

TWO HUNDRED AND TWENTIETH REPORT

PUBLIC ACCOUNTS COMMITTEE (1984-85)

(SEVENTH LOK SABHA)

**REVENUE DEMANDS WRITTEN-OFF BY THE
DEPARTMENT**

(DIRECT TAXES)

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

[Action Taken on 157th Report (Seventh Lok Sabha)]



Presented in Lok Sabha on}

Laid in Rajya Sabha on}

**LOK SABHA SECRETARIAT
NEW DELHI**

July, 1984/Asadha, 1906 (S)

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CORRIGENDA TO 220TH REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE.

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P. 1984-85
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**PUBLIC ACCOUNTS COMMITTEE
(1984-85)**

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INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this 220th Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 157th Report (Seventh Lok Sabha) on paragraph 1.15 (iii) of the Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts Volume II, Direct Taxes, regarding "Revenue Demands written off by the Department".

2. In their 157th Report (Seventh Lok Sabha), the Public Accounts Committee (1982-83) had dealt with a unique case in the annals of tax administration where the assessee (late Raja Bahadur Kamakhya Narain Singh, Ex-ruler of Ramgarh) had managed to drag on the assessment proceedings for as many as 23 years, i. e., from 1947-48 till his death in May 1970. In the meantime, the assessee had alienated all his assets which included five house properties, shares in limited companies, Bank deposits etc. and the Department could do nothing to stop him from doing so. As a result, income-tax demand to the tune of Rs. 1.85 crores due from the assessee for the assessment years 1947-48 to 1952-53 and 1967-68 to 1973-74 had remained unrealised. Of this, a sum of Rs. 1.40 crores was ultimately written off by the Department in July 1980.

3. In their earlier Report, the Committee had observed that this case, which was one of the bigger cases of revenue demands in arrears, should have been subjected to close supervision by the Central Board of Direct Taxes. However, the Board did not have any details of the case till it was taken up by the Committee for examination and that the so-called supervision was on paper only. In the present Report, the Committee have reiterated their earlier recommendation that effective steps should be taken to tone up the functioning of the Central Board of Direct Taxes to avoid accumulation of arrears of tax in bigger cases.

The Committee have also re-stressed that a fool-proof system should be evolved to ensure that tax defaulters are not only debarred from deriving any benefits like import licences, contracts, financial assistance, etc. but are also brought to book for false declarations, if any.

4. In their earlier Report, the Committee had also recommended that before approving the write-off proposals, the Board should carefully examine whether the case had disclosed any defect in the departmental system and procedures or in their actual implementation, resulting in non-recovery of arrears. In the present Report, the Committee have desired that while writing

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off demands, there should be a specific finding that the loss of revenue was not due to any defect in rules and procedure and that it was not occasioned by negligence on the part of any Government servant, as required under the Delegation of Financial Powers Rules.

5. The Public Accounts Committee considered and adopted this Report at their sitting held on 7th June, 1984. Minutes of the above sitting form Part II of the Report.

6. For facility of reference and convenience, the recommendations and observations of the Committee are printed in thick type in the body of the Report and have also been reproduced in a consolidated form in the Appendix to the Report.

7. The Committee place on record their appreciation of the assistance rendered to them in this matter by the Office of the Comptroller and Auditor General of India.

NEW DELHI;
7th July, 1984

16th Asadha, 1906 (S)

SUNIL MAITRA
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1 The Report of the Committee deals with the action taken by Government on the Committee's recommendations and observations contained in their 157th Report (Seventh Lok Sabha) on paragraph 1.15 (iii) of the Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes regarding revenue demands written-off by the Department.

1.2 The 157th Report, which was presented to Lok Sabha on 29th April, 1983, contained 13 recommendations. Action Taken Notes have been received in respect of all the recommendations/observations and these have been broadly categorised as follows :

(i) *Recommendations and observations which have been accepted by Government.*

Sr. No. 1 (Para 1.48) 8, 10, 11 and 12.

(ii) *Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government.*

Sr. No. 1 (Para 1.47) 4, 5, 6, and 9.

(iii) *Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration.*

Sr. Nos. 3 and 7.

(iv) *Recommendations and Observations in respect of which Government have furnished interim replies.*

Sr. Nos. 2 and 13.

1.3 The Committee will now deal with the action taken by Government on some of their recommendations.

Discrepancy between the demand raised in the re-assessment and the amount adopted in the write-off proposals—reasons therefor

Sr. No. 2 (Paragraph 1.49)

1.4 Referring to the demand written-off in the case of assessee Late

Raja Bahadur Kamakhya Narain Singh (Ex-ruler of Ramgarh and who managed to drag on the assessment proceedings for as many as 23 years i.e. from 1947-48 till his death in May, 1970), the Committee, in paragraph 1.49 of their 157th Report (Seventh Lok Sabha), had made the following observations :

The Committee further observe that before the death of the assessee on 6th May, 1970 only one assessment, i.e. for the year 1947-48 could be completed and demand raised. The Ministry have stated that the assessment for the assessment year 1947-48 was re-assessed under section 34 of the old Act on 2 March 1957. The demand as per this assessment was Rs. 9.52 lakhs on a total income of Rs. 24.45 lakhs. The Ministry have also stated that the Patna High Court had upheld the re-assessment in May, 1973. The Committee however find that the amount adopted in the write-off proposals was only Rs. 3.31 lakhs which was the amount raised in the original assessment made in January 1951. The Committee would like to be apprised of the reasons for this discrepancy.

1.5 In their Action Taken Note, the Ministry of Finance (Department of Revenue) have stated as under :

The discrepancy in this case has occurred due to the fact that the amount of demand created in the original assessment only continued to remain in the demand and collection register as the assessee succeeded in appeal at the level of I.T.A.T. in getting the order of the Income-tax Officer dated 2.3.1957 under section 23 (4)/34 set aside. The Tribunal's order giving effect to the Patna High Court decision restoring the ITO's order dated 2.3.1957 is reported to have not been received by him.

The lapse of communication gap is regretted. The circumstances under which it could happen are still being looked into. Necessary instructions will be issued to obviate the chances of such lapses in future.

1.6 The Committee are astonished at the explanation of the Ministry of Finance that the Tribunal's order giving effect to the Patna High Court decision restoring the ITO's order dated 2 March 1957 reassessing the tax liability as Rs. 9.52 lakhs, did not reportedly reach the ITO. This reprehensible communication gap resulted in understating the amount written off to the extent of Rs. 6.21 lakhs in this case.

The Committee find it difficult to believe that it was a case of communication gap. The Committee recommend that the matter should be thoroughly investigated with a view to fixing responsibility and the results as well as action taken on the basis thereof intimated to the Committee early.

Compromise agreed to by the Department with the Assessee resulting in an inordinate delay of 13 years in completing the assessments—investigation suggested

Sr. No. 3 (Paragraph 1.50)

1.7 In paragraph 1.50 of their 157th Report (Seventh Lok Sabha), the Committee had observed as under :

“The Committee find that bulk of the demand amounting to nearly Rs. 1.5 crores was raised by the Department during 1948-49 to 1951-52. In respect of the demand nearly Rs. 87 lakhs for the assessment year 1948-49, the assessee lost before the subjudge as well as the High Court and went in appeal before the Supreme Court. As per a compromise arrived at by the Department with the assessee, the Supreme Court set aside the assessment order for the year 1948-49 to 1950-51 holding that the proceedings for these years were properly pending before I.T.O. Hazaribagh. Subsequently, the assessee managed to stall the proceedings, first by filing a writ petition in the Patna High Court and then a title suit. It is amazing that the Department, having won the case in the lower court and in the High Court, should have agreed to a compromise with the assessee.

The Committee would like the Ministry to examine the matter and apprise the Committee of the findings.”

1.8 In their Action taken note, the Ministry of Finance (Department of Revenue) have stated as follows :

“The Ministry’s file pertaining to the Civil appeal Nos. 488-490 of 1963 is reported to have been destroyed. It would not, therefore, be possible to ascertain the exact circumstances under which the compromise was agreed to in this case in the Supreme Court. It seems that the Ministry presumably agreed to the compromise formula with a view to expediting the completion of assessments for those years which had been long over due”.

1.9 The Ministry’s contention that the compromise formula presumably had been agreed to in this case to expedite the completion of the assessments which had been long overdue, is not at all convincing. In fact the compromise had resulted not only in giving a further chance to the assessee to stall the assessment proceedings for 7 years but also led to an inordinate delay of nearly 13 years in completing the assessments. It was therefore necessary to ascertain the exact circumstances under which the compromise was agreed to. The Committee are surprised to learn that the relevant file has since been destroyed rendering such an ascertainment impossible. The Committee would like to know when and

under whose orders the file in question was destroyed. The Committee also desire that an enquiry should be held by the ministry with a view to find out whether the weeding out of the file was in good faith and strictly in accordance with the relevant instructions. The Action taken in this regard and the outcome, may be intimated to the Committee at an early date.

Failure on the part of the Special Cell created by the Central Board of Direct Taxes to keep a close watch on the recovery of arrears of tax in bigger income cases

Sl.No. 7 (Paragraphs 1.54 and 1.55)

1.10 In paragraphs 1.54 and 1.55 of their 157th Report (Seventh Lok Sabha), the Committee had recommended as follows:

"In para 5.15 of their 79th Report (Sixth Lok Sabha), the Public Accounts Committee had taken note of the statement of the Ministry of Finance that with effect from 1.4.1974 the work of supervision of recovery of arrears exceeding Rs. 10 lakh in each case had been allocated to the Central Board of Direct Taxes itself. While explaining the nature of this "supervision" the Ministry had explained..... supervision is exercised in two ways. One is, we get quarterly dossiers. Secondly, whenever Members of the Board go to their respective administrative zones, they discuss these cases-where the demand exceeds Rs. 10 lakh with the respective Commissioners and make an on the-spot appraisal whether the authorities concerned are taking necessary steps from time to time. The Finance Secretary had added during evidence before the Committee, that the crux of this supervision was developing a good information system so that...the Board is fully informed as to what is being done. These statements are intended to ensure that while we have delegated executive powers to the officers we are not kept in the dark. Everything important is brought to the specific notice of the Board and to the Member of the Board who is able to watch the progress and issue directions, pull up people where necessary. The Ministry had also informed the Committee that a special Cell had been set up in the Board to obtain comprehensive information regarding year-wise arrear demand, fresh demands created during the quarter, collection in cash or by adjustment, reduction on account of appellate orders or other revisionary action and steps taken for realization of these demands, so as to keep the tax dossiers in these bigger cases complete and upto date.

The Committee observe that in the case examined by them the arrears amounted to Rs. 1.85 crores. Apparently, it was one of the bigger cases and should have been subjected to close supervision by the Board. However, the Committee find that in respect of some of the

items of the advance questionnaire seeking detailed particulars of assessments and recovery of tax the Ministry informed the Committee that the requisite information was not available and had been called for from the Commissioner of Income Tax concerned. The requisite information was furnished to the Committee in piecemeal fashion by September 1982 i. e. 3 months after the questionnaire was forwarded. The inference is obvious that the Board did not have any details of this case till it was taken up by the Committee for examination and that so called supervision was on paper only. The Committee have a strong feeling on the basis of their examination of this case that such lukewarm response of the Central Board of Direct Taxes itself to the Committee's repeated exhortations for speedier collection of taxes is responsible in good measure for the arrears of tax continuously going up. The Committee strongly recommend that Government should take effective measures to tone up the functioning of the CBDT so that the tax arrears in bigger cases do not get accumulated as it ultimately goes to increase the tax burden of the poor tax-payers.

1.11 In their action taken note, the Ministry of Finance (Department of Revenue) have stated as under :

“The Income-tax law as it stands has the sufficient provisions in the form of charging of interest, levy of penalty as well as prosecution in respect of tax defaulters. Recently 5 posts of Commissioners of Income-tax (Recovery), Bombay, Delhi, Calcutta, Madras and Ahmedabad have been created. This step would give a great fillip to the work of recovery at these places. However, the question of tax administration and its rationalisation and improvement has been referred to the Economic Administration Reforms Commission. Further measures to tighten up the administrative machinery in respect of recovery of taxes will, therefore be taken in the light of recommendations which may be received on the subject from the said Commission.”

1.12 The Committee are constrained to observe that the Ministry have not directly replied to the point that there was failure on the part of the Special Cell in the Board to keep a close watch on the recovery of tax arrears in bigger cases where demand exceeded Rs. 10 lakhs as it was evident from the instant case involving arrears of Rs. 1.85 crores where the Board did not have any details till it was taken up by the Committee for examination. The Committee would therefore like to reiterate their earlier recommendation that the Ministry should examine this aspect and take effective steps to tone up the functioning of the CBDT to avoid accumulation of arrears of tax in bigger cases.

Debarring income-tax defaulters from availing of facilities like import licences, contracts etc. careful examination by the Board before approving write off proposals.

Sr. No. 13 (Paragraph 1.61)

1.13 In paragraph 1.61 of their 157th Report (Seventh Lok Sabha), the Committee had recommended as under:

“The demands written off during each of the years 1977-78 to 1981-82 range between Rs. 8.70 crores in 1981-82 (provisional figures) and Rs. 21.76 crores in 1978-79. The Committee were informed during evidence that the Board have not devised any system where by the concerned authorities, such as the Ministry of Commerce, Chief Controller of Imports and Exports and others concerned including the State Governments, could be informed of the tax arrears written off against the defaulters so as to debar them from availing of any facilities like import licences. The Committee were also informed that there was no system of issuing a Press Note in such cases so as to enable the public to come forward with information about such people or about property still held/subsequently acquired by them. The Committee desire that necessary action in the matter may be taken without delay so that not only the tax defaulters are debarred from deriving any benefits but also they are brought to book for false declarations, if any. The Committee would further recommend that before approving the write-off proposals the Boards should carefully examine whether the case has disclosed any defects in departmental systems and procedures or in their actual implementation resulting in non-recovery of arrears.

1.14 In their action taken note, the Ministry of Finance (Department of Revenue) have stated as under:

“The recommendation of the Committee has been carefully considered by the Government. Section 287 of the Income-tax Act, 1961 empowers the Central Government to publish the names of any assessees and any other particulars relating to any proceedings or prosecutions under this Act if in its opinion it is necessary or expedient to do so in the public interest. In its order dated the 26.12.1970, the Government directed all the Commissioners of Income-tax to publish the names, addresses, status, assessment year, details of income-tax demands exceeding Rs. 1 lakh written off and brief reasons for doing so. By Instruction No. 253 dated 31.12.1970 the Board communicated to the Commissioners of Income-tax the decision of the Central Government under section 287 of the Income-tax Act 1961, to publish the names and other particulars of assessees, in whose case amounts over Rs. 1 lakh were written off, in the Gazette of India and important local newspapers. By a subsequent Instruction No. 339, dated

24.12.1971 issued by the Board, it was enjoined upon the Commissioners of Income-tax to insert a footnote while publishing the list of such assessees to the effect that the publication does not imply that the amount is irrecoverable in law or that the assessee is discharged from his liability to pay the amount in question.

The Government are of the view that the measures adopted for publication of names etc, under section 287 of the Income-tax Act, 1961 would meet the requirements. It may be pointed out that the writing off of irrecoverable demands is purely an administrative act. It does not preclude the Income-tax Department from recovering the amount so written off by exercising the powers under the Income-tax Act or by filing a civil suit. The suit cannot, however, be filed after the expiry of 30 years from the date the tax become payable in view of Article 112 of the Schedule to the Limitation Act, 1963. Thus, there is very remote possibility of any such assessee going in for availing facilities of the nature referred to in the above recommendation.

While examining the write-off proposals any lacuna in the procedure, system, etc. which will come to the notice of the Board would be taken note of for plugging the loopholes. In fact, this aspect is always kept in view."

1.15 Subsequently, the Ministry of Finance (Department of Revenue), have issued an Office Memorandum (App. II) dated 4th May, 1984 to all Ministries of Government of India requesting them to intimate whether any action is being taken by the various Departments of the Central Government, State Governments etc. on the basis of particulars of defaulters published, under section 287 of the Income-tax Act, 1961 for debarring/disqualifying such persons from availing facilities offered by them e.g. import licences, contracts etc.

1.16 The Ministry's reply is silent on the question of devising a system to debar the Tax defaulters from availing themselves of the facilities like import licences, contracts; financial assistance etc. A Circular letter has however been issued by them on 4th May, 1984 to all Ministries/Departments of the Government of India asking them to intimate whether any action is being taken by the various Departments of the Central Government, State Governments etc. on the basis of the particulars of defaulters published under Section 287 of the Income-Tax Act, 1961 for debarring/disqualifying such persons from availing facilities offered by them e. g. import licences, contracts, financial assistance etc. The Committee wish that the position should be ascertained expeditiously and foolproof system evolved to ensure that tax defaulters are not only debarred from deriving any benefits but are also brought to book for any false declarations by them. The Committee would await further reply in this regard.

1.17 The Committee had recommended that before approving the write off proposals, the Board should carefully examine whether the case has disclosed any defect in the departmental system and procedures or in their actual implementation resulting in non-recovery of arrears. The Ministry have stated in reply that while examining the write off proposals any lacuna in the procedure, system etc. which will come to the notice of the Board would be taken note of for plugging the loopholes and in fact that this aspect is always kept in view. The Committee desire that while writing off demands, there should be a specific finding that the loss of revenue was not due to any defect in rules and procedure and that it was not occasioned due to negligence on the part of any Government servant, as required under the Delegation of the Financial Powers Rules. The action taken in this regard may be intimated to the Committee.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The assessee involved the department in litigation mostly on the question of jurisdiction. From the information made available, the Committee find that the jurisdiction of the Income tax Officer in his case was changed nearly ten times between 1947 and 1966 among the Income-tax Officers, Hazaribagh, Special Circle, Patna, Special, Circle, Ranchi, Central Circle, Calcutta and District II, Calcutta. There is evidence to suggest that quite often the transfer orders were made thoughtlessly. This, in 1952 the Central Board of Direct Taxes transferred the case from Ranchi to Central Circle, Calcutta even when they had no powers to do so under the Income Tax Act, 1922. The order of transfer was quashed by the Supreme Court on 20 March, 1956. In December, 1964 the Board transferred the case from Hazaribagh to District II, Calcutta. The order of transfer had to be cancelled as the Commissioner of Income-tax had earlier (September 1964) transferred the case from Hazaribagh to Ranchi. The Committee cannot but observe that the department and the Board were responsible to a considerable extent for the mess in which they found themselves in this case.

[S.No. 1 (Para 1.48) of Appendix III of 157th Report of the PAC (Seventh Lok Sabha) (1982-83)]

Action taken

The observations of the Hon'ble Committee have been noted. In future, the Board will take special care before transferring a case on more than three occasions. Audit has vetted this action taken note without any comments.

[Ministry of Finance (Department of Revenue) OM No. F 241-3-83/A& PAC dated 28.10.83]

Recommendation

The Committee have been repeatedly emphasising the need for curbing the tendency on the part of ITOs to grant adjournments freely and sometimes on flimsy grounds. In para 4.9 of their 34th Report (1980-81) 7th Lok Sabha, the Committee observed as under :

"The Committee find, that in spite of specific instructions issued by the Board, the assessing officers continue to adjourn high income group cases without compelling reasons. It was conceded during evidence that to a certain extent, the I. T. Os are to blame for unnecessary adjournments. The Committee recommend that some sample studies should be conducted in this regard and based on the results of the study public instructions be issued to the assessing officers.

This would also allay the misgiving in public mind that frequent adjournment are granted for extraneous reasons. Again in para 2.21 of their 38th Report (1980-81) 7th Lok Sabha, the Committee observed as under :

The Committee find it strange that the case was allowed to linger on for such an inordinately long time on account of non cooperation on the part of the assessee. The Committee see no reason why the assessee should have been allowed as many as 15 adjournments and why exparte assessments could not be made. The Committee consider that it was only on account of the inexplicably soft attitude of the Income-tax authorities that the case lingered on for years and the assessee continued to avoid his tax liability.....

The instant case is an extreme example of this same tendency. From the information made available, the Committee find that the ITOs were extremely liberal in granting adjournments to the assessee. Numerous adjournments were given on grounds of non-compliance and so many more were given by ITOs on their own. It would thus, appear that the departmental machinery was so much over-awed by the assessee that it almost got petrified in its tracks. The Committee would reiterate that this aspect of working of the Income-tax department needs to be taken serious note of by Government if the administration of direct taxes is to be streamlined and also harrassment to the assessees avoided. The cases should be adjourned only when there are valid and strong grounds are doing so. This aspect should be taken into consideratian while making an assessment of the performance of the officer.

[S. No. 8 (Para 1.56) of Appendix III of the 157th Report of the Public Accounts Committee (1982-89) (Seventh Lok Sabha) (1982-83)].

Action Taken

The Board have been, from time to time, impressing upon the Assessing Officers that the cases should not be adjourned in a routine manner. To this effect, the board had issued instructions No. 521 (F. No. 231/4/71-A&PAC-II) dated 12.3.1973. The Board have reiterated these instructions vido its latest instruction No. 1517 (F. No. 228/32/83-ITA-II) dated the 13th July, 1983 (Copy enclosed). The inspecting Assistant Commissioners have also been requested to specifically report on this aspect of the matter during their regu-

lar inspections us also special/vigilances inspections. The Commissioners of Income-tax/Inspecting Assistant Commissioners have been further asked to draw up a monthly plan regarding the completion of big assessments and keep a watch over the progress of this plan as it would not only accelerate the pace of work in this key area but will also obviate the tendency of granting uncalled for adjournments on the part of the Income-tax Officers.

Audit has vetted this Action Taken Note without any comments.

[Ministry of Finance (Department of Revenue)Off. No. F 241/3/83-A& PAC, [dated 28.10.83]

Instruction No. 1517

F. No. 228/32/83-ITA. II
Government of India
Central Board of Direct Taxes

New Delhi, the 13th July, 1983.

To

All Commissioners of Income-tax,
including Central/Investigation/Survey.

Subject :- Avoidance of unnecessary adjournments in assessment of important cases—Recommendations of P.A.C. in Para 1.56 of their 157th Report.

Sir,

Attention is invited to Board's instruction No. 521 (F. No. 231/4/71-A& PAC.II. dated the 12th March, 1973) wherein it was impressed upon the Assessing Officers that the cases should not be adjourned unless for compelling reasons and the assessee's requests for adjournment should be weighed by the Officers very carefully and only if the circumstances pleaded are convincing, genuine and unavoidable, adjournments should be granted. It was impressed upon the IACs that while inspecting the I.T.Os work. they should specifically look into this aspect and take note of avoidable and unnecessary adjournments.

2. The Public Accounts Committee in their 157th Report have again adversely commented upon the tendency on the part of the assessing officers in granting adjournments freely and sometimes on flimsy grounds. A subsequent study by D.I. (I.T.) has confirmed this to some extent.
3. Everyone will please realise that it is important to improve our performance at all levels. The inspecting Assistant Commissioners are also requested to specifically report on this aspects of the matter during their regular inspection. They may also take up special/vigilance inspections and report on this

aspect of the work. The CIT/IAC should also draw up a monthly plan regarding the completion of big assessments and keep a watch over the progress of this plan. This will not only accelerate the pace of work in this key area but will also obviate the tendency of granting uncalled for adjournments on the part of the Income-tax Officers.

4. The above instructions may please be brought to the notice of all the officers working under you. Hindi version will follow :

Yours faithfully,
 Sd/-
 (M.G.C. GOYAL)
 Under Secretary
 Central Board of Direct Taxes

Copy forwarded to :-

1. Director of Inspection (Investigation) 2 copies.
2. Director of Inspection (Income-tax & Audit) 15 copies.
3. Director of Inspection (Research & Statistics) New Delhi.
4. Director of Inspection (Publication & Public relations).
5. Deputy Director of Inspections (Bulletin) 3 copies.
6. Comptroller and Auditor General of India (25 copies).
7. All officers and Sections of Central Board of Direct Taxes.
8. Joint Secretary & Legal Adviser, Ministry of Law & Justice, New Delhi.
9. Director of O & M Services (Income-tax) Aivan-e-Ghalib, Mata Sundry Lane, New Delhi.
10. Officers on Special Duty, Competent Authority, SAFEMA, New Delhi/Bombay/Madras/Calcutta.
11. The Director of Inspection (Survey).

Sd/-M.G.C. Goyal
 Under Secretary
 Central Board of Direct Taxes.

Recommendation

The Committee observed that in the action plan for 1981-82 highest priority was to be given to collection/reduction of tax arrears. The Committee however regret to observe that against the target of 55% of the outstanding demands as on 31.3.1981 to be collected or reduced, the actual achievement was only 40%. The Committee consider that one of the important yardsticks of assessing the efficiency of the Department is the measure of success it achieves.

ves in realization of the arrear demand. The Committee consider that in the context of the failure of the Department to achieve the action plan target, the efforts in this direction should be intensified.

[S. No. 10 (Para 1.58) of the 157th Report of the Public Accounts Committee (1982-83) (Seventh Lok Sabha].

Action Taken

Necessary instructions in this matter have been issued to the Commissioners of Income-tax. A copy of the same is enclosed herewith.

(Ministry of Finance (Department of Revenue) Om. No. 7 241/3/83-A & PAC I, dated 28.10.83)

F. No. 385/28/83-IT (B)
 Ministry of Finance
 Central Board of Direct Taxes
 I.T. (B) SECTION.

New Delhi, the 17th June, 1983.

To

All Chief Commissioners/Commissioners of Income-tax.

Sir,

Sub :- Public Accounts Committee-157th Report of the Committee (1982-83)-Para 1.58 of the Report-Recommendation regarding-Realization of out of arrears Demands.

In para 1.58 of its 157th Report, the Public Accounts Committee has made the following recommendations:-

"The Committee observe that in the action plan for 1981-82 highest priority was to be given to collection/reduction of tax arrears. The Committee however regret to observe that against the target of 55% of the outstanding demands as on 31-3-1981 to be collected or reduced, the actual achievement was only 40%. The Committee consider that one of the important yardsticks of assessing the efficiency of the Department is the measure of success it achieved in realization of the arrear demand. The Committee consider that in the context of the failure of the Department to achieve the action plan target, the efforts in this direction should be intensified."

It can be seen from the above that the Public Accounts Committee is not happy over the progress of collections out of arrears demands as against the targets fixed in the action plan for 1981-82. The position has not improved in the subsequent years as can be seen from the following statistics :

| Financial Year | Targets fixed for collection out of arrear demand in the Action Plan | Actual achievement |
|----------------|--|--------------------|
| 1981-82 | 55% | 40.25% |
| 1982-83 | 54% | 41.08(Provisional) |

The figures of gross demand outstanding which stood at the figures of Rs. 1112.89 crorers as on 31.3.1981 has gone up to the figures of Rs. 1239.33 crores as on 31.3.1982.

3. The above facts give the impression that serious efforts are not being made in this matter of reduction/collection out of arrears demands. The suprt in the figures of gross demand has been the subject matter of criticism both in Parliament and outside causing considerable embarrassment to the Board. The need for accelerating the pace of collection/reduction cannot, therefore, be over-emphasised.

4. You may impress upon the officers that they should pay special attention to the reduction/collection out of arrears demand so that the targets fixed by the Board is not only achieved but, if possible, exceeded. It is hoped as a result of the efforts made in this direction we will be able to project a better image in the eyes of the public in the future years.

5. Please acknowledge receipt of this letter.

Yours faithfully,
Sd/-
S.C. Mishra
Officer on Special Duty
Central Board of Direct Taxes

Copy forwarded to :-

1. DI (IT)/DI (Inv.)/DOMS/DI (P&PR).
2. DI (RS&P)/Bulletin Section with 5 copies.
3. All officers/Sections in the Board's office.
4. Chief Controller of Accounts (CBDT) Lok Nayak Bhawan, New Delhi.
5. C&A.G. of India, New Delhi (with 30 copies).
6. National Academy of Direct Taxes, Nagpur.

Sd/-
V.K. Swaminathan
Desk Officer (Budget)
Central Board of Direct Taxes

Recommendation

The data given in para 1.31 would indicate that in bigger cases of outstanding demands over Rs. 25 Lakhs, the number of cases as well as the amount outstanding have been going up. As on 31st March 1979 the number of cases with outstanding demands over Rs. 25 lakhs in each case was 291 and the amount involved was nearly Rs. 211 crores. As at the end of the year 1980-81 this number had gone up to 346 and amount to nearly Rs. 305 crores. The statement given Appendix – I...further reveals that 58 assessees owed Rs. 1 crore each to the Department and the gross demand outstanding as on 31 March 1981 in these cases amounted to Rs. 174. 11 crores. During 1981-82 the Department is stated to have collected/reduced the demand by Rs. 92.87 crores, leaving a balance of Rs. 81.54 crores as on 31 March, 1982. The Committee would like the Board to get these cases scrutinized very thoroughly by the special cell with a view to ensuring their early collection.

[S. No. 11 (Para 1.59 of the 157th Report of Public Accounts Committees (1982-83) (Seventh Lok Sabha).]

Action Taken

A statement showing the demands outstanding in 58 cases as on 31.3.1982 (referred to appendix I), 31.3.1983 and 30.9.1983 is enclosed. A perusal of the statement would show that the action taken in all these cases is based on the dossiers for the quarter ending 30.9.1983.

It may be seen that there were 58 cases in which demands as on 31.3.1981 stood at Rs.174.11 crores. Out of this the collection, reduction during 1981-82 were completely made in 19 cases and in other cases there were part recoveries. As the result demands in the remaining 39 cases stood at Rs. 81.24 crores.

As a result of further exercise, the arrears in these cases as on 31.3.83 remained at Rs. 67.16 crores. In this connection, it may be mentioned that the demands in cases appearing at Sl.No. 2, 4, 8,18, 19 ,51 and 54 i.e.7 cases were completely reduced during 1982-83.

On further efforts, the arrears in these cases as on 30.9.1983 stood at Rs. 65.77 crores and in one case i.e Sl. No. 15, the demand was completely reduced.

In most of these cases the demands have been partly recovered.

The above facts will show that the efforts were being made by the Department through DI (Recovery) to get these cases properly scrutinized with a view to ensuring their early collection. It may further be seen from the Statement that the demands now outstanding are for some valid reasons but efforts are being made to get them reduced/ liquidate.

[Ministry of Finance (Department of Revenue) on No. F. 241/3/83
A & PAC-I, Dated 18/2/84]

APPENDIX-I

Vide Para 1.37

STATEMENT SHOWING THE COLLECTION/REDUCTION OUT OF INCOME-TAX ARREARS AS ON 31.3.1981 OF RS. 1 CRORE AND ABOVE IN EACH CASE.

N.B. The legend G.B. used in Col. 6 below stands for "Gone below Rs. 10 lakhs". The concerned dossier is not received thereafter from the Commissioner of Income-tax. For statistical purpose the entire demand is taken as collection/reduction in each case.

| S. No. | Name of the Assessee | Status | CIT Charge | Gross demand as on 31.3.81. | Collection/ reduction on 1.4.81 to 31.3.82. | Balance out of (5) (5-6) | Latest Action being taken for recovery source : Dossiers for the Q.E. 30.6.83. |
|--------|--|--------|------------|-----------------------------|---|--------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1. | Allenberry & Co. (P) Ltd. | Co. | Delhi-III | 282.34 | 43.79 | 238.55 | Relevant demand has been reduced to Rs. 147.87 lakhs. Proposal for write off is being processed by C.B.D.T. |
| 2. | Ansai & Saigal Properties Co. (P) Ltd. | | Del (C)-I | 301.51 | 301.26 | 0.25 | Relevant demand reduced to nil in the quarter ending 31.3.83. |
| 3. | Anupam Charitable Trust | AOP | Jaipur | 103.91 | ... | 103.91 | Relevant demand has been reduced to Rs. 35.22 lakhs, after giving appeal effect. Assessee's petition for waiver of interest u/s 139 (B) is under consideration of CIT Jaipur. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-------------------------------|------|--------------|--------|--------|------------------|--------|--|
| 4. Assam Oil Co. Ltd. | Co. | Cal (C)-II | | 138.75 | 137.64 | 01.11 | Relevant demand has been reduced to nil in the quarter ending 31.3.83. |
| 5. Assam Tea Corp. Ltd. | Co. | NER-SHILLONG | 351.49 | 321.85 | 39.64 | | The relevant demand reduced from Rs. 39.64 to Rs. 5.67 lakhs, in Q.E. June, 82 and in Q.E. Mar. 83. This demand is under disputed with CIT (A). Request has been made to decide on priority basis. |
| 6. Associated Cement Co. Ltd. | Co. | Bom-IV | | 144.79 | 114.79 (G.B.) | ... | Already reduced as per appendix of 157th PAC report for 1982-83. |
| 7. Auto Pins (India) Regd. | R.F. | Del (C)-II | | 106.77 | 106.77 (G.B.) | ... | Already reduced as per appendix of 157th PAC report for 1982-83. |
| 8. Bank of Baroda | Co. | Bom-III | | 118.64 | 0.69 | 117.95 | The relevant demand has been reduced to nil as under :-(i) Rs.0.69 adjusted against refund in Q.E. 30.6.81. (ii) Rs. 117.95 adjusted against refund in Q.E. 31.12.82. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|------------------------------------|------|-------------|-------------|---------|--------|---|
| 9. | Bhanabhai Kalpabhai | Ind. | Guj. (C) | 338.62 | 14.84 | 323.78 | Arrears relate to 14 years and are disputed in appeals. The assessee is COFEPOSA detenus and the proceeding under SAFEM (FOP) Act., was stayed by Guj. H. C. Proposal for write off is under contemplation. |
| 10. | Bharat Heavy Electricals Co. Ltd. | | Del-II | 2181.03 | 2181.03 | ... | Already reduced as per appendix-I of the 157th Report of PAC for 1982-83. |
| 11. | B. N. Bhattacharjee | Ind. | Cal (C)-III | 207.58 | 2.81 | 204.77 | Old demand reduced to Rs. 8 thousand only which is being pressed. |
| 12. | Bihar State Financial Corporation. | Co. | Bihar-I | 130.31 | 130.31 | ... | Already reduced as per appendix-I of 157th PAC report for 1982-83. |
| 13. | Brahmaputra Tea Co. Ltd. | Co. | WB-IV | 135.73 G.B. | 135.73 | ... | Already reduced as per appendix-I of PAC 157th report for 1982-83. |
| 14. | British India Corp. Ltd. | Co. | Kanpur | 274.87 | 1.61 | 273.26 | The demand has been reduced to Rs. 104.98 lakhs as per dossier. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|---|---------------|---|--------|--------|--------|--|
| | | | | | | | for Q. E. 30.9.83. The balance is disputed to appeals before CIT (A) who has been requested to take up the same on priority basis. |
| 15. | Central India Machinery Co. Mfg. Co. Ltd. | Bom (C)-I | | 125.81 | 120.31 | 5.50 | The demand was reduced to nil as under :— (i) Q. E. 31.3.82 Rs. 120.31 lakhs. (ii) Q.E. 31.12.82 Rs. 3.57 lakhs. (iii) Q. E. 30.6.83 Rs. 1.93 lakhs |
| | | | | | | | <u>Rs. 125.81 lakhs</u> |
| 16. | Changdeo Sugar Mills Ltd. | Co. Bom-I | | 111.02 | 34.97 | 76.05 | The demand has been reduced to Rs. 66.32 lakhs as on 30.6.83. The assessee is making payments as per instalments granted by CIT (REC). |
| 17. | Chander Nath Banik | Ind. W. B. II | | 261.65 | 2.86 | 258.79 | The said demand was further reduced to Rs. 248.84 lakhs. Assessee was in Police Custody since Feb. 83 regarding criminal case. Assets were attached but there was injunction of the court. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|--|-------------|-------------|---------------------|--------|--------|---|
| 18. | City Bank N. A. | Foreign Co. | Bom-III | 305.19 | 297.22 | 7.97 | The demand was reduced to nil by Q. E. 30.9.82. |
| 19. | Dalmia Dairy Industries. | Co. | Del (C)-III | 401.88 | 50.00 | 351.88 | Relevant demand reduced to nil in Q. E. 31.12.82. |
| 20. | Delhi Cloth & General Mills. Co. Ltd. | Co. | Delhi-I | 153.81 | 153.81 | ... | Already reduced as per appendix-I of 157th PAC report for 1982-83. |
| 21. | Ferro Alloys Corp. Ltd. | Co. | Vidarbha | 176.17 | 73.94 | 102.23 | Relevant demand has been reduced to Rs. 92.23 lakh Reduction of Rs. 10 lakhs in A. Y. 76-77. Reducing demand from Rs. 33.41 lakhs to Rs. 23.41 lakhs. Appeals are pending for disposal. Amounts are covered by instalments. |
| 22. | Gilikmans Georges | Ind. | Delhi-VI | 102.81 G.B.(102.81) | ... | ... | Already reduced to nil as per appendix-I of 157th report of PAC 1982-83. |
| 23. | Ghaziabad Engg. Co. (P) Ltd. | Co. | Delhi-IV | 102.43 | 102.43 | ... | Already reduced as per appendix-I of 157th PAC report for 1982-83. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|---|------|-----------|--------|-------|--------|---|
| 24. | The Gwalior Rayon Silk Co. Mfg. & Wvg. Co. Ltd. | | Bom (C)-I | 108.55 | 45.30 | 63.47 | Stay allowed by H. C. The point at issue is allowance u/s 800 which issue is awaiting Supreme Court decision in the similar cases. Hence recovery can not be pressed. |
| 25. | Haridas Mundra | Ind. | WB. IX | 839.60 | ... | 839.60 | No change He has become insolvent. Matter is being pursued with Official assignee. |
| 26. | Hem Chand Golecha | Ind. | Jaipur | 207.46 | 0.08 | 207.38 | There is no reduction in the relevant of demand where abouts the assessee are not known. Stocks of previous stones lying in the custody of Geneva Court. Efforts are being made to effect recovery from the same. |
| 27. | Hindustan Aluminium Corp. Ltd. | Co. | Bom (C)-I | 122.11 | 11.55 | 110.76 | The demand was reduced to Rs. 110.76 lakhs by 31.12.81. Stay granted. Appeal is pending. CIT (A) has been again requested to decide the appeal on priority basis. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|---------------------------------------|-----|----------|-------------|--------|--------|---|
| 28 | Hindustan Lever Ltd. | Co. | Bom-II | 143.61 | 143.61 | .. | Already reduced as per appendix-I of 157th PAC report for 1982-83. |
| 29. | I.B.M. World Trade Co. Foreign Corpn. | | Bom-II | 859.33 | 3.77 | 801.56 | The demand is reduced to Rs. 804.03 lakhs. Appeals are pending. The demand pertains to A.Y. 77-78 & 78-79. The demand is fully secured against Bank guarantee. CIT (A)/ITAT has been requested to decide the appeals on priority basis. |
| 30. | Indian Explosives Ltd. | Co. | WB-III | 724.71 | ... | 724.71 | No reduction. Write in C.H.C. against the service of demand notice. Request has been made for getting the stay vacated from H.C. and to demand reasonable security from the assessee. |
| 31. | Indian Telephone Industries. | Co. | Karn. II | 187.06 G.B. | 187.06 | ... | Already reduced as per appendix-I of 157th PAC report for 1982-83. |
| 32. | J. Dharm Teja | Ind | Delhi-I | 717.13 | - | 717.13 | No reduction. Airlines bring instructed not to allow him |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
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|---|---|---|---|---|---|---|---|

| | | | | | | | |
|----------------------------------|------|--------------|--------|--------|--------|--|--|
| | | | | | | | to leave India. Write petition recently rejected by Andhra H.C. |
| 33. Jiyajeeroa Cotton Mills Ltd. | Co. | Cal (C)-I | 738.84 | 596.51 | 142.33 | | Relevant demand has been reduced to Rs. 24.76 lakh Write in high court and appealed in ITAT are pending. Request for early disposal has been made for ITAT and vacation of stay by H.C. |
| 34. J.K. Synthetic Ltd. | Co. | Delhi (C)-II | 144.22 | 144.22 | — | | Already reduced as per appendix-I of 157th PAC report for 1982-83. |
| 35. K.S. Abdulla | Ind. | Bom (C)-I | 124.29 | — | 124.29 | | The demand has been reduced to Rs. 80.51 lakhs by 30.6.83 It is a SAFEMA case. High Court has not allowed confiscation of property. Appeals are pending for some years. The CIT (A) has been requested to decide the appeals on priority basis |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
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| | | | | | | | |
|-----|--|-------|------------|--------|-------|--------|---|
| 36. | Kalandi Investment Pvt. Ltd. | Co. | Guj. I | 208.41 | 1.47 | 206.94 | The demand stand reduced to Rs. 102.90 lakhs. Appeals are pending. Stay granted by IAC. CIT (A) has been requested to decide the appeals on priority basis. |
| 37. | Kanoria Chemicals & Industries Ltd. | Co. | Cal (C)-II | 101.16 | 48.44 | 52.72 | No reduction. Addition is on account of application of section 80-J. The matter is pending before S.C. in similar cases. Demand is not enforceable. |
| 38. | Karodimal Lahariwala HUF | Wa-IV | | 147.55 | — | 147.55 | No change. Request has been made for realising the demand from compensation lying with the zonal Acquisition collector. As regard the realisation of rent from the Joint receiver, the Sr. Advocate was requested to seek necessary order from the H.C. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|----------------------------|-------------|-----------|--------|--------|--------|--|
| 39. | Lakshmiji Sugar Mills | Co. | Delhi-I | 120.14 | 101.70 | 18.44 | Reduced to Rs. 66,000 after giving appeal effect after June 83. Collection of demand is being pressed. |
| 40. | Linde A.G. | Foreign Co. | Bom-III | 735.63 | 755.63 | — | Already reduced as per appendix-I of 157th PAC report for 1982-83. |
| 41. | M.M.T.C. of India Ltd. Co. | | Bom-III | 469.65 | 469.65 | — | Already reduced as per appendix-I of 157th PAC report for 1982-83. |
| 42. | Manni Lal Gupta | HUF | Karn (C) | 176.24 | 0.49 | 175.85 | This case is pending with settlement commission. Hence recovery cannot be pressed. Request has been made to the CIT concerned to request the settlement commission for early hearing for the same. |
| 43. | Mishrimal Jain | Ind. | Del (C)-I | 178.21 | 178.21 | — | Already reduced as per appendix-I of 157th PAC report for 1982-83. |
| 44. | Modi Pvt. Ltd. | Co. | Del (C)-I | 426.26 | 426.26 | — | Already reduced as per appendix-I of 157th PAC report for 1982-83. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|--|------|------------|--------|--------|--------|---|
| 45. | Nirlong Synthetic Fibre and Chemicals Ltd. | Co. | Bom (C)-II | 603.38 | 603.38 | — | —do— |
| 46. | Oriental Fire & General Insurance Co. Ltd. | Co. | Delhi-II | 291.47 | 291.47 | — | Already reduced as per appendix I of 157th PAC report for 1982-83. |
| 47. | Phonix Mills Ltd. | Co. | Bom-I | 121.95 | 8.21 | 113.74 | Write has been filed by the assessee in Bombay H.C. The H.C. has restrained recovery. The Maharashtra Govt. has granted protection under the Bombay Relief undertaking Act, to the assessee upto 3.5.84. Hence no recovery. |
| 48. | Ram Nath Bajoria | Ind. | W.B.-XI | 116.53 | — | 116.33 | No change. Matter is before various courts. |
| 49. | R.B. Shreeram Durga-prasad & Fatechand Narsingdas (Export) Firm, Fumsar. | R.F. | Vidarbha | 360.80 | 7.13 | 353.67 | Reduced to Rs. 334.81 lakhs. Writ petitions pending against recovery from the house property. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|---|-----|----------|--------|--------|--------|--|
| 50. | R.B. Shreeram, Durgaprasad (P) Ltd. | Co. | Vidarbha | 234.27 | — | 234.27 | No change. The ITO was again directed to approach the liquidator as claim was put up before liquidator. |
| 51. | R.N. Shreff, Nadiad | URF | Guj-III | 241.62 | 55.19 | 186.43 | Insolvency proceedings are pending against the assessee firm and its partners. Appeals are also pending before ITAT. Proposal for partial write off is pending with the Board. |
| 52. | Shahibag Entrepreneus Pvt. Ltd. (Karam Chand Prem Chand Pvt. Ltd.). Co. | | Guj-I | 534.31 | 31.32 | 502.99 | The demand has gone below Rs. 10 lakhs in Q.E. 31.3.1983. |
| 53. | Singarani Collieries Co. (P) Ltd. | Co. | A.P.I. | 131.94 | 131.94 | — | Already reduced as per appendix I of 157th PAC Report for 1982-83. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|
|---|---|---|---|---|---|---|---|

| | | | | | | | |
|-----|------------------------------|-----|-------------|--------|--------|--------|--|
| 54. | South India Viscose Ltd. | Co. | Madras(C) | 232.78 | 230.55 | 2.23 | Relevant demand of Rs. 2.23 lakhs was of Sur-tax for A.Y. 75-76. This was fully recovered before March, 83. |
| 55. | Steel Industrial Corpn. R.F. | | Delhi (C)-I | 109.26 | 20.38 | 88.88 | No change. Petition before settlement commission was pending. |
| 56. | Swadeshi Polytex Ltd. Co. | | Delhi (C)-I | 577.91 | 198.56 | 379.35 | Demand related to A.Y. 74-75 and 77-78. Reduction of Rs. 92,000 after June, 83 as Supreme Court has set aside the assessment for A.Y. 74-75. Rectification of demand for A.Y. 77-78 is to be done after reassessment for A.Y. 74-75 and set off of brought forward losses. Reduced demand will be pressed. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|------------------------------------|-----|------------|----------------------|---------|---------|--|
| 57. | Thanti Trust | AOP | Madras (C) | 128.80 | 7.80 | 121.00 | Out of relevant demand, there was a reduction of Rs. 15 lakhs in Q.E. 30.9.83 by giving effect to the order of ITAT for A.Y. 71-72 recovery of some small demand of A.Y. 57-58, 65-66, 66-67 and 73-74. A.Y. 70-71 and 74-75 are in appeal before CIT (A) and recovery stayed till the disposal of appeals. A.Y. 72-73 ITO was giving hearing to the assessee to examine the case as directed by CIT (A). 2 |
| 58. | Western Bengal Coal Fields Ltd. | Co. | Cal (C)-I | 157.73 (G.B.) 157.73 | | | |
| | | | Total | 17411.28 | 9287.01 | 8124.27 | Already reduced as per appendix-I of 157th PAC Report for 1982-83. |

Recommendation

During evidence, the Committee were informed that the total amount pending consideration for write-off/scaling down was of the order of Rs. 89 crores. The Committee were given to understand that 5 posts of Commissioners of Income-tax (Recovery) have been sanctioned to be located at Bombay, Delhi, Calcutta, Madras and Ahmedabad in order to provide a fillip to the work of recovery at these places. The Committee have been further informed that the question of tax administration and its rationalisation/improvement has been referred to Economic Administration Reforms Commission and that further measures to tighten up the administrative machinery in respect of recovery of taxes will be taken in the light of its recommendations. The Committee see no reason why the Department should not *suo motu* take necessary steps in this direction in the light of various recommendations made earlier by this Committee as well as by several other Committees/Commissions such as the Wanchoo Committee and the Chokshi Committee. It is the Committee's experience that more creation of additional posts does not add to the efficiency of tax collection machinery. The Committee would like to be apprised of the concrete steps taken and results achieved, particularly in the towns mentioned above where the Department have strengthened the tax recovery administration.

[S.No. 12 (Para 1.60) of Appendix III to 157th Report of the Public Accounts Committee (1982-83)]

Action taken

There are several legal provisions available to the Department of recovery of tax arrears ; the important ones are as under :

- i. charging of interest at the rate of 12% per annum on unpaid demand u/s 220 (2) of the Income-tax Act ;
- ii. levy of penalty u/s 221 after issuing a show cause notice, up to an amount equal to 100% of the tax in arrears ;
- iii. issue of garnishee notice u/s 226 (3) for attachment monies due to the defaulter ; and
- iv. distraint and sale of movable property u/s 226 (5) read with the Third Schedule to the Income-tax Act.

In case the default in payment continues, a tax recovery certificate is issued by the assessing officer to the Tax Recovery Officer. He then proceeds to recover the certificated amount by resorting to one or more of the following methods :

- (a) attachment and sale of the defaulter's movable property ;

- (b) attachment and sale of the defaulter's immovable property ;
- (c) arrest of the defaulter and his detention in civil prison ; and
- (d) appointment of receiver for the management of the defaulter's movable and immovable properties.

2. The Government is of the view that if the measures enumerated above are enforced strictly the recovery of tax arrears can be expedited to a large extent. However, it has been observed that tax goes into arrears in cases where the assessee create legal or other administrative hurdles contesting the correctness and/or genuineness of the assessments. Any suggestion or recommendation would receive careful consideration of the Government if it is within the frame of Constitution and other laws of the land.

3. Over 80% of the total tax arrears is accounted for by the Charges located at 5 places mentioned in the Committee's recommendation. Commissioner of Income-tax (Recovery) at each of these places has been posted in the later half of 1981 with a view to have close supervision exclusively of tax recovery work. The impact of this step is expected to be reflected in the year 1982-83/1983-84

4. The position will be reviewed after a couple of years and in the light of Economic Administration Reforms Commission recommendation in this respect, if any.

[Ministry of Finance (Department of Revenue) OM No. F 241/3/83-A & PAC I
dated 28.10.83]

CHAPTER III

RECOMMENDATIONS AND OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

The assessee in the case referred to in the Audit Paragraph under examination is the late Raja Bahadur Kamakhya Narain Singh. This is perhaps a unique case in the annals of tax administration where the assessee managed to drag on the assessment proceedings for as many as 23 years i.e. from 1947-48 till his death in May 1970. In the meantime, the assessee alienated all his assets which included 5 house properties, shares in limited companies, bank deposits etc. and the Department could do nothing to stop him from doing so. As a result, income-tax demand to the tune of Rs.1.85 crores due from the assessee for the assessment years 1947-48 to 1952-53 and 1967-68 to 1973-74 remained unrealised. Of this, a sum of Rs. 1.40. crores was ultimately written off by Government in July, 1980.

[S. No. 1 (Para 1.47) of 157th Report of the Public Accounts Committee (1982-83) (Seventh Lok Sabha)]

Action Taken

It is factually correct that the assessments in this case were completed after a long period because of protracted court proceedings. All the assessments had to be made *ex parte* after the death of the assessee. The bulk of the demand outstanding in this case pertains to the assessment years 1947-48 to 1952-53. The demand for these assessment years precisely account for over 99% of the total demand outstanding against the assessee. The composition of the demand, it is felt, would have been different had the case been represented by the assessee. Heavy additions were made to the returned income because the assessee did not cooperate in the finalisation of the assessment proceedings.

2. The assessee had transferred the assets during the period September, 1947 to 1952. During the period from September, 1947 to 1952 when the assets were alienated, there was no demand to be collected. Besides this, it is pertinent to point out here that the section 230A whereby restriction was

imposed on the transfer of immovable assets in the case of defaulters was introduced as late as in the year 1971 with effect from 1.10.1971. Hence, due to the absence of any enabling provision in the Act prior to 1.10.1971, the Department could not have prevented the assessee from transferring his assets. When the demands were raised, the assets left behind were not sufficient enough from which the same could be recovered. The arrears of tax demand had, therefore, to be written off partially.

2. Audit has vetted this Action Taken Note without any comments.

[Ministry of Finance (Department of Revenue) OM No. F 241/3/83/A&PAC-I,
dated 28.10.83]

Recommendation

During the years 1947-48 to 1952-53, additions of Rs. 59 lakhs and Rs. 34.27 lakhs were made on account of royalty incomes of 'benami' companies and unexplained bank deposits. The Committee could get no satisfactory answers to the questions, (a) what was the basis of these large additions, (b) were royalty incomes assessed in the hands of the companies and did they pay any taxes thereon, and (c) what happened to the bank deposits ?

It is amazing that the Board should have processed write off proposals of this magnitude without finding out the answers to these crucial questions. The Committee recommended that these matters should be gone into even now with the seriousness that they deserve so as to fix responsibility.

[S. No. 4 (Para No. 1.51) of Appendix III to 157th Report of the Public Accounts Committee (1982-83)]

Action Taken

(a) By and large the basis of the large additions was on account of the following factors :—

(i) For the assessment year 1947-48 it was found that the Salami receipts and income from capital gains on sale of proprietary rights to Jharkhand Mines and Industries Ltd. had escaped assessments. The assessments were, therefore, re-opened and the Salami receipts received from M/s Anderson Wright and Company Ltd., M/s Bird and Company and the capital gains on sale of proprietary rights to Jharkhand Mines and Industries Ltd. were taken into account. Additions were also made on account of royalty incomes and forest income.

(ii) For the assessment year 1948-49 it was found that the assessee had concealed incomes from the following sources :—

(a) House properties

- (b) Benami Companies
- (c) Unexplained bank deposits
- (d) Royalty dividend and rent

(i) The incomes of the following house properties were included in the assessment—

- (a) Frazer Road, Patna Building.
- (b) House property named "padma palace".
- (c) Raja Bungalow, Hazaribagh.
- (d) Okney House.

(ii) The Sub-Judge, Hazaribagh in his judgement in the Title Suit No. 53/54 had held that the Late Raja had floated various companies and transferred mining properties to those companies with a view to defeating the provisions of the Land Reforms Laws. The findings of the Court are that the companies were benamidars of the Late Raja in respect of the said properties. As such the incomes earned by the concerned companies in so far as they arose out of the same transactions are assessable in the hands of the assessee.

(iii) On scrutiny of the bank account of the State Bank of India, Main Branch, Calcutta it was found that there was a deposit amounting to Rs. 23,40,452/- during the accounting year relevant to the assessment year 1948-49. The assessee could not produce bank pass books on the plea that none was available. Therefore, after making full discussion in the order the ITO added this sum in the assessment. Also a sum of Rs. 83,696/- was received by the Late Raja from different persons. In the absence of any satisfactory explanation, this amount was included in the income of the assessee.

(iv) The assessee had not disclosed dividend income. However, it was found that he had received dividend of Rs. 47,148/- from M/s Bokaro Ramgarh Ltd. during the accounting year 1947-48. This income was also included in the assessment.

Generally speaking, these formed the basis for all the assessment years involved.

(b) The 23 benami companies were defunct about 30 years ago and the income-tax relating to the assessment years 1948-49 to 1952-53 are not available with the ITOs having jurisdiction over them except in the cases of M/s Jharkhand Mines & Industries Ltd., and M/s Rajashtan Mines Ltd., Calcutta. As regards these two companies royalty incomes of Rs. 34,24,750/- and Rs. 3,31,664/- respec-

tively were assessed in the hands of these companies and taxes to the extent of Rs. 3,77,965.56 P. were paid in the case of M/s Jharkhand Mines & Industries Ltd. In the case of M/s Rajasthan Mines Ltd. no tax was paid.

(c) After the abolition of the Zamidari consequent upon the introduction of the Bihar Land Reforms Act, 1950 the properties and the main sources of income vested in the Government of Bihar. The bank account showed a debit or a very little credit balances in the various bank accounts standing in the name of the Late Raja.

2. The write-off proposals in the case of the Late Raja Bahadur Kamakhya Narain Singh of Ramgarh were processed by the Government with the utmost care and caution. As it became evident that there was no possibility of recovering the arrears of demands amounting to Rs. 1,85,07,422/- the Government felt it prudent to write-off arrears to the extent of Rs. 1,40,07,422/- in the books of the Department, and to keep alive the balance amount of Rs. 45,00,000/- for possible recovery in future. The write off, *ipso facto*, will not lead to release or waiver by the Government of its claim, but will simply be written off in the departmental books. The Government has examined the recommendation of the Hon'ble Committee carefully and has come to the conclusion that in view of the facts and circumstances obtaining in this case, the question of fixing responsibility for any lapse does not arise.

[Ministry of Finance (Department of Revenue) OM No. F241/3/83/A & PAC-I
dt 29.3.84]

Recommendation

The Committee note with dismay that fresh assessments in the case were made after nearly 13 years, and 7 years after the death of the assessee. Even though the title suits were withdrawn by the assessee's representative in March, 1973, it took over 4 years for the Department to finalise the assessments. The Committee would like the reasons for this inordinate delay to be investigated thoroughly with a view to fixing responsibility and obviating such situations in future.

[S.No. 5 (Para No. 1.52) of 157th Report of the Public Accounts Committee (1982-83) (Seventh Lok Sabha)].

Action Taken

The delay in the instant case was mostly due to non-cooperation of the highest order on the part of the assessee, filing of suits and writ petitions at every stage, stay of proceedings by the Courts of Law and usual delay which is normally caused by the Courts while deciding the issue. Thus it is difficult to fix responsibility on anybody for the delay caused.

2. However, it may also be pointed out that the Board have already issued instructions that the requests of the assessees for adjournment should be weighed very carefully and adjournments granted in deserving cases and not as a routine. Moreover, the disposal of income-tax assessments is also watched by way of Action Plan fixed by the Board year after year.

[Ministry of Finance (Department of Revenue) OM No. F 241/3/83/A & PAC-I dated 4.2.84]

Recommendation

The Committee further note with regret that even though the Wealth-tax Act had come into force in May, 1957 the Department did not proceed against the assessee in the matter and "no wealth tax assessment was made". The Committee would like to know whether the question of enforcing the liability under Wealth-tax Act was ever examined and if not, who was responsible for this serious lapse.

[S.No. 6 (Para No. 1.53) of 157th Report of the Public Accounts Committee (1982-83) (Seventh Lok Sabha)].

Action Taken

As has been noted in para 1.9 of the 157th report (1982-83) of the Hon'ble Committee, late Raja Bahadur Kamakhya Narain Singh, ex-ruler of Ramgarh alienated his various assets during the period between 1947 to 1956. The Zamidars rights of the assessee also vested in the Government of Bihar with the Bihar Land Reform Act which came into force from 1.1.1951. Several companies floated by the assessee also did not exit in 1957. The bank accounts owned by the assessee showed debit balances.

2. The assessee was assessed for assessment years 1957-58, 1958-59 and 1959-60 on a total income of Rs. 12,693, Rs. 1,916 and Rs. 1,974 respectively.

3. From the foregoing facts it would appear that at time of the Wealth-tax Act coming into force on 1st April, 1957, the assessee did not have a taxable wealth.

[Ministry of Finance (Department of Revenue) OM. No. F 241/3/83 A & PAC-I, dated 25-1-84]

Recommendation

The gross arrears of tax outstanding on 31st March, 1981 was Rs. 1,112.89 crores as against Rs. 1,011.85 crores as on 31.3.1980 i.e. an increase of over Rs. 101 crores. In their Annual Report for 1981-82, the Ministry of Finance claimed significant collection/reduction on arrears during the financial year 1980-81 and stated that the arrears has nevertheless gone up mainly because of the current demand remaining unpaid.

According to the figures given by the Ministry of Finance for the Audit Report 1978-79, 1979-80 and 1980-81. However, it is not only the arrears of the current demand that have gone up, arrears of arrear demand have also gone up from Rs. 574 crores (1978-79) to Rs. 623 crores (1979-80) and Rs. 651 crores (1980-81). The Committee recommend that the Ministry of finance should investigate how an erroneous statement came to be made in the Annual Report presented to the Parliament so as to fix responsibility.

[S.No. 9 (Para 1.57) of 157th Report of Public Accounts Committee (1982-83) (Seventh Lok Sabha)].

Action Taken

The reasons for the increase in the arrears quoted from the Annual Report of the Ministry of Finance for 1981-82 relate to the arrears outstanding in cases of arrears exceeding Rs. 10 lakhs as is clear from page 173 of the Annual Report. It is not correct to attribute these reasons for the increase in the total areas, The main reasons for the increase in the tax-in-arrears as stated at page 172 of the Annual Report of the Ministry of Finance for 1981-82 are as under :—

- (i) Increase of Rs. 409.49 crores in the current demand raised (from 2098.42 crores during 1979-80 to Rs. 2507.91 crores during 1980-81) ;
- (ii) Increase in the pendency of appeals with Appellate Assistant Commissioners of Income-tax from 305209 on 31.3.1980 to 308334 on 31.3.81 and Commissioners of Income-tax (Appeals) from 46950 on 31.3.1980 to 54143 on 31.3.1981.

In view of this, it is not correct to say that the statement made in the Annual Report is erroneous.

[Ministry of Finance (Department of Revenue) OM. No. 7241/3/83-A&PACI dated 18-2-84]

CHAPTER IV

RECOMMENDATIONS AND OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

The Committee find that bulk of the demand amounting to nearly Rs. 1.5 crores was raised by the Department during 1948-49 to 1951-52. In respect of the demand nearly Rs. 87 lakhs for the assessment year 1948-49, the assessee lost before the sub-Judge as well as the High Court and went in appeal before the supreme Court. As per a compromise arrived at by the Department with the assessee, the Supreme Court set aside the assessment order for the year 1948-49 to 1950-51 holding that the proceedings for these years were properly pending before I.T.O. Hazaribagh. Subsequently, the assessee managed to stall the proceedings, first by filing a writ petition in the Patna High Court and then a title suit. It is amazing that the Department having won the case in the lower court and in the High Court, should have agreed to a compromise with the assessee. The Committee would like the Ministry to examine the matter and apprise the Committee of the findings.

[S.No. 3 (Para 1.50) of Appendix III to 157th Report of the Public Accounts Committee (1982-83) (Seventh Lok Sabha)]

Action Taken

The Ministry's file pertaining to the Civil appeal Nos. 488-490 of 1963 is reported to have been destroyed. It would not, therefore, be possible to ascertain the exact circumstances under which the compromise was agreed to in this case in the Supreme Court. It seems that the Ministry presumably agreed to the compromise formula with a view to expediting the completion of assessment for those years which had been long over due.

[Ministry of Finance (Department of Revenue) OM. No. 7241/3/83-A & PACI, dated 29.11.83)]

Recommendation

In para 5.15 of their 79th Report (Sixth Lok Sabha), the Public Accounts Committee had taken note of the statement of the Ministry of Finance that with effect from 1.4.1974 the work of supervision of recovery of arrears exceeding Rs. 10 lakhs in each case had been allocated to the Central Board of Direct Taxes itself. While explaining the nature of this "supervision" the Ministry had explained...supervision is exercise in two ways. One is, we get quarterly dossiers. Secondly, whenever Members of the Board go to their respective administrative zones, they discuss these cases-where the demand exceeds Rs. 10 lakhs with the respective Commissioners and make on-the-spot appraisal whether the authorities concerned are taking necessary steps from time to time. The Finance Secretary had added during evidence before the Committee, that the crux of this supervision was developing a good information system so that... the Board is fully informed as to what is being done. These statements are intended to ensure that while we have delegated executive powers to the officers we are kept in the dark. Everything important is brought to the specific notice of the Board and to the Member of the Board who is able to watch the progress and issue directions, pull up people where necessary. The Ministry had also informed the Committee that a special Cell had been set up in the Board to obtain comprehensive information regarding year-wise arrear demand, fresh demands created during the quarter, collection in cash or by adjustment, reduction on account of appellate orders or other revisionary action and steps taken for realization of these demands, so as to keep the tax dossiers in these bigger cases completed and upto date.

The Committee observe that in the case examined by them the arrears amounted to Rs. 1.85 crores. Apparently, it was one of the bigger cases and should have been subjected to close supervision by the Board. However, the Committee find that in respect of some of the items of the advance questionnaire seeking detailed particulars of assessments and recovery of tax the Ministry informed the Committee that the requisite information was not available and had been called for from the Commissioner of Income Tax concerned. The requisite information was furnished to the Committee in piecemeal fashion by September 1982 i.e. 3 months after the questionnaire was forwarded. The inference is obvious that the Board did not have any details of this case till it was taken up by the Committee for examination and that the so called supervision was on paper only. The Committee have a strong feeling on the basis of their examination of this case that such lukewarm response of the Central Board of Direct Taxes itself to the Committee's repeated exhortations for speedier collection of Taxes is responsible in good measure for the arrears of tax continuously going up. The Committee strongly recommend that Government should take effective measures to tone up the functioning of the CBDT so that the tax arrears in bigger cases do not get accumulated as it ultimately goes to increase the tax burden of the poor taxpayers.

[S.No. 7 (Paras 1.54 and 1.55) of Appendix III for the 157th Report of Public Accounts Committee (1982-83) (Seventh Lok Sabha)].

Action Taken

The Income-tax law as it stands has the sufficient provisions in the form of charging of interest, levy of penalty as well as prosecution in respect of tax defaulters. Recently 5 posts of Commissioners of Income-tax (Recovery), Bombay, Delhi, Calcutta, Madras and Ahmedabad have been created. This step would give a great fillip to the work of recovery at these places. However, the question of tax administration and its rationalisation and improvement has been referred to the Economic Administration Reforms Commission. Further measures to tighten up the administrative machinery in respect of recovery of taxes will, therefore be taken in the light of recommendations which may be received on the subject from the said Commission.

[Ministry of Finance (Department of Revenue) OM No. 7 241/3/83-A&PAC -I, dated 18.2.84].

CHAPTER V

RECOMMENDATIONS AND OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendation

The Committee further observe that before the death of the assessee on 6th May, 1970 only one assessment, i.e. for the year 1947-48 could be completed and demand raised. The Ministry have stated that the assessment for the assessment year 1947-48 was re-assessed under section 34 of the old Act on 2 March, 1957. The demand as per this assessment was Rs. 9.52 lakhs on a total income of Rs. 24.45 lakhs. The Ministry have also stated that the Patna High Court had upheld the re-assessment in May, 1973. The Committee however find that the amount adopted in the write-off proposals was only Rs. 3.31 lakhs which was the amount raised in the original assessment made in January 1951. The Committee would like to be apprised of the reasons for this discrepancy.

[S.No. 2 (Para 1.49) of Appendix III to 157th Report of the Public Accounts Committee (1982-83)]

Action Taken

The discrepancy in this case has occurred due to the fact that the amount of demand created in the original assessment only continued to remain in the demand and collection register as the assessee succeeded in appeal at the level of I.T.A.T. in getting the order of the Income-tax Officer dated 2.3.1957 under section 23 (4)/34 set aside. The Tribunal's order giving effect to the Patna High Court decision restoring the ITO's order dated 2.3.1957 is reported to have not been received by him.

2. The lapse of communication gap is regretted. The circumstances under which it could happen are still being looked into. Necessary instructions will be issued to obviate the chances of such lapses in future.

[Ministry of finance (Department of Revenue) OM. No. F 241/3/831
A&PAC-I, dated 25.11.83]

Recommendation

The demands written off during each of the years 1977-78 to 1981-82 range between Rs. 8.70 crores in 1981-82 (provisional figures) and Rs. 21.76 crores in 1978-79. The Committee were informed during evidence that the Board have not devised any system whereby the concerned authorities, such as the Ministry of Commerce, Chief Controller of Imports and Exports and others concerned including the State Governments, could be informed of the tax arrears written off against the defaulters so as to debar them from availing of any facilities like import licences. The Committee were also informed that there was no system of issuing a Press Note in such cases so as to enable the public to come forward with information about such people or about property still held/subsequently acquired by them. The Committee desire that necessary action in the matter may be taken without delay so that not only the tax defaulters are debarred from deriving any benefits but also they are brought to book for false declarations, if any. The Committee would further recommend that before approving the write-off proposals the Board should carefully examine whether the case has disclosed any defects in departmental system and procedures or in their actual implementation resulting in non-recovery of arrears.

[S.No. 13 (Para 1.61) of Appendix III to the 157th Report of the Public Accounts Committee (Seventh Lok Sabha) (1982-83)]

Action Taken

The recommendation of the Committee has been carefully considered by the Government. Section 287 of the Income-tax Act, 1961 empowers the Central Government to publish the names of any assessee and any other particulars relating to any proceeding or prosecutions under this Act if in its opinion it is necessary or expedient to do so in the public interest. In its order dated the 26.12.1970, the Government directed all the Commissioners of Income-tax to publish the names, addresses, status, assessment year, details of income-tax demands exceeding Rs. 1 lakh written off and brief reasons for doing so. A copy of the said order is annexed at Annexure B. By Instruction No. 253 dated 31.12.1970 the Board communicated to the Commissioners of Income-tax the decision of the Central Government under section 287 of the Income-tax Act 1961, to publish the names and other particulars of assessee, in whose case amounts over Rs. 1 lakh were written off, in the Gazette of India and important local newspapers. By a subsequent Instruction No. 339, dated 24.12.1971 issued by the Board, it was enjoined upon the Commissioners of Income-tax to insert a foot-note while publishing the list of such assessee to the effect that the publication does not imply that the amount is irrecoverable in law or that the assessee is discharged from his liability to pay the amount in question. Copies of these instructions are enclosed at Annexures B and C.

2. The Government are of the view that the measures adopted for

publication of names etc. under section 287 of the Income Tax Act, 1961 would meet the requirements. It may be pointed out that the writing off of irrecoverable demands is purely an administrative act. It does not preclude the Income tax Department from recovering the amount so written off by exercising the powers under the Income Tax Act or by filing a civil suit. The suit cannot, however, be filed after the expiry of 30 years from the date the tax became payable in view of Article 112 of the Schedule to the Limitation Act, 1963. Thus, there is very remote possibility of any such assessee going in for availing facilities of the nature referred to in the above recommendation.

3. While examining the write-off proposals any lacuna in the procedure, system, etc. which will come to the notice of the Board would be taken note of for plugging the loopholes. In fact, this aspect is always kept in view.

[Ministry of Finance (Department of Revenue) OM. No. 7 241/3/83
A & PAC-I, dated 19.11.83]

Annexure A

Government of India
Ministry of Finance
(Department of Revenue and Insurance)
North Block, New Delhi, the 26th December, 1970,

O R D E R

INCOME-TAX (BUDGET) SECTION

WHEREAS the Central Government is of the opinion that it is necessary and expedient in the public interest to publish the names and other particulars hereinafter specified relating to assessees in whose cases income-tax demands over rupees one lakh have been written off during the financial year 1969-70 onwards.

2. Now therefore in exercise of the powers conferred by Section 287 of the Income-tax Act (43 of 1961) and all other powers enabling them in this behalf, the Central Government hereby authorises and directs all Commissioners of income-tax to publish the names, addresses, status, assessment year, details of Income-tax demands exceeding Rs. 1 lakh written off and Brief reasons for write off during the financial year 1969-70 and subsequent years until further orders :

By order and in the name of the President.

Sd/-R.D. Saxena
Deputy Secretary to the Govt. of India.

Annexure 'B'

INSTRUCTION NO. 253.

F. No. 83/108/69-ITB
 Central Board of Direct Taxes
 North Block, New Delhi, the 31st December, 1970.

From

Shri R.D. Saxena,
 Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

Subject :— Publication of names of assessees in whose cases amounts over rupees one lakh have been written off— Financial year 1969-70 onwards—Instructions regarding.

I am directed to enclose a copy of the Central Government's order No. 83/108/69-ITB dated the 26th December, 1970 for necessary action and compliance.

2. The central Government have decided under section 287 of the Income-tax Act, 1961 that the names and other particulars of assessees in whose cases amounts over rupees one lakh were written off during the financial year commencing from 1969-70 onwards should be published in the Gazette of India as well as important local newspapers (one leading English Daily and two leading vernacular Dailies) by their respective Commissioner of Income-tax themselves. The list should give names and addresses of the assessees, their status, assessment year (s), the amounts written off and the Brief reasons for write offs.

3. The lists for the financial year 1969-70 should be published on or before 31.3.1971 and for the subsequent years should be published on or before 31st July following the close of the financial year. Each Commissioner should forward two copies of the lists published by him to the D.I. (R.S.&P) who will keep a watch over these publications and ensure that the deadline fixed for the purpose is strictly adhered to. The D.I. (R.S.&P) should forward a copy of each of these lists to the Board within a month of the date prescribed for publication.

4. The receipt of the letter may please be acknowledged.

Yours faithfully,
 Sd/- R.D. Saxena
 Secretary, Central Board of Direct. Taxes.

ANNEXURE 'C'
INSTRUCTION NO. 339.

F.No.83/108/69-ITB
 Central Board of Direct Taxes.
 New Delhi, the 24th December, 1971.

From

The Secretary, Central Board of Direct Taxes,

To

All Commissioners of Income-tax and Additional Commissioners of Income-tax(Recovery).

Sir,

Sub:— Publication of names of assessees in whose cases amounts over rupees one lakh have been written off—Financial year 1970-71 onwards—Instruction reg.

I am directed to refer to Board's Circular letter F.No. 83/108/69-IT (B) (INSTRUCTION NO. 253) dated 31st December, 1970 on the above subject.

2. Vide Board's letter of even number dated 3rd February 1971, it was intimated that the above mentioned instructions should not be acted upon until further orders. The matter has further been examined by the Government of India and it has been decided that Board's Instruction conveyed above referred letter dated 3rd February, 1971 may be treated as cancelled and the Commissioners/Additional Commissioners of Income-tax(Recovery) should go ahead with the publication of such lists in the manner as stipulated in Board's instructions No. 253 of 31st December, 1970. However, alongwith the publication of such lists the following remarks may also be published in the form of a Note :—

“NOTE : The statement that the tax due from a person has been written off only means that in the opinion of the Income-tax Department it cannot on the date of publication be realised from the known assets of the assessee. The publication does not imply that the amount is irrecoverable in law or that the assessee is discharge from his liability to pay the amount in question”.

3. The lists for the financial year 1969-70 need not be published now. Instead the lists for the financial year 1970-71 onwards may be published. The lists for the financial year 1970-71 may be published by 31st March, 1972 and for the subsequent years by 31st July following the close of the relevant

financial year. Each Commissioner/Addl. Commissioner of Income-tax (Recovery) should forward two copies of the lists published by him to the D.I. (R.S.&P), who will keep a watch over these publications and ensure that the deadline fixed for the purpose is strictly adhered to. The D.I. (R.S.&P) should forward a copy of each of these lists to the Board within a month of the date prescribed for publication.

The receipt of the letter may please be acknowledged.

Yours faithfully,
Sd/-K.R.RAGHAVAN
Secretary, Central Board of Direct Taxes.

NEW DELHI;
7th July, 1914
16th Asadha/1906(s)

SUNIL MAITRA
Chairman,
Public Accounts Committee.

APPENDIX I

Conclusions and Recommendations

| S. No. | Para No. | Ministry/Dept. concerned | Conclusions/Recommendations |
|--------|----------|---|---|
| 1 | 2 | 3 | 4 |
| 1 | 1.6 | Ministry of Finance (Department) of Revenue | <p>The Committee are astonished at the explanation of the Ministry of Finance that the Tribunal's order giving effect to the Patna High Court decision restoring the ITO's order dated 2 March 1957 reassessing the tax liability as Rs. 9.52 lakhs, did not reportedly reach the ITO. This reprehensible communication gap resulted in understating the amount written off to the extent of Rs. 6.21 lakhs in this case. The Committee find it difficult to believe that it was a case of communication gap. The Committee recommend that the matter should be thoroughly investigated with a view to fixing responsibility and the results as well as action taken on the basis thereof intimated to the Committee early.</p> |
| 2 | 1.9 | —do— | <p>1.9 The Ministry's contention that the compromise formula presumably had been agreed to in this case to expedite the completion of the assessments which had been long overdue, is not at all convincing. In fact the compromise had resulted not only in giving a further chance to the assessee to stall the assessment proceedings for 7 years but also led to an inordinate delay of nearly 13 years in completing the assessments. It was therefore necessary to ascertain the exact circumstances under which the compromise was agreed to. The Committee are surprised to learn that the relevant file has since been destroyed rendering such an ascertainment</p> |

3 2 3

4

impossible. The Committee would like to know when and under whose orders the file in question was destroyed. The Committee also desire an enquiry should be held by the Ministry with a view to find out whether the weeding out of the file was in good faith and strictly in accordance with the relevant instructions. The Action taken in this regard and the outcome, may be intimated to the Committee at an early date.

3 1.12 Ministry of
Finance
(Dept. of
Revenue)

The Committee are constrained to observe that the Ministry have not directly replied to the point was there was failure on the part of the Special Cell in the Board to keep a close watch on the recovery of tax arrears in bigger cases where demand exceeded Rs. 10 lakhs as it was evident from the instant case involving arrears of Rs. 1.85 crores where the Board did not have any details till it was taken up by the Committee for examination. The Committee would therefore like to reiterate their earlier recommendation that the Ministry should examine this aspect and take effective steps to tone up the functioning of the CBDT to avoid accumulation of arrears of tax in bigger cases.

4 1.16 —do—

The Ministry's reply is silent on the question of devising a system to debar the Tax defaulters from availing themselves of the facilities like import licences, contracts, financial assistance etc. A Circular letter has however been issued by them on 4th May, 1984 to all Ministries/Departments of the Government of India asking them to intimate whether any action is being taken by the various Departments of the Central Government, State Governments etc. on the basis of the particulars of defaulters published under Section 287 of the Income-Tax Act, 1961 for debarring disqualifying such persons from availing facilities offered by them e.g. import licences, contracts, financial assistance etc. The Committee wish that the position should be ascertained expeditiously and foolproof system evolved to ensure that tax defaulters are not only debarred from deriving any benefits but are also brought to book for any false declarations by them. The Committee would await further reply in this regard.

| 1 | 2 | 3 | 4 |
|--------|---|---|--|
| 5 1.17 | Ministry of Finance (Dept. of Revenue) | | The Committee had recommended that before approving the write off proposals, the Board should carefully examine whether the case has disclosed any defect in the departmental system and procedures or in their actual implementation resulting in non-recovery of arrears. The Ministry have stated in reply that while examining the write off proposals any lacuna in the procedure, system etc. which will come to the notice of the Board would be taken note of for plugging the loopholes and in fact that this aspect is always kept in view. The Committee desire that while writing off demands, there should be a specific finding that the loss of revenue was not due to any defect in rules and procedure and that it was not occasioned due to negligence on the part of any Government servant, as required under the Delegation of the Financial Powers Rules. The action taken in this regard may be intimated to the Committee. |

APPENDIX II

Para 1.15 of the Report *Copy of Circular Issued by the Ministry*

F.No. 385/61/83-IT (B)
Government of India
Ministry of Finance
(Department of Revenue)

New Delhi, the 4th May, 1984.

OFFICE MEMORANDUM

Subject : Public Accouts Committee—157th Report (1982-83) Recommendaiton at para 1.61 regarding amount of direct taxes written off—implementation of—

The undersigned is directed to say that the public Accounts Committee in its recommendation at para 1.61 of its 157th Report (1982-83) Seventh Lok Sabha has *inter-alia* desired that the Ministry of Commerce, Chief Controller of Imports & Exports and other concerned including the State Governments should be informed of the tax arrears written off against the defaulters so as to debar them from availing of any facility like import licences, etc.

With a view to bringing the facts of writing off of irrecoverable demands of taxes to the notice of the public and others concerned, the Central Government exercising its powers under section 287 of the Income-tax Act, 1961, directed the Commissioners of Income-tax to publish the names, addresses, status, assessment years, details of income-tax demands exceeding Rs. 1 lakh written off and brief reasons for doing so vide its order dated 25.12.1970 (Annexure-A). Such particulars are published by the Commissioners of Income-tax in the Gazette of India and important local newspapers, for information of the general public as well of the various department of the Centre and States. This Ministry (Departmet of Revenue) is not aware whether any action is being taken by the various Department of the Central Governmen, State Governments etc. On the basis of particulars of defaulters published u/s 287 of the Income-tax Act, 1961 for debarring/disqualifying such persons from availing facilities offered by them e.g. import licences, contracts, etc. It is requested that the action being taken by them or proposed to be taken by them in this regard may please be intimated to this Ministry (Department of Revenue) by 31st May, 1984, so that the Public Accounts Committee can be apprised of the position.

This may please be treated as urgent.

Sd/-
B. NAGARAJAN
Deputy Secretary to the Government of India.

Annexure A

Government of India
Ministry of Finance
(Department of Revenue and Insurance)

North Block, New Delhi, the 26th December, 1970.

O R D E R

INCOME-TAX (BUDGET) SECTION

WHEREAS the Central Government is of the opinion that is necessary and expedient in the public interest to publish the names and other particulars hereinafter specified relating to assessees in whose cases income-tax demands over rupees one lakh have been written off during the financial year 1969-70 onwards.

2. Now therefore in exercise of the powers conferred by section 287 of the Income-tax Act (43 of 1961) and all other powers enabling them in this behalf, the Central Government hereby authorises and directs all Commissioners of Income-tax to publish the names, addresses, status, assessment year, details of income tax demands exceeding Rs. 1 lakh written off and brief reasons for write off during the financial year 1969-70 and subsequent years until further orders.

By order and in the name of the President.

Sd/-
R.D. Saxena,
Deputy Secretary to the Govt. of India.

PART II

MINUTES OF THIRD SITTING OF PUBLIC ACCOUNTS COMMITTEE HELD ON 7 JUNE, 1984 (AN).

The Committee sat from 1500 to 1615 hrs.

PRESENT

Shri Sunil Maitra—*Chairman*

MEMBERS

2. Shri Chitta Basu
3. Smt. Vidyavati Chaturvedi
4. Shri Digambar Singh
5. Shri G.L. Dogra
6. Shri Bhiku Ram Jain
7. Shri Uttam Rathod
8. Shri Suraj Bhan
9. Smt. Amarjit Kaur
10. Shri Bhim Raj
11. Shri Nirmal Chatterjee
12. Shri Chaturanan Mishra
13. Shri Ramanand Yadav

SECRETARIAT

1. Shri T.R. Krishnamachari—*Joint Secretary*.
2. Shri K.K. Sharma—*Senior Financial Committee Officer*.

REPRESENTATIVES OF THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1. Shri V. Sundaresan —*Director of Revenue Audit (I)*
2. Shri R. Balasubramanian —*Joint Director of Audit (Director Taxes)*.

2. The Committee considered and adopted the draft Action Taken Report on Hundred and Fifty Seventh Report (Seventh Lok Sabha) on "Revenue Demands Written off by the Department" with the amendments/modifications as shown in Annexure.

× × × × ×

The Committee then adjourned.

ANNEXURE

AMENDMENTS/MODIFICATIONS MADE BY THE PUBLIC ACCOUNTS COMMITTEE AT THEIR SITTING HELD ON 7 JUNE, 1984 (AN) IN THE DRAFT ACTION TAKEN REPORT ON HUNDRED AND FIFTY-SEVENTH REPORT RELATING TO "REVENUE DEMANDS WRITTEN OFF BY THE DEPARTMENT".

| <u>Page</u> | <u>Para</u> | <u>Line</u> | <u>For</u> | <u>Read</u> |
|-------------|-------------|-------------|--|--|
| 3 | 1.6 | 9-13 | The Committee would..... on the basis thereof. | The Committee find it difficult to believe that it was a case of communication gap. The Committee recommend that the matter should be thoroughly investigated with a view to fixing responsibility and the results as well as action taken on the basis thereof intimated to the Committee early. |
| 12 | 1.16 | 4 | like import licences, etc. | like import licences, contracts, financial assistance, etc. |
| 12 | | | Add the following new para | <p>"1.17 The Committee had recommended that before approving the write-off proposals, the Board should carefully examine whether the case has disclosed any defect in the departmental system and procedures or in their actual implementation resulting in non-recovery of arrears. The Ministry have stated in reply that while examining the write-off proposals, any lacuna in the procedure,</p> <hr/> |

system, etc., which will come to the notice of the Board would be taken note of for plugging the loopholes and in fact that this aspect is always kept in view. The Committee desire that while writing off demands, there should be a specific finding that the loss of revenue was not due to any defect in rules and procedure and that it was not occasioned due to negligence on the part of any Government servant, as required under the Delegation of Financial Powers Rules. The Action Taken in this regard may be intimated to the Committee."

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| 10. | The Manager, M. M. Subscription Agencies, No. 2, 1st Lay Out Sivananda Colony, Coimbatore-641012. | 20. | Venus Enterprises B-2 85, Phase-II, Ashok Vihar, Delhi. |

P.A.C. No. 1033

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