/12/2019 during question hour in the Rajya Sabha Hon. MoS for Finance Shri Anurag Thakur, with a ‘pride’ said that this Government during 2014-19 raised Rs.2,79,622 crores from the disinvestment of public sector undertakings (PSUs) compared to Rs.1,07,833 crore during the 10-year UPA rule from 2004-14.

In this background, utilizing the lock-down period, I made a small study about Central Public Sector Enterprises (CPSEs) and I would like to share that with you all.

Industrialization in a planned manner

At the time of Independence, India was basically an agriculture country and there was no worthwhile industry except TISCO in Jamshedpur and few ordnance factories, jute, cotton mills. The first Indian PM Shri Jawaharlal Nehru wanted industrialization for economic growth. ‘Bombay plan’ was evolved and it was decided to industrialize in a planned manner through ‘five year plan’. Accordingly planning commission was formed which was dissolved by Narendra Modi Government. In those days, Indian capital was not available to fund for huge basic industries like cement, steel, coal, electricity etc. Further such basic industries will not yield profit for first few years. So, Nehru sought the help of capitalist countries for industrialization but none came forward. But, then USSR came forward to help and an agreement was signed with that country on 2/3/1955 for Bhilai Steel plant. Many western capitalist countries did not want India to go along with USSR and hence came forward to help. For example, West Germany came forward to help. With the help of that country, Rourkela Steel plant was started on 3/2/1959. This led to a foreign policy of ‘Non-alignment’ because foreign policy is an extension of domestic policy.

Basic Industries in CPSEs

Railways, P&T, Port and Airports were in the Government sector and tradable goods sector like coal, steel, fertilizer, aluminium, copper, oil and gas exploration, development, extraction and transportation were predominantly in public sector. The bulk of the remaining tradable sector was privately owned and managed.

Performance of CPSEs

There were 5 CPSEs owned by the Central Government at the beginning of 'first five year plan' with a total investment of Rs.29 crore. By the end of the 7th plan in 1990, the number of CPSEs had increased to 244 with a total investment of Rs.99,329 crore. The number came down to 239 in 2005-06 though the capital invested increased to Rs.3,93,057 crore. As on 31/3/2019 total capital invested was reduced to Rs.2,75,697 crore with 348 CPSEs.

In 2005-06 the aggregate reserves and surpluses of all CPSEs were Rs.3,59,077 crore. The same increased to Rs.9,93,328 crore in 2018-19. The accumulated loss of all CPSEs was Rs.73,147 crore in 2005-06 which came down to Rs.31,635 crore in 2018-19.

Disinvestment & Privatisation

After the elections in 1991, Government was formed with Shri P.V.Narasimha Rao as PM, in which Dr. Manmohan Singh was the finance minister. This Government introduced LPG (Liberalisation, Privatisation, Globalisation) policy. As a result, Industrial Policy was evolved on 24/7/1991 which stated 'in order to raise resources and encourage wider public participation, a part of the government's shareholding in the public sector would be offered to mutual funds, financial institutions, general public and workers'. Thus, disinvestment of the Government's equity in CPSEs started in 1991-92. Subsequently, shares of individual CPSEs were sold and the category of eligible buyers was gradually expanded to include individuals, NRIs and registered FIIs. After 1996, sale through GDR (Global Depository Receipt) route was also initiated and MTNL (1997-98), VSNL (1996-97 and 1998-99) and GAIL (1999-2000) all used the opportunity to access the GDR market.

By and large Congress Government resorted to 'disinvestment' of CPSEs. On the other hand, BJP Government not only resorted to 'disinvestment' but also to 'strategic disinvestment'. 'Disinvestment' means majority share-holding by the Government and control by the Government whereas 'Strategic Disinvestment' means majority share-holding by private and the control also would go to the hands of Private sector. This is termed as 'Privatisation'.

The Rangarajan Committee recommended in April 1993, that the percentage of equity to be disinvested should be generally under 49 percent in industries reserved for the public sector and over 74 percent in other industries. As per Statement of Industrial Policy of 24th July 1991, the following industries were proposed to be reserved for the public sector:-

Arms and ammunition and allied items of defence equipment, defence aircraft and warships

Atomic Energy
Coal and lignite
Mineral oils
Mining of iron ore, chrome ore, gypsum, sulphur, gold and diamond
Mining of copper, lead, zinc, tin, molybdenum and wolfram
Minerals specified in the Schedule to the Atomic Energy (Control of production and use) order, 1953
Railway transport

Approach of Deve Gowda Government

In 1996 General election, no party could get the majority. Shari A.B.Vajpayee was PM for 16 days and later a non-congress government was formed headed by Shri H.D.Deve Gowda till 21/4/1997 and afterwards it was headed by Shri I.K.Gujral till 18/3/1998. While presenting 1996-97 budget, finance minister Shri P.Chidambaram announced the proposal to establish a 'Disinvestment Commission'. It was also stated that the revenues generated from such disinvestment will be utilized for allocations to education and health and for creating a fund to strengthen CPSEs. This was a significant shift from the earlier position but there is no data available to check its implementation.

The Public Sector Disinvestment Commission was established on 23/8/1996 during Deve Gowda Government for a period of 3 years as an independent, non-statutory, advisory body with Shri G.V.Ramakrishna as chairman. 72 CPSEs were referred to this commission initially and later 8 were withdrawn. The commission did not take up 6 CPSEs because they were referred to BIFR (Bureau of Industrial & Financial Reconstruction). The commission submitted 12 reports covering 58 CPSEs, recommending strategic sale in 25 cases and disinvestment through modes other than strategic sale in 33 cases.

Privatisation by Vajpayee Government

Shri A.B.Vajpayee was PM between 19/3/1998 and 22/5/2004. During the budget speech of 1998-99, finance minister Shri Yeshwant Sinha ( Vajpayee Government) announced that, in the generality of cases, the Government's shareholding in CPSEs would be brought down to 26 per cent. In the case of CPSEs involving strategic considerations, the Government would continue to retain majority shareholding; the interest of workers would be protected in all cases.

In the budget speech of 1999-2000, Shri Yeshwant Sinha announced that Government's strategy towards the CPSEs would continue to encompass a judicious mix of strengthening strategic units, privatizing non-strategic ones through gradual disinvestment or strategic sale and devising viable rehabilitation strategies for weak units.

On 16th March 1999, the Government classified the CPSEs into strategic and non-strategic areas for the purpose of disinvestment. It was decided that the strategic CPSEs would be those functioning in the areas of:-
Arms and ammunition and allied items of defence equipment, defence aircraft and warships
Atomic Energy (except in the areas related to the generation of nuclear power and applications of radiation and radio-isotopes to agriculture, medicine and non-strategic industries)
Railway transport
From the industrial policy of 1991, five sectors were removed from the strategic CPSEs.

Modern Food Industries (India) Ltd was privatized in January 2000 through sale of 74 percent shares
Bharat Aluminium Company Ltd was privatized by selling 51% of Govt. share in March 2001
CMC was privatized by selling 51% of Govt. share in October 2001
In VSNL Govt's share was reduced from 52.97% to 27.97% in February 2002
IBP was privatized in February 2002 by selling 33.58% of Govt's share
In PPL (Paradeep phosphate Ltd), Govt. sold 74% shares in February 2002
In HZL (Hindustan zinc Ltd), Govt's share was reduced to 49.92% after selling 26% share in April 2002
The list goes on like that.

Selling shares to the employees
To soften the opposition from the employees, a small percentage of shares were sold to them; in BALCO, 5% was sold to them; in VSNL, 2% was sold to the employees; in HZL, 5% was sold to them. The list goes on like that. The employees cannot have any say with these share-holdings.

Main two Impacts on workers if the CPSE is privatized
Security of job is threatened – the company shall not retrench any of the employees of the company for a period of one year only
Reservation policy shall not be applied

As on 31/3/2019 there were 348 Central Public Sector Enterprises (CPSEs) in India. This includes some CPSEs like Birds Jute & Exports Ltd, (Cabinet on 10/10/2018 decided to close), Bridge & Roof company (India) Ltd (Govt. on 9/7/2017 decided to close), Braithwaite Burn & Jessop which was amalgamated with Bharat Bhari Udyog Ltd on 10/7/2015 and many subsidiaries of existing CPSEs. So, operating units are only 249. (Delhi has the maximum number of 159). But, this does not include Public Sector Banks or PSUs in Insurance sector. These CPSEs are under the administrative control of various ministries. For example under the Ministry of Telecommunication & IT there are 6 CPSEs (BSNL, MTNL, TCIL, Bharat Broadband Network Ltd, Railtel Corpn India Ltd & Railtel Enterprises Ltd).

List of CPSEs approved for closure by the Government as on 31/3/2019
Andaman & Nicobar Island Forest & Plant Dev. Corp Ltd
Birds Jute & Exports Ltd
Burn Standard Company Ltd
Central Inland Water Transport Corpn Ltd
HMT Chinar Watches Ltd
Indian Drugs & Pharmaceuticals Ltd
National Jute Manufactures Corpn Ltd
Rajasthan Drugs & Pharmaceuticals Ltd
Tungabhadra Steel Products Ltd

List of CPSEs under liquidation as per information by CPSE/Concerned Ministry as on 31/3/2019
Hindustan Paper Corpn Ltd
Hindustan Photo Films Manufacturing Co. Ltd
Orissa Drugs & Chemicals Ltd
Rites Infrastructure Services Ltd

Break-up of total employees as on 31/3/2019 in 348 CPSEs

| | |
|---|---|
| Managerial Executives | 2,70,393 |
| Supervisory Unionised | 82,657 |
| Supervisory Non-unionised | 23,582 |
| Non-executives skilled | 4,74,679 |
| Non-executives unskilled | 1.81,535 |
| Total Regular Staff | 10,32,846 |
| Casual/Daily Rate workers | 30,901 |
| Contract workers | 4,50,317 |

There were 11,35,675 employees in CPSEs in 2016-17 but the same came down to 10,32,846 in 2018-19 which means in two years the number of employees was reduced by 1,02,829. Casual, Daily Rate workers & contract workers constitute 31.78%

Stellar Performance

| | |
|---|---|
| As on 31/3/2019 total number of CPSEs | 348 |
| Operational | 249 |
| Total paid-up Capital in all CPSEs | Rs.2,75,697 crore |
| Total Gross Revenue | Rs.25,43,370 crore |

| | |
|---|---|
| Profit of 178 CPSEs | Rs.1,74,587 crore |
| Loss of 70 CPSEs | Rs.31,635 crore |
| Over-all Net Profit of operating CPSEs | Rs.1,42,952 crore |
| Reserves & Surplus of CPSEs | Rs.9,93,328 crore |
| Networth of all CPSEs | Rs.11,15,552 crore |
| Contribution of CPSEs to Central Exchequer by way of Excise duty, Customs duty, GST, Corporate tax, Interest on Central Govt. loans, Dividend and Other duties & taxes | Rs.3,68,803 crore |
| Foreign Exchange earnings of 79 CPSEs through Exports of goods & services | Rs.1,43,377 crore |
| Foreign Exchange expenditure of 144 CPSEs on Imports and royalty, know-how, consultancy In all CPSEs | Rs.6,64,914 crore |

Which Govt. sold/disinvested maximum

| Year | Total receipts from selling shares minority/majority of CPSEs | |
|---|---|---|
| 1991-92 | Rs.3037.74 crore | |
| 1992-93 | 1912.51 crore | |
| 1993-94 | Nil | |
| 1994-95 | 4843.10 crore | |
| 1995-96 | 168.48 crore | |
| 1996-97 | 379.67 crore )( | Sold |
| 1997-98 | 910.00 crore )( | VSNL |
| 1998-99 | 5371.11 crore )( | MTNL shares |
| 1999-00 | 1860.14 crore | |
| 2000-01 | 1871.26 crore | |
| 2001-02 | 5657.69 crore | |
| 2002-03 | 3347.98 crore | |
| 2003-04 | 15547.41 crore | |
| 2004-05 | 2764.87 crore | |
| 2005-06 | 1569.68 crore | |
| 2006-07 | Nil | |
| 2007-08 | 4181.39 crore | |
| 2008-09 | Nil | |
| 2009-10 | 23552.93 crore | |
| 2010-11 | 22144.21 crore | |
| 2011-12 | 13894.05 crore | |
| 2012-13 | 23956.81 crore | |
| 2013-14 | 15819.46 crore | |
| 2014-15 | 24348.71 crore | |
| 2015-16 | 23996.80 crore | |
| 2016-17 | 46246.58 crore | |
| 2017-18 | 100056.91 crore | |
| 2018-19 | 84972.16 crore | |
| 2019-20 | 34845.06 crore | |
| Grand Total | 4,67,235.89 crore | |

The above table reveals one important factor. Narendra Modi Government in 6 years (2014-15 to 2019-20) disinvested through both means to the extent of Rs.3,14,466.22 crore which constitutes 67.3% of the total disinvestment in 28 years.

For an investment of 2,75,697 crore, return was Rs.71,916.28 crore from 121 CPSEs (including TCIL) by way of dividend which works out to a return of 26%. Total contribution to ex-chequer was Rs.3,68,803 crore. Only CPSEs are paying taxes properly and not the private enterprises. CPSEs cough-up 25.4% of their profit as tax whereas 216 big companies whose profit is more than 500 crores paid only 22.6% of their profit as tax in 2018-19.

How many voters read election manifestos of political parties

Utilising the lock-down, Narendra Modi Government is pushing through its agenda of privatization. Spokespersons of BJP says that they have got mandate of the people for the policies they are pursuing. But BJP election manifesto of 2014 or 2019 did not mention about privatization of CPSEs. Even if it is there, how many voters read the election manifesto of contesting parties and take a decision on that basis. There is no national survey on that. But some survey in Kerala & Tamilnadu (these two states have high literacy rate and political consciousness is more compared to other states) was made which reveals only 40% of electorate said that they read the election manifesto of political parties.

How to face this onslaught

Can we stop this onslaught through litigation? No. Because the Apex Court in its judgement on 10/12/2001 in 'Balco' case has observed as follows:

*"In a democracy, it is the prerogative of each elected Government to follow it's own policy. Often a change in Government may result in the shift of focus or change in economic policies. Any such change may result in adversely affecting some vested interests. Unless any illegality is committed in the execution of the policy or the same is contrary to law or mala fide, a decision bringing about change cannot per se be interfered with the Court. For testing the correctness of a policy, the appropriate forum is the Parliament and not the Courts. Here the policy was tested and the Motion defeated in the Lok Sabha on 1st March 2001".*

*In the matter of Centre for Public Interest Litigation versus Union of India and Another challenging the disinvestment in regard to HPCL/BPCL, the Supreme Court, through the judgement delivered on 16th September 2003 (AIR 2003 SC 3277) upheld the challenge to the proposed Strategic Sale of HPCL and the proposed dilution in equity in the case of BPCL to below 51 per cent through an Offer for Sale of the Government's equity. The Supreme Court took the view that, since both these companies were established through Acts of Parliament under which the undertakings and assets of private companies were acquired and transferred to these*

*Government companies, it was not open for the Government to proceed with disinvestment that would result in HPCL and BPCL ceasing to be Government companies without appropriately amending the statues concerned. The Court also held that setting up of Government Companies is by way of Parliamentary approval for expenditure from the Consolidated fund of India and hence privatization of Government companies can therefore be only with approval of Parliament.*

*In the matter of All India ITDC Workers' Association Vs. ITDC & Others, the Supreme Court delivered a judgement on 31st October 2006 upholding the disinvestment quoting earlier judgement dated 10/12/2001 in 'Balco' case.*

This onslaught can be stopped through united struggle of the working class with the support of the people. The working class leadership has got a duty to convince the people at large about the national importance of CPSEs and its role in the past.
The other method is to vote consciously for the parties which look after the interest of the people and the working class in particular. It has to be judged not by words but by its deeds. History reveals the following reality:

In 2004 general election, many people and media propagated that Shri A.B.Vajpayee will come back to power with the slogan of 'India shining'. But people decided otherwise. United Progressive Alliance (UPA) Government was formed under the leadership of Dr. Manmohan Singh. Left parties which had 59 MPs extended their support from outside. They insisted for a 'National Common Minimum Programme' which was agreed to. The relevant extracts of NCMP is given hereunder:

*The UPA Government is committed to a strong and effective public sector whose social objectives are met by its commercial functioning. But for this, there is need for selectivity and a strategic focus. The UPA is pledged to devolve full managerial and commercial autonomy to successful, profit-making companies operating in a competitive environment. Generally profit-making companies will not be private. While every effort will be made to modernize and restructure sick public sector companies and revive sick industry, chronically loss-making companies will either be sold-off, or closed, after all workers have got their legitimate dues and compensation. The UPA Government believes that privatization should increase competition, not decrease it. It will not support emergence of any monopoly that only restricts competition. It also believes that there must be a direct link between privatization and social needs – like, for example, the use of privatization revenues for designated social sector schemes. Public sector companies and nationalized banks will be encouraged to* *enter the capital market to raise resources and offer new investment avenues to retail investors.*

*In conformity with the policy enunciated in NCMP, it was decided in February 2005 to formally call off the process of disinvestment of the following CPSEs through Strategic Sale of profit making CPSEs* :-

| Name of CPSE | %age of equity which was earlier proposed to be sold thro Strategic Sale |
|---|---|
| Manganese Ore India Ltd | 51% |
| Sponge Iron India Ltd | 100% |
| Shipping Corpn of India Ltd | 54.2% |
| National Aluminium Co Ltd | 61.15% |
| National Building Construction Corporation Ltd | 74% |
| National Fertilizers Ltd | 53% |
| Rashtriya Chemicals and Fertilizers Ltd | 53% |
| HPCL | 39.01% |
| Engineers India Ltd | 61% |
| Balmer Lawrie & Co Ltd | 61.8% |
| Engineering Projects India Ltd | 74% |
| Hindustan Paper Corpn Ltd | 74% |
| State Trading Corpn Ltd | 75% |

On 6th July 2006, Government decided to keep all disinvestment decisions and proposals on hold, pending further review. The disinvestment decisions covered under this decision were: disinvestment of 5% of Government's holding in Power Finance Corporation Limited; 15% equity in National Mineral Development Corporation;10% equity in Neyveli Lignite Corporation Ltd and National Aluminium Co. Ltd. So, if the working class fight unitedly, irrespective of their political loyalty, and Elect proper representatives to Parliament then we can defeat this onslaught.

## Plain speaking by former Chief Justice of Madras High Court

Every day, we hear of migrant labourers walking hundreds of miles, many dying in the process. The saddest is the apathy shown by the institutions meant to look out for their interests. I refer here to the Supreme Court, which has failed to satisfactorily acknowledge that the fundamental rights of migrant labourers have been violated, and ignored these workers when they most needed protection.

In this lockdown, enough and more evidence points to fundamental rights of citizens having been grossly violated, and especially those of vulnerable populations like migrant labourers. But instead of taking on petitions questioning the situation, the Supreme Court has remained ensconced in its ivory tower, refusing to admit these petitions or adjourning them. By effectively not granting any relief, the Court is denying citizens of the most fundamental right of access to justice, ensured under the Constitution. In doing so, it has let down millions of migrant workers, and failed to adequately perform as a constitutional court.

*Today, we find ourselves with a Supreme Court that has time for a billion-dollar cricket administration, or the grievances of a high-profile journalist, while studiously ignoring the real plight of millions of migrants, who do not have either the money or the profile to compete for precious judicial time with other litigants.*

At this stage, I must acknowledge the stellar role being played by some High Courts, even though Governments have tried to discourage them on grounds that since the Supreme Court is not interfering, High Courts need not do so either. Atleast four High Courts (Karnataka, Madras, Andhra Pradesh and Gujarat) have started asking questions about migrant rights. This is almost a replay of what happened during Emergency, where High Courts boldly stood up and recognized violations, but were overruled eventually by the Supreme Court. The Madras High Court, for example, has quashed criminal defamation cases against media houses, stating that democracy cannot be throttled this way. Contrast this with the Supreme Court's reaction to the bizarre claim of the Solicitor-General who argued that the exodus of workers was due to fake news, the Court seemed to have accepted this, and media houses were advised to report more responsibly.
(Excerpts from an article written by Justice A.P.Shah in Hindu dated 25/5/2020)

Perhaps this might have some impact on Hon. Supreme Court which took-up the issue suo-moto and gave its judgement on 28/5/2020 directing the Governments not to charge train/bus fares, provide shelter, food & water.

Poor people have started mortgaging their small jewels with pawn-brokers and fishermen mortgaging their 'nets' for loans. The Govt. has not done enough to put a reasonable amount in their account.

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