CHAPTER 10
FRAUD UNRAVELS EVERYTHING
(UNDER THE APOLLINE GAZE)

SYNOPSIS

Philosophy will clip an Angel's wings,
Conquer all mysteries by rule and line,
Empty the haunted air, and gnomed mine—
Unweave a rainbow, as it erewhile made
The tender-person'd Lamia melt into shade.

—John Keats *Lamia* II

PART A

I

Judicial Abhorrence to Fraud

The effect of fraud is expressed with a masterly stroke by Lord Denning LJ in *Lazarus Estates Limited v. Beasley* [1]:

> "No judgment of court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything."

Fraud, collusion, deceit or concealment is the product of the touch of Comus. Michael Levi likens fraudster to Milton's sorcerer, Comus. This comparison is so graphic and so suggestive that the Supreme Court of India referred to it in *Shrisht Dhawan v. M/s Shaw Brothers.* [2] The main title to this chapter has a reference to

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1. [1956] 1 QB 702 at 712.
2. (1992) 1 SCC 534, AIR 1992 SC 1555 at pp. 1564-1565 (para 20).

Keats' famous poem *Lamia.* Keats tells how Lycius was deceived by a snake-woman. He enjoyed love with her. Order to make a return to society he invited his friends to a wedding party. Apollonius turned up though uninvited. He was a philosopher. When he cast his gaze on Lamia, the snake-woman, could not stand the penetrating critical gaze; and her morbid reality became manifest. It is the duty of the government to keep the foreign entities operating in our country under critical gaze so that laws are not wrecked or bent through clandestine operations; so that public interest is not jeopardized. If government fails to do its duty, it becomes the duty of the judiciary to play its constitutional duty to ensure that public authorities discharge their public duty.

In this chapter I intend to dwell first on the settled judicial attitudes to the transactions tainted with fraud; and then on the facts of a case of a treaty-shopper as stated in the Assessment Order passed by an appropriate authority under the Income-tax Act, 1961. All these would, at the end, illustrate the propriety of Lord Denning's *sutra* "Fraud unravels everything".

In *Smith v. East Elloe Rural District Council*[3] the House of Lords was examining the effect of fraud on a compulsory purchase order. The House worked on the assumption that the effect of fraud "would normally be to vitiate any act or order."[4] In *Owens Bank Ltd. v. Bracco*[5] the House was examining a conflict of laws situation whereunder the issue was whether the judgment debtor could show a *prime facie* a case of fraud. The House dismissed the Bank's appeal. The effect of fraud was held to deny finality to foreign judgments if it could be shown that they had been obtained by fraud. The House of Lords examined comprehensively the effect of fraud. In *Abouloff v. Oppenheimer & Co* (1982) 10 QBD 295, [1881-5] All ER Rep 307 Lord Coleridge CJ observed:[6]

> '… it is enough for me to say that the English courts do enforce obligations created by judgments, but that it has always been held in the courts of this county to be an answer to an action upon a judgment, that that judgment has been obtained by the fraud of the party seeking to enforce it. This principle has been laid down in the broadest terms by De Grey, C.J., in the answer to the two questions of the House of Lords in the *Duchess of Kingston's Case* ((1776) 20 St. Tr 355 at 544, [1775-1802] All ER Rep 623 at 629), namely, that "fraud is an extrinsic, collateral act, which vitiates the most solemn proceedings of courts of justice. Lord Coke says it avoids all judicial acts, ecclesiastical or temporal."

Lord Coleridge CJ concludes his judgment by saying (10 QBD 295 at 303, [1881-5] All ER 307 at 310):

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3. [1956] AC 736.
4. Wade & Forsyth, *Administrative Law,* 7th ed. p. 442.
5. [1992] 2 All ER 193 HL
6. [1881-5] All ER Rep 307 at 309.

> 'I think, therefore, on the broad ground that no man can take advantage of his own wrong, and that it is a principle of law that no action can be maintained on the judgment of a court either in this country or in any other, which has been obtained by the fraud of the person seeking to enforce it, that the defence is good…'[7]

The Court of Appeals, (Criminal Division) in *R. v. Mavji*[8] dealt with the effect of fraud committed against the Revenue. In the course of the examination of the fraudulent conduct, depriving the Revenue of public resources, the Court examined the ingredients of the offence of cheating the Public Revenue. The appellant was the director of a company trading in gold which failed to make value added tax returns and was charged to tax on sales, which it failed to account. He was convicted of cheating the Public Revenue, he was sentenced to six years' imprisonment and was made criminally bankrupt.

In taking the above view the Court considered the distinction between the common law offence of cheating and the statutory offence of fraudulent evasion. The Court observed:[9]

> "The most helpful case of those to which this court was referred is, in our view, *R. v Hudson*, [1956] 1 All ER 814, [1956] 2 QB 252, not only for what it decides but also for the review of the older authorities which is to be found in the judgment of Lord Goddard CJ. The head note is as follows (40 Cr. App R 55):
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> "The offence of making a false statement tending to prejudice the Queen and the Public Revenue with intent to defraud the Queen is, and always has been, a common law misdemeanour, and includes the offence of causing to be delivered to an inspector of taxes accounts relating to the profits of a business which falsely and fraudulently state the profits to be less than they actually were.'

It was argued in *R. v. Hudson* that the making of a false statement to the Revenue did not disclose an offence known to the law. Lord Goddard CJ cited a passage from Hawkins's Pleas of the Crown (1 Hawk PC 322):'…. all frauds affecting the Crown and public at large are indictable as cheats at common law….' (See [1956] 1 All ER 814 at 815, [1956] 2 QB 252 at 259)".

In *Shrisht Dhawan v. M|s Shaw Brothers*[10] the Supreme Court not only examined the concept of fraud, it perceptively drew distinction between the operation of fraud in the fields of Private Law and Public Law. The Court observed:[11]

> "In *Webster's Third New International Dictionary* fraud in equity has been defined as an act or omission to act or concealment by which one person obtains an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another. In *Black's Legal Dictionary*, fraud is defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to

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7. [1992] 2 All ER. 193 at pp-198 to 200.
8. (1987) 2 All ER. 758 (CA).
9. (1987) 2 All ER 758, p 761.
10. (1992) 1 SCC 534, AIR 1992 SC 1555 at pp. 1564-1565 (para 20).
11. (1992) 1 SCC 534 at pp. 553-554.

part with some valuable thing belonging to him or surrender a legal right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. In *Concise Oxford Dictionary*, it has been defined as criminal deception, use of false representation to gain unjust advantage; dishonest artifice or trick. According to *Halsbury's Laws of England*, a representation is deemed to have been false, and therefore a misrepresentation, if it was at the material date false in substance. But fraud in public law is not the same as fraud in private law. Nor can the ingredients that establish fraud in commercial transaction be of assistance in determining fraud in Administrative Law. It has been aptly observed by Lord Bridge in *Khawaja*[12] that it is dangerous to introduce maxims of common law as to effect of fraud while determining fraud in relation to statutory law. In *Pankaj Bhargave* (AIR 1991 SC 1233) (supra) it was observed that fraud in relation to statue must be a colourable transaction to evade the provisions of a statute. "If a statute has been passed for some one particular purpose, a court of law will not countenance any attempt which may be made to extend the operation of the Act to something else which is quite foreign to its object and beyond its scope." [Craies on State Law, 7th edn., p. 79] . Present day concept of fraud on statute has veered round abuse of power of *mala fide* exercise of power. It may arise due to overstepping the limits of power or defeating the provision of statute by adopting subterfuge or the power may be exercised for extraneous or irrelevant considerations. The colour of fraud in public law or administrative law, as it is developing, is assuming different shade. It arises from a deception committed by disclosure of incorrect facts knowingly and deliberately to invoke exercise of power and procure an order from an authority or tribunal. It must result in exercise of jurisdiction which otherwise would not have been exercised. That is misrepresentation must be in relation to the conditions provided in a section on existence or non-existence of which power can be exercised".

In fact, fraud in all its sinister manifestations must not be allowed to flourish under any system. The maturity of a jural system and the degrees of the success of fraudulent activity are inversely related. Roscoe Pound had formulated five jural postulates[13] of an open society. Fraud and collusion negate such postulates.

II

The Legal Propositions emerging from the judicial decisions

From the aforementioned discussion the following main propositions emerge:

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12. *Khawaja v. Secretary of State for Home Deptt*. (1983) 1 All ER 765.

13. Julius Stone in his *Human Law and Human Justice* has summarized these postulates (at pp-280-81) which includes these :

"In civilized society men must be able to assume that those with whom they deal in the general intercourse of society will act in good faith and hence

(a) will make good reasonable expectations which their promises or other conduct reasonably create;

(b) will carry out their undertakings according to the expectations which the moral sentiment of the community attaches thereto;"

(i) The courts have recognized that "fraud and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence".

(ii) Judicial abhorrence to fraud is so deep that the courts recognize the taint of fraud as a special defence against a foreign judgment.

(iii) Fraud "is an extrinsic" collateral act.

(iv) Fraud vitiates not only the acts done in course of judicial proceedings but also the acts done through the administrative process.

(v) It is fair and just that no one should take advantage of one's wrong.

(vi) It has been held that "all frauds affecting the Crown and public at large are indictable as cheats at common law.

(vii) Frauds in public law and in private law differ in effect and operation without ceasing to be species of the same genus.

The decision of the Supreme Court of India in *Shrisht Dhawan v. M/s Shaw Brothers*[14] is important as it discusses the nature and effect of fraud in public law and shows how it differs from fraud in private law. The discussion remarkable for its compressed reasoning, and also for the apt reference to the views of Lord Bridge in *Khawaja v Secretary of State for Home Deptt*[15] referred by our Supreme Court in *Shrist Dhawan.*

In *Khawaja's Case* the petitioner sought the grant of judicial review to quash by *certiorari* the detention order. The case against the petitioner was that he was an illegal entrant by obtaining leave to enter the country by fraud and deception. Lord Bridge stated that the decision whether the leave to enter should or should not be granted:

> "is fairly and squarely committed to the immigration officer by the statute. This necessarily entrusts all relevant decisions of fact, as well as the application to the facts of the relevant rules and any necessary exercise of discretion, to the immigration officer. If leave to enter is refused, that decision can plainly only be challenged on the now familiar grounds on which the court has jurisdiction to review a public law decision committed by statute to an administrative authority. Following a refusal to enter, there can be no successful challenge to a consequential order of detention and directions for removal unless the refusal of leave to enter can itself be successfully impugned."[16]

Lord Bridge adopted Public Law approach. The authorities have to see before granting leave to enter the country whether the conditions prescribed under the law have been complied with. If conditions are not met, or if there is any attempt to obtain the benefit through fraud, the prayer must be rejected.

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14. (1992) 1 SCC 534 at pp. 553-554.
15. (1983) 1 All ER 765, HL.
16. [1983] 1 All ER 765 at p. 790.

The Income-tax Act is a species of public law.[17] A Double Taxation Agreement is entered into in exercise of powers under section 90 of the Income-tax act. It is a delegated power. Double Taxation Avoidance Agreements are to be administered by public authorities in course of public proceedings oriented to public ends. Klaus Vogel has rightly observed that the rules of Double Taxation are comparable to those of 'International Administrative Law'. He observes:

> "Within the scope of a treaty, therefore, a tax obligation exists only if and to the extent that, in addition to the requirements of domestic law, the treaty requirements also are satisfied. Consequently, rules of double taxation are not conflict rules ('*Kollisionsnormen*') similar to those in private international law. Rather, they are '**rules of limitation of law'** *('Grenznormen'*) comparable to those of an 'international administrative law' ('*Internationales Verwaltungsrecht*'),"[18]

One who claims to avail the benefits under a double taxation agreement must establish before domestic-tax authorities that all the prescribed conditions are complied with. It is an immanent pre-conditions that fraud, or deceit, or collusion must not flourish. Fraud scripted in whatever form destroys a claim.

III

Let us not confuse the granter of benefits with the grantees of benefits

In the matters of obtaining benefits under a Double Taxation Avoidance Agreements one point must be clearly noted that the governments are not liable to tax under international law. A sovereign State is not amenable to the domestic laws of another State. There is no specific provision in the Income-tax Act to this effect but through proper construction the income-tax law is made to conform to international law.[19] But income from other than governmental functions would be clearly chargeable to tax. The distinction *inter se* the two segments of activities of a foreign State has been thus stated by Lord Diplock in *Alcom Ltd v. Republic of Colombia*[20]:

> "The principle of international law that is most relevant to the subject matter of the Act is the distinction that has come to be drawn between claims arising out of those activities which a state undertakes jure *imperii*, i.e., in the exercise of sovereign authority, and those arising out of activities which it undertakes *jure gestionis*, i.e. transactions of the kind which might appropriately be undertaken by private individuals instead of sovereign states."

The government of a foreign State is not liable to tax unless it, like ordinary persons, indulges in commercial activities in the interstices of which income is

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17. Commissioner of Income-tax (Central) Madras v. Indian Express (Madurai) Pvt. Ltd. (1983) 140 ITR p. 705.
18. Klaus Vogel on *Double Taxation Convention* at pp. 20-21.
19. *Wadia v. CIT* 17 ITR 63, 77-8 (FC).
20. [1984] 2 All ER, 6 at p. 8.

generated for being charged to tax as per provisions of the law. The ordinary persons of a foreign State, like the ordinary persons under a domestic jurisdiction, are, to say the obvious, mere *assesses*. A state, that ensures that even the rightful incidence of taxation is deflected to the exclusive benefit of its citizens making some citizens groan under the burden of taxation, whilst others wrongfully escape it, offend law and morality both. Equality and justice are never conceived at loggerheads with each other.

The Indian-tax Authorities are clearly within their jurisdiction to see that those who claimed benefits under the Indo-Mauritius Double Taxation Avoidance Agreement come within the scope of that agreement, and conform to the mandatory provisions of the law. None of them are entitled to be treated in a manner different from the way others are treated under the tax law in the domestic jurisdiction. The assesses coming through the Mauritius route are not entitled to undeserved advantages. Both the residents and the non-residents are under obligation to pay taxes as per law. Any classification of persons under the tax law, which is based on a differentia without reasonable relationship to the object of the Income-tax Act, would be invalid as violative of Article 14 of the Constitution of India. The statutory authorities under the Income-tax Act would fail in their statutory duties if they do not effectively play their role as investigators and adjudicators.

IV

How much of fraud invalidates

There is a lot of discussion in the different branches of law how much of fraud invalidates a transaction. It is not relevant to advert to this topic as in the field of public law even an *iota* of fraud, having the effect of causing wrongful gain to the fraudster and wrongful loss to the innocent victim, is bound to receive judicial displeasure. In *International News Service v. Associated Press*[21] Justice Holmes remarked:

> "The falsehood is a little more subtle, the injury a little more indirect, than in ordinary cases of unfair trade, and I think that the principle that condemn the one condemns the others. It is a question of how strong an infusion of fraud is necessary to turn a flavor into a poison."

In matter of taxation even smallest doze of fraud is intolerable. Under the paradigm-shift in tax jurisprudence in recent years no other view is fair. How the treaty shoppers operate would show how the technique of deception works. This exposition would be made with reference to a concrete case of a treaty shopper, the case of M/s Cox & Kings Overseas Funds (Mauritius) Ltd. which is referred merely as an illustration of the craft of treaty shopping.

Part B

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21. 248 U.S. 215, 247 (1918).

An instance of the touch of Comus

I

All that has been said about Fraud at work gives a mere silhouette. This author intends to draw up in this part a Portrait of Fraud so that one gets it 'in the round.'[22] The portrait would not have been possible without the remarkable good work done by some public servants who functioned as the Assessing Officers under the Income-tax Act, 1961. Whatever facts they had stated remained untraversed in the Writ Proceedings before the Delhi High Court. A copy of the assessment order in the case of Cox and King Overseas Funds (Mauritius Ltd.) for Assessment year 1997-98 (for the previous year ending March 31, 1997), was filed before the High Court of Delhi as an Additional Affidavit of the Petitioner in Civil Writ Petition No. 2802 of 2000 (*Azadi Bachao Andolan v. Union of India)*. It was felt that there was no need to make M/s Cox & Kings or any others sailing in the same boat the necessary parties in the Writ Proceedings. If the Court quashed the Circular No. 789 they could not have a grievance. When a bush is washed away by flood the insects deriving benefits must accept the inevitable fate. The Calcutta High Court had held more than a century ago in *Durga Charan v. Jatindra Mohan:*[23]

"In order that a party may be considered a necessary party defendant, two conditions must be satisfied, first, that there must be a right to some relief against him in respect of the matter involved in the suit, and second, that his presence should be necessary in order to enable the Court effectively and completely to adjudicate upon and settle all the questions involved in the suit."[24]

II

M/s Cox & Kings Overseas Funds (Mauritius) Ltd. filed income-tax return for assessment year 1997-98 as a non-resident in the status of company (FII). The assessee filed its return showing as its total income a sum of Rs. 74,39,911 from dividend. The Assessing Officer investigated the case and adjudicated on the facts as stated in the order under section 143 (3) of the Income-tax Act dated March 29, 2000. He computed total income at Rs. 3,88,72,822 which included short term capital gains to the tune of Rs. 2,91,76,094 and long-term capital gains to the tune of 22,56,817. The assessee's claim that it was entitled to the benefit of the Indo-Mauritius DTAC was considered but was not granted. If the claim had been in order the capital gains would not have been brought to charge in the assessment order. Under Article 13 of the Indo-Mauritius DTAC the capital gains are chargeable in the country of residence. As capital gains are not chargeable in

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22. H.W Fowler in his preface to the second ed. of the *Concise Oxford Dictionary writes*: "define, and your reader gets a silhouette ; illustrate, and he has it 'in the round'".
23. (1900) 27 Cal. 493.
24. Quoted by Mulla's Code of Civil Procedure, 14th ed. at p. 868.

Mauritius, the Mauritian residents do not pay tax on capital gains. The company was registered with the SEBI as a FII, and the assessing officer made assessment in terms of section 115 AD of the Income-tax Act, 1961 and initiated proceedings for concealment of income under section 271, (1) (c) of the Act.

M/s Cox & Kings Overseas Fund was incorporated in Luxemburg. There was no Double Taxation Avoidance Agreement between India and Luxemburg. If the Luxemburg investor had earned on the Indian Stock Market it would have been treated as a non-resident *simplicitor and* charged to tax as such. The company decided to create a fully owned subsidiary company incorporated in Mauritius. It contacted M/s International Management (Mauritius) Ltd., a professional consultants licensed by Mauritius Offshore Business Activities Authorities to work as offshore management company. They handled pre-incorporation formalities for incorporation of offshore Mauritius Company. They also provided two professionals to be placed on the Board of Directors. After completing all these formalities M/s Cox & Kings Overseas (Mauritius) Ltd. was got incorporated in Mauritius in 1994. After incorporation of a Mauritian subsidiary, M/s International Management (Mauritius) Ltd. was appointed to work as its Administrator, Registrar and Company Secretary. M/s J. Henry Schroeder Bank AG, a company incorporated in and operating form Switzerland, handled the management of investment, the sole business of the assessee company. The object clause of Memorandum of Association of Assessee Company makes following provision.

> "The object of the company specified in the Memorandum shall be carried on outside Mauritius."

The Assessing Officer found the following material facts which are reproduced for a better insight of the façade of the Certificate of Residence:

> "As per the restrictions imposed, the assessee is not allowed to either acquire any property in Mauritius to raise any fund in Mauritius to make any investment or conduct any kind of business activity in Mauritius. M/s International Management (Mauritius) Ltd. is a professional consultancy company looking after the formalities relating to Company Law and taxation law of Mauritius. Investment Company of the group incorporated and operating outside of Mauritius takes the business decisions. No activity is conducted in Mauritius. The Mauritian directors nominated by professional consultants are directors in hundreds of companies; hence they cannot work as working directors. They are only professional consultants and they do not have effective control of the management of the company. The source of fund is from outside Mauritius. All these facts clearly show that the real control of affairs of Mauritian company is in the hands of the holding company incorporated outside Mauritius and the Mauritian subsidiary has been created with main purpose to avoid tax.
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> In view of the above facts, the assessee was asked to show cause as to why the corporate veil created by incorporation of Mauritius subsidiary should not be lifted and it should not be held that the assessee is not a *bonafide* resident of Mauritius but is a resident of the country in which the holding company is incorporated and also to show cause as to why the benefits under Indo-Mauritius Treaty should not

be denied to the assessee since the assessee is not a *bonafide* and genuine resident of Mauritius. All facts of the assessee's case were discussed in the show cause notice and the assessee was asked to clarify if any fact was wrongly mentioned."

The Assessing Officers examined the assessee's plea that its effective control and management was in Mauritius; and they appraised various contentions made before them. The Assessing Officers found:

(i) They found that the effective control was in the hands of the holding company with power to override all decisions taken by the Mauritian Directors who were only professionals.

(ii) They found that the Board meetings in Mauritius were mere façade merely to keep the certificate of incorporation alive.

(iii) They found that the records in Mauritius were managed as a façade for the conduit company transacting on their instructions of its global custodian and Indian custodian both outside Mauritius.

(iv) The secretaries and the auditors in Mauritius were only for the limited purpose of complying with formalities.

(v) The assessee was not allowed to operate a Bank Account in Mauritius in Mauritian Rupee. A Dollar account in Mauritius branch of a non-Mauritian bank is maintained by the assessee with the sole purpose to transfer funds from global custodian to Indian custodian through Mauritius branch by telegraphic transfer. This routing of funds is done as a condition for keeping the incorporation certificate of Conduit Company alive.

(vi) The real control of the assessee company lies in the hands of the holding company. The source of fund also lies outside Mauritius.

(vii) The certificated of incorporation was granted with the following conditions:

(a) it cannot acquire any property in Mauritius;

(b) it cannot deal with any resident of Mauritius;

(c) it cannot raise any fund in Mauritius;

(d) it cannot make any investment in Mauritius;

(e) it cannot conduct any kind of business activity or gainful activity in Mauritius.

(viii) The investment managers were group concern of the holding company and were at the pleasure of the holding company.

(ix) This was one of the several conduit companies setup for treaty shopping formed after enactment of MOBA in 1993 when Mauritius became a tax haven.

In view of the above facts the Assessing Officer held that the assessee company was not a resident of Mauritius but was a mere treaty-shopper not entitled to the benefits under the Indo-Mauritius DTAC.

Mauritius knew the nature of juristic person being created by the foreign holding companies. The Government of Mauritius cannot plead ignorance of the objectives of the offshore company. Its knowledge is evident from the space of operation allowed to such a company in Mauritius. It must have known that it was poaching on India's revenue. We live in closely-knit world. Some say that we live in a global village. Others overstress that we the people of different countries now live in a common space. It is said that this emerging global society is to be organized on the principle of social interdependence and social solidarity. Stammler's ideas of justice incorporated the twin principle of *respect* and *participation*. We have no doubt that India and Mauritius are good neighbours. In the field of jurisprudence this question had been seriously asked, "who is my neighbor." The celebrated decision of the House of Lord in *Donoghue v. Stevenson*[25], comes to mind. Lord Atkin held the manufacturer liable for the impure bottle of ginger beer. He observed:

> "The answer seems to be –persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so effected when I am directing my mind to the acts and omissions which are called into question."

Modern International Law and International Institutions have made great strides towards making the countries of the world good neighbours[26].

III

The misuse of the Indo-Mauritius Double Taxation Avoidance Convention shows that under our present system of governance even a gruesome fraud can remain unraveled. It could happen not because persons who mattered did not know. The watchers knew all, but refused to do their duties. After this: what forgiveness? The story is our failure to unmask a mask as sinister as that which was staged in Ludlow Castle with the most infamous Comus amongst its dramatis personae. The author would tell this story, within the constraints of the book, in the Chapter on 'Treaty Shopping.' One, with soul still not sold in the market, would be struck with the greatest of amazements: Fraud triumphs in the Republic, which sets it ideals in such sacred words as these:

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[25]. (1932) A.C. 562 (H.L) quoted by Justice P.B. Mukharji, *The New Jurisprudence*, p. 46.
[26]. Misuse of a tax treaty violates the Standard of Economic Good Neighbourliness. [G. Schwarzenberger in his *Manual of International Law* states (at p. 111)].

'Satyameva jayate'
'Yatoh dharmo tato jayah'

It is true that we have witnessed so many scams and scandals that the misuse of a tax treaty hardly matters. We have become accustomed to note merely to forget. Our memory is short, as we as a nation have become low arousal. All of us know the story of two frogs. One leaped into water made to get warmer and warmer to the boiling point. It adjusted with the situations till the point of its death. The other fell in boiling water. It reacted, and leaped out the boiling water to recuperate soon on the green grass outside. By and large we are more like the first frog croaking to our misfortune. We have learnt the obnoxious art of appeasement and adjustment. This process depletes our energy and blurs our moral vision. We do not live, we merely exist.