

PUBLIC ACCOUNTS COMMITTEE **(1968-69)**

(FOURTH LOK SABHA) **SEVENTY-SIXTH REPORT**

**[Action Taken by Government on the recommendations
of the Public Accounts Committee contained in their
17th and 29th Reports (Fourth Lok Sabha)—Revenue
Receipts—Income tax and General]**



LOK SABHA SECRETARIAT
NEW DELHI

April

1969/Vaisakha.

1891 (Saka)

Price: Rs. 1. 40 p.

336.3951R

48

LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA SECRETARIAT PUBLICATIONS

| Sl. No. | Name of Agent | Agency No. | Sl. No. | Name of Agent | Agency No. |
|-----------------------|---|------------|----------------------|--|------------|
| ANDHRA PRADESH | | | 12. | Charles Lambert & Company, 101, Mahatma Gandhi Road, Opposite Clock Tower, Fort, Bombay. | 30 |
| 1. | Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam). | 8 | 13. | The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1. | 60 |
| 2. | G. R. Lakshminpathy Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District. | 94 | 14. | Deccan Book Stall, Ferguson College Road, Poona-4. | 65 |
| ASSAM | | | 15. | M/s. Usha Book Depot, 585/A, Chira Bazar, Khan House, Girgaum Road, Bombay-2 BR. | 5 |
| 3. | Western Book Depot, Pan Bazar, Gauhati. | 7 | MYSORE | | |
| BIHAR | | | 16. | M/s. People's Book House, Opp. Jaganmohan Palace, Mysore-1. | 16 |
| 4. | Amar Kitab Ghar, Post Box 78, Diagonal Road, Jamshedpur. | 37 | RAJASTHAN | | |
| GUJARAT | | | 17. | Information Centre, Government of Rajasthan, Tripolia, Jaipur City. | 38 |
| 5. | Vijay Stores, Station Road, Anand. | 35 | UTTAR PRADESH | | |
| 6. | The New Order Book Company Ellis Bridge, Ahmedabad-6. | 63 | 18. | Swastik Industrial Works, 59, Holi Street, Meerut City. | 2 |
| HARYANA | | | 19. | Law Book Company, Sardar Patel Marg, Allahabad-1. | 48 |
| 7. | M/s. Prabhu Book Service, Nai Subzimandi Gurgaon, (Haryana). | 14 | WEST BENGAL | | |
| MADHYA PRADESH | | | 20. | Granthaloka, 5/1, Ambica Mookherjee Road, Belgharia, 24-Parganas. | 10 |
| 8. | Modern Book House, Shiv Vilas Palace, Indore City. | 13 | 21. | W. Newman & Company Ltd., 3, Old Court House Street, Calcutta. | 44 |
| MAHARASHTRA | | | 22. | Firma K. L. Mukhopadhyay, 6/1A, Banchharam Akrur Lane, Calcutta-12. | 82 |
| 9. | M/s. Sunderdas Gianchand, 601, Girgaum Road, Near Princess Street, Bombay-2. | 6 | 23. | M/s. Mukherji Book House, 3B, Duff Lane, Calcutta-6. | |
| 10. | The International Book House (Private) Limited, 9, Ash Lane, Mahatma Gandhi Road, Bombay-1. | 22 | | | |
| 11. | The International Book Service, Deccan Gymkhana, Poona-4. | 26 | | | |

CORRIGENDA TO THE SEVENTY-SIXTH REPORT OF
PAC (1968-69) PRESENTED TO LOK SABHA ON
29TH APRIL, 1969.

| <u>Page</u> | <u>Para</u> | <u>Line</u> | <u>For</u> | <u>Read</u> |
|-------------|--------------|-------------|--------------|---------------|
| (i) | Contents I | Chapter IV | Committee | Committee and |
| | | | require | which require |
| | " II | Chapter IV | -do- | -do- |
| (ii) | Introduction | 6 | Central | General |
| 1 | 1.3(iii) | 2 | Committee | Committee and |
| | | | require | which require |
| 9 | 1.23 | 8 | vexatious, | vexatious |
| | | | taxation | taxation |
| 9 | footnote | 6 | whic | which |
| 10 | - | 9 | maligancy | malignancy |
| 17 | 1.42 | 4 | prosecutions | prosecutions |
| 48 | - | 22 | authority | authority |
| 50 | - | 22 | introduced | introduced |
| 54 | - | 23 | industry | industry |

CONTENTS

| | PAGE |
|--|-------|
| COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (1968-69) | (iii) |
| INTRODUCTION | (v) |
| I | |
| <i>Report on Action Taken on 17th Report (Fourth Lok Sabha)</i> | |
| CHAPTER I Report | 1 |
| CHAPTER II Recommendations/Observations that have been accepted by Government | 18 |
| CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of the replies by Government .. | 32 |
| CHAPTER IV Recommendations/Observations replies to which have not been accepted by the Committee require reiteration .. | 38 |
| CHAPTER V Recommendations/Observations in respect of which Government have furnished interim replies | 65 |
| II | |
| <i>Report on Action Taken on 29th Report (Fourth Lok Sabha)</i> | |
| CHAPTER I Report | 73 |
| CHAPTER II Recommendations/Observations that have been accepted by Government | 78 |
| CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of the replies by Government .. | 99 |
| CHAPTER IV Recommendations/Observations replies to which have not been accepted by the Committee require reiteration | 100 |
| CHAPTER V Recommendations/Observations in respect of which Government have furnished interim replies | 104 |
| Appendices : | |
| I Statement showing the outstanding recommendations .. | 105 |
| II (a) and (b). Summary of main Conclusions Recommendations | 106 |

PARLIAMENT LIBRARY
 (Library & Reference Service)
 Central Govt. Publications
 Acc. No. R 31657 (5)
 Date.....16.8.69.

PUBLIC ACCOUNTS COMMITTEE
(1968-69)

CHAIRMAN

Shri M. R. Masani

MEMBERS

2. Shri Syed Ahmed Aga
3. Shri K. Anirudhan
4. Shri S. M. Banerjee
5. Shri C. K. Bhattacharyya
6. Shri K. G. Deshmukh
7. Shri V. Krishnamoorthi
8. Shri D. K. Kunte
9. Shri N. R. Laskar
10. Shri K. K. Nayar
11. Shrimati Sushila Rohatgi
12. Shri Narendra Kumar Salve
13. Shri Ram Awtar Sharma
14. Shrimati Tarkeshwari Sinha
15. Shri Tayappa Hari Sonavane
16. Shri A. P. Chatterjee
17. Shri K. Damodaran
18. Shri Shanti Kothari
19. Shri S. S. Mariswamy
- *20. Shri G. H. V. Momin
21. Shri N. R. M. Swamy
22. Shri Tarkeshwar Pandey

SECRETARIAT

Shri Avtar Singh Rikhy—*Joint Secretary.*

Shri K. Seshadri—*Under Secretary.*

*Declared elected on 19th August, 1969 *vice* Shri M. M. Dharia, who resigned from the Committee.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Seventy-Sixth Report on the Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 17th and 29th Reports (Fourth Lok Sabha)—Revenue Receipts—Income tax and Central.

2. On 12th June, 1968, an "Action Taken" Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with following Members :

1. Shri D. K. Kunte—Convener
2. Shri C. K. Bhattacharyya
3. Shri K. K. Nayar
4. Shri Narendra Kumar Salve
5. Shrimati Tarkeshwari Sinha
6. Shri N. R. M. Swamy.

3. The draft Report was considered and adopted by the Sub-Committee at their sitting held on 23rd April, 1969 and finally adopted by the Public Accounts Committee on 28th April 1969.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/observations of the Committee is appended to the Report (Appendix II).

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

M. R. MASANI,

*Chairman,
Public Accounts Committee.*

NEW DELHI:

April 28, 1969/Vaisakha 8, 1891(S)

I
Report on Action Taken on 17th Report
(Fourth Lok Sabha)

CHAPTER I

REPORT

1.1. The Report of the Committee deals with action taken by Government on the recommendations contained in their 17th Report (Fourth Lok Sabha) on paragraphs 59 and 60 of Audit Report (Civil) on Revenue Receipts, 1966 and Paragraphs 51, 56, 57, 58, 59 and 60 of Audit Report (Civil) on Revenue Receipts, 1967 relating to Income-tax.

1.2. Out of 35 recommendations contained in the Report, action taken notes/statements have been received in respect of 34 recommendations. A reply to the recommendation of S. No. 21 is still awaited.

1.3. The action taken notes/statements on the recommendations of the Committee contained in the Report have been categorised under the following heads :

- (i) **Recommendations/Observations that have been accepted by Government :**
S. Nos. 2, 3, 8, 12, 17, 23, 33 and 34.
- (ii) **Recommendations/Observations which the Committee do not desire to pursue in view of the replies by Government :**
S. Nos. 27, 31 and 32.
- (iii) **Recommendations/Observations replies to which have not been accepted by the Committee require reiteration.**
S. Nos. 1, 4, 7, 9—11, 16, 18, 19, 20, 24 and 26.
- (iv) **Recommendations/Observations in respect of which Government have furnished interim replies.**
S. Nos. 22, 25, 28, 29, 30 and 35.

1.4. The Committee have dealt with a number of important issues in the latest Report (73rd Report) on Income-Tax. They, therefore, propose to deal with only a few related recommendations in the Report.

Arrears of Assessments—Paragraphs 1.8—1.10 (S. No. 1)

1.5. The Committee made the following observations regarding disposal of arrears of assessments of Income Tax in paragraph 1.8 :

“The Committee are concerned to note that the number of assessments pending has increased from 7,12,407 in 1961-62 to 21,69,529 in 1965-66. The Committee also note that during the last three years the percentage of assessments completed out of the total number of assessments for disposal varied from 50.8 per cent to 54.7 per cent which means that nearly half the total number of assessments remained pending. What causes the Committee greater concern is the fact that the number of business cases involving an income of over Rs. 25,000, which were pending on 31st March, 1966, was 1,20,185. The Committee note that it is only lately that the Department has

addressed itself to the task of taking up important assessments on a priority basis. The Committee are a little doubtful whether the targets of 31st March, 1968, for bringing upto date the assessment of 50 per cent of the important cases and of the remaining 50 per cent by 31st March, 1969, will be achieved. The Committee cannot too strongly stress upon Government the need to pay special attention to the speedy finalisation of pending assessments and in particular business cases involving an income of over Rs. 25,000 and of ensuring that in future all such assessments are given due priority and are not allowed to remain pending at the end of the assessment year."

1.6 In their reply dated 13-11-68, the Department of Revenue stated :

The following steps have recently been taken for speedy finalisation of pending assessments in general and cases involving business income of over Rs. 25,000/- in particular :—

- (1) Planned and phased programme of disposal of assessments has been drawn up for each Commissioner's charge with a view to reduce the pendency at least by one-third by the end of the current year.
- (2) Small income scheme has been liberalised to provide that returns in non-company cases with returned income upto Rs. 10,000 (Rs. 15,000/- in charges of Bombay and Calcutta) would be accepted without scrutiny if there are no complaints of tax evasion or suspicious features, subject to random check in a small percentage of cases. The scheme will also apply to cases of Registered firms having four or more partners with income of Rs. 20,000/-. With the accelerated disposal of small income cases, which constitute the bulk of pendency, it should be possible to devote more and more attention to the large revenue yielding cases and dispose them of quickly.
- (3) Section 153 of the I.T. Act has been amended with effect from 1-4-68 progressively reducing the time for completion of assessments from four to two years from the end of the relevant assessment year. This provision itself would go a long way in liquidating the pendency of assessments.
- (4) Instructions have been issued *vide* Board's letter F. No. 3/56/68-IT(B), dated 7-9-68 (copy enclosed) requesting the Commissioners of Income-tax to carve out additional charges of income-tax Officers in Circles with comparatively larger pendency. Such charges will be assigned to Income-tax Officers having lower pendency and working at the same station or at nearby places. This step has been taken to ensure optimum use of the available man-power in clearing the arrears of assessments.
- (5) For liquidating the pendency of big cases more Income-tax Officers have been provided with each of the four central charges at Bombay, Calcutta, Delhi and Madras.

1.7. As a result of the above steps, the disposal during 1968-69 (upto August, 1968) has gone up by 2,55,247. A statement showing the relevant

figures is enclosed. (reproduced below). This shows that the tempo of disposals has been gaining a momentum during 1968-69 :

| Category | 1967-68 Progressive disposal upto 31-8-67 | 1968-69 Progressive disposal upto 31-8-68 | Increase (%) |
|----------|---|---|--------------|
| I | 30,622 | 44,180 | 44.3 |
| II | 27,892 | 38,327 | 37.9 |
| III | 66,938 | 92,566 | 38.3 |
| IV | 3,19,210 | 4,52,409 | 41.7 |
| V | 1,38,542 | 2,10,969 | 52.3 |
| TOTAL | 5,83,204 | 8,38,451 | 43.8% |

In a further reply dated 18-12-68, the Department of Revenue stated :

"The category-wise break-up of the pending assessments as on 31-8-68 as compared to those as on 31-8-67 is as under :

| Category | No. of pending assessments as on 31-8-67 | No. of pending assessments as on 31-8-68 |
|----------|--|--|
| I | 2,58,552 | 2,84,782 |
| II | 2,44,557 | 2,74,635 |
| III | 5,97,967 | 6,46,678 |
| IV | 22,11,568 | 20,23,559 |
| V | 7,84,037 | 7,18,027 |
| TOTAL | 40,96,681 | 39,47,681 |

Although there has been an increase in pendency of Category I cases, the increase is largely due to an addition of 39,522 Category I cases from 2,69,039 as on 1-4-67 to 3,08,561 on 1-4-68. It is to be observed that during the period 1-4-68 to 31-10-68, 77,995 Category I cases were disposed of, against 56,083 cases of the corresponding period of the preceding year. In the drive for accelerated disposal of assessments, Category I cases (i.e. business cases involving income of Rs. 25,000 and over) have been receiving due attention."

1.8. The Department of Revenue have furnished the following statement showing category-wise break-up of current and old assessments for

disposal and those completed during the period 1st April, 1968 to 31st October, 1968 :

| (i) For disposal | | | | | | | |
|--|--------------------|----------|----------|-----------|----------|-----------------------|----------|
| | Cat. I | Cat. II | Cat. III | Cat. IV | Cat. V | Total | S. Units |
| 1. Arrear | 1,93,260 | 1,75,357 | 3,93,294 | 12,21,442 | 3,75,803 | 23,59,156 | 3,97,162 |
| 2. Current | 1,41,505 | 1,43,382 | 3,45,503 | 12,31,301 | 5,70,607 | 24,32,298 | 3,35,546 |
| | 3,34,765 | 3,18,739 | 7,38,797 | 24,52,743 | 9,46,410 | 47,91,454 | 7,32,708 |
| (ii) Disposed of (from 1-4-68 to 31-10-68) | | | | | | | |
| 1. Arrear | 54,421 (28.16%) | 45,748 | 1,07,231 | 4,92,566 | 1,69,012 | 8,68,978 (36.83%) | 1,22,800 |
| 2. Current | 23,574 (16.66%) | 22,802 | 60,829 | 2,86,559 | 1,78,603 | 5,72,367 (23.53%) | 65,729 |
| TOTAL | 77,995 (23.29%) | 68,550 | 1,68,060 | 7,79,125 | 3,47,615 | 14,41,345 (30.08%) | 1,88,529 |
| (iii) Balance pending (as on 31-10-68) | | | | | | | |
| 1. Arrear | 1,38,839 | 1,29,609 | 2,86,063 | 7,28,876 | 2,06,791 | 14,90,178 | 2,74,362 |
| 2. Current | 1,17,931 | 1,20,580 | 2,84,674 | 9,44,742 | 3,92,004 | 18,59,931 | 2,69,817 |
| | 2,56,770 | 2,50,189 | 5,70,737 | 16,73,618 | 5,98,795 | 33,50,109 | 5,44,179 |

1.9. The Committee note the measures taken by the Income-tax Department for speedy finalisation of pending cases of assessments involving business income of over Rs. 25,000 in particular. During the period, 1st April, 1968 to 31st October, 1968, 77,995 category I cases (involving business income of over Rs. 25,000) were disposed of against 56,083 cases during the corresponding period of the preceding year. The Committee, however, find that the number of category I cases disposed of during period 1st April, 1968 to 31st October, 1968 represented only about 23 per cent of the total number of cases for disposal (arrears and current cases). The number of assessments pending as on 31st October, 1968 was 2,56,770. The Committee desire that sustained attention should be given to the disposal of category I cases so as to ensure that all arrears are cleared and all outstanding taxes realised.

The Committee need hardly stress that assessment of cases involving business income of Rs. 25,000 or more should be finalised on a priority basis and not allowed to lapse into arrears.

Arrears of Tax Demands—Paragraphs 1.24—1.27 (S. Nos. 4—7)

1.10. In paragraphs 1.11—1.23, the Committee dealt with the arrears of tax demands and made the following observations in paragraphs 1.24—1.27 :

“The Committee have in their previous Reports expressed their great concern at the increase in the amount of arrears of Income-tax from year to year. In this connection they would like to invite a reference to Paras 1.257 and 1.258 of their 16th Report (Third Lok Sabha) and Paras 1.274 and 1.275 of their 3rd Report (Fourth Lok Sabha).

The arrears have increased from Rs. 282.37 crores in 1963-64 to Rs. 322.72 crores in 1964-65 and Rs. 381.88 crores in 1965-66. This continuous rise in arrears of Income-tax shows that the measures taken by the Board of Direct Taxes in the past have not resulted in any significant improvement."

"The Committee feels that as with assessment cases, the attention of the Department has to be concentrated on cases of arrears of tax demands of Rs. 5 lakhs and above. The number of such cases is only 907 but the arrears of revenue arising from them is of the order of Rs. 135 crores. The Committee have no doubt that with the fixing of responsibilities at various levels by the Department for ensuring the collection of arrears, it would be possible to realise them in a reasonably short time. The Committee have also no doubt that the improvement in the realisation of arrears would not only augment Government's finances but would also find due reflection in the tax structure."

"The Committee would like Government to pay particular attention to the arrears of tax from companies so as to allay the apprehension that some of these companies may be holding back Government dues and utilising them for business purposes. The Committee feel that not only should dues be realised expeditiously, but that penalties admissible under the rules should be imposed so as to act as a deterrent to others."

"The Committee desire that Government make a thorough probe to ascertain whether the disparity in book figures of arrears of demand and effective demand is due to a tendency on the part of assessing officers to create high & unrealistic demands which, on the one hand might lead to wasteful litigation and on the other fictitiously boost the demand figures with the other pernicious ramifications. The Committee would also like Government to examine all cases involving non-recovery of taxes of Rs. 1,00,000 and above out of the total irrecoverable amount of Rs. 37.85 crores. The Committee have no doubt that Government will take suitable action against the officers found responsible for neglect, if any, in respect of the irrecoverable demands mentioned above."

1.11. In their reply dated 4-11-68, the Department of Revenue stated :

"The observations made by the Committee have been noted. Necessary instructions in the matter have been issued to all Commissioners of Income-tax *vide* letter No. 3/6 '68-IT(Audit), dated 10-9-68 (copy enclosed)."

"With regard to arrear demands of taxes of Rs. 1,00,000 and above, zonal Committees consisting of Commissioners of Income-tax have been constituted for reviewing such cases. A copy of the instructions issued in this connection (Ministry's letter No. 16C/59/68-ITB dated 16-10-68) is enclosed."

1.12. The Committee desired to be furnished with further information on the following points :

"(i) the latest position of total arrears and effective arrears;

- (ii) the amount held under appeal;
- (iii) amount of arrears involving Rs. 5 lakhs or more in each case;
- (iv) arrears due from companies category-wise viz :
 - (a) companies which have sufficient funds to pay the tax; and
 - (b) companies which have not sufficient funds.

1.13. In their reply dated 18-12-68, the Department of Revenue furnished the following information seriatim :

| | | |
|--|-------|-----------|
| | | (Rs. 000) |
| (i) (A) Gross as per part III as on 30-9-1968 | | 64,49,288 |
| <i>Less :</i> | | |
| 1. Amount pending disposal of appeals (item 8) | .. | 3,84,413 |
| 2. Amounts for which extension of time has been granted by the ITO or other authorities (item 9) | .. | 2,75,421 |
| 3. Demand covered by advance tax which is awaited adjustments (item 11) | | 6,69,258 |
| 4. Amount not fallen due [item 13(b)] | | 4,09,100 |
| (B) Total | | 17,38,192 |
| Net Arrears - (A) - (B) | | 47,11,096 |

(ii) Already included in (i).

(iii) The information regarding the amount of arrears involving Rs. 5 lakhs or more in each case is available only upto 31-3-68. The number of cases (including groups of cases) where the arrear demand was Rs. 5 lakhs or more as on 1-4-68 is shown below :

| CIT's charge | | No. of cases including group cases | Arrear Demand as on 1-4-68 (Rs. in thousands) |
|--------------|--------------------|------------------------------------|--|
| 1. | Madhya Pradesh | 26 | 40,011 |
| 2. | Delhi | 37 | 60,811 |
| 3. | Delhi (Central) | 55 | 2,01,664 |
| 4. | Andhra Pradesh | 18 | 33,963 |
| 5. | Bombay City-I | 89 | 1,69,775 |
| 6. | Bombay City-II | 64 | 1,18,257 |
| 7. | Bombay City-III | 77 | 87,822 |
| 8. | Bombay (Central) | 51 | 2,25,970 |
| 9. | Gujarat-I | 4 | 5,717 |
| 10. | Gujarat-II | 9 | 11,381 |
| 11. | Rajasthan | 9 | 10,695 |
| 12. | Madras-I | 16 | 15,849 |
| 13. | Madras-II | 5 | 4,795 |
| 14. | Madras (Central) | 18 | 19,179 |
| 15. | Kerala | 5 | 10,510 |
| 16. | Punjab | 6 | 9,026 |
| 17. | Poona | 18 | 34,677 |
| 18. | Mysore | 3 | 3,431 |
| 19. | Bihar | 21 | 14,356 |
| 20. | Orissa | 10 | 8,409 |
| 21. | Assam | 9 | 8,148 |
| 22. | Uttar Pradesh-I | 25 | 25,979 |
| 23. | Uttar Pradesh-II | 17 | 25,929 |
| 24. | West Bengal-I | 139 | 2,67,577 |
| 25. | West Bengal-II | 107 | 1,37,354 |
| 26. | West Bengal-III | 182 | 2,40,511 |
| 27. | Calcutta (Central) | 62 | 1,91,766 |
| | | 1,085 | 1,98,35,62,000 |

(iv) The information is not readily available and will have to be compiled by referring to the files of each and every company. The data is expected to be ready by the end of January, 1969.

1.14. The Department of Revenue have further stated in their reply :

"Information regarding the progress made in the cases involving arrears of Rs. 5 lakhs and above is not readily available. It may be stated in this connection that no separate statistics is maintained regarding the collections made out of cases involving arrears of Rs. 5 lakhs or more and other cases. However, during 1966-67, the collections out of arrear demand of Rs. 381.88 crores amounted to Rs. 59.95 crores (15.7%). The collection during 1967-68 out of gross arrears of Rs. 541.71 crores amounted to Rs. 101.99 crores (18.8%). Thus, the collection out of the arrear demand made during 1967-68 is higher than the corresponding amount and percentage in the year preceding."

"Under the Board's F. No. 3/6/68-IT(Audit) dated 10-9-68, the Commissioners of Income-tax were instructed to pay particular attention to collection of tax from companies and discourage, by levying deterrent penalties, any attempt by them to utilise in their business the taxes withheld by them. (A copy of the Board's letter is placed below.) The instructions issued are rather brief and will have to be elaborated by issuing further instructions."

1.15. The Committee are concerned to note that the gross arrears of income-tax have increased from Rs. 541.73 crores as on 31st March, 1967, to Rs. 645 crores as on 30th September, 1968, out of which the net arrears amount to Rs. 471 crores. The Committee desire that special attention should be paid to the cases involving tax demand of Rs. 5 lakhs and more which numbered 1,085 involving tax amounting to Rs. 198 crores as on 1st April, 1968.

1.16. The Committee note that in pursuance of their recommendations, the Central Board of Direct Taxes have issued instructions to the Commissioners of income-tax to pay particular attention to collection of tax from companies and discourage, by levying deterrent penalties, any attempt by them to utilise in their businesses the taxes withheld. The Committee desired to be furnished break-up of arrears due from companies category-wise viz :

- (a) companies which have sufficient funds to pay the tax; and
- (b) companies which have not sufficient funds.

The information is still awaited.

1.17. The Committee desire that this information should be compiled expeditiously and special attention paid to the question of realising arrears from companies which have sufficient funds to pay so that the tax withheld is not utilised by them in their business.

1.18. As regards the amounts due from companies which have no ready funds to pay the taxes, the matter should be kept continuously under review so as not to jeopardise chances of recovery.

Evaluation of the work of Income Tax Officers on the basis of Study of Reliefs in Appeals—Paragraphs 1.34—1.36 (S. Nos. 9—11).

1.19. In paragraphs 1.28—1.32, the Committee dealt with the disposal of outstanding appeals in the Income Tax Department and the need to check the tendency on the part of Income Tax Officers to over pitch assessments. The Committee made the following observations in paragraphs 1.34—1.36 :

“The Committee hope that necessary action will be taken by the Department to check the tendency on the part of Income-tax Officers to over-pitch assessments. They were informed by the Secretary, Revenue and Expenditure that a suggestion had been made to the Board that the efficiency of the Income Tax Officers might be judged from the number of cases in which the assessments made by them stood the scrutiny of appellate courts. The Committee feel that such a step would be helpful in checking the tendency on the part of Income Tax Officers to over-pitch assessments. They would like to know the final decision taken in this regard.”

“The Committee also feel that an evaluation of the work done by the assessing officers should be undertaken when large reliefs are given in appeal. The Committee would like the Board of Direct Taxes to look into cases of the past four years in which aggregate relief to an assessee in one year in appeals and reference is in excess of 50 per cent of the relief sought, with a view to evaluating the work of the assessing officers. The Committee should be informed of the action taken against the Officers who are found to have over-pitched assessments, particularly in cases where the Tribunal, High Court or the Supreme Court might have passed strictures against such assessments.”

“The Committee feel that, while it is the duty of the assessing officers to guard zealously the interests of the public revenues, it is equally their duty to deal justly with the tax payer in the exercise of the wide authority conferred on them by the Taxation laws.”

1.20. In their reply dated 11-11-68, the Department of Revenue stated :

“The suggestion of the P.A.C. has been noted, and instructions issued vide this Ministry’s letter No. 83/24/66-IT(B), dated 23-6-66 (copy enclosed).”

“The Commissioners of Income-tax were asked to look into cases of over-pitched assessments where the Tribunal, High Court or Supreme Court might have passed strictures against such assessments. From the reports received it is seen that there was no such case during the past four years.”

“Palpably wrong or harassing assessments are taken notice of by the Department while evaluating the work of the assessing officers.”

1.21. The Committee desired to know the action taken on their recommendation that the Board should look into the cases for the past four years in which aggregate relief to an assessee is one year in appeals and reference is in excess of 50 per cent of the relief sought.

1.22. In a further reply dated 18-12-68, the Department of Revenue have stated :

"This matter is intimately related to the PAC's recommendations in paras 1.34, 1.35 and 1.36 of their 17th Report and para 2.40* of their 29th Report. The Government is shortly asking three senior officers of the Income-tax Department to undertake a study of all appellate orders in the important charges under the CSIT, U.P., Delhi and Punjab. They would study the orders in two AAC's charges under each CIT. A Report on this study is expected to be available by the end of January, 1969. It is proposed to undertake similar studies in the other Commissioners' charges as well after considering the report on the preliminary survey."

1.23. The Committee would like Government to look critically into cases of overpitched assessments in important revenue circles like Calcutta, Bombay, Madras and Delhi, where the Income-tax Tribunals, High Courts and the Supreme Court have passed strictures against such assessments during the last three years or where assessments made by the Income-tax Officers have been reduced by either Rs. 50,000 or 25 per cent of the originally assessed tax. Apart from taking deterrent action against officials held responsible for indulging in vexatious, taxation, Government should analyse the cases and issue general guidelines for the information and use of Income-tax Officers.

Measures to prevent Tax Evasion—Paragraph 1.69 (S. No. 16).

1.24. In paragraphs 1.52—1.68, the Committee dealt with the unsatisfactory results of the voluntary disclosure schemes and further measures to be taken to prevent tax evasion. The Committee made the following observations in paragraph 1.69 :

"1.69. The Committee note that the main objections underlying the two Voluntary Disclosure Schemes were to bring out unaccounted income and encourage assesseees who for some reasons had not adopted the right path, to adopt the path of rectitude. The amounts of unaccounted income declared under the first and second scheme were Rs. 52 crores and Rs. 145 crores respectively. According to the Ministry, "no one has any precise estimate of how much is floating around us as black money. the amounts that are disclosed are far less compared to the amounts which may be in circulation as black money." The Committee, therefore, feel that the two Schemes have not gone far in achieving the objectives in view.

In view of the unsatisfactory results of the Voluntary Disclosure Scheme, the Committee feel that by its very nature and inherent

*In their reply dated 10-1-69 to paragraph 2.40 of the 29th Report (Fourth Lok Sabha) the Department of Revenue have stated :

"The Government is shortly directing three senior officers of the Income-tax Department to undertake a study of reliefs in appeals in some selected charges of Uttar Pradesh, Delhi and the Punjab. Further action will be taken after study of their Report, which is expected to be available by the end of January, 1969."

"The study would be extended, if necessary, to Bombay or Calcutta, after gaining experience from the present programme."

weaknesses, no Voluntary Disclosure Scheme can ever be a real success. It is, therefore, essential to make a thorough probe into the grounds and factors which made evasion of taxes on a large scale so attractive as well as possible so that Government is impelled to compromise with the tax evaders in the larger interest. While adopting adequate administrative safeguards to arrest tax evasion it would be well worthwhile to adopt measures which will make evasion unrewarding and unattractive. That would be to forestall the malady rather than to allow the malignancy of evasion to grow and then seek its cure by Voluntary Disclosure Schemes.

1.25. In their reply dated 13-12-68, the Department of Revenue stated :

"The observations of the Committee have been noted. A Committee consisting of Departmental Officers was set up in April, 1968 to go into the entire question of tax-evasion in all walks of life in the country and to report on the various steps to be taken to tackle the problem. Its report is expected before the end of this year. A copy of the orders appointing the Committee is also appended.

To make evasion of tax unrewarding and unattractive, the penalty provisions in the Income-tax Act have been tightened up by the Finance Act, 1968. Under the revised provision, the minimum penalty imposable for concealment of income has been fixed at 100% of the income sought to be evaded. The maximum has also been pitched at the high figure of 200% of the concealed income. The effect of these provisions is that apart from paying due taxes on the income concealed the tax evader will have to forego the entire concealed income by way of penalty. Besides, the following other legislative measures have also been introduced by the Finance Act, 1968 to tackle the problem of tax evasion :—

- (1) Provision has been made to disallow expenses claimed, in order to evade tax, towards excessive or unreasonable payments made to relatives, directors or associate concerns. (Sec. 40A (2).
- (2) Provisions has also been made for the disallowance of expenditure, otherwise than by a crossed bank cheque or a crossed bank draft, of amounts exceeding Rs. 2,500/- (Sec. 40A(3).
- (3) Punishment for defaulting to deduct tax at source and to pay it to Government account will now be rigorous imprisonment upto 6 months and also fine or not less than 15% per annum of the tax in default, (Sec. 276-B).

As further measure to deal with tax evasion problem, the Central Circles, which deal with cases of substantial tax evasion, have been provided with more officers with special aptitude for this type of work. The Intelligence Wing of the Department is also proposed to be expanded considerably.

1.26. The Department of Revenue have furnished a copy of the Report of Tax Evasion Enquiry Committee (1968).

1.27. The Committee note that the Tax Evasion Enquiry Committee (1968) have recently submitted their Report. The Enquiry Committee have opined that there is no need to offer any further Voluntary Disclosure Scheme. They have, however, suggested that, "a provision should be made in law vesting the Commissioners with a specific power to spread the concealed income, falling within the provisions of Section 68, 69, 69A and 69B, over more than one assessment year, where an assessment is made on an agreed basis." The Enquiry Committee have also suggested a number of measures to put effective curbs on the flow and utilisation of unaccounted money. The Committee hope that Government will expeditiously process the recommendations of the Tax Evasion Enquiry Committee, and take necessary steps to put an end to evasion of tax in all walks of life of the country.

Study of Taxation in Foreign countries—Paragraphs 1.74—1.75 (S. Nos. 18 and 19).

1.28. At the instance of the Committee (1967-68), the Department of Revenue furnished a note (Appendix III to 17th Report) on the system of taxation in some foreign countries viz. West Germany, U.S.A., Belgium, Netherlands, Norway, Sweden, Japan, Ireland and Malaysia based on the publications available with them which were not up-to-date. The Committee made the following observations in paragraphs 1.74—1.75 :

"1.74 : The Committee desire that the Ministry should make a detailed study of all aspects of taxation in these foreign countries from upto date publications and also obtain the requisite information from these foreign Governments through our Missions abroad. The study should cover the administrative aspects of the system of assessment and collection and the measures adopted to check tax evasion and by comparison Government should examine, keeping the conditions of our country in view, to what extent it is necessary to modify and amend the present laws and levies of taxes to prevent large scale concealment of income."

"1.75 : The Committee note that, according to the studies made by the Ministry, the rates of taxation on corporate as well as non-corporate income in India are generally higher than in the relevant foreign countries. The Committee do not think that, in their effort to raise adequate resources for development purposes, Government are justified in creating a situation where partly as a result of excessive rates of taxation large amounts of unaccounted money are found to be floating and the entire economic atmosphere gets vitiated and in the process the growth in the rate of collection of Direct taxes is adversely affected. The Committee would, therefore, strongly urge that the entire tax structure of the country should be critically examined in the light of the evils that have resulted *inter alia* from the present excessive rates of taxation and that the practice of advanced countries should be followed in order to avoid further provocation and temptation to assessees to evade their obligations to the Public exchequer."

1.29. In their reply dated 24th October, 1968, the Department of Revenue stated :

"The suggestion made by the Committee has been noted."

1.30. In a further reply dated 18-12-68 the Department of Revenue stated :

"The Ministry has been obtaining from time to time the latest tax enactments and connected materials from the U.K., the U.S.A. and other Western countries which have been relying on Direct Taxes like Income-tax as their major source of revenue. The materials received are studied and the information gathered is kept in view in formulating our taxation proposals in the annual Finance Bills. Recently, some orders have been placed for the latest publications relating to tax laws of several foreign countries. The supply of these books is awaited.

Since 1954, the Government has been sending out some of the senior officials of the Income-tax Department for studying the U.K. and the U.S. tax laws at first hand. The latest of such studies was on the administration of Direct Taxes in the U.S.A. undertaken in 1964-65 by two teams of Indian tax officials. The members of the first team submitted reports on the modes of detection of tax evasion in the U.S.A. The second team reported on the administration of Direct Taxes in the U.S.A. A team of U.S. tax officials have been working in Delhi since 1965-66 and they have been advising the Government on both the administrative structure and the methods of detecting evasion. The Functional System of working in the Income-tax Department was introduced on the basis of such studies. Besides, the Intelligence Wing was set up for tackling evasion and pursuing prosecution.

The tax structure of the country is being reviewed year after year before the formulation of Budget proposals. The rates of taxation of income of corporate and non-corporate tax-payers are reviewed every year and the various factors relating to the economic needs of the country, budgetary requirements, incentives for investment of capital (including foreign capital) are duly taken into account. In prescribing the rates of tax by the annual Finance Acts and allowing the rebates and reliefs from the standard rates of tax, the practices followed by advanced countries are taken due notice of.

On 9-12-68, the Government have already placed before the Parliament (in reply to the unstarred Question No. 3827 in the Lok Sabha) the current rates of tax in India on the business income of domestic companies and the corresponding rates of tax in the U.S.A., the U.K., France and Japan. A copy of the same is placed for the perusal of the Committee."

1.31. The Committee regret to note that the Ministry had not made headway in making a detailed study of all the aspects of taxation obtaining in other countries, such as, United States, Belgium, West Germany, Holland, Norway, Sweden, Japan, Ireland, Nigeria and Malaysia. The Committee desire that the Ministry should take early steps to complete the study which should cover the administrative aspects of the system of assessment and collection and measures adopted to check tax evasion. In the

light of the study Government may examine, to what extent, the present laws and structure of taxation should be further rationalised to gain willing compliance of the public.

1.32. The Committee note that Government placed before Parliament on 9-12-1968 (in reply to the Unstarred Question No. 3827 in Lok Sabha) the current rates of tax in India on the business income of domestic companies and corresponding rates of tax in the United States, Britain, France and Japan. The Committee desire that a comparative study of the rates obtaining in other countries, such as, West Germany, Belgium, Holland, Norway, Sweden, Ireland, Nigeria and Malaysia should also be made early so as to provide upto date information to Government about the rate and incidence of taxation in other developed and developing countries.

External Survey made by the Department—Paragraph 1.79 (S. No. 20).

1.33. In paragraphs 1.76-1.78, the Committee dealt with the need for improvement of the External Survey carried out by the Income-tax Department to discover new assessee. The Committee made the following observations in paragraph 1.79 :

“1.79 : The Committee note that as a result of an external survey by the Department 6,11,794 and 4,26,057 new assesseees were discovered during the years 1964 and 1965 respectively. They also suggest that a study should be made of the disclosures made under the two Voluntary Disclosures Schemes in order to effect an improvement in the system of the Survey.”

1.34. In their reply dated 17-12-1968, the Department of Revenue have stated :

“The observations of the Committee have been noted. A study as suggested by them is being undertaken.”

1.35. In a further reply dated 18-12-1968, the Department of Revenue have stated :

“No study of the Voluntary Disclosure Scheme with a view to improving the survey technique has yet been undertaken. During 1968-69, the officers of the Department will be busy almost wholly in implementing the Government's crash programme of disposing of pending and current assessments, necessitated by the reduction in the time-limit for assessments to only two years from the end of the relevant assessment year with effect from 1970-71. It will not be possible now to undertake a serious study of the Voluntary Disclosure Scheme from the particular angle desired by the P.A.C. When the present pressure relating to disposal of assessments is relieved, a study will be undertaken.”

1.36. The Committee would like Government to improve continuously the survey technique in the light of experience so as to spot cases of substantial income which are escaping assessment. The Committee would, in this context, reiterate their suggestion that a systematic study of cases which have come to notice for the first time through the Voluntary

Disclosure Scheme should be made to find out how these escaped attention during surveys carried out by the department.

Frauds and Evasions—Paragraph 1.95 (S. No. 24).

1.37. In paragraphs 1.89—1.94, the Committee dealt with the number of cases of concealed income detected, prosecution launched, penalties levied, extra tax demanded etc. during the years 1964-65 and 1965-66. The Committee made the following observations in paragraphs 1.95 & 1.97 :

“The Committee have been repeatedly stressing the desirability of launching prosecutions in clear and glaring cases of deliberate large scale tax evasion in preference to the imposition of penalties. They were informed in 1965-66 that two experts from the United States of America were helping the Board to look into the question of introducing organisational and legal changes to make prosecution effective and that some officers had also been sent to the United States of America for training in this particular aspect. The Committee note however that although the number of cases of concealed income detected during 1965-66 increased to 24,165 from 13,666 in 1964-65, no prosecutions were launched. They therefore feel that little head-way has been made by the Department in this regard. They suggest that the question should be further examined and necessary legal and organisational changes made to make prosecutions effective in clear and glaring cases of deliberate large scale tax evasion.”

“The Committee feel disturbed at the Income-tax Department levying penalties and feeling satisfied with this action without making out a case for successful prosecution. Proper and adequate investigation would undoubtedly enable the Department to get culpable assesseses punished in a Court of Law.”

“The Committee consider that a penalty should not be imposed to augment tax collection in a routine manner by taking advantage of the relaxation made in law in 1964 but only after full and careful consideration so that it is imposed on really guilty assesseses and acts as a deterrent to tax evaders. The Committee would like to be informed of the instructions issued by Government in the matter.”

1.38. In their reply, the Department of Revenue state :

“The observations of the Committee have been noted by the Government. The Department has stepped up its tempo in the matter of launching prosecutions in the recent past as will be evident from the following figures :—

| | |
|----------------|-----|
| 1965-66 | Nil |
| 1966-67 | 13 |
| 1967-68 | 7 |
| 1968-69 | 12 |
| (Upto 30.9.68) | |

Apart from the above, prosecutions were also launched for offences under the Indian Penal Code in connection with income-tax matters :—

| | |
|---------|---|
| 1965-66 | 1 |
| 1966-67 | — |
| 1967-68 | 1 |
| 1968-69 | 3 |

(Upto 30.9.68)

An Intelligence Wing was set up in 1966 to process cases with prosecution potential so that more attention is paid to the prosecution aspect of the matter than hitherto. A proposal to have a criminal lawyer on a retainer basis to advise the Department in prosecution cases is also being examined. Further, the question of posting one Officer of the Intelligence Wing in each Commissioner's charge to process prosecution cases is also being considered."

"A prosecution Manual has been prepared recently, in consultation with the two experts from the United States of America, for the guidance of all officers of the Department. This will also enable the officers to process the prosecution cases in a better manner."

"Under the Income-tax Act, as it stands now, the burden of proving the concealment for the purposes of levy of penalty is not entirely on the Department, but on the assessee as well. On the other hand, in cases of prosecution the burden of proving the concealment conclusively is entirely on the Department by positive evidence which will normally not be available in all cases, though the evidence available may be enough for levying penalty. This accounts for the number of prosecutions not being on par with the increase in the number of penalty cases. Another reason is that it takes considerable time to process cases for prosecution before actually filing the complaints."

"A Committee consisting of Departmental Officers was set up this year to enquire into all aspects of tax evasion. On receipt of its report, further measures to be taken will be considered."

"The observations of the Committee have been noted by the Government. As desired by the Committee, the Government have intensified its efforts at prosecution of assessee's guilty of tax offences. An account of the same has been given in the Ministry's reply to paragraph 1.95 of Appendix V of the PAC's 17th Report, 1967-68, which may kindly be referred to."

"Copies of the instructions issued asking Income-tax Officers not to invoke the provisions of the Explanation to Section, 27(1) indiscriminately are placed below Annexure———)"

1.39. In a further reply dated 18-12-68, the Department of Revenue have stated :—

"(i) Measures taken to launch prosecutions successfully :

The following steps have been taken to launch prosecution successfully :

(1) Instructions have been issued from time to time to all the Commissioners of Income-tax to see that prosecutions are launched in as many cases of tax evasion as possible. Relevant circulars are placed below.

(2) Intelligence Wings have been set up at Bombay, Calcutta, Delhi and Madras for examining potential prosecution cases in consultation with the Department's legal advisers, with a view to launch as many prosecutions as possible.

(3) A Refresher Course to train selected officers for processing potential cases of prosecution was recently organised.

(4) A prosecution Manual has been prepared and will be issued shortly. This will enable Income-tax Officers to be properly equipped in dealing with potential cases of prosecution.

(5) The question of providing Assistant Directors of Inspection (Intelligence) at the headquarters of each Commissioner's charge to process cases of prosecution is under examination.

(6) The desirability of having legal advisers on a retainer basis to guide the officers is being considered.

(7) For obtaining evidence to strengthen the chances of prosecution in cases involving substantial tax evasion, immunity under Section 291 of the Income-tax Act of 1961 is granted by the Central Government in suitable cases.

(ii) *Measures taken to ensure that the prosecutions are not launched merely with a view to compounding the same and to recover large composition fees :*

At the time a prosecution is sanctioned or launched, the question of compounding the offence at a later stage is not at all considered. The question of compounding an offence arises only when the Department feels that there are some technical hitches or doubts about a successful prosecution and the assessee has come forward with a proposal for compounding. Prosecutions are not launched with a view to compounding the same and to recover large composition fees. All prosecutions are launched with the administrative approval of the C.B.D.T. and the Commissioners cannot later compound the offence except with the approval of the Board. Such approvals are given by the Board only in those rare cases where it is felt that the chances of successful prosecution are not very bright. There is thus no tendency to compound the offence after the prosecution is launched.

(iii) *The cardinal principles which govern withdrawal of cases and composition of fees :*

Once having launched a prosecution, the Government is normally against entertaining any proposals for withdrawal of the case or for composition. Compounding of an offence after the prosecution has been launched is considered by the Board only in the following circumstances :

- (1) The Departmental Counsel feels that the evidence relied on cannot be proved to the satisfaction of the Court;
- (2) Key witnesses are either not available or have become hostile;
- (3) Where there is a risk of the offending assessee getting away with a token fine or a light punishment due to lapse of time or other similar circumstances;

- (4) If in the course of the prosecution proceedings it becomes evident that the chances of a successful prosecution are remote.
- (iv) *Measures taken to ensure that the prosecutions launched are only in respect of the cases which are strong and the measures adopted to ensure that their withdrawals are justified and bona fide only in exceptional cases :*

With a view to ensure that prosecutions are launched only in cases where the prospect of a successful prosecution is good, instructions have been issued that no prosecution should be launched without the prior administrative approval of the Central Board of Direct Taxes. Similarly, Commissioners have been instructed not to compound or withdraw a prosecution without the prior administrative approval of the Central Board of Direct Taxes.

1.40. The Department of Revenue have furnished a copy of the Report of the Tax Evasion Enquiry Committee.

1.41. The Committee note that the Tax Evasion Enquiry Committee (1968) have observed in their Report that "to create an effective climate of deterrence to tax evasion, it is necessary to launch and complete as many prosecutions as possible within the shortest time," and "to this end, it is necessary to exploit to the full the expertise at the disposal of the Department." The Tax Evasion Enquiry Committee have made a number of suggestions for launching successful prosecutions which include making procedural and organisational changes in the Income-tax Department, training of officers, bringing out a detailed prosecution manual, amending the Income-Tax Act, etc. The Committee hope that necessary and expeditious action will be taken in pursuance of the recommendations of the said Committee.

1.42. The Committee would like the Central Board of Direct Taxes to ensure that the launching of prosecutions in clear and glaring cases of deliberate large-scale tax evasion is preferred to mere imposition of penalties. While giving their approval to the launching or withdrawal of prosecutions, the Board should satisfy themselves that the prosecution is not launched merely with a view to compounding the case and thereby recovering larger composition fees.

Similarly out of 5,287 revision petitions pending as on 30-6-1967, 2,532 have been disposed of leaving a balance of 2,755 petitions as on 31-3-1968. As regards appeals/revision petitions relating to the period prior to 1964-65, the pendency has been reduced from 2,127/5596 as on 30-6-67 to 1,039/350 as on 31-3-1968.

3. In order to effectively bring down the pendency of appeals, 15 additional posts of AACs were sanctioned *vide* Board's F. No. 1/96/67-Ad.VII dated 7-12-1967. All these posts have not been filled up but they are expected to be filled up shortly. With the filling up of these posts it is expected that there would be a substantial reduction in the pendency of appeals.

4. Special attention is being paid to the disposal of old appeals filed prior to 1964-65. Instructions have been issued that all such appeals should be finalised as far as possible by 31st March, 1968 (*vide* F. No. M-36/25/67/DIT dated 20-3-1968-Annexure A). As regards appeals filed in 1958-59 and earlier years, monthly progress reports are being obtained from Commissioners of Income-tax since December, 1967 (*vide* F. No. 90/11/67-ITJ dated 20-11-1967—Annexure B) so as to keep a close watch on their disposal.

5. Similarly, in regard to revision petitions, Commissioners of Income-tax have been instructed *vide* Board's D. O. letter No. 6 2/67-ITJ dated the 6th March, 1968 (Annexure 'C') to make all out efforts to dispose of such petitions which are more than one year old. Special attention is being paid to the disposal of petitions filed in 1959-60 and earlier years and their progress report is obtained every month.

[Ministry of Finance (Deptt. of Revenue & Insurance) U.O. No. F. 50 201/66-ITJ dt. 17-7-1968].

ANNEXURE A

F. No. M-36 25/67/DIT

DIRECTORATE OF INSPECTION (INCOME TAX)
4TH FLOOR 'D' BLOCK

INDRAPRASTHA BHAVAN

New Delhi, the 20th March, 1968

From

The Director of Inspection (Income-tax),
New Delhi.

To

All Appellate Assistant Commissioners of Income-tax.

Sir,

SUB. : *Pendency of old appeals—Need for early disposal of—Regarding.*

It appears from the Progress Reports that 1,597 appeals filed upto 31-3-1964 were still pending at the end of January, 1968, in the various charges. The need for early liquidation of these old appeals was emphasised in this Directorate's letter F. No. M-36/25/67/DIT, dated

5-1-1968 and reiterated in the Quarterly Review for the period ending on 31-12-1967 which was issued on 15-2-1968. The Board desires that all the disposable appeals out of the above are completed by 31-3-1968. All the Appellate Assistant Commissioners of Income-tax are, therefore, requested to examine the matter and ensure their early disposal.

Yours faithfully,

Sd/-

*Assistant Director
for Director of Inspection (Income-tax)*

ANNEXURE B

F. No. 90/11/67-ITJ

CENTRAL BOARD OF DIRECT TAXES,

New Delhi, the 20th November 1967

From

The Under Secretary, Central Board of Direct Taxes,

To

The Commissioner of Income-tax,

Sir,

SUBJECT :—*Expeditious disposal of old appeals filed upto 1958-59 and old revision petitions filed upto 1959-60—Steps regarding.*

It is seen that there are old Income-tax Appeals filed upto 1958-59 and old Income-tax Revision Petitions filed upto 1959-60 still pending in your charge. The Board are very anxious that these old appeals/revision petitions are disposed of without delay. In order to keep a watch over the latest position of these cases, it has been decided that a statement (in duplicate) showing the progress made *in each case* should be furnished to the Board every month so as to reach the Board by the *7th of the following month*. The first report for the period ended 30-11-1967 will be due by the 7th December, 1967.

Your faithfully

Sd/-

Under Secretary

ANNEXURE 'C'

F. H. Vallibhoy,

D.O. No. 6/2/67-ITJ

Member, Central Board of Direct Taxes *New Delhi, the 6th March 1968.*

My dear

SUBJECT :—*Expeditious disposal of revision petitions—Need for.*

As you are aware the Public Accounts Committee attaches great importance to the timely disposal of revision petitions. The Department has to face criticism from the Committee in view of the continued carry forward of heavy pendency from year to year. There are also complaints from assesseees for the inordinate delays in finalising their revision applications which create bad public relations and cause delay in collection of outstanding taxes or grant of refunds due.

2. On a review of the position of pendency of revision petitions during the period April, 1967 to December, 1967 I find that the disposal in your charge was as against institution of during this period. At this rate it is likely that you may end up with a higher pendency at the close of the year than that with which you started. This represents a very unsatisfactory state of affairs. I feel that all out efforts should be made in the current month to dispose of at least those petitions which are pending for more than one year and leave a lesser overall balance at the end as compared to that in the beginning of the year.

3. May I in this connection invite your attention to my D.O. letter of even number dated the 29th January, 1968. I trust you will plan your programme of disposal for the ensuing year 1968-69 in such a manner that the position shows appreciable improvement in the near future and the pendency is brought down to atleast half if not more by 31-3-1969. The aim should be to keep no petition pending for more than 3 to 6 months.

Your sincerely

Sd/-

Shri _____

Commissioner of Income-tax,
_____**Further Information**

(i) Fifteen addition posts were created in December, 1967. However, the question of filling up the vacancies by convening a D.P.C. etc. could not be processed in view of the fact that in pursuance of the *mandamus* of the Supreme Court, the Seniority List of the Income-tax Officers was under revision. After prolonged discussions with the Ministry of Law, Solicitor General, Attorney General and the Ministry of Home Affairs, the List was finalised only in July, 1968. Soon after the finalisation of the Seniority List, action was taken to convene a D.P.C. to approve the panel for filling up nearly 90 vacant posts of Assistant Com-

missioners. The D.P.C. which met on the 16th and 17th September, 1968 approved a panel of 90 officers. Orders promoting the officers were issued on the 28th September and 5th October, 1968. With the promotion orders issued on this date and the subsequent promotions, all the vacant posts except 3, have since been filled up.

(ii) 1,039 Income-tax appeals filed prior to 1964-65 were pending as on 31-3-1968. As at the close of September, 1968, the total number of appeals filed prior to 1964-65 has been reduced to 818 appeals. 221 appeals were disposed of during 6 months.

[Ministry of Finance (Deptt. of Revenue & Insurance) D.O. Letter No. 2841-M(M)/68 dt. 18-12-68].

Recommendation

The Committee find that the management charges for the Annuity Deposit Scheme paid to the Reserve Bank have risen from Rs. 2.36 lakhs in 1964-65 to Rs. 25.72 lakhs in 1966-67.

The Committee have no doubt that Government will consider this recommendation with all the seriousness it deserves and hope that Government will find it possible to discontinue the Scheme at the end of the current financial year.

The Committee note with concern that a heavy amount of annuity deposits amounting to Rs. 32.30 crores relating to the years 1964-65 and 1965-66 was outstanding for recovery as on 31st March, 1967. There were also omission in the collection of annuity deposits as disclosed in the Audit para. According to the admission of the Secretary Revenue and Expenditure, "it looks that the annuity deposit scheme started with inadequate preparation and there was a substantial time lag in he supply of forms and other things". The Committee desire that serious thought should be given to the question of liquidating the arrears.

[Serial Nos. 12, 13 and 14 and Paras 1.45, 1.47 and 1.50 of Appendix V to the 17th Report, 1967-68]

Action taken

The recommendations of the Committee have been noted for action. The Annuity Deposit Scheme has since been discontinued by the Finance Act, 1968. As to the recovery of outstanding Annuity Deposit, the Board have issued suitable instructions to the Commissioners of Income-tax (A copy of the same is enclosed).

[Ministry of Finance (Deptt. of Revenue & Insurance) D.O. No. 3/12/68-JT (Audit) dt. 13-12-68]

S.A.L. NARAYANA ROW
CHAIRMAN

CENTRAL BOARD OF DIRECT TAXES, NEW DELHI
CAMP : BOMBAY

D.O. No. 82/6/67-ITB.
 Dated, the 8th November, 1967.

My dear

The Audit Report (Civil) Revenue Receipts has mentioned that the following amounts of annuity deposit payable by various assessees are in arrear :—

| <i>Period</i> | <i>No. of cases</i> | <i>(Amount in crores of rupees)</i> |
|----------------------------|---------------------|---|
| | | Rs. |
| As at the end of March, 65 | 37,552 | 11.68 |
| As at the end of March, 66 | 72,992 | 19.60 |

There may also be annuity deposit in arrear in respect of the financial year 1966-67. It is necessary that the annuity deposit which is in arrear should be recovered by taking necessary coercive steps provided by the Income-tax Act. As you are aware, annuity deposit is recoverable as arrears of income-tax. The amount of outstanding annuity deposit is quite substantial. The Government is agitated over the large amount of annuity deposit which is outstanding due from various assessees. You may ensure that appropriate steps are taken to have all the arrear annuity deposit recovered before 31-3-1968.

With my very best wishes for a Happy Divali and New Year.

Yours sincerely,
 Sd/-

Recommendations

1.51 The Committee also hope that, in launching new schemes under the taxation laws in future adequate consideration is given to all aspects and implications of the proposal.

[S. No. 15, Paragraph 1.51, Appendix V to the Seventeenth Report (1967-68)]

Action taken

The observations of the Committee have been noted for compliance.
 [Ministry of Finance (Deptt. of Revenue and Insurance) D.O. Letter 6(51)/68-IT (Audit) dt 4-1-69.]

Recommendations

The Committee feel that the present system of levy of taxes is onerous and complicated and the collection of taxes has not been efficient. Otherwise there would have been no need to introduce Voluntary Disclosure Schemes. As a result of inefficient collection, the evader gets away with larger amounts of money while the honest assessee has to suffer. In the opinion of the Committee a disproportionate amount of energy is spent on unimportant cases of honest and relatively small tax-payers while tax evaders either go scot free or are afforded opportunities to make voluntary disclosure. The Committee note that the Department propose to take certain measures to divert time and energy at present devoted to small tax-payers to dealing with tax evader. The Committee suggest that the matter should be kept under constant review and that further steps should be taken to improve and simplify the system of assessment and collection.

(Serial No. 17 and Para 1.70 of Appendix V to the 17th Report, 1967-68).

Action taken

The observations of the Committee have been noted by Government.

[Ministry of Finance (Deptt. of Revenue & Insurance) O.M.
No. 7/9/68-coord. dated 27-8-69].

Further Information

For improving the methods and quality of assessment the following measures have been taken :

- (i) For Small Income cases, the ITOs have been instructed to adopt summary procedure.
- (ii) For Calcutta and Bombay, the limits of Small Income cases have been fixed higher than in other charges.
- (iii) Assessment forms for salary, refund and Small Income cases have been simplified.
- (iv) The Functional Scheme of work, relieving the assessing officers of routine types of work has been introduced in about 50% of the IACs' ranges in India.

For improving collections the following measures have been taken :

- (i) Collection ITOs in Functional Ranges have been placed in sole charge of collections.
- (ii) Departmental Tax Recovery Officers have been gradually replacing the Tax Recovery Officers borne on the State Government cadres.
- (iii) Zonal committees of Commissioners for scaling down and write off of demand have been set up.

[Ministry of Finance (Deptt. of Revenue & Insurance D.O. 2841-M(M)/68
dt. 18-12-68]

Recommendation

The Committee feel that if the objectives had been clearly grasped at the time of drafting the first Voluntary Disclosure Scheme, the lacuna mentioned above could have been avoided. The Committee hope that learning from this experience, Government will ensure that before giving legal shape to a fiscal measure its objectives are clearly spelt out so that difficulties of the nature experienced in implementing the first Voluntary Disclosure Scheme do not recur.

(Serial No. 23 and Para 1.88 of Appendix V to the 17th Report, 1967-68)

Action taken

The observations of the Committee have been noted for guidance.

[Ministry of Finance (Deptt. of Revenue and Insurance) D.O. Letter No. 6/52/68-IT(Audit) dt. 4-1-69]

Recommendation

The Committee regret to find that there was inordinate delay in completion of the assessments in two cases out of five. They also find that in these cases the time-lag between the date of demand and the institution of recovery proceedings ranged upto twenty months. The Committee desire that the Ministry should ensure that such delays do not recur in completing assessment and in initiating recovery proceedings.

(Serial No. 33 and Para 1.114 of Appendix V to the 17th Report, 1967-68)

Action taken

The observations of the Committee have been noted.

2. Government is anxious to avoid delays in completion of assessments. With this end in view, it has taken the following measures recently :

- (i) The time limit for completion of assessment is being reduced by stages to only two years after the relevant assessment year.
- (ii) The number of assessing ITOs and their supervisory staff is being suitably increased, and
- (iii) The Commissioners have been asked to draw up planned programme of disposals, so as to reduce the overall pendency by at least 1/3rd by 1-4-1969. With this reduction in load it will be possible to attend to assessments more promptly than has hitherto been possible.

3. For securing prompt initiation of recovery proceedings, the Ministry has already set up Special Recovery Units under ITOs (Collection) in more than 50% of the charges of Inspecting Assistant Commissioners. The Units have secured initial success; after watching their performance for some more time the Government would introduce the Special Units in the remaining charges as well. Simultaneously, the Government have also started replacing Tax Recovery Officers borne on the State Government cadre with Tax Recovery Officers recruited from the Income-tax Department itself. Vetted by Audit *vide* DRA's U.O. 5817-Rev. Audit/148-68-II, dated 31-12-8).

[Ministry of Finance (Deptt. of Revenue & Insurance) D.O. Letter No. 3/32/68-IT (Audit) dt. 6-1-69].

Recommendation

In para 1.280 of their 46th Report (Third Lok Sabha), the Committee had expressed concern over the delay in the disposal of applications for refund. The Committee note that there has been some improvement in the disposal of refund cases during 1965-66. The number of applications pending for more than a year has come down from 596 as on 31st March, 1965 to 332 as on 31st March, 1966. The Committee desire that old cases pending for more than two years, which numbered 93 involving an amount of Rs. 7,62,145 as on 31st March, 1967 should be disposed of early and efforts should continue to be made to prevent this accumulation of arrears which involve liability on Government to pay interest on refund claims. The Board should look into the reasons for delay in the disposal of old cases one of which dates as far back as 1957-58.

(Serial No. 34 and Para 1.120, Appendix V to 17th Report, 1967-68).

Action taken

Instructions have been issued (copy enclosed) and steps taken for expeditious disposal of refunds. The reasons for the delay in the disposal of old cases are being ascertained and necessary action will be taken.

[Min. of Fin. (Deptt. of Rev. & Insurance) D.O. Letter No. 3/21/68-IT (Audit), dated 22-1-1969].

COPY

F. No. 5/31/68-ITA(III)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 24th September, 1968.

From

The Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUB. :—*Expeditions issue of refund vouchers—*

Despite repeated instructions by the Board that the refund voucher should invariably accompany the order giving rise to the refund, it has been observed that in a number of cases, refund vouchers are sent separately and sometimes long after the assessment orders. The Board desire that deterrent action should be taken against the defaulting officers whenever such cases of non-compliance of these instructions come to notice.

2. As decided at the last Commissioners' Conference held in New Delhi in July, 1968 the following further steps should be taken by Commissioners to eliminate delays in the grant of refunds.

F. No. 5/31/68-ITA. III
GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 24th September, 1968.

From

The Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT :—*Expedition issue of refund vouchers—*

Despite repeated instructions by the Board that the refund vouchers should invariably accompany the order giving rise to the refund, it has been observed that in a number of cases, refund Vouchers are sent separately and sometimes long after the assessment orders. The Board desire that deterrent action should be taken against the defaulting officers whenever such cases of non-compliance with instructions come to notice.

2. As decided at the last Commissioners' Conference held in New Delhi in July, 1968, the following further steps should be taken by Commissioners to eliminate delays in the grant of refunds.

Direct Refunds and refunds due on assessment and other orders passed by ITO.

- (1) Refund Circles should be strengthened and special refund circles should be formed wherever necessary.
- (2) The Income-tax Officer's performance should be judged on the basis of gross collections and not net collections so that there may be no inhibition or reluctance to issue refunds promptly.
- (3) The assessment or other order giving rise to the refund should not be signed by the Income-tax Officer unless he has signed the refund order and the advice-note. Advice-notes should be sent to the Treasury simultaneously with the issue of refund orders.
- (4) Refund orders must, ordinarily be issued within one month of the receipt of the application for refund.
- (5) A refund should not be withheld merely because there is a remote chance of a demand being raised against the person concerned subsequently.
- (6) A refund week should be observed by the Department annually and this should be publicised.

Appellate Refunds

- (7) Inspecting Assistant Commissioners and Commissioners of Income-tax should ensure proper maintenance of the register of appeals.
- (8) A separate register should be introduced immediately to be maintained by each Income-tax Officer for recording all appel-

late orders received after 1st April, 1968, in which reduction in assessment has been allowed. There will be a column in the register to show the date on which the refund arising out of the appellate order has been issued. Inspecting Assistant Commissioners and Commissioners of Income-tax should regularly inspect this register every month.

- (9) All refunds arising out of appellate orders must be issued within a month and, in complicated cases, within three months, of the receipt of the appellate order.

Steps for more effective control on the performance of officers

- (10) A register should be kept in the offices of the Inspecting Assistant Commissioner and Commissioner of Income-tax in which tax-payers could enter complaints regarding delays in refunds. The maintenance of this register should be widely publicised.
- (11) All complaints received from the tax-payers either verbally or in writing should be promptly attended to.
- (12) Monthly statements from Commissioners of Income-tax showing the progress in the issue of refunds in their charges and also stating the reasons for the pendency, if any, both for direct and other refunds, should be sent to the Board.

Yours faithfully,

Sd./-

Secretary, Central Board of Direct Taxes.

Copy forwarded to :—

1. All Directors of Inspection.
2. Registrar, I.T.A.T., Bombay.
3. The Appellate Controller of Estate Duty, Delhi.
4. Shri S. N. Kohli, ADI (RSP), New Delhi.
5. The Comptroller & Auditor General of India, New Delhi.
(20 copies).
6. All Officers & Branches in the I.T. Wing and Ad VI, Ad VII & IX.
7. Bulletin Section (3 copies).

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES BY GOVERNMENT

Recommendation

The Committee are unable to understand how the Ministry could give an estimate of Rs. 100 crores involved in the cases of searches and raids in 1965-66.

(Serial No. 27 and Para 1.102 of Appendix V to the 17th Report, 1967-68)

Action taken

As a result of searches made by the Income-tax Department in December, 1964 and February, 1965 in the premises of hundi bankers and hundi brokers and some of the important assesses who had taken advantage of accommodation given by these persons, as also the searches made in September, 1965 at Calcutta, a large number of these hundi bankers and brokers had made confessions of having given accommodation to various assesses by showing bogus hundi loans. The amount of hundi loans confessed to be bogus by these persons came to over Rs. 271 crores. However, since it was likely that a number of these loans would be merely repetitions or rotations of earlier loans and some of the accommodation loans admitted by brokers may be covered by admission of accommodation loans admitted by the hundi bankers also, the Department roughly estimated the concealment of income at Rs. 100 crores in the case of borrowers involved in these transactions. It is the fear of detection by the Department of the concealed income that brought forth the voluntary disclosures u/s 271(4A) of the Income-tax Act, 1961 in this respect.

However, as has already been admitted by the Ministry before the P.A.C., they were wrong in having made an estimate at all of the concealment involved in these transactions, [*vide* Para 1.101 of the P.A.C.'s Seventeenth Report 1967-68].

[Ministry of Finance (Deptt. of Rev. & Insurance) D.O. Letter No. 3/26/68-IT (Audit), dated 4-1-1969].

Recommendation

The Committee regret to observe that there was a delay of four years in completing the assessments of the company for the years 1945-46 to 1947-48. They desire that the reasons for the delay should be looked into. (Serial No. 31 and Para 1.109 of Appendix V to the 17th Report, 1967-68)

Action taken

The observations of the Committee have been noted.

2. The time limit prescribed under the old Act of 1922 for completion of an assessment is four years. In the instant case, the assessments for the years 1945-46 to 1947-48 were made within the time-limit of four years.

These assessments would have got time-barred in March, 1950, 51 and 52 respectively. Therefore, as per the provisions of the Income-tax Act the assessments could be completed within four years. Due to reasons beyond control, the assessment proceedings could not be concluded before the date of liquidation.

3. The reasons for the delay in completing the assessments have been looked into. The assessee filed the returns on 18th January, 1949. On 15th February 1949 the High Court of Calcutta ordered the winding up of the company. It was, as such not at all possible for the ITOs to anticipate the date of liquidation and complete the assessments and recovery proceedings much before the liquidation took place. The assessee company was a wartime, contractor and manufacturer and the case called for detailed enquiries and investigations. Due to the circumstances stated above the assessments could be completed only after the liquidation took place.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 3/30/68-IT (Audit), dated 26-12-1968]

Recommendation

The Committee regret that information has not been furnished in respect of the remaining 13 cases where arrears of taxes have been written off. They would like the Government to examine each of these cases critically with a view to finding out whether there was any inordinate delay in finalising the assessment or in issuing demand notices or in resorting to other measures available for the collection of tax due before the amount was written off. They would also like the Board of Direct Taxes to initiate remedial measures in the light of the study in order to avoid recurrence of such cases.

(Serial No. 32 and Para 1.110 of Appendix V to the 17th Report, 1967-68)

Action taken

Each of the thirteen cases where arrears of tax had been written off was examined. The information in respect of the 13 cases is given in the Annexure enclosed. The Board is satisfied that there has been no avoidable delay in either assessment or starting collection proceedings against the defaulting assessee. It was not possible to realize the arrears as the assessee companies had no assets. Recovery proceeding also yielded no results and the arrears had to be finally written off. The examination of the cases has not revealed any lacuna or defect in the existing procedure and no remedial measures are considered necessary.

[Min. of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 3/31/68-IT (Audit), dated 1-1-1969].

ANNEXURE

Information in respect of 13 cases where arrears of Income-tax had been written off.

| S. No. | Name of assessee | Amount written off | Assessment years involved. | Date of assessment | Date of liquidation of company | Reasons to write off in brief. |
|--------|---|--------------------|----------------------------|--------------------|--------------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1. | The New Talkies Ltd. Calcutta | 14,531 | 1945-46 | 23-8-46 | 16-1-48 | The demand involved in these cases was small and these remained uncollected, because the concerned companies closed down leaving no realisable assets, soon after the assessments had been made. |
| 2. | Endeavours (India) Ltd. Calcutta. | 1,418 | 1956-57 | 28-3-59 | 12-3-60 | |
| | | 1,723 | 1957-58 | 23-2-60 | | |
| | | 1,699 | 1958-59 | | | |
| | | 4,840 | | | | |
| 3. | M/s. Mullenux & Mulleneux (P) Ltd. Bombay | 4,743 | 1960-61 | 29-11-60 | 26-6-61 | |
| 4. | The Bharat Commercial Corporation Ltd. | 139 | 1952-53 | 27-9-55 | 12-8-61 | |
| | | 78 | 1953-54 | " | | |
| | | 217 | | | | |
| 5. | M/s. S.M. Haniff (India) Ltd. Calcutta. | 5,314 | 1953-54 | 28-8-57 | 3-5-54 | Although the Company had been incorporated in March 1948, it did some business only during the relevant a/c year and thereafter it closed down. It was only after receipt of an information slip (indicating the company's business activity) that assessment proceedings were started. As the assessee Company had no assets, collection was not possible. |
| 6. | Standard Cotton & Silk Weaving Co. Ltd., Calcutta | 1,484 | 1951-52 | 28-3-55 | — | All possible recovery actions such as imposition of penalties, issue of notices, etc. were reported to but the demands could not be recovered. when recovery action was pursued by the Revenue Authorities the company did not have any assets either movable or immovable. The name of the Company was also struck off from the Rolls of the Registrar of Companies under Notfn. dated 27-2-60. |
| | | 33,827 | 1952-53 | | | |
| | | 4,000 | 1953-54 | 20-11-52 | | |
| | | 39,311 | | & 6-2-53 | | |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|----|---|--|---|---|----------|--|
| 7. | M/s. Trivandrum City Funds (P) Ltd. | 3,431 | 1957-58 | 17-2-60 | — | The assessment was delayed because several payments called for detailed investigation. During investigation the Company stopped its business and the Managing Director was at large at the time the assessment was completed. The demand was certified to the Collector on 16-3-61. The Collector reported that there was no possibility of collecting any portion of the arrears. |
| 8. | Canara Public Benefit & General Traders Ltd., Chickmagalur. | 460 | 1954-55 | 30-9-55 | — | Tax of Rs. 561.31 on the admitted income had been collected. The tax due is on account of assessment made again after adding back certain inadmissible items of deductions claimed by the assessee. The notice of demand and assessment order were served on 8-10-55 on the interim liquidator who had been appointed on 24-11-54. The whereabouts of the Managing Director were not known and the company had no movable or immovable assets to be proceeded against by the Tax Recovery authorities. |
| 9. | M/s. Investment Corporation Ltd., Surat. | 3,203 2,080 2,879 861 10,308 2,172 2,172 <hr/> 23,675 | 1946-47 1947-48 1950-51 1951-52 1952-53 1953-54 1954-55 | 25-3-55 " 30-9-54 25-3-55 " " 30-8-58 | 10-10-66 | The Company discontinued its business in 1952 and had no assets. Re-assessments for the year 1946-47 to 1954-55 were made on the basis of an anonymous letter. The recovery proceedings yielded no result and the amounts had to be written off. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|-----|---|--|--|--|---------|---|
| 10. | Nand das Haridas & Co. Ltd. | 1,350 13 634 <hr/> 1,997 | 1949-50 1951-52 1953-54 | 28-3-58 27-6-58 | 14-8-51 | Tax was due Rs. 35(10). Information was acted in due course but by then the Company had no assets and tax could not be recovered. |
| 11. | M/s. J.R. Bhadani & Co. (P) Ltd., Bombay. | 364 18,421 20,515 861 <hr/> 40,161 | 1951-52 1952-53 1953-54 1954-55 | 27-10-51 30-7-53 28-10-53 31-8-55 | 19-2-58 | The company was appointed as the Managing agents of Hirjee Mills Ltd. Bombay w.e.f. 1-3-45. According to the agreement the company was to receive a commission at the rate of 10% of the net profit subject to a minimum amount of Rs. 50,000 per annum. The firm Hirjee Mills Ltd. however, was not functioning properly and it was actually working under a scheme of reorganisation sanctioned by the Bombay High Court from 13-5-53. One of the conditions imposed by the High Court was that the Managing Agent i.e. the assessee company should not draw any amount from the managed company for six months from 15-3-53. The financial condition of the managed company deteriorated still further and it was completely closed from February, 1954. Recovery certificate was issued to the Addl. Collector of Bombay on 28-10-55. Notice to the official liquidator was also issued on 28-10-55 and 9-11-55. The Department could not, however, recover anything from the assessee company. |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|--|---|--|--------------------------------|---------|--|---|
| 12. M/s. Pravin Engineers Ltd., Bombay | 786 774 956 1,086 <hr/> 3,602 | 1953-54 1954-55 1955-56 1956-57 | 28-4-56 " 12-7-56 5-3-58 | 14-4-62 | <p>The assessee company was appointed the Managing Agent of M/s. Cooper Conneland Clifford Ltd. and the remuneration payable was fixed at 12% of the net profit of the managed company and a fixed allowance of Rs. 500/- per month. The managed company, however, did not function well and it incurred losses to the extent of Rs. 2 lakhs. The assessee company, therefore, could not recover any amount from the managed company from 1-4-56. This being the only source of income of the assessee, it was not possible to recover the tax in this case. Recovery certificates had been issued on 18-3-58. There were no tangible assets which could be attached and sold.</p> | |
| 13. M/s. Saraf Oil Mills Ltd., Bombay. | 5,487 41,659 <hr/> 47,146 | 1947-48 1949-50 | 30-1-48 30-12-49 | 7-6-55 | <p>The assessee company was owing oil extracting factories at Bombay, Wardha and Nagpur. All the accounts were maintained in the Head Office at Bombay. The company was not functioning well. The shareholders approached the High Court and as per High Court's order, the company started working on a re-organisation scheme. Even this scheme could not work and the company went into voluntary liquidation. Recovery certificates were also issued to the Addl. Collector. It was, however, not possible to recover anything in this case.</p> | |

CHAPTER IV

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

Recommendations

The Committee are concerned to note that the number of assessments pending has increased from 7,12,407 in 1961-62 to 21,69,529 in 1965-66. The Committee also note that during the last three years the percentage of assessments completed out of the total number of assessments for disposal varied from 50.8 per cent to 54.7 per cent which means that nearly half the total number of assessments remained pending. What causes the Committee greater concern is the fact that the numbers of business cases involving an income of over Rs. 25,000, which were pending on 31st March, 1966, was 1,20,185. The Committee note that it is only lately that the Department has addressed itself to the task of taking up important assessments on a priority basis. The Committee are a little doubtful whether the targets of 31st March, 1968, for bringing up to date the assessment of 50 per cent by 31st March, will be achieved. The Committee cannot too strongly stress upon Government the need to pay special attention to the speedy finalisation of pending assessments and in particular business cases involving an income of over Rs. 25,000 and of ensuring that in future all such assessments are given due priority and are not allowed to remain pending at the end of the assessment year.

[Serial No. 1 and Para 1.8 of Appendix V to the 17th Report, 1967-68]

Action taken

The following steps have recently been taken for speedy finalisation of pending assessments in general and cases involving business income of over Rs. 25,000 in particular :

- (1) Planned and phased programme of disposal of assessments has been drawn up for each Commissioner's charge with a view to reduce the pendency at least by one-third by the end of the current year.
- (2) Small income scheme has been liberalised to provide that returns in non-company cases with returned income up to Rs. 10,000 (Rs. 15,000 in charges of Bombay and Calcutta) would be accepted without scrutiny, if there are no complaints of tax evasion or suspicious features, subject to a random check in a small percentage of cases. The scheme will also apply to cases of Registered firms having four or more partners with income of Rs. 20,000. With the accelerated disposal of small income cases, which constitute the bulk of pendency, it should be possible to devote more and more attention to the large revenue yielding cases and dispose them of quickly.
- (3) Section 153 of the I.T. Act has been amended with effect from 1st April, 1968 progressively reducing the time for completion

of assessments from four to two years from the end of the relevant assessment year. This provision itself would go a long way in liquidating the pendency of assessments.

- (4) Instructions have been issued *vide* Board's letter F. No. 3/58/68-IT(B), dated 7th September, 1968 (copy enclosed) requesting the Commissioners of Income-tax to carve out additional charges of Income tax Officers in Circles with comparatively larger pendency. Such charges will be assigned to Income-tax Officers having lower pendency and working at the same station or at nearby places. This step has been taken to ensure optimum use of the available man-power in clearing the arrears of assessments.
- (5) For liquidating the pendency of big cases more Income-tax Officers have been provided with each of the four central charges at Bombay, Calcutta, Delhi and Madras.

As a result of the above steps the disposals during 1968-69 (up to August, 1968) has gone up by 2,55,247. A statement showing the relevant figures is enclosed. This shows that the tempo of disposals has been gaining a momentum during 1968-69.

[Min. of Finance (Deptt. of Rev. & Insurance) D.O. Letter No. 3/1/68-IT (Audit), dated 22-1-1969].

Statement showing a category-wise disposal of assessments up to 31st August, during 1967-68 and 1968-69

| Category | 1967-68 Progressive disposal upto 31-8-67 | 1968-69 Progressive disposal upto 31-8-68 | Increase (%) |
|----------|--|--|-----------------|
| I | 30,622 | 44,180 | 44.3 |
| II | 27,892 | 38,327 | 37.9 |
| III | 66,938 | 92,566 | 38.3 |
| IV | 3,19,210 | 4,52,409 | 41.7 |
| V | 1,38,542 | 2,10,969 | 52.3 |
| Total | 5,83,204 | 8,38,451 | 43.8% |

[Data compiled from the DI(RS&P)'s consolidated statement for August, 1968]

COPY

F. No. 3/58/68-ITB

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 7th September, 1968.

From

Shri S. Bhattacharyya,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT :—Income-tax Assessments for disposal—Measures to reduce pendency—Instructions regarding—.

It has been represented by some Commissioners that the number of income-tax assessments for disposal as on 1st April, 1968 in certain income-tax circles in their Charges was no small that the Income-tax Officers in those circles would not have an adequate work-load during the year in terms of the increased targets of disposal of assessments per Income-tax Officer. On the other hand, the pendency of assessments in certain other circles in their Charges is high and it can be reduced substantially only by deploying for short periods an additional number of Income-tax Officers and staff in those circles.

2. In these circumstances, Commissioners should carve out additional charges of Income-tax Officers in circles with a comparatively larger pendency and assign jurisdiction over such additional charges to Income-tax Officers of circles with a lower pendency at the same station or at nearby places.

3. The jurisdiction of these additional charges of Income-tax Officers should be demarcated by orders under section 124 or section 127 of the Income-tax Act, as may be appropriate, taking due care to minimise the movement of files.

4. The Income-tax Officers who are assigned jurisdiction over the newly created charges as envisaged above will have such jurisdiction in addition to their existing jurisdiction. Where the additional charge is located at a station other than the headquarters of such Income-tax Officers they will visit that station on tour together with the minimum staff necessary to assist them in the performance of their additional work. To facilitate such tours beyond the usual period of ten days, Commissioners may issue necessary orders relaxing the provisions of S. R. 73. Proposals for supplementary grants of T.A. for meeting additional expenditure on such tours should be sent to the Board well in time.

Yours faithfully,

Sd./-

Secretary, Central Board of Direct Taxes.

Further Information

The category-wise break-up of the pending assessments as on 31st August, 1968 as compared to those as on 31st August, 1967 is as under :

| Category | No. of pending assessments as on 31-8-67 | No. of pending assessments as on 31-8-68 |
|--------------|---|---|
| I | 2,58,552 | 2,84,782 |
| II | 2,44,557 | 2,74,635 |
| III | 5,97,967 | 6,46,678 |
| IV | 22,11,568 | 20,23,559 |
| V | 7,84,037 | 7,18,027 |
| TOTAL | 40,96,681 | 39,47,681 |

Although there has been an increase in pendency of Cat. I cases, the increase is largely due to an addition of 39,522 Cat. I cases from 2,69,039 as on 1st April, 1967 to 3,08,561 on 1st April, 1968. It is to be observed that during the period 1st April, 1968 to 31st October, 1968, 77,995 Cat. I cases were disposed of, against 56,083 cases of the corresponding period of the preceding year. In the drive for accelerated disposal of assessments, Cat. I cases (*i.e.*, business cases involving income of Rs. 25,000 and over) have been receiving due attention.

[Ministry of Finance (Deptt. of Rev. & Insurance) D.O. Letter No. 2841-M(M)/68, dated 18-12-1968].

Query Item No. 19

S. No. 1—Arrears of Assessments

Please furnish a statement showing category-wise break-up of the current and old assessments for disposal and those completed during the period 1st April, 1968 to 31st October, 1968.

Ministry's reply

(i) For disposal

| | Cat. I | Cat. II | Cat. III | Cat. IV | Cat. V | Total | S. Units |
|----------------|-----------------|-----------------|-----------------|------------------|-----------------|------------------|-----------------|
| 1. Arrear | 1,93,260 | 1,75,357 | 3,93,294 | 12,21,442 | 3,75,803 | 23,59,156 | 3,97,162 |
| 2. Current | 1,41,505 | 1,43,382 | 3,45,503 | 12,31,301 | 5,70,607 | 24,32,298 | 3,35,546 |
| Total : | 3,34,765 | 3,18,739 | 7,38,797 | 24,52,743 | 9,46,410 | 47,91,454 | 7,32,708 |

(ii) Disposed of (from 1-4-68 to 31-10-68)

| | | | | | | | |
|----------------|----------------------------|---------------|-----------------|-----------------|-----------------|-------------------------------|-----------------|
| 1. Arrear | 54,421 (28.16%) | 45,748 | 1,07,231 | 4,92,566 | 1,69,012 | 8,68,978 (36.83%) | 1,22,800 |
| 2. Current | 23,574 (16.66%) | 22,802 | 60,829 | 2,86,559 | 1,78,603 | 5,72,367 (23.53%) | 65,729 |
| Total : | 77,995 (23.29%) | 68,550 | 1,68,060 | 7,79,125 | 3,47,615 | 14,41,345 (30.08%) | 1,88,529 |

(iii) Balance pending (as on 31-10-68)

| | | | | | | | |
|----------------|-----------------|-----------------|-----------------|------------------|-----------------|------------------|-----------------|
| 1. Arrear | 1,38,839 | 1,29,609 | 2,86,063 | 7,28,876 | 2,06,791 | 14,90,178 | 2,74,362 |
| 2. Current | 1,17,931 | 1,20,580 | 2,84,674 | 9,44,742 | 3,92,004 | 18,59,931 | 2,69,817 |
| Total : | 2,56,770 | 2,50,189 | 5,70,737 | 16,73,618 | 5,98,795 | 33,50,109 | 5,44,179 |

Recommendations

The Committee have in their previous Reports expressed their great concern at the increase in the amount of arrears of Income-tax from year to year. In this connection they would like to invite a reference to Paras 1.257 and 1.258 of their 16th Report (Third Lok Sabha) and Paras 1.274 and 1.275 of their 3rd Report (Fourth Lok Sabha). The arrears have

24LS6/69

increased from Rs. 282.37 crores in 1963-64 to Rs. 322.72 crores in 1964-65 and Rs. 381.88 crores in 1965-66. This continuous rise in arrears of Income-tax shows that the measures taken by the Board of Direct Taxes in the past have not resulted in any significant improvement.

The Committee feel that as with assessment cases; the attention of the Department has to be concentrated on cases of arrears of tax demands of Rs. 5 lakhs and above. The number of such cases is only 907 but the arrears of revenue arising from them is of the order of Rs. 1.35 crores. The Committee have no doubt that with the fixing of responsibilities at various levels by the Department for ensuring the collection of arrears, it would be possible to realise them in a reasonably short time. The Committee have also no doubt that the improvement in the realisation of arrears would not only augment Government's finances but would also find due reflection in the tax structure.

The Committee would like Government to pay particular attention to the arrears of tax from companies so as to allay the apprehension that some of these companies may be holding back Government dues and utilising them for business purposes. The Committee feel that not only should dues be realised expeditiously, but that penalties admissible under the rule should be imposed so as to act as a deterrent to others.

The Committee desire that Government make a through probe to ascertain whether the disparity in book figures of arrears of demand and effective demand is due to a tendency on the part of assessing officers to create high and unrealistic demands which, on the one hand, might lead to wasteful litigation and on the other fictitiously boost the demand figures with the other pernicious remissions. The Committee would also like Government to examine all cases involving non-recovery of taxes of Rs. 1,00,000 and above out of the total irrecoverable amount of Rs. 37.85 crores. The Committee have no doubt that Government will take suitable action against the officers found responsible for neglect, if any, in respect of the irrecoverable demands mentioned above.

(Serial No. 4, 5, 6 and 7, and Paras 1.24, 1.25, 1.26 and 1.27 of Appendix V to the 17th Report, 1967-68.)

Action taken

The observations made by the Committee have been noted. Necessary instructions in the matter have been issued to all Commissioners of Income-tax *vide* letter No. 3/6/68-IT(Audit), dated 10-9-68 (copy enclosed).

2. With regard to arrear demands of taxes of Rs. 1,00,000 and above, Zonal Committee consisting of Commissioners of Income-tax have been constituted for reviewing such cases. A copy of the instructions issued in this connection (Ministry's letter No. 16C/59/68-ITB, dated 16-10-68) is enclosed.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. letter No. 3/6/68-II (audit) dt. 4-11-68].

ANNEXURE A**F. No. M-36/25/67/DIT****DIRECTORATE OF INSPECTION (INCOME-TAX)****4TH FLOOR 'D' BLOCK****INDRAPRASTHA BHAVAN***New Delhi, the 20th March, 1968.***From****The Director of Inspection (Income-tax),
New Delhi.****To****All Appellate Assistant Commissioners of Income-tax.****Sir,****SUBJECT :—Pendency of old appeals—Need for early disposal of—
Regarding.**

It appears from the Progress Reports that 1597 appeals filed up to 31-3-1964 were still pending at the end of January, 1968, in the various charges. The need for early liquidation of these old appeals was emphasised in this Directorate's letter F. No. M-36/25/67/DIT, dated 5-1-1968 and reiterated in the Quarterly Review for the period ending on 31-12-1967 which was issued on 15-2-1968. The Board desires that all the disposable appeals out of the above are completed by 31-3-1968. All the Appellate Assistant Commissioners of Income-tax are, therefore, requested to examine the matter and ensure their early disposal.

Yours faithfully,**Sd/-***Assistant Director**For Director of Inspection (Income-tax).***ANNEXURE B****F. No. 90/11/67-ITJ****CENTRAL BOARD OF DIRECT TAXES,***New Delhi, the 20th November, 1967.***From****The Under Secretary, Central Board of Direct Taxes.****To****The Commissioner of Income-tax.****Sir,****SUBJECT :—Expedition disposal of old appeals filed up to 1958-59 and
old revision petitions filed up to 1959-60—steps regarding.**

It is seen that there are old Income-tax Appeals filed up to 1958-59 and old Income-tax Revision Petitions filed up to 1959-60 still pending in your charge. The Board are very anxious that these old appeals/revision petitions are disposed of without delay. In order to keep a watch over the latest posi-

tion of these cases, it has been decided that a statement (in duplicate) showing the progress made *in each case* should be furnished to the Board every month so as to reach the Board by the 7th of the following month. The first report for the period ended 30-11-1967 will be due by the 7th December, 1967.

Yours faithfully,

Sd/-

Under Secretary.

ANNEXURE 'C'

D.O. No. 6/2/67-ITJ

New Delhi, the 6th March, 1968.

F. H. VALLIBHOY,

Member, Central Board of Direct Taxes.

My dear

SUBJECT :—Expeditious disposal of revision petitions—Need for.

As you are aware the Public Accounts Committee attaches great importance to the timely disposal of revision petitions. The Department has to face criticism from the Committee in view of the continued carry forward of heavy pendency from year to year. There are also complaints from assessees for the inordinate delays in finalising their revision applications which create bad public relations and cause delay in collection of outstanding taxes or grant of refunds due.

2. On a review of the position of pendency of revision petitions during the period April, 1967 to December, 1967 I find that the disposal in your charge was as against institution of during this period. At this rate it is likely that you may end up with a higher pendency at the close of the year than that with which you started. This represents a very unsatisfactory state of affairs. I feel that all out efforts should be made in the current month to dispose of at least those petitions which are pending for more than one year and leave a lesser overall balance at the end as compared to that in the beginning of the year.

3. May I in this connection invite your attention to my D.O. letter of even number dated the 29th January, 1968. I trust you will plan your programme of disposal for the ensuing year 1968/69 in such a manner that the position shows appreciable improvement in the near future and the pendency is brought down to at least half if not more by 31-3-1969. The aim should be to keep no petition pending for more than 3 to 6 months.

Yours sincerely,

Sd/-

Shri _____

Commissioner of Income-tax.

Further Information

Vide reply to Item No. 20.

Information regarding the progress made in the cases involving arrears of Rs. 5 lakhs and above is not readily available. It may be stated in this connection that no separate statistics is maintained regarding the collections made out of cases involving arrears of Rs. 5 lakhs or more and other cases. However, during 1966-67, the collections out of arrear demand of Rs. 381.88 crores amounted to Rs. 59.95 crores (15.7%). The collections during 1967-68 out of gross arrears of Rs. 541.71 crores amounted to Rs. 101.99 crores (18.8%). Thus, the collection out of arrear demand made during 1967-68 is higher than the corresponding amount and percentage in the year preceding.

Kindly also see the Ministry's reply to item 20(iii).

Under the Board's F. No. 3/6/68-IT(Audit), dated 10-9-68, the Commissioners of Income-tax were instructed to pay particular attention to collection of tax from companies and discourage, by levying deterrent penalties, any attempt by them to utilise in their business the taxes withheld by them. (A copy of the Board's letter is placed below.) The instructions issued are rather brief and will have to be elaborated by issuing further instructions.

In this connection, the Ministry's reply to item 20(iv) may please be referred to.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. letter No. 2841-7(M)/68 dt. 18-12-68.]

F. No. 3/6/68-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 10th September, 1968

From

Shri S. Bhattacharyya,
Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT :—*Recovery of tax dues from Companies—Need for timely action for recovery and imposition of penalties—Instructions regarding.*

Your attention is invited to the following recommendation of the Public Accounts Committee made in para 1.26 of their 17th Report, 1967-68 :

“The Committee would like Government to pay particular attention to the arrears of tax from companies so as to allay the apprehension that some of these companies may be holding back Government dues

and utilising them for business purposes. The Committee feel that not only should dues be realised expeditiously, but that penalties admissible under the rules should be imposed so as to act as a deterrent to others."

2. The comparative figures of Income-tax and Corporation Tax budget collections for the years 1965-66 to 1967-68 are given below :

(In crores of rupees)

| Financial year | Net Budget collections under I.T. and C.T. | Corporation Tax |
|----------------|--|-----------------|
| 1965-66 | 576.64 | 304.84 |
| 1966-67 | 637.58 | 328.90 |
| 1967-68 | 623.45 | 316.00 |
| | 1,837.67 | 949.74 |

3. It will be seen that 52% of the total collections are from Corporation Tax from companies. Further, a large percentage of arrears are from companies. The Board, therefore, desire that you should pay particular attention to collection of tax from companies and discourage by levying deterrent penalties, any attempt by them to utilise the taxes withheld in their business.

Yours faithfully,

Sd/-

Secretary,

Central Board of Direct Taxes

Copy to :

- (1) All D.Is.
- (2) The C. & A.G. with 20 spare copies.
- (3) All officers and Branches in I.T. Wing.
- (4) O.S.D. (Shri R. D. Shah).
- (5) Bulletin Section with 3 spare copies.
- (6) P.S. to Chairman/PAs to Members.
- (7) IT (Budget) with a copy of P.A.C.. 17th Report. 1967-68.

Sd/-

Secretary,

Central Board of Direct Taxes.

Further Information

This matter is intimately related to the PAC's recommendations in paras 1.34, 1.35 and 1.36 of their 17th Report and para 2.40 of their 29th Report. The Government is shortly asking three senior officers of the Income-tax Department to undertake a study of all appellate orders in the important charges under the CsIT, U.P., Delhi and Punjab. They would study the orders in two AACs' charges under each CIT. A report on this study is expected to be available by the end of January, 1969. It is proposed to undertake similar studies in the other Commissioners' charges as well after considering the report on the preliminary survey.

| | | |
|---|----------|------------|
| (A) | | (Rs. '000) |
| (i) Gross as per part III as on 30-9-1968. | | 64,49,288 |
| <i>Less :</i> | | |
| 1. Amount pending disposal of appeals (item 8) | 3,84,413 | |
| 2. Amounts for which extensions of time has been granted by the ITO or other authorities (item 9) | 2,75,421 | |
| 3. Demand covered by advance tax which is awaited adjustments (item 11) | 6,69,258 | |
| 4. Amount not fallen due item 13 (b) | 4,09,100 | |
| (B) Total | | 17,38,192 |
| Net Arrears—(A)-(B) | | 47,11,096 |

(ii) Already included in (i).

(iii) The information regarding the amount of arrears involving Rs. 5 lakhs or more in each case is available only upto 31-3-68. The number of cases (including groups of cases) where the arrear demand was Rs. 5 lakhs or more as on 1-4-68 is shown below :

| CIT's charge | No. of cases including group cases | Arrear Demand as on 1-4-68 (Rs. in thousands) |
|--------------------------------|------------------------------------|--|
| 1. Madhya Pradesh | 26 | 40,011 |
| 2. Delhi | 37 | 60,811 |
| 3. Delhi (Central) | 55 | 2,01,664 |
| 4. Andhra Pradesh | 18 | 33,963 |
| 5. Bombay City-I | 89 | 1,69,775 |
| 6. Bombay City-II | 64 | 1,18,257 |
| 7. Bombay City-III | 77 | 87,822 |
| 8. Bombay (Central) | 51 | 2,25,970 |
| 9. Gujarat-I | 4 | 5,717 |
| 10. Gujarat-II | 9 | 11,381 |
| 11. Rajasthan | 9 | 10,695 |
| 12. Madras-I | 16 | 15,849 |
| 13. Madras-II | 5 | 4,795 |
| 14. Madras (Central) | 18 | 19,179 |
| 15. Kerala | 8 | 10,510 |
| 16. Punjab | 6 | 9,026 |
| 17. Poona | 18 | 34,677 |
| 18. Mysore | 3 | 3,431 |
| 19. Bihar | 21 | 14,356 |
| 20. Orissa | 10 | 8,409 |
| 21. Assam | 9 | 8,148 |
| 22. Uttar Pradesh-I | 25 | 25,979 |
| 23. Uttar Pradesh-II | 17 | 25,929 |
| 24. West Bengal-I | 139 | 2,67,577 |
| 25. West Bengal-II | 107 | 1,37,354 |
| 26. West Bengal-III | 182 | 2,40,511 |
| 27. Calcutta (Central) | 62 | 1,91,766 |
| | 1,085 | 1,98,35,62 |

(iv) The information is not readily available and will have to be compiled by referring to the files of each and every company. The data is expected to be ready by the end of January, 1969.

[Min. of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 2841-7(M)/68
dt. 18-12-68.]

Recommendations

The Committee hope that necessary action will be taken by the Department to check the tendency on the part of Income-tax Officers to over-pitch assessments. They were informed by the Secretary, Revenue and Expenditure that a suggestion had been made to the Board that the efficiency of the Income-tax Officers might be judged from the number of cases in which the assessments made by them stood the scrutiny of appellate courts. The Committee feel that such a step would be helpful in checking the tendency on the part of Income-tax Officers to over-pitch assessments. They would like to know the final decision taken in this regard.

The Committee also feel that an evaluation of the work done by the assessing officers should be undertaken when large reliefs are given in appeal. The Committee would like the Board of Directors to look into cases of the past four years in which aggregate relief to an assessee in one year in appeals and reference is in excess of 50 per cent of the relief sought, with a view to evaluating the work of the assessing officers. The Committee should be informed of the action taken against the officers who are found to have over-pitched assessment particularly in cases where the Tribunal, High Court or the Supreme Court might have passed strictures against such assessments.

The Committee feel that, while it is the duty of the assessing officers to guard zealously the interests of the public revenues, it is equally their duty to deal justly with the tax-payer in the exercise of the wide authority conferred on them by the Taxation laws.

(Serial Nos. 9, 10 and 11 and Paras 1.34, 1.35 and 1.36 of Appendix V to the 17th Report, 1967-68.)

Action taken

The suggestion of the PAC has been noted, and instructions issued *vide* this Ministry's letter No. 8 24/66-IT(B), dated 23-1-66 (copy enclosed).

The Commissioners of Income-tax were asked to look into cases of over-pitched assessments where the Tribunal, High Court or Supreme Court might have passed strictures against such assessments. From the reports received it is seen that there was no such case during the past four years.

Palpably wrong or harassing assessments are taken notice of by the Department while evaluating the work of the assessing officers.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 3/10/68-II (Audit), dt. 11-11-68.]

F. No. 83/24/66-IT(B)
CENTRAL BOARD OF DIRECT TAXES
New Delhi, the 23rd June, 1966.

From

Shri Wasiq Ali Khan,
 Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT :—*Recommendations of the P.A.C.—regarding tendency of Officers to inflate assessments—curbing of—Instructions regarding—*

In their 46th Report, the Public Accounts Committee referred to a case where a large amount was written off, as a substantial portion of the demand was due to over-assessment and overlapping additions. They have emphasized the need for curbing the tendency on the part of officers to inflate the assessments as such a tendency would result in undue hardship and harassment to the assessees.

2. The importance of making realistic assessments which may stand the test of appeals and may facilitate the recovery of taxes assessed need hardly be emphasized. It should, therefore, be impressed upon the officer not to make inflated assessments which may only result in paper demand and expose the Department to adverse criticism.

Yours faithfully,

Sd/-

Secretary, Central Board of Direct Taxes.

Further Information

[Vide reply to Item No. 5 under Sr. No. 7]

Recommendation

The Committee note that the main objections underlying the two Voluntary Disclosure Scheme were to bring out unaccounted income and encourage assessees who for some reasons had not adopted the right path, to adopt the part of rectitude. The amounts of unaccounted income declared under the first and second schemes were Rs. 52 crores and Rs. 145 crores respectively. According to the Ministry, "no one has any near precise estimate of how much is floating around us as black money...the amounts that are disclosed are far less compared to the amounts which may be in circulation as black money." The Committee therefore feel that the two Schemes have not gone far in achieving the objectives in view.

In view of the unsatisfactory results of the Voluntary Disclosure Scheme, the Committee feel that by its very nature and inherent weaknesses, no Voluntary Disclosure Scheme can ever be a real success. It is therefore essential to make a thorough probe into the grounds and factors which made evasion of taxes on a large scale so attractive as well as possible so that Government is impelled to compromise with the tax evaders in the

larger interest. While adopting adequate administrative safeguards to arrest tax evasion it would be well worthwhile to adopt measures which will make evasion unrewarding and unattractive. That would be to forestall the malady rather than to allow the malignancy of evasion to grow and then seek its cure by Voluntary Disclosure Scheme.

(Serial No. 16 and Para 1.69 of Appendix V to the 17th Report, 1967-68.)

Action taken

The observation of the Committee have been noted. A Committee consisting of Departmental Officers was set up in April, 1968 to go into the entire question of tax-evasion in all walks of life in the country and to report on the various steps to be taken to tackle the problem. Its report is expected before the end of this year. A copy of the orders appointing the Committee is also appended.

(2) To make evasion of tax unrewarding and unattractive, the penalty provisions in the Income-tax Act have been tightened up by the Finance Act, 1968. Under the revised provisions, the minimum penalty imposable for concealment of income has been fixed at 100% of the income sought to be evaded. The maximum has also been pitched at the high figure of 200% of the concealed income. The effect of these provisions is that apart from paying due taxes on the income concealed by the tax evader will have to forego the entire concealed income by way of penalty. Besides, the following other legislative measures have also been introduced by the Finance Act, 1968 to tackle the problem of tax evasion :—

- (1) Provision has been made to disallow expenses claimed, in order to evade tax, towards excessive or unreasonable payments made to relatives, directors or associate concerns. [Sec. 40A (2).]
- (2) Provision has also been made for the disallowance of expenditure, otherwise than by a crossed bank cheque or a crossed bank draft, of amounts exceeding Rs. 2,500/-. [Sec. 40A(3).]
- (3) Punishment for defaulting to deduct tax at source and to pay it to Government account will now be rigorous imprisonment upto 6 months and also fine of not less than 15% per annum of the tax in default. (Sec. 276.B).

3. As a further measure to deal with tax evasion problem, the Central Circles, which deal with cases of substantial tax evasion, have been provided with more officers with special aptitude for this type of work. The Intelligence Wing of the Department is also proposed to be expanded considerably.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 3 13/68-II (Audit), dt. 22-1-69]

Further Information

A copy of the order appointing the departmental committee for tax evasion and its terms of reference is placed below.

CONFIDENTIAL**F. No. 14/3/68-IT(INV)****GOVERNMENT OF INDIA****MINISTRY OF FINANCE****(DEPARTMENT OF REVENUE AND INSURANCE)***New Delhi, the 22nd April, 1968.***OFFICE MEMORANDUM****SUBJECT :—***Appointment of a Committee to undertake a study of the problem of tax evasion.*

The problem of tax evasion and ways and means of tackling it has been engaging the attention of the Government for some time. It has been decided to appoint a Committee of Officers of the Income-tax Department to undertake a study of this problem.

2. The Committee will consist of the following members :—

- (1) Shri R. N. Jain, Director of Inspection (Investigation), New Delhi.
- (2) Shri O. V. Kuruvilla, Commissioner of Income-tax, Bombay (Central), Bombay.
- (3) Shri S. R. Vaish, Deputy Director of Inspection (Intelligence), New Delhi.

The Committee may co-opt officers of the Income-tax Department. Shri B. A. Menon, Assistant Director of Inspection (Investigation), will act as Secretary.

3. (a) The Committee will study the causes of tax evasion, general techniques of tax evasion as also special ones employed in major trades and industries and recommend the steps which it considers necessary to adopt to check and detect tax evasion;

(b) Without prejudice to the generality of the above, the Committee will study and report, in particular, on the following :

- (i) Dealings in lands and buildings;
- (ii) Tax evasion by film artists and other professional classes, like lawyers and doctors;
- (iii) Tax evasion in speculation in commodities, shares, etc.;
- (iv) Evasion through benami transactions.
- (v) How far law of limitation protects the successful tax evader;
- (vi) Adequacy of strength and conditions of service of the personnel of the Income-tax Department;
- (vii) Recognition or reward to the successful investigator;
- (viii) Imposition of supervisory responsibilities within the optimum span of control;
- (ix) Adequacy of liaison with other Government Departments
- (x) Collusion between Banks and tax evaders.

4. The Committee may visit important industrial centres like Bombay, Calcutta, Madras for the purpose of the study and examine officers of the

Department, dealing with various types of cases, and also non-officials, if necessary. The Director of Inspection (Research, Statistics & Publication) and the Commissioners will furnish all statistical and other information which the Committee may require.

5. The Committee should submit its report by 31st August, 1968.

Sd/-

Deputy Secretary to the Government of India.

1. Shri R. N. Jain, Director of Inspection (Investigation), New Delhi.
2. Shri O. V. Kuruvilla, Commissioner of Income-tax, Bombay (Central), Bombay.
3. Shri S. R. Vaish, Deputy Director of Inspection (Intelligence), New Delhi.
4. Shri B. A. Menon, Assistant Director of Inspection (Investigation), New Delhi.
5. All Commissioners of Income-tax.
6. Directorate of Inspection (Investigation)/(Income-tax)/(Research, Statistics & Publication), New Delhi.
7. Bulletin Section (3 copies).

Recommendation

The Committee desire that the Ministry should make a detailed study of all aspects of taxation in these foreign countries from up-to-date publications and also obtain the requisite information from these foreign Governments through our Missions abroad. The study should cover the administrative aspects of the system of assessment and collection and the measures adopted to check tax evasion and by comparison Government should examine, keeping the conditions of our country in view, to what extent it is necessary to modify and amend the present laws and levies of taxes to prevent large-scale concealment of income.

(Serial No. 18 and Para 1.74—Appendix V to the 17th Report, 1967-68.)

Action taken

The suggestion made by the Committee has been noted.

[Min. of Finance (Deptt. of Rev. & Insurance) D.O. Letter No. 7/9/69 Coord., dt. 6-11-69.]

Further Information

The Ministry has been obtaining from time to time the latest tax enactments and connected materials from the U.K., the U.S.A. and other Western countries which have been relying on Direct Taxes, like Income-tax as their major source of revenue. The materials received are studied and the information gathered is kept in view in formulating our taxation proposals in the annual Finance Bills. Recently, some orders have been placed for

the latest publications relating to tax laws of several foreign countries. The supply of these books is awaited.

Since 1954, the Government has been sending out some of the senior officials of the Income-tax Department for studying the U.K. and the U.S. tax laws at first hand. The latest of such studies was on the administration of Direct Taxes in the U.S.A. undertaken in 1964-65 by two teams of Indian tax officials. The members of the first team submitted reports on the modes of detection of tax evasion in the U.S.A. The second team reported on the administration of Direct Taxes in the U.S.A. A team of U.S. tax officials have been working in Delhi since 1965-66 and they have been advising the Government on both the administrative structure and the methods of detecting evasion. The Functional System of working in the Income-tax Deptt. was introduced on the basis of such studies. Besides, the Intelligence Wing was set up for tackling evasion and pursuing prosecution.

The tax structure of the country is being reviewed year after year before the formulation of Budget proposals. The rates of taxation of income of corporate and non-corporate tax-payers are reviewed every year and the various factors relating to the economic needs of the country, budgetary requirements, incentives for investment of capital (including foreign capital) are duly taken into account. In prescribing the rates of tax by the annual Finance Acts and allowing the rebates and reliefs from the standard rates of tax, the practice followed by advanced countries are taken due notice of.

On 9-12-68 the Government have already placed before the Parliament (in reply to the unstarred Question No. 3827 in the Lok Sabha) the current rates of tax in India on the business income of domestic companies and the corresponding rates of tax in the U.S.A., the U.K., France and Japan. A copy of the same is placed for the perusal of the Committee. [Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 2841-M(M)/68, dt. 18-12-68.]

LOK SABHA

Unstarred Question No. 3827

To be answered on Monday, the 9th December, 1968

Incidence of Corporate Taxation

QUESTION

Shri R. K. SINHA :

Shri Shiva Chandra Jha :

Will the Minister of Finance be pleased to state :

(a) the present corporate tax rate in India *vis-a-vis* that of U.S.A., U.K., France and Japan;

(b) whether it is a fact that the incidence of corporate taxation is the highest in India as claimed in a paper prepared by the Federation of Indian Chambers of Commerce & Industry;

(c) the reasons for such high rate of taxation; and

(d) whether devices are being evolved to lower the rate of taxation?

REPLY

The Deputy Prime Minister & Minister of Finance (Shri Morarji Deas) :
 (a) The current rates of tax in India on the business income of domestic companies, and the corresponding rates of tax in U.S.A., U.K., France and Japan, as could be gathered from the material available with the Government, are set forth in the Annexure.

(b) No, Sir.

(c) and (d). The rates of tax on the incomes of corporate and non-corporate tax payers are reviewed every year in the light of the economic needs and the budgetary requirements of the country and the annual taxation proposals of the Government are formulated on the basis of such review.

Statement showing the Current Rates of Tax in India on the Business Income of Domestic Companies and the corresponding rates of tax in U.S.A., U.K., France and Japan.

| | <i>Rates of Income-tax</i> |
|--|--------------------------------|
| 1. India : | |
| A. Widely-held domestic company (i.e. domestic company in which the public are substantially interested) : | |
| (i) with total income not more than Rs. 50,000 | 45% |
| (ii) with total income more than Rs. 50,000: | |
| (a) derived from a non-priority industry | 55% |
| (b) derived from a 'priority industry' | 50·6%* |
| B. Closely-held domestic 'industrial company' (i.e. company engaged in the generation or distribution of electricity or any other form of power, ship- building, mining, or manufacture or processing of goods) : | |
| (i) with total income not more than Rs. 10 lakhs : | |
| (a) derived from a non-priority industry | 55% |
| (b) derived from a 'priority industry' | 50·6%* |
| (ii) with total income more than Rs. 10 lakhs : | |
| (a) derived from a non-priority industry— | |
| First Rs. 10 lakhs | 55% |
| Balance | 60% |
| (b) derived from a 'priority industry'— | |
| First Rs. 10 lakhs | 50·2%* |
| Balance | 55·2%* |
| C. Closely-held domestic non-industrial company | 65% |

Companies are also liable to pay surtax at 25% on the amount by which their chargeable profits (broadly, profits after income-tax, as reduced by items of income exempt from surtax,) exceed 10% of their capital base or Rs. 200,000, whichever is higher. The capital base includes besides paid-up capital, reserves, debentures, and long-terms borrowings of the company.

*This is the effective rate of tax arrived at after the deduction, under section 80I of the Income-tax Act, of 8% of the profits derived from priority industries, in the computation of the taxable income of the domestic company.

2. U.S.A. :

The rate of Federal Corporation tax is 52·8% (48% *plus* surcharge at 10% thereof)

Corporations are also subject to State or local taxes on income at rates ranging in the majority of States from 5% to 7%.

3. U.K. :

The rate of corporation tax is 42·5%.

Corporations are also subject to the Selective Employment Tax.

4. France :

The rate of corporation tax is 50%.

Corporations are also subject to a business tax. The amount of the tax is usually related to :—

the kind of business carried on;

the population of the municipality where the business is carried on;

the number of employees;

the annual rental value of business buildings and equipment.

5. Japan :

The rates of corporation tax vary from 22% to 55% depending on the size of the capital base of the company, the magnitude of its retained earnings and whether it is a family corporation.

Corporations are also subject to a business tax, called the Enterprise tax. The rates of this tax vary from 6% to 12%.

Recommendation

The Committee note that, according to the studies made by the Ministry, the rates of taxation on corporate as well as non-corporate income in India are generally higher than in the relevant foreign countries. The Committee do not think that, in their effort to raise adequate resources for development purposes, Government are justified in creating a situation where partly as a result of excessive rates of taxation large amounts of unaccounted money are found to be floating and the entire economic atmosphere gets vitiated and in the process the growth of the rate of collection of direct taxes is adversely affected. The Committee would, therefore, strongly urge that the entire tax structure of the country should be critically examined in the light of the evils that have resulted *inter alia* from the present excessive rates of taxation and that the practice of advanced countries should be followed in order to avoid further provocation and temptation to assesseees to evade their obligations to the Public exchequer.

(Serial No. 19 and Para 1.75—Appendix V to the 17th Report, 1967-68.)

Action taken

The suggestion made by the Committee has been noted.

[Min. of Fin. (Deptt. of Rev. & Ins.) D.O. Letter No. 7/9/68-Coord., dt. 6-11-68.]

Recommendation

The Committee note that as a result of an external survey by the Department 6, 11, 794 and 4, 26, 057 new assesseees were discovered during the years 1964 and 1965 respectively. They also suggest that a study should be made of the disclosures made under the new Voluntary Disclo-

sures Schemes in order to effect an improvement in the system of the Survey.

(Serial No. 20 and Para 1.79 of Appendix V to the 17th Report, 1967-68.)

Action taken

The observations of the Committee have been noted for action. A study as suggested by them is being undertaken.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 3/17/68-II(audit) (Inv.), dt. 17-12-68]

Further Information

No study of the Voluntary Disclosure Scheme with a view to improving the survey technique has yet been undertaken. During 1968-69, the officers of the Department will be busy almost wholly in implementing the Government's crash programme of disposing of pending and current assessments, necessitated by the reduction in the time-limit for assessments to only two years from the end of the relevant assessment year with effect from 1970-71. It will not be possible now to undertake a serious study of the Voluntary Disclosure Scheme from the particular angle desired by the P.A.C. When the present pressure relating to disposal of assessments is relieved, a study will be undertaken.

[Min. of Finance (Deptt. of Rev. & Insurance) D.O. Letter No. 2841-M(M)/68, dt. 18-12-68.]

Recommendation

The Committee have been repeatedly stressing the desirability of launching prosecutions in clear and glaring cases of deliberate large-scale tax evasion in preference to the imposition of penalties. They were informed in 1965-66 that two experts from the United States of America were helping the Board to look into the question of introducing organisational and legal changes to make prosecution effective and that some officers had also been sent to the United States of America for training in this particular aspect. The Committee note however that although the number of cases of concealed income detected during 1965-66 increased to 24,165 from 13,666 in 1964-65, no prosecutions were launched. They therefore feel that little headway has been made by the Department in this regard. They suggest that the question should be further examined and necessary legal and organisational changes made to make prosecutions effective in clear and glaring cases of deliberate large scale tax evasion.

(Serial No. 24 and Para 1.95 of Appendix V to the 17th Report, 1967-68)

Action taken

The observations of the Committee have been noted by the Government. The Department has stepped up its tempo in the matter of launching prosecutions in the recent past as will be evident from the following figures :—

| | |
|-------------------|-----|
| 1965-66 | Nil |
| 1966-67 | 13 |
| 1967-68 | 7 |
| 1968-69 | 12 |
| (up to 30-9-1968) | |

Apart from the above, prosecutions were also launched for offences under the Indian Penal Code in connection with income-tax matters :—

| | |
|--------------------|---|
| 1965-66 | 1 |
| 1966-67 | — |
| 1967-68 | 2 |
| 1968-69 | 3 |
| (up to 30-9-1968). | |

An Intelligence wing was set up in 1966 to process cases with prosecution potential so that more attention is paid to the prosecution aspect of the matter than hitherto. A proposal to have a criminal lawyer on a retainer basis to advise the Department in prosecution cases is also being examined. Further, the question of posting one Officer of the Intelligence Wing in each Commissioner's charge to process prosecution cases is also being considered.

2. A prosecution Manual has been prepared recently, in consultation with the two experts from the United States of America, for the guidance of all officers of the Department. This will also enable the officers to process the prosecution cases in a better manner.

3. Under the Income-tax Act, as it stands now, the burden of proving the concealment for the purposes of levy of penalty is not entirely on the Department, but on the assessee as well. On the other hand, in cases of prosecution, the burden of proving the concealment conclusively is entirely on the Department by positive evidence which will normally not be available in all cases, though the evidence available may be enough for levying penalty. This accounts for the number of prosecutions not being on par with the increase in the number of penalty cases. Another reason is that it takes considerable time to process cases for prosecution before actually filing the complaints.

4. A committee consisting of Departmental Officers was set up this year to enquire into all aspects of tax evasion. On receipt of its report, further measures to be taken will be considered.

[Ministry of Finance (Deptt. of Revenue & Insurance) M.O. No. 3/23/68-II (audit), dated 20-12-1968]

Further Information

The Departmental Committee on Tax Evasion has submitted its report only about a fortnight back. It is being studied by the C.B.D.T. A statement showing the main recommendations of the Committee and the action proposed to be taken in pursuance thereof is expected to be furnished to the Public Accounts Committee by 31st January, 1969. A copy of the report also will be sent.

Recommendation

The Committee feel disturbed at the Income-tax Department levying penalties and feeling satisfied with this action without making out a case for successful prosecution. Proper and adequate investigation would undoubtedly enable the Department to get culpable assessee punished in a Court of Law.

The Committee consider that a penalty should not be imposed to augment tax collection in a routine manner by taking advantage of the relaxation made in law in 1964 but only after full and careful consideration so that it is imposed on really guilty assesses and acts as a deterrent to tax evaders. The Committee would like to be informed of the instructions issued by Government in the matter.

(Serial No. 26 and Para 1.97 of Appendix V to the 17th Report, 1967-68).

Action taken

The observations of the Committee have been noted by the Government. As desired by the Committee, the Government have intensified its efforts at prosecution of assessee guilty of tax offences. An account of the same has been given in the Ministry's reply to Paragraph 1.95 of Appendix V of the PAC's 17th Report, 1967-68, which may kindly be referred to.

Copies of the instructions issued asking Income-tax Officers not to invoke the provisions of the Explanation to Section 271(1) indiscriminately are placed below.

[Min. of Finance (Deptt. of Rev. & Ins.) M. O. Letter No. 3/25/68-II
(Audit) dated 14-2-1969]

Further Information

Copies of two relevant circulars are placed below.

FOR DEPARTMENTAL USE ONLY

F. No. 58/19/66-IT(INV)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 31st October, 1966.

Circular No. 28-D (XLV-22) Of 1966

SUB. :—*Penalties under section 271(1)(c) of the Income-tax Act, 1961 as amended by the Finance Act, 1964—Scope of Explanation added to Section 271(1)—Instructions regarding—*

Some references have been received regarding the scope of the Explanation to section 271(1) in various types of cases, particularly, where the margin of 20% between the assessed and the returned income is exceeded as a result of application of estimated rates of profits.

2. The Explanation added to section 271(1) has, in effect, shifted the burden of proof regarding fraud or gross or wilful neglect from the Income Tax Officer to the assessee. In cases where it is clear that there is no fraud or gross or wilful neglect, the provisions of section 271(1)(c) should not be applied. Such cases will normally be of reasonableness or otherwise of the gross profits or reasonableness of the yield of finished products in a manufacturing concern. Where the margin between the percentage shown by the assessee and the percentage applied by the Income-tax Officer is small and there can be honest difference of opinion about the reasonableness, the provisions of section 271(1)(c) should not be invoked. Where the margin between the percentage shown and applied is large, and there is reason to believe that the assessee is deliberately keeping books in a particular fashion with a view to pay lower tax, action under section 271(1)(c) should be taken. The burden of proof will always be on the assessee, and it will be for him to show that there is no fraud or gross or wilful neglect and the provisions of section 271(1)(c) do not apply to the facts of the case.

3. In paragraph 98 of Board's Circular No. 20 (LXXXVI) D of 1964, dated the 7th July 1964 [F. No. 1(252)/64-TPL] it had been said that the Explanation to section 271(1) should not be invoked in cases where income assessed is up to Rs. 6,000 and the profits have been estimated under the provisions of section 145 and the facts and circumstances do not indicate any fraud or gross or wilful neglect on the part of the assessee. Further in Board's Circular No. 15D (V-49 of 1965), dated 19th June, 1965 [F. No. 3/17/65-IT(B)] the application of the Explanation had been relaxed in cases, other than company cases and loss cases, where the income already assessed is Rs. 7,500 or less. In view of the large number of estimate cases in lower categories, the Explanation should not be invoked in cases where income assessed does not exceed Rs. 10,000 if the difference of over 20% is due to estimate of profits under the provisions of section 145 of the Income-tax Act, 1961.

4. These instructions may be brought to the notice of all the Officers in your Charge.

Sd./- G. R. HEGDE,

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Copy forwarded to :—

1. The Comptroller and Auditor General of India
(with 20 spare copies).
2. All Officers and Sections in the Direct Taxes Wing.
3. Director of Inspection (I.T.)/(R.S. & P./INV), New Delhi.
4. Assistant Director of Inspection (Bulletin) (3 copies).

Sd./-

Secretary, Central Board of Direct Taxes.

F. No. 58(105) 67-IT(INV)
GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 18th December, 1967

Circular No. 22-D (LXV-25) of 1967.

SUBJECT :—*Penalties under section 271(1)(c) of Income-tax Act 1961 as amended by Finance Act, 1964—Scope of Explanation added to section 271(1)—Instructions regarding—.*

In para 3 of Board's Circular No. 28-D (XLV-22) of 1966, dated 31st October, 1966, it was said that the explanation to section 271(1) should not be invoked in cases where income assessed does not exceed Rs. 10,000 if the difference of over 20% is due to estimate of profits under the provisions of section 145 of Income-tax Act, 1961. The Board has decided that the same principle should be applied to cash credits also, or in other words, the explanation should not be invoked also in cases where income assessed does not exceed Rs. 10,000 if the difference of over 20% is due to addition of cash credits.

2. The principles regarding application of the Explanation to section 271(1) are given in para 2 of Board's circular, dated 31st October, 1966 mentioned above. Para 3 is an exception to para 2 and the result is that in cases with income below Rs. 10,000, the Explanation should not be invoked if the addition is merely on account of estimate of profits or addition of cash credits.

Sd./-

Secretary, Central Board of Direct Taxes.

To

1. All Commissioners of Income-tax
This disposes of letter No. J. 61(20)/67-68, dated 14th September, 1967 from the Commissioner of Income-Tax, Hyderabad.
2. D. L. (Investigation/Income-tax)/(R.S. & P.), New Delhi.
3. All Officers & Sections in the Direct Taxes Wing.
4. Bulletin Section—3 copies.
5. The Comptroller & Auditor General of India, New Delhi (20 copies).

Further Information

(i) *Measures taken to launch prosecutions successfully :*

The following steps have been taken to launch prosecution successfully:

- (1) Instructions have been issued from time to time to all the Commissioners of Income-tax to see that prosecutions are

launched in as many cases of tax evasion as possible. Relevant circulars are placed below.

- (2) Intelligence Wings have been set up at Bombay, Calcutta, Delhi and Madras for examining potential prosecution cases in consultation with the Department's legal advisers, with a view to launch as many prosecutions as possible.
 - (3) A Refresher Course to train selected officers for processing potential cases of prosecution was recently organised.
 - (4) A prosecution Manual has been prepared and will be issued shortly. This will enable Income-tax Officers to be properly equipped in dealing with potential cases of prosecution.
 - (5) The question of providing Assistant Directors of Inspection (Intelligence) at the headquarters of each Commissioner's charge to process cases of prosecution is under examination.
 - (6) The desirability of having legal advisers on a retainer basis to guide the officers is being considered.
 - (7) For obtaining evidence to strengthen the chances of prosecution in cases involving substantial tax evasion, immunity under Section 291 of the Income-tax Act of 1961 is granted by the Central Government in suitable cases.
- (ii) *Measures taken to ensure that the prosecutions are not launched merely with a view to compounding the same and to recover large composition fees :*

At the time a prosecution is sanctioned or launched, the question of compounding the offence at a later stage is not at all considered. The question of compounding an offence arises only when the Department feels that there are some technical hitches or doubts about a successful prosecution and the assessee has come forward with a proposal for compounding. Prosecutions are not launched with a view to compounding the same and to recover large composition fees. All prosecutions are launched with the administrative approval of the C.B.D.T. and the Commissioners cannot later compound the offence except with the approval of the Board. Such approvals are given by the Board only in those rare cases where it is felt that the chances of successful prosecution are not very bright. There is thus no tendency to compound the offence after the prosecution is launched.

- (iii) *The cardinal principles which govern withdrawal of cases and composition of fees :*

Once having launched a prosecution, the Government is normally against entertaining any proposals for withdrawal of the case or for composition. Compounding of an offence after the prosecution has been launched is considered by the Board only in the following circumstances :

- (1) The Departmental Counsel feels that the evidence relied on cannot be proved to the satisfaction of the Court;
- (2) Key witnesses are either not available or have become hostile;
- (3) Where there is a risk of the offending assessee getting away with a token fine or a light punishment due to lapse of time or other similar circumstances;

(4) If in the course of the prosecution proceedings it becomes evident that the chances of a successful prosecution are remote.

(iv) *Measures taken to ensure that the prosecutions launched are only in respect of the cases which are strong and the measures adopted to ensure that their withdrawals are justified and bone fide only in exceptional cases :*

With a view to ensure that prosecutions are launched only in cases where the prospect of a successful prosecution is good, instructions have been issued that no prosecution should be launched without the prior administrative approval of the Central Board of Direct Taxes. Similarly, Commissioners have been instructed not to compound or withdraw a prosecution without the prior administrative approval of the Central Board of Direct Taxes.

[Min. of Fin. (Deptt. of Rev. & Ins.) D.O. Letter No. 2841-M(M)/68, dated 18-12-1968]

F. No. 4/53/68-IT(Inv.)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 25th September, 1968

From

The Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax,

Sir,

SUB. :—*Prosecution under the Income-tax Act—Composition of—Instructions regarding.*

Please refer to item No. V(4) of the minutes of the Commissioners' Conference held in July, 1968.

2. In view of the persistent criticism in the Parliament and outside about the failure of the Department to prosecute tax evaders, it is necessary to re-emphasise that cases of tax evasion should be carefully worked up from the point of view of prosecution. It has also been decided that cases of prosecution should not normally be compounded where the chances of a successful prosecution are good.

Yours faithfully,

Secretary,
Central Board of Direct Taxes.

CONFIDENTIAL

E. K. Lyall,
Secretary,

D.O. No. 4/8/68-IT (Inv.)
GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES
New Delhi, the 27th February, 1968

Dear Shri

SUBJECT :—Prosecutions—Launching of—Delay in—Instructions regarding.

Please refer to the Board's letter F. No. 58/86/67-IT(Inv.) dated 5th October, 1967 where in the need to launch prosecution in as many cases as possible has been emphasized.

2. In this connection the Minister of Finance has observed as under :
"There should be no hesitation in launching prosecution where the facts warrant it."

The Board desires that these directions should be strictly adhered to.

3. It has also been observed, that there is sometimes inordinate delay in filing the complaints even after the prosecution has been approved. In some cases prosecutions have not been launched even after a year of the Board's approval. There seems to be little justification for this delay, since consultation with the Standing Counsel and preparation of complaints should not take such a long time. In this context, the Minister of Finance also had occasion to observe as under :

"Once prosecutions have been approved, there should not be so much of delay."

The Board would, therefore, like to impress upon you also that once the prosecution is approved you should personally look into the matter so that complaints are filed, latest, within a period of three months of the Board's approval. In case of any difficulty in filing the complaints within this period the matter may be brought to the notice of the Board.

Yours sincerely,

Shri
Commissioner of Income-tax,

CONFIDENTIAL

F. No. 58/86/67-IT(Inv.)
GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES
New Delhi, the 5th October, 1967

From

The Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT :—Launching prosecutions as a measure for checking tax evasion.

I am directed to refer to the Board's circular F. No. 58/20/64-IT(Inv.), dated 27th June, 1964 on the above subject, wherein it has been emphasised

that criminal prosecution should be resorted to in all cases of glaring and deliberate concealment. In this circular it was also mentioned that Income-tax Officers should be told that in future, the number and nature of tax evasion cases, detected by them, resulting in successful prosecution will be considered while judging their performance for the year.

2. If the number of cases received by Board for sanction of prosecution since the issue of this circular shows that the response has been very poor. The number is given below :—

| | <i>No. of proposals for prosecution.</i> |
|---------------------------|--|
| 1964-65 | 9 |
| 1965-66 | 15 |
| 1966-67 | 14 |
| 1967-68 (up to 30-9-1967) | 14 |

It needs hardly to be added that drive for successful prosecution is an integral part of the Department's drive to tackle evils of tax evasion.

2. The Board would, therefore, like to emphasise once again that every effort should be made to pick out cases of glaring and deliberate concealment and process them as quickly as possible. The Board expect that you will pay your individual attention to this matter and ensure that the performance in this respect does not fall below expectations.

Yours faithfully,

Secretary, Central Board of Direct Taxes.

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES.

Recommendation

The Committee would like to know of the progress made in respect of the remaining cases.

(Serial No. 22 and Para 1.84 of Appendix V to the 17th Report, 1967-68)

Action taken

The Committee desired to know of the progress made in respect of the remaining 11,414 cases. The Commissioners of Income Tax have been asked to review these cases and report the details of the declarations where action was taken for aggregating the income in the hands of the real owners. From the reports so far received it is known that the incomes declared in 74 declarations were aggregated. Reports from the Commissioners of Income Tax, Bombay City II, Bombay City III and Jaipur are still awaited. [Ministry of Finance (Deptt. of Rev. & Insurance) D.O. letter No. 3/19/67-IT (Audit) (Fin.) dated 13-3-1969]

Recommendation

The Committee also desire that the recovery of the tax demanded and the penalty imposed in these cases should be expedited.

(Serial No. 25 and Para 1.96 of Appendix V to the 17th Report, 1967-68).

Action taken

The suggestion made by the Committee has been noted.

Instructions in the matter were issued in this Ministry's letter No. 3/24/68-IT (Audit), dated 17th July 1968 (copy enclosed).

The Board is keeping a watch on the recovery of the penalties imposed by getting periodical reports from the Commissioners of Income-tax. The Collections so far reported are Rs. 19,74,800.

[Ministry of Finance (Deptt. of Rev. & Insurance) D.O. Letter No. 3/24/68-IT (Audit), dated 15-11-1968]

F. No. 3/24/68-IT (Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, dated the 17th July, 1968

To

All Commissioners of Income-tax.

SUBJECT :—*Recommendations of the Public Accounts Committee in their 17th Report (1967-68) on Para 1.96.*

Sir,

The Public Accounts Committee have observed in Para 1.91 of the above report that out of Rs. 650,51,881 demanded as extra tax on con-

cealed income in 1964-65, the amount of tax recovered is only Rs. 218,34,729. The Board desire that these arrears should be collected quickly. A report regarding actual collections made in this regard, may please be furnished to the Board positively, by the 16th August, 1968. In this connection Board's letter No. 15/215/67-IT(Inv.), dated 6th January, 1967 and your reply thereto may please be referred to.

Yours faithfully,
Sd./-

Under Secretary, Central Board of Direct Taxes.

Further Information

- (i) The period is 1964-65 and the amount represents the collection against extra tax. The extra tax itself came to Rs. 6.50 crores.
- (ii) The amount of penalty imposed during 1964-65 was Rs. 4.01 crores.

Recommendation

The Committee note that during the period 1964-65 and 1965-66 (up to 31st August, 1966) 777 searches and raids were made by the Department in respect of which assessments have been completed only in 253 cases. They desire that efforts should be made to complete the assessments in the remaining cases.

(Serial No. 28 and Para 1.103 of Appendix V to the 17th Report, 1967-68)

Action taken

Instructions in the matter have been issued to the Commissioners of Income-tax *vide* this Ministry's letter No. 3/27/68-IT(Audit), dated 8th July 1968 (copy enclosed). A watch is being kept regarding the progress made in completion of these assessments.

2. A report on the progress will be made to the P.A.C. in due course.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 2/27/68-IT (Audit), dated 14-1-1969]

F. No. 3/27/68-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, dated the 8th July, 1968

From

Shri A. R. Rao,
Under Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax,

SUB. :—*Recommendations of the PAC in their 17th Report (1967-68) in Para 1.103.*

Sir,

I am directed to append below the recommendation of the P.A.C. in their 17th Report (1967-68) in Para 1.103 and to request that a report

regarding further progress made in completion of assessment in *these cases* may be furnished to the Board immediately. Steps may also be taken to complete these assessments immediately.

Para—1.103 : “The Committee note that during the period 1964-65 and 1965-66 (up to 31st August, 1966) 777 searches and raids were made by the Department in respect of which assessments have been completed only in 253 cases. They desire that efforts should be made to complete the assessments in the remaining cases.”

Yours faithfully,
Under Secretary, Central Board of Direct Taxes.

Further Information

The number of assessments pending as on 31st August, 1966 was 777. The progressive total of disposals as on 31st August, 1967 was 329 and on 31st August, 1968 424.

Recommendation

The Committee are surprised that no prosecution has yet been launched in the cases of concealed income detected as a result of searches and raids during 1964-65 and 1965-66.

(Serial No. 29 and Para 1.104 of Appendix V to the 17th Report, 1967-68).

Action taken

Prosecutions were launched in the following cases where raids had been conducted during 1964-65 and 1965-66 :

- (1) M/s. Dayalji Bhawanji, Calcutta.
- (2) M/s. Soh Kisan Cold Storage Ltd., Patna.
- (3) M/s. Chiranjilal Ramjidas, Delhi Central.
- (4) Smt. Asha Parekh, Bombay.

In the following cases the processing of the material is completed and prosecutions are being contemplated :—

- (1) Dr. Pandit Rao Planitkar, Hyderabad.
- (2) 3 cases of Bombay are being processed by the Intelligence Wing.
- (3) Shri K. Simrathmall, Madras (Central).
Prosecution about to be launched.
- (4) 1 case of Calcutta Central is under study.

Instructions have been issued that there should be no delay in filing prosecutions complaints once the papers are processed.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 3/28/68-IT (Audit), dated 21-11-1968].

Recommendation

The Committee would like to know the outcome of this case which is before the Supreme Court. They also desire that the Ministry should examine the present procedure of searches and raids in order to ensure that the officers do not use arbitrarily the wide authority given to them.

(Serial No. 30 and Para 1.106 of Appendix V to the 17th Report, 1967-68)

Action taken

The case is still pending before the Supreme Court.

Detailed instructions have already been issued to the authorities about the manner in which the enlarged powers of search and seizure are to be exercised. Copies of these instructions are enclosed.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 3/29/69-IT (Audit), dated 22-1-1969]

Recommendation

According to law, interest is payable by Government if refunds are made in cases (i) where the total income of an assessee does not consist solely of income from interest on securities or dividends, beyond a period of three months from the date of which the total income is determined under the Act and (ii) in other cases within six months from the date on which the claim for refund is made. The Committee are surprised to learn that out of total refund of Rs. 285.26 lakhs in 73,444 cases during 1965-66, interest of Rs. 261.50 was paid in 21 cases only. The Committee would like to know whether in the remaining 73,423 cases refunds were made within the prescribed time limit. In this connection, the Committee would recommend that Government should ensure payment of interest on refunds due to assesses in all cases where the prescribed conditions in the Statute have been satisfied whether the assessee claim the interest or not.

(Serial No. 35 and Para 1.121 of Appendix V to the 17th Report, 1967-68)

Action taken

Instructions in the matter have been issued to the Commissioners of Income-tax *vide* this Ministry's letter No. 3/22/68-IT (Audit), dated 28th October, 1968 (copy enclosed).

A report whether in the remaining 73,423 cases refunds were made within the prescribed time limit, as desired by the Committee, would be sent later on.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 3/22/68-IT (Audit), dated 23-12-1968]

F. No. 3/22/68-IT(Audit)
GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 28th October, 1968.

From

Shri M. N. Rahman,
 Under Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

SUBJECT :—*Recommendations of the Public Accounts Committee in their 17th Report (1967-68) in Para 1.121.*

Sir,

I have to invite your attention to the following recommendations of the Public Accounts Committee made in Para 1.121 of their 17th Report (1967-68) :

"1.121 : According to law interest is payable by Government if refunds are made in cases (i) where the total income of an assessee does not consist solely of income from interest on securities or dividends, beyond a period of three months from the date of which the total income is determined under the Act and (ii) in other cases within six months from the date on which the claim for refund is made. The Committee are surprised to learn that out of total refund of Rs. 285.26 lakhs in 73,444 cases during 1965-66, interest of Rs. 261.50 was paid in 21 cases only. The Committee would like to know whether in the remaining 73,423 cases refunds were made within the prescribed time limit. In this connection, the Committee would recommend that Government should ensure payment of interest on refunds due to assesseees in all cases where the prescribed conditions in the Statute have been satisfied whether the assesseees claim the interest or not."

2. The Board desire that it may please be ensured that payment of interest on refunds due to assesseees is made in all cases where the prescribed conditions in the Statute have been satisfied, whether the assesseees claim the interest or not. In this connection reference is invited to Board's circulars F. No. 36/6/67-IT(AI), dated 24th January, 1968 and No. 5/6/78-IT(A-III), dated 20th August, 1968 regarding interest payment under section 243.

3. Information regarding the refunds allowed during the financial year 1965-66 may please be furnished to the Board in the proforma given below :—

| No. of cases. | No of cases in which refund was made within the prescribed time-limit. | Amount of refund involved in respect of cases in Col. 2 | No. of cases in which refund was not made within the prescribed time-limit. | Amount of interest paid in respect of cases in Col. 4. |
|---------------|--|---|---|--|
| 1 | 2 | 3 | 4 | 5 |

Yours faithfully,

Further Information

The information desired by the Committee related to 73,423 cases of refund. Out of this 45,562 cases have been so far reviewed. Only in 243 cases the refunds were not made within the prescribed time limit.

Information is being collected regarding the remaining 27,861 refund cases. It will be intimated to the Committee as early as possible.

[Ministry of Finance (Deptt. of Rev. & Ins.) D.O. Letter No. 2841-M (M)/68, dated 18-12-1968]

II
Report on Action Taken on 29th Report
(Fourth Lok Sabha)

CHAPTER I

REPORT

This Report of the Committee deals with action taken by Government on the recommendations contained in their 29th Report (Fourth Lok Sabha) on Chapter I, IV and V of Audit Report (Civil) on Revenue Receipts, 1967, which was presented to the House on 30th April, 1968.

2.2. Out of 60 recommendations contained in the Report action taken notes/statements have been received in respect of 31 recommendations. The Committee regret that Government have not furnished replies in respect of as many as 29 recommendations which are shown in Appendix I. They hope that replies to the outstanding recommendations will be submitted to them expeditiously after getting them vetted by Audit.

2.3. The action taken notes/statements on the recommendations of the Committee contained in the Report have been categorised under the following heads :—

(i) *Recommendations/observations that have been accepted by the Government :*

S. Nos. 1—4, 5, 6, 9, 15, 16, 21, 22, 23, 24, 28, 33, 37, 41, 43, 46, 49, 50, 51, 53 and 59.

(ii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration :*

S. Nos. 8, 25 and 54 to 56.

(iii) *Recommendations/observations in respect of which Government have furnished interim replies :*

S. Nos. 31 and 42.

2.4. The Committee have dealt with a number of important issues in their latest original Report (73rd Report) on Income-tax. They, therefore, propose to deal with only a few selected recommendations, in this report.

Tax Structure

Paragraph 2.23 (S. No. 8)

2.5. In paragraphs 2.1 to 2.22, the Committee dealt with decrease in rate of growth of tax receipts and urged that Government undertake a comprehensive study of the structure of direct taxes with a view not merely for reviving but to increasing pace of savings and economic growth in the country. The Committee made the following observation in paragraph 2.23 :

“2.23 : Government should also consider in this connection the suggestions made in the Final Report on Rationalisation and Simplification of the Tax Structure.”

2.6. In the reply, the Department of Revenue have stated :

“In regard to Shri Bhoothalingam's First Interim Report on Rationalisation and Simplification of the Tax Structure, a statement

... the ... of the ... in that Report and indicating

... on the ... in Shri Bhoothalingam's Final Report will be taken by ... after a careful and thorough study of their ... and after considering the views of Chambers of Commerce, expert bodies and member of the public. However, some of the suggestions in the Final Report on matters which were already engaging the attention of the Government and which did not involve any radical changes in the tax structure have been implemented through the Finance Act, 1968. These relate to discontinuance of the 'dividend tax' on domestic companies with reference to their excess distribution of equity dividends; prescription of standard deductions for expenditure on maintenance and the wear and tear of conveyances owned by salaried tax-payers; and deduction, in the computation of the annual value of let-out house property, of the whole of the local taxes in respect of the property, in all cases."

"Some of the recommendations in Shri Bhoothalingam's reports relate to structural changes of a far-reaching nature and decisions on these recommendations can be taken by Government only after considering the views and comments thereon, which had been invited from Chambers of Commerce, expert bodies and members of the public. These recommendations and the comments thereon are at present under examination."

2.7. The Committee note that some of the suggestions contained in the "Final Report on the Rationalisation and Simplification of Tax Structure" which did not involve any radical changes in the tax structure, have been implemented by Government through Finance Act, 1968 and Finance Bill 1969. Some of the more important recommendations contained in that Report which involve structural changes in the Statute are stated to be still under examination. The Committee would like Government to complete their examination of these recommendations along with the recommendations made by the Administrative Reforms Commission and the latest Report of Tax evasion Enquiry Committee, 1968, as well as the practice obtaining in other advanced countries so as to make the tax structure rational, simple and effective.

2.8. The Committee would also like to reiterate in this connection the following observations made by them in para 2.22 of their Report to which no reply has been received so far :

"It is widely felt that rates of personal and corporate taxation have reached such heights that the process of diminishing returns has already set in. The Committee would urge that Government undertake a comprehensive study of the structure of direct taxes with a view not merely for reviving but to increasing the pace of savings and economic growth in the country. Such a study should carefully consider taxation measures adopted by countries which have administered their tax laws successfully making *inter alia* tax evasion un-rewarding. This will enable suitable steps being taken to augment tax revenues."

Measures to check vexatious assessments—

Paragraph 2.59 (S. No. 25).

2.9. In Paragraphs 2.56—2.58, the Committee dealt with the question of making a penal provision to the Income Tax Act for punishing Income Tax Officers for dereliction of duty in cases of under-assessments and over-assessments and made the following observations in paragraph 2.59 :

“2.59 : It will be seen that in Britain as well as Malaysia there is a provision in law to enable the assessee to proceed against an Income Tax Official who wilfully makes a false and vexatious surcharge of tax or resorts to any fraudulent, corrupt or illegal practice in the execution of his office. The Committee have noted in para 2.54 of the Report that there is a growing tendency in the Department of Revenue to overpitch assessments which can be a source of great vexation to assessee. In order to instil a sense of responsibility in Income Tax Officials Government should seriously consider in corporation of a suitable provision in the Income Tax Act to make Income Tax Officials and other Officials liable to judicial proceeding for wilfully making a false and vexatious assessment dishonest underassessment or resorting to any fraudulent, corrupt or illegal practice in the discharge of their official duties.”

2.10. In their reply, the Department of Revenue have stated :

“The recommendation of the Committee has been considered by the Ministry.”

“The U.K. Income Tax Act had till 1964 some penal provisions for tackling the cases of petty officials, attached to non-official Commissioners who were not borne on the regular Government establishment. Even in their cases, the provisions have not been invoked and were really otiose. In this context, it would not perhaps be advisable to introduce any penal provisions in the Indian Income Tax Act on the lines of the discarded provisions in the U.K. Income Tax Act.”

“The Government proposes to take suitable administrative measures for minimising the scope of disputed additions in assessments and eliminate vexatious assessments. Under-assessments too are proposed to be prevented by more effective vigilance by the superior officers.”

2.11. In a further reply dated the 21st March, 1969, the Department of Revenue have stated :

“In view of the position obtaining in U.K. it was not considered necessary to find out the position with regard to Malaysia. If the Public Accounts Committee still desire the information regarding the Malaysian Income-Tax Act, it will be obtained from the Malaysian Government.”

2.12. The Committee note that Government propose to “take suitable administrative measures for minimising the scope of disputed additions in assessments and eliminate vexatious assessments. Under-assessments too

are proposed to be prevented by more effective vigilance by the superior officers."

2.13. The Committee would like to watch the results of administrative measures proposed to be taken by Government through future Audit Reports.

Irregular Collection of amounts to make good the shortfall of Budget Estimates—Paragraphs 2.145—2.147 (S. Nos. 54—56)

2.14. In paragraphs 2.142—2.144, the Committee dealt with some cases where tax was irregularly collected in four Commissioners' charges from assesseees without raising a demand at the close of a financial year and refunded or adjusted in the beginning of the next financial year. The irregular procedure had been adopted by the various Income Tax Officers to make good the shortfall in their budget estimates of collection of tax in a financial year. The Committee made the following observations in paragraphs 2.145—2.147 :

"The Committee take a serious view of the device adopted by the Income-tax Officers in this case to make good the shortfall in the budget estimates of collections in their charges by collecting amounts from the assesseees at the close of the financial year and refunding it in the beginning of the next financial year. The Committee feel that such collections without issue of demand notices are unauthorised and illegal."

"It is clear that this practice results from the fixing of targets of collections which the Income-tax Commissioners and Officers are expected to reach. Under pressure of such target being set for him, the officer in question, then exerts pressure on the assessee to co-operate with him in fulfilling the target on paper. The Committee recommend that Government should issue clear instructions that no such targets or estimates of collections in respect of each Income-tax Commissioner or officer exist or are expected to be fulfilled and to see that this directive is scrupulously carried out."

"The Committee hope that the Department will go into cases of such abuse and take suitable action against the officers concerned wherever necessary. The Committee regret that they have not so far been furnished with the information asked for about similar cases in all the Circles in India."

2.15. In their reply, the Department of Revenue have stated :

"The Board have issued instructions in the Circular F. No. 83/92/66-IT(B), dated 9th December, 1967 (copy enclosed). This recommendation of the Committee has been noted."

"The budget collections are fixed on the basis of :

- (a) revenue potential;
- (b) actual performance in the past trades; and
- (c) trend of the important trades and business in particular charges.

It is not that arbitrary targets are fixed for each charge of an ITO by this IAC and the CIT and of each CIT's charge by the Board. The targets, fixed on the basis of the past and present trends of business and collection, are expected to serve as realisable objectives

only. This helps in securing sustained efforts for reaching the target. The system should work well unless some of the authorities make a fetish of the target. Suitable instructions are being issued in this respect."

"There have been only stray cases of unauthorised collection by a few ITOs for attaining the budget target. The steps taken (*Vide* the Ministry's reply to the observations of the PAC at para 2.145 of their 29th Report) are expected to prevent a recurrence of such irregularities. As such, the Ministry would wish to continue the present practice."

"A statement showing the number of cases in which tax had to be paid by assesseees without their being a legal liability during the last 3 years, 1964-65, 1965-66 and 1966-67 is enclosed (reproduced below) :

| C.I.T. Charge | No. of Cases | Amounts Collected |
|---------------------------------|--------------|-------------------|
| Bihar } | 7 | 3,51,000-00 |
| Orissa } | | |
| Madras II | 16 | 1,63,000-00 |
| Poona | 3 | 37,500-00 |
| West Bengal I, II & III | 2 | 12,00,000-00 |
| Delhi (C) | 4 | 7,50,000-00 |
| Rajasthan | 22 | 1,73,800-00 |
| Madras I | 3 | 6,25,000-00 |
| | 57 | 33,00,300-00 |

It will be seen that the total number of such cases is only 57 involving an amount of Rs. 33 lakhs."

"The Commissioners of Income-tax were asked to take action against the officers who made such irregular collections and necessary action has been taken and is being taken where considered necessary."

"In view of the position explained above, it is presumed that the PAC will please reconsider their recommendations that no budget target for each Commissioner's charge need be fixed."

2.16. The Committee note from the statement that the number of cases of irregular collection by Income-tax Officers towards the end of the financial year in order to reach the prescribed target of collections for their circle numbered 57 involving Rs. 33 lakhs. Out of the amount of Rs. 33 lakhs, Rs. 12 lakhs pertain to the West Bengal charge, Rs. 7.5 lakhs to Delhi and Rs. 7.88 lakhs to Madras.

2.17. The Committee note that Government have since issued instructions that such irregular collections should not be resorted to and that action should be taken against the Officers who indulge in such irregular collections.

2.18. The Committee would like the Central Board of Direct Taxes to keep a special watch in this behalf, particularly in the charges referred to above, so as to ensure that such unauthorised and illegal collections are not made by Income-tax Officers, on pain of deterrent penalty.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee note that during the year 1965-66 the excess of actuals over the Budget Estimates of Customs and Union Excise Duties was of the order of 28.48 per cent and 9.61 per cent respectively.

The Committee are not convinced by the reasons adduced by the Department to explain the variation between the estimated receipts of revenue from duties and the actuals for 1965-66. To take two instances, the Committee cannot understand why the effective regulatory duty which was imposed on 17th February, 1965 and which was responsible for yielding an additional Rs. 5 crores could not be taken note of in the Budget Estimates for the ensuing year. Similarly, it is difficult to appreciate why the change in the basis of assessment of the duty on cigarettes from specific to *ad valorem* which was brought about through the Finance Bill, 1965, could not be taken note of in the Budget Estimates for 1965-66. Besides, no reasons have been given by the Department for a variation of Rs. 11.40 crores. The Committee are apprehensive that no serious effort was made by the Department to make the estimates of collections from duties accurate and realistic so as to provide reliable basic data for varying the rates of duty, in spite of the recommendations made by the Committee in their earlier Reports. It would also be recalled that Members have repeatedly pointed out on the floor of the House that inaccurate and unrealistic estimates lead to imposition of unduly high rates of duties.

The Committee note that the Ministry now propose to take some further measures to base their estimates on better and up-to-date statistical data with the help of computers and to have better coordination with other departments in the matter of commodity forecasts.

The Committee stress that no effort should be spared by Government to make their estimates of receipts realistic for it is these that determine to a large extent the rate of taxes and duties which are to be levied through the Finance Bill. The Committee also suggest that towards the end of the year a critical review of the estimated receipts *vis-a-vis* the actuals should be made so that in the light of the findings, necessary correctives can be applied to make the estimates for the next Budget more realistic.

[S. Nos. 1 to 4 of Appendix VII (Para Nos. 1.20 to 1.23) to the Twenty-Ninth Report (Fourth Lok Sabha)]

Action taken

Customs

The observations of the Public Accounts Committee in regard to Customs Duties have been noted. Every attempt is being made to make as accurate

estimates of revenue as practicable.

(Dep't. of Revenue & Insurance O.M. No. 7/65/68-Coord., dated 27-11-1968)

In order to reduce the gap between Budget Estimates and actual collections of Customs Revenue various steps have been taken by this Ministry to see that the Budget estimates are framed in such a manner that variations between estimates and actual collections are reduced to a minimum.

2. The Collectors of Customs at the ports who furnish estimates in respect of their individual charges arrive at their estimates after careful consideration. Consultations are held by them with the assessing officers who are in day to day touch with importers who, in turn are in touch with the Trade on the question of likely trends of imports.

A copy of the instructions issued to the Collectors on the 16th October, 1964 is appended (not printed) for information of the Committee. These instructions were again brought to the notice of the field formations in April, 1966, reiterating the need for greater accuracy in framing the estimates and for Collector bestowing his personal attention on this matter.

3. In this Ministry, periodical review of revenue collection is made to watch the progress and to ascertain reasons for any variation that is noticed. This is done on the basis of collections during the 1st, 2nd and 3rd quarters of the financial year. At the last review the budget estimates for the following year are also finalised. Before this, detailed reports received from the Collectors at the ports as well as the information furnished by the Economic Affairs Department regarding the likely release of Foreign Exchange during the coming year are given due consideration. In fact the estimates are to a great extent based on the figures of likely release of foreign exchange furnished by the Economic Affairs Department. Whenever, possible the collections during January are also taken into account. The information available with the various other Ministries/Departments on the anticipated import programme of the items with which they are concerned to the extent available, are collected and scrutinised. All the Ministries/Departments which are concerned are consulted. They are listed below for the information of the Committee :—

1. Ministry of Finance (Department of Economic Affairs).
2. Ministry of Commerce.
3. Ministry of Railways.
4. Ministry of Petroleum & Chemicals.
5. Ministry of Steel, Mines and Metals.
6. Ministry of Industrial Development,
(Directorate General of Technical Development).
7. Chief Controller of Imports & Exports.
8. State Trading Corporation of India Limited.
9. Minerals and Metals Trading Corporation of India Limited.

The Ministries/Departments consulted can only furnish their import programme which is based on a certain anticipated demand and availability of foreign exchange. For large areas of imports general information about future trend has to be deduced on the basis of imports in the past. Moreover, the information collected from all available sources do not contain all relevant particulars for a precise classification according to different tariff items which carry different rates of duty or are subject to different I.T.C. policy, but are grouped together under the same Budget head. Some sort of *ad hoc* allocation of the total estimated imports, therefore, becomes unavoidable.

4. An inter-Ministerial meeting is also held in the room of the Chairman/Member, Central Board of Excise & Customs and senior officers of each of the Ministry/Department are consulted so that doubts and possible discrepancies in the information furnished by them could be resolved by discussion and the final Budget estimates determined. In this meeting the Economic Adviser to the Ministry of Finance and the senior officers of the Budget Division of the Department of Economic Affairs are also invited. And finally the figures arrived at are vetted and amended to the extent felt necessary by the Economic Affairs Department.

II : A review of the estimated receipts *vis-a-vis* the actuals has been made twice this year at the three monthly and six monthly stages. The results show that there has been a fall in the import duty due to further fall in imports. The results of the review have not shown anything wrong needing application of correctives for the next Budget as the reasons for the short fall are found to be not due to any wrong or inaccurate method of estimation while framing the estimates but because imports cannot be estimated precisely on account of inherent uncertainties.

[Deptt. of Revenue & Insurance O.M. No. 2/2/69-Cus. (T.U.),
dated 19-2-1969]

The observations of the Public Accounts Committee have been noted and all efforts are being taken to make the estimates as realistic as practicable.

(Deptt. of Revenue & Insurance O.M. No. 7/65/68-Coord.,
dated 22-11-1968)

Central Excise

Action taken statements in respect of paras 1.20 and 1.23 of the Committee's 29th Report (Fourth Lok Sabha), so far as they relate to the budgetting of customs receipts, have already been furnished to the Committee. So far as Central Excise receipts are concerned, this Ministry have taken note of all the recommendations made by the Committee in their earlier Reports in regard to revenue forecasting and have taken positive steps to make their estimates as accurate and realistic as possible. The steps taken by the Ministry have been briefly mentioned in para 1.11 of the Committee's 29th Report (Fourth Lok Sabha).

2. The Statistics and Intelligence Branch of this Ministry is equipped with data processing machines. These machines are used for processing and compilation of statistics relating to production, clearances and revenue.

3. This Ministry is already following the suggestion made by the Committee that towards the end of the year a critical review of the estimated receipts *vis-a-vis* the actuals should be made so that in the light of the findings necessary correctives can be applied to make the estimates for the next budget more realistic. This Ministry conducts three exercises in regard to the budget estimates during the course of a financial year, with the help of the Statistics and Intelligence Branch. The result of these exercises is communicated to the Budget Division. In the first exercise conducted during August-September, revised budget estimates on the basis of three months' actual performance are indicated. In the subsequent two exercises undertaken in November and January on the basis of six months' and eight months' actual performance respectively, revised budget estimates for the running year as well as forecast for the next financial year are indicated. It is only by the time of the third exercise that estimates of production in the remaining part of the running year as well as the following year are received from the other Ministries. These estimates are duly taken into account in preparing the final revised budget estimates and the forecast. Inter-Ministerial meetings are arranged to personally discuss the likely levels of production, clearances for home consumption and for export, import policy regarding industrial raw materials etc. These meetings are also attended by the Economic Adviser and officers of the Budget Division. Revised Budget Estimates and the forecast are then finalised on the basis of agreed conclusions. However, it is the Budget Division which ultimately decides the revised budget estimates and the forecast.

4. In spite of these measures, there have been variations in our estimates and actual collections. This is due largely to the factors which could not have been foreseen at the time of framing the estimates.

5. This Ministry would take the opportunity of assuring the Committee once again that all efforts are being made to make the revenue estimates as accurate as practicable.

(Deptt. of Revenue & Insurance O.M. No. 7/65/68-Coord.,
dated 17-1-1969).

Income-tax

The steps taken by the Department to achieve greater accuracy in the estimation of revenue are enumerated below :—

- (1) Results of balance sheets of important companies are studied with reference to the profits disclosed by them for the latest assessment year as compared to the preceding year to judge the likely collections from provisional and self-assessments, advance tax and general trend in growth of economy.
- (2) The Commissioners of Income-tax are asked to contact the management of companies with huge income to ascertain the trend of profits during the current year as compared to the preceding year to ascertain the likely collections from advance tax.
- (3) A liaison is maintained with the Directorate General of Technical Development, Planning Commission, etc. and information

is also obtained from the bulletins issued by the Central Statistical Organisation to find out the likely trend of production of important trades and industries for current year which would help estimation of revenue from advance tax and the forecast Budget for the next year.

- (4) A study is made of the likely effect on revenue due to various types of concessions admissible to corporate and non-corporate tax payers, viz., the tax credit certificates, development rebate, profits from new industrial undertakings and exemptions under section 84 and 101 under the Income-tax Act, 1961.
- (5) The budget estimates are also reviewed in the light of the revisions made by the assesseees in respect of payment of advance tax.
- (6) By making a continuous study of the revenue potential in cases of corporate and non-corporate tax payers accounting for the bulk of the revenue and making separate estimate of the expected revenue from deduction of tax at source from salaries interest on securities and dividends. While estimating the revenue from such cases, the likely effect of the following factors is taken into consideration :
 - (i) Devaluation;
 - (ii) Revision of authorised prices of the commodities produced by it (if any); where the prices are not controlled, the market trend in the commodities.
 - (iii) Decontrol of prices or distribution of commodities manufactured by it (if any).
 - (iv) Liberalisation of imports (if any).
 - (v) Credit control measures (adopted by the Government or Reserve Bank of India).
 - (vi) Sharp variations in crop yields (where relevant).

2. So far as further measures for improving the machinery for budgeting of revenue are concerned, the Director of Inspection (R.S. & P.) has prepared a detailed note and made the following suggestions :—

- (i) Compiling Revenue Statistics of assessments made in the immediately preceding year on incomes above Rs. 1 lakh.
- (ii) Analysis of these statistics by ranges of income, status and trade classification.
- (iii) Analysis of current year's profits for companies and non-companies on the basis of current year's returns.
- (iv) Bringing up-to-date the cards of cases with incomes above Rs. 1 lakh.
- (v) Preparation of a Manual Index in the Directorate of 500 or so top cases from the cards of cases with income above Rs. 1 lakh.
- (vi) Comparative analysis of companies accounts showing pre-tax profits, dividends subject to tax and provision for tax for current assessment and the immediately preceding assessment.

- (vii) Preparation of indices of production in selected industries from Financial and Economic Journals.
- (viii) A study of prices of selected commodities for assessing their effects on profits.
- (ix) A study of the effect of administrative measures on the collection of taxes.

The suggestions made by the Director of Inspection are under examination and a decision is likely to be taken very shortly.

3. So far as the question of preparing more reliable estimates on better and up-to-date statistical data with the help of computers is concerned, Honeywell Computers have been installed in the Directorate of Inspection (R.S. & P.) under the control of C.S.O. and the Directorate in making use of the computers for the purpose of making calculations of tax in salary cases and for preparing various statistical statements which are based on the information contained in the I.T. No. 125 (Old IT 30s). Although the Statistics regarding the demands raised have been computerised, it is feared that this will help only a little, in making a reliable forecast of the budget estimates.

4. The D.I.(R.S. & P) is also being asked to find out as to how far the statistics regarding arrears including their analysis and collections can be computerised.

5. As regards the second point regarding better co-ordination with the other Departments in the matter of commodity forecasts, there is need for considerable scope in this direction and this Ministry is taking steps to make the co-ordination more effective. The Committee's suggestion that towards the end of the year a critical review of the estimated receipts *vis-a-vis* the actuals should be made, so that, in the light of the findings necessary correctives can be applied to make the estimates for the next budget more realistic, has been noted for being put into operation.

[Deptt. of Revenue & Insurance D.O. No. 15/10/68-IT (Audit), dated 22-1-1969]

Recommendation

The Committee note with concern that the buoyancy in the rate of growth of taxation obtaining in the earlier years of the Third Five Year Plan has not been maintained. According to the Ministry's own admission, there has been hardly any normal growth in 1966-67 and 1967-68.

[Serial No. 5 (Para 2.20) Appendix VII to the 29th Report, (Fourth Lok Sabha)].

Action taken

The observations of the Committee have been noted for guidance.

(Deptt. of Revenue & Insurance D.O. No. 15/12/68-IT(Audit), dated 23-12-68].

Recommendation

The Committee would like to invite attention to the observation made by them earlier in Para 1.75 of their 17th Report (Fourth Lok Sabha). The Committee had cited there the Ministry's own note to bring out the fact that

the rates of taxation on Corporate as well as non-Corporate income in India are generally higher than in relevant foreign countries.

[Serial No. 6 (Para 2.21) of Appendix VII to the 29th Report, (Fourth Lok Sabha)].

Action taken

The observations of the Committee have been noted.

[Deptt. of Revenue & Insurance D.O. No. 15/13/68-IT (Audit), dated 23-11-68.]

Further reply

The tax structure of the country is being reviewed year after year before the formulation of Budget proposals. The rates of taxation of income of corporate and non-corporate tax-payers are reviewed every year and various factors relating to the economic needs of the country, budgetary requirements, incentives for investment of capital (including foreign capital) are duly taken into account. In prescribing the rates of tax by the annual Finance Acts and allowing rebates and reliefs from the standard rates of tax, the practice followed by advanced countries are taken due notice of.

2. On 9-12-68 the Government have already placed before the Parliament (in reply to the Unstarred Question No. 3827 in the Lok Sabha) the current rates of tax in India on the business income of domestic companies and the corresponding rates of tax in the U.S.A., the U.K., France and Japan. A copy of the same is placed for the perusal of the Committee (Annexure).

[Deptt. of Revenue D.O. No. 15/40/68-IT (Audit), dated 28-3-1969.]

ANNEXURE

Statement showing the Current Rates of Tax in India on the Business Income of Domestic Companies and the Corresponding Rates of Tax in U.S.A., U.K., France and Japan.

| | | <i>Rates of Income-tax</i> | |
|----------|--|----------------------------|---------|
| 1. India | A. Widely-held domestic company (i.e. domestic company in which the public are substantially interested) | | |
| | (i) With total income not more than Rs. 50,000 | | 45% |
| | (ii) With total income more than Rs. 50,000: | | |
| | (a) derived from a non-priority industry | | 55% |
| | (b) derived from a 'priority industry' | | 50.6%** |
| | B. Closely-held domestic 'industrial company' (i.e. company engaged in the generation or distribution of electricity or any other form of power, ship-building, mining, or manufacture or processing of goods):— | | |
| | (i) with total income not more than Rs. 10 lakhs : | | |
| | (a) derived from a non-priority industry | | 55% |
| | (b) derived from a 'priority industry' | | 50.6%** |
| | (ii) with total income more than Rs. 10 lakhs : | | |
| | (a) derived from a non-priority industry:— | | |
| | First Rs. 10 lakhs | | 55% |
| | Balance | | 60% |

(b) derived from a 'priority industry'—

| | |
|----------------------------|---------|
| First Rs. 10 lakhs | 50.2%** |
| Balance | 55.2%** |

C. Closely-held domestic non-industrial company 65%

Companies are also liable to pay surtax at 25% on the amount by which their chargeable profits (broadly, profits after income-tax, as reduced by items of income exemp. from sur tax) exceed 10% of their capital base or Rs. 2,00,000, whichever is higher. The capital base includes besides paid-up capital, reserves, debentures, and long-term borrowings of the company.

2. U.S.A.

The rate of Federal Corporation tax is 52.8% (48% plus surcharge at 10% thereof.)

Corporations are also subject to State or local taxes on income at rates ranging in the majority of States from 5% to 7%.

3. U.K.

The rate of corporation tax is 42.5%.

Corporations are also subject to the Selective Employment Tax.

4. France

The rate of corporation tax is 50%.

Corporations are also subject to a business tax. The amount of the tax is usually related to

- the kind of business carried on;
- the population of the municipality where the business is carried on;
- the number of employees;
- the annual rental value of business buildings and equipment.

5. Japan

The rates of corporation tax vary from 22% to 55%, depending on the size of the capital base of the company, the magnitude of its retained earnings and whether it is a family corporation.

Corporations are also subject to a business tax, called the Enterprise tax. T rates of this tax vary from 6% to 12%.

Recommendation

The Committee have carefully considered the various mistakes and irregularities pointed out by the Revenue Audit. As mentioned elsewhere in this Report "very large revenues but for the test audit were likely to have been lost". The Committee are glad that the Ministry of Finance (Department of Revenue) also realise the importance of revenue audit. The Committee expect that as stated by the Secretary of the Revenue Department, there will be willing co-operation of the Departmental officers with Revenue Audit in the matter of complying with Audit requirements.

[Serial No. 9 (Para 2.34) of Appendix VII to the 29th Report, (Fourth Lok Sabha)].

Action taken

The observations of the Committee have been noted. Copy of the instructions issued is enclosed (Annexure).

[Deptt. of Revenue & Insurance D.O. No. 15/16/68-IT(Audit), dated 22-1-69.]

**This is the effective rate of tax arrived at after the deduction, under section 80I of the Income-tax Act, of 8% of the profits derived from priority industries, in the computation of the taxable income of the domestic company.

ANNEXURE

F. No. 83/14/68-IT(B) Audit.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, July 27, 1968.

From

Shri S. Bhattacharyya,
Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUB : Working of Internal Audit Parties—Scrutiny of—

I am directed to say that the Board have decided that the records of the Internal Audit Wing of the Income-tax Department maintained in your office and the subordinate offices for the year 1963-64, 1964-65 and 1965-66 may be made available to the A.G.'s audit parties, as and when required by them, for scrutiny and verification, particularly with reference to the figures furnished by the Commissioners of Income-tax to the Directorate of Inspection (Income-tax).

2. You may please afford the necessary facilities to the Revenue Audit parties and issue suitable instructions to your subordinate offices.

Yours faithfully,

(S. BHATTACHARYYA)

Secretary,

Central Board of Direct Taxes.

Recommendation

2.40 : In order to allay the public impression which has been borne out by instances brought to the Committee's notice by Audit that there is indiscriminate and widespread over-assessment, the Committee recommend that the Department should undertake an analytical study of all cases in important circles which have been finally disposed of on appeal during the last three financial years in which assessments made by the I.T.Os. have been reduced by either Rs. 50,000 or 25 per cent of the originally assessed tax. Such a study would enable the Department to issue necessary guidelines for calculating the assessable income more appropriately.

[Serial No. 15 (Para 2.40) of Appendix VII to the 29th Report, (Fourth Lok Sabha)].

Action taken

The Government is shortly directing three senior officers of the Income-tax Department to undertake a study of reliefs in appeals in some selected charges of Uttar Pradesh, Delhi and the Punjab. Further action will be taken after study of their report, which is expected to be available by end of January 1969.

2. The study would be extended, if necessary, to Bombay or Calcutta, after gaining experience from the present programme.

[Deptt. of Revenue & Insurance D.O. No. 15/22/68-IT(Audit), dated 10-1-69.]

Recommendation

The Committee feel that one of the reasons for declining standards of output in the Department is due to an imbalance in the service conditions of employees of the Income-tax Department. A note has been submitted by the Chairman of the Board of Direct Taxes which is appended to this Report (Appendix V). The Committee is sure that Government will examine the suggestions contained in the note and take suitable action on it.

[Serial No. 16 (Para 2.41) of Appendix VII to the 29th Report, (Fourth Lok Sabha)].

Action taken

As desired by the Committee, the Government will duly examine the suggestions contained in Appendix V of their 29th Report and take suitable action thereon. As important recommendations regarding the administrative set-up of the Income-tax Department and the pay-scales for the different categories of officers are believed to have been made by the Direct Taxes Sub-Committee of the Administrative Reforms Commission also, it is proposed to undertake a comprehensive examination of these recommendations together. The study and the subsequent implementation of the recommendations are expected to take some time.

[Deptt. of Revenue & Insurance D.O. No. 15/23/68-IT (Audit), dated 4-1-69.]

Recommendation

The Committee find that for the period 1962-63, there were as many as 4,522 cases involving over-assessment of taxes by Rs. 15.56 lakhs detected by the Internal Audit where no action has been taken so far by the Department. The Committee consider that it is equally, if not more, important that the amount recovered by Government in excess of taxes due is refunded without delay to the parties concerned.

The Committee find that the number of cases of over-assessment brought to notice by Internal Audit has risen from 7,401 involving Rs. 16.43 lakhs in 1963-64 to 14,457 involving Rs. 83.75 lakhs in 1966-67.

[S. Nos. 21 and 22 (Paras. 2.52 and 2.53) of Appendix VII to the 29th Report (Fourth Lok Sabha)].

Action taken

The observations made by the Committee have been noted by the Government for compliance. Instructions have been issued to all the Commissioners of Income-tax to take necessary action in the matter. A copy of the instructions is enclosed (Annexure).

[Deptt. of Revenue & Insurance D.O. No. 15/9/68-IT (Audit), dated 9-12-68.]

ANNEXURE

Immediate

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

F. No. 15/9/68-IT(Audit)

New Delhi, the 6th November, 1968.

From

The Secretary,

Central Board of Direct Taxes.

To

All Commissioners of Income-Tax.

Sir,

SUBJECT :—Public Accounts Committee—Implementation of the recommendations—Paras 2.52 and 2.53—Over-assessment.

I have to invite your attention to the following observations/recommendations made by the Public Accounts Committee in paras 2.52 and 2.53 of their 29th Report, 1967-68 :

"2.52 : The Committee find that for the period 1962-63 to 1965-66 there were as many as 4,522 cases involving over-assessment of tax by Rs. 15.56 lakhs detected by the Internal Audit where no action has been taken so far by the Department. The Committee consider that it is equally, if not more, important that the amount recovered by Government in excess of taxes due is refunded without delay to the parties concerned.

2.53 : The Committee find that the number of cases of over-assessment brought to notice by Internal Audit has risen from 7,401 involving Rs. 16.43 lakhs in 1963-64 to 14,457 involving Rs. 83.75 lakhs in 1966-67".

2. The figures quoted by the Public Accounts Committee are based on the reports furnished by you to the Director of Inspection (Income-tax). The Board feel concerned at the slow pace of rectifications of mistakes pointed out by the Internal Audit parties and desire that immediate steps may be taken to rectify the mistakes of over-assessments pointed out by Internal Audit Parties. In every Commissioner's charge, the Chief Auditor, or the I.A.C. (Audit), as the case may be, should ensure that mistakes pointed out by the I.A.Ps. are rectified within a period of three months of the communication of such mistakes.

Yours faithfully,

Secretary,

Copy forwarded to :—

Central Board of Direct Taxes..

Recommendation

The Committee are perturbed that the amount involved in cases of over-assessment has greatly increased last year and suggest that the Department should make a detailed study to identify the causes of such over-assessments and take effective remedial measures to curb this vexatious tendency on the part of the Department to over-pitch assessments. The Committee would like to be informed of the remedial measures taken by Government in this behalf."

[Serial No. 23 (Para 2.54) of Appendix VII to the 29th Report
(Fourth Lok Sabha)].

Action taken

As desired by the Committee, a detailed study to identify the causes of over-assessments has been made on the basis of the reports received from the Commissioners of Income-tax in this respect. The principal causes are summarised below :

- (i) Inclusion of certain items twice in the computation of income, e.g. items of inadmissible expenditure debited to P&L Account and also to P&L Appropriation Account. Disallowance of both the items would result in over-assessments;
- (ii) Arithmetical errors;
- (iii) Wrong application of rates of taxes :
 - (a) calculation of tax of a public limited company at the rates applicable to a private limited company.
 - (b) tax levied on total income instead of adjusted income.
 - (c) incorrect withdrawal of Super-tax rebate.
 - (d) depreciation and development rebate less allowed.
- (iv) Adoption of wrong assessment year and inclusion of income relating to more than 12 months where the books of accounts were closed after a period of 12 months.
- (v) Sometimes credit for tax deducted and paid at source, advance tax paid, tax paid on the basis of provisional and self-assessments remained to be taken into account which resulted in excess demand.
- (vi) Rebate incorrectly allowed; entertainment allowance incorrectly allowed.
- (vii) Unabsorbed depreciation, development rebate and losses of the earlier years not correctly set off.

2. From the above analysis, the Ministry is inclined to feel that the causes of over-assessment can hardly be ascribed to malice or 'mala fide' of the officials making the assessments. It is pertinent to observe here that various appellate and revisionary authorities help correcting the errors, irrespective of whether they are in favour of Revenue or against.

3. The Ministry is anxious to minimise the mistakes committed by the officers of the Income-tax Department. One of the preventive measures devised by it is the maintenance of an officer-wise register listing the mistakes committed by a particular officer. A copy of the instructions issued in this respect is enclosed (not printed). Recently, general instructions have been issued to the Commissioners of Income-tax to see that the Income-tax Officers avoid making overpitched assessments (annexure).

[Deptt. of Revenue & Insurance D.O. No. 15/3/68-IT (Audit), dated 18-12-68.]

ANNEXURE

F. No. 15/3/68-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 13th November, 1968.

From

Shri S. Bhattacharyya,

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUB : *Public Accounts Committee—29th Report—Para 2.54—Over-assessments—.*

In para 2.53 of its 29th Report, 1967-68, the Public Accounts Committee have referred to the fact that the cases of over-assessment detected by Internal Audit rose from 7401 involving Rs. 16.43 lakhs in 1963-64 to Rs. 83.75 lakhs in 1966-67. In other words, the average amount of over-assessment was Rs. 223 in 1963-64 and Rs. 579 in 1966-67. This increase led the P.A.C. to observe in paragraph 2.54 of their report as follows :

“2.54 The Committee are perturbed that the amount involved in cases of over-assessment has greatly increased last year and suggest that the Department should make a detailed study to identify the causes of such over-assessments and take effective remedial measures to curb this vexatious tendency on the part of the Department to over-pitch assessments. The Committee would like to be informed of the remedial measures taken by Government in this behalf.”

The observations made by the Committee may please be brought to the notice of all the Income-tax Officers and the IACs under your charges.

2. The Board desire that you should take action, wherever necessary, according to the instructions contained in paras (a) and (b) of the Board's letter F.No. 83/103/66-IT(B) dated 23-6-67 about the mistakes pointed out by Audit.

Yours faithfully,

Sd./-

Secretary, Central Board of Direct Taxes.

Recommendation

The Committee are inclined to consider that in cases of over-assessment, it is the moral duty of the Government to refund the excess tax collected erroneously or illegally and not plead limitation. They suggest that Government should consider the feasibility of amending the law suitably so that the Commissioners cannot reject revision petitions for refund in cases of over-assessment due to clear mistakes either of law or of fact on the ground of limitation.

[Deptt. of Revenue & Insurance D.O. No. 15/8/68-IT (Audit)
(Fourth Lok Sabha)].

Action taken

The Government is anxious to discharge its moral obligations, waiving legal impediments. The Commissioners of Income-tax have, by and large, the same attitude. Under the existing administrative instructions the Commissioners of Income-tax are required to refer to the Government cases of over-assessment occurring due to mistakes of law or facts relating to the computation of total income or tax thereon, which cannot be normally rectified due to the operation of the law of limitation. In all suitable cases, Government does waive the limitation and refunds are invariably allowed.

2. After giving their careful thought to the recommendations of the P.A.C. regarding the amendment of the law, the Government feel that the present practice, which has been working well, may be allowed to continue. A change in the law of limitation cannot possibly operate entirely in favour of assessee; it will certainly expose them to fresh hazards of assessments in closed cases as well. This aspect of the matter has already been placed before the P.A.C. by the then Chairman, Central Board of Direct Taxes in the course of his deposition before them [*vide* paragraph 2.51 of the P.A.C's. 29th Report].

[Deptt. of Revenue & Insurance D.O. No. 15/8 68-IT (Audit)
dt. 17-12-68.]

Recommendation

The Committee regret to point out that this is a case of negligence on the part of the assessing officer in the application of rates in spite of the fact that he was aware of the position in law that maximum rates should be applied. It is surprising that the assessments were made by four different assessing officers and the same mistake was repeated by them. This resulted in under-assessment of tax of Rs. 36,937 out of which a sum of Rs. 19,000 has become time barred. The Committee hope that with the change in procedure under which Income-tax Officers are required to check important cases of computation such mistakes will not recur.

[Serial No. 28 (Para 2.67) of Appendix VII to the 29th Report
(Fourth Lok Sabha)].

Action taken

Instructions regarding checking of tax calculations have been issued vide Board's letter F. No. 36/40/67-IT (Audit) dated 13-12-1968 (Annexure). It is expected that such mistakes would not recur.

[Deptt. of Revenue & Insurance D.O. No. 15/35/68-IT (Audit)
dt. 22-1-1969]

ANNEXURE

F. No. 36/40/67-IT (Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 13th December, 1968.

From

Shri S. Bhattacharyya,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax

Sir,

SUBJECT :—*Checking of tax calculations—Income over Rs. 1 lakh—Instructions regarding—.*

In accordance with the instructions contained in Chap. XII, para 22(vii), page 227 of the Office Manual, Volume II, Section II, calculations of income-tax demand in cases of income over rupees one lakh should be checked personally by an Income-tax Officer. It has come to the notice of the Board that these instructions are not being scrupulously followed. The Board desire that the instructions should be strictly followed by all the Income-tax Officers in your charge and any lapse on the part of an officer should be taken serious notice of.

Yours faithfully,

Sd. -

Secretary,

Central Board of Direct Taxes.

Copy forwarded to :—

- (1) D.I. (IT)/D.I. (S&P)/D.I. (Investigation).
- (2) All officers and Section in the Income-tax Wing.
- (3) D.S. (Budget) with 5 spare copies.
- (4) D.I. (RS&P) for Bulletins.

Recommendation

The Committee are concerned to note that the Income-tax Officer allowed relief on the initial inception of the provident fund without obtaining the prior approval of the Board of Direct Taxes regarding the quantum.

[Serial No. 33 (Para 2.84) of Appendix VII to the 29th Report
(Fourth Lok Sabha)].

Action taken

The matter was examined and the official concerned has been cautioned.

[Deptt. of Revenue & Insurance D.O. No. 15/40/68-IT (Audit)
dt. 28-3-69]

Recommendation

The Committee have repeatedly expressed their concern over the large number of cases of under-assessment due to incorrect allowance of depreciation and development rebate. In Audit Reports 1966 & 1967, 979 cases involving under-assessment of Rs. 97.85 lakhs respectively have been pointed out. The Committee feel that the present method of computation of depreciation allowance is complicated and should be simplified.

[Serial No. 37 (Para 295) of Appendix VII to the 29th Report,
(Fourth Lok Sabha)].

Action taken

The observations made by the Committee have been noted for compliance. Shri S. Boothalingam has, in his Final Report on Rationalisation and Simplification of the Structure, made some recommendations for simplifying the depreciation rate schedule and computation of depreciation allowance. These recommendations are at present under consideration in the light of the comments and suggestions received from various Chambers of Commerce and other public bodies.

[Deptt. of Revenue & Insurance D.O. No. 15 4/68-IT (Audit)
dt. 17-1-69]

Recommendation

The Committee would like to know about progress made in the rectification of the assessments for the years 1955-56 to 1959-60 and the recovery of the tax for the assessment years 1960-61 to 1964-65.

[Serial No. 41 (Para 2.102) of Appendix VII to the 29th Report
(Fourth Lok Sabha)].

Action taken

The rectification of mistakes in the case of M/s. Digvijay Mills Ltd., Jamnagar for the assessment years 1955-56 to 1959-60 has been carried out. A sum of Rs. 2,49,933 has been raised as additional demand for the assessment year 1960-61 to 1964-65 in this case, which has since been collected.

[Deptt. of Revenue & Insurance D.O. No. 15/48 68-IT (Audit)
dt. 22-1-69]

Recommendation

The Committee regret that, in this case, the negligence of the second Income-tax Officer resulted in under-assessment of tax amounting to Rs. 84,000. They would like to know about the recovery of the tax undercharged.

[Serial No. 43 (Para 2.110) of Appendix VII to the 29th Report
(Fourth Lok Sabha)].

Action taken

The following demands have been recovered on 29-10-68 by adjustment of E.P.T. refund.

| | | |
|------------|----|------------------|
| A.Y. 58-59 | .. | 5,921.88 |
| A.Y. 59-60 | .. | 5,625.88 |
| A.Y. 60-61 | .. | 7,687.20 |
| Total | | <u>19,234.96</u> |

As regards the remaining arrears for 1951-52 to 1957-58, time was allowed till the disposal of appeals by the A.A.C., which are still pending for disposal.

[Deptt. of Revenue & Insurance D.O. No. 15/50/68-IT (Audit)
dt. 18-12-68]

Further Information sought for by P.A.C.

The under-assessment of tax of Rs. 84,000 mentioned in para 42(e) of Audit Report, 1967, refers to the assessment years 1949-50 to 1960-61. In the reply action taken on the under-assessment of tax relating to the years 1951-52 to 1960-61 only is mentioned. Please state the action taken in respect of assessment year 1949-50 and 1950-51.

Reply

There was no demand in respect of the assessment years 1949—59 and 1950-51. The loss determined for those years was reduced.

[Deptt. of Revenue & Insurance D.O. No. 15/50/IT (Audit)
dt. 7-3-69]

Recommendation

The Committee regret to note that in this case the Income-tax Officer failed to verify before granting renewal whether the firm was in existence or whether a partnership deed was in operation. The negligence of the Income-tax Officer resulted in under-assessment of tax of Rs. 32,981 of which Rs. 19,288 could not be recovered as the rectification had become time-barred. The Committee understand that the Internal Audit Party checked the Assessments for years 1957-58 to 1960-61, but the irregularity was not detected by it.

[Serial No. 46 (Para 2.118) of Appendix VII to the 29th Report
(Fourth Lok Sabha)].

Action taken

The Government have already taken action against the Income-Tax Officer whose initial mistake for the assessment year 1957-58 led to mistakes in later years. The Internal Audit Parties were not, at the relevant time, required to look into question of registration or renewal of registration of firms. Hence the mistake remained undetected by them.

[Deptt. of Revenue & Insurance D.O. No. 15/53/68-IT (Audit)
dt. 16-12-68]

Recommendation

The Committee find that the tendency of not levying interest is on the increase from year to year. In the Audit Reports for the years 1963, 1964, 1965, 1966 and 1967, the number of cases reported and the amounts involved were 327 and Rs. 5 lakhs, 632 and Rs. 6.64 lakhs, 523 and Rs. 9.08 lakhs, 1297 and Rs. 17.72 lakhs and 1834 involving Rs. 32.60 lakhs respectively. The Committee also note that as a result of a review ordered by the Board in January, 1966, interest amounting to Rs. 93.61 lakhs was levied. The Board have issued necessary instructions to avoid non-levy of interest by Income-tax Officer. The Committee desire that the matter should be kept under watch.

[Serial No. 49 (Para 2.129) of Appendix VII to the 29th Report
(Fourth Lok Sabha)]

Action taken

The suggestion of the Committee has been noted.

[Deptt. of Revenue & Insurance D.O. No. 15/56/68-IT (Audit)
dt. 18-12-68]

Further Information sought

The Committee in their recommendations had desired that the matter should be kept under watch. In the reply it is stated 'Noted' The concrete steps taken by Government in the light of the Committee's recommendations to obviate omission in the levy of interest, where due, may kindly be intimated.

Reply

The Commissioners of Income-tax are being asked to keep a watch over the matter as per instructions contained in Board's letter to all Commissioners (annexure). Further the Board are also considering the rationalisation of the procedure for levy of interest at various stages.

[Deptt. of Revenue & Insurance D.O. No. 15/50/68-IT (Audit)
dt. 7-3-69]

ANNEXURE

F. No. 83/3/65-IT(B)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 13th August, 1965

From

Shri Wasiq Ali Khan,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT :—*Advance tax—Levy of Penal Interest—Instructions regarding*

Reference is invited to sections 215 and 217 of the Income-tax Act 1961 corresponding to sub-sections (6) and (8) of section 18A of the

Indian Income-tax Act 1922 which provide for levy of penal interest in the circumstances mentioned in those sections. They levy of penal interest is thus obligatory. It has been observed from the audit reports that mistakes regarding non-levy of penal interest under these sections have been omitted in a large number of cases. The number of such mistakes mentioned in the audit reports is as under :—

| Audit Report | No. of cases | Amount involved |
|--------------|--------------|-----------------|
| 1963 | 327 | Rs. 5 lakhs |
| 1964 | 632 | Rs. 6.64 lakhs |
| 1965 | 347 | Rs. 8.33 lakhs |

In para 44 of its 28th Report, the Public Accounts Committee observed as follows :—

"In view of the fact that the number of cases in which omission to levy penal interest appears to be on the increase, the Committee desire that a general all India review may be undertaken and necessary instructions issued to the assessing officers for the prompt levy of interest wherever it is due. The Committee regret to find that this type of lapse has occurred in 632 cases (involving an amount of Rs. 6.64 lakhs.)"

2. In view of the large number of cases in which mistakes have been found by the Audit, the Board desire that suitable instructions may be immediately issued to the I.T.Os to ensure that penal interest is levied in all cases wherever it is leviable. When making an assessment for past year, the I.T.Os should verify if penal interest had been correctly charged in the past year and if not take steps to levy such interest.

Yours faithfully,

Sd./- WASIQ ALI KHAN

Secretary

Recommendation

The Committee regret to point out that the Income-tax Officer did not make use of the particulars of bogus "Hundi Dealers" furnished by the Central Board of Direct Taxes in August, 1964. The omission resulted in under-assessment of tax of Rs. 1,00,942 for the assessment years 1961-62 and 1962-63. The Committee would like to know about the rectification of the assessment for the year 1962-63.

[Serial No. 50 (Para 2.133) of Appendix VII to the 29th Report,
(Fourth Lok Sabha)]

Action taken

The assessment in the case of M/s. Punjab Timber Traders Ltd. for the assessment year 1962-63 has been completed raising an additional demand of Rs. 2,461/- which has since been collected.

[Deptt. of Revenue & Insurance D. O. No. 15/57/68-IT Audit]
dt. 18-12-68

Recommendation

The Committee hope that the Board will keep under constant watch the question of breaking "Hundi" rackets.

[Sr. No. 51 (para 2.134) of Appendix VII to the 29th Report
(Fourth Lok Sabha)]

Action taken

Exhaustive instructions in the matter have already been issued and the Hundi racket has been checked to a very large extent. Most of the Hundi-Bankers and Brokers who had been doing fictitious Hundi business have surrendered and have stopped their activities in this direction. The assessing officers are vigilant and Hundies loans are put to strict scrutiny and examination before being accepted as genuine.

[Deptt. of Revenue & Insurance D.O. No. 15/58/68-IT (Audit) —
dt. 23-12-68]

Recommendation

The Committee are glad that the mistake has been rectified and the refund due given. The Committee expect that Income-tax Officers will exercise every care in computing the net salary income so as to avoid the recurrence of such mistakes.

[Serial No. 53 (Para 2.141) of Appendix VII to the 29th Report,
(Fourth Lok Sabha)]

Action taken

The officers have been supplied detailed instructions of Finance Acts and assessments are expected to be made carefully.

[Deptt. of Revenue & Insurance D.O. No. 15/60/68-IT (Audit)
dt. 13-12-68]

Further Information sought

The over assessment was occasioned due to the incorrect figure of \$ 1,13,125 shown in the salary statement being adopted for purposes of assessment instead of the correct figure of \$ 13,125 which could have been found out by the Department had the total of the salary statement been checked. It is not clear how the detailed instructions issued in respect of Finance Acts would be pertinent to the omission.

Reply

For the correct computation of net salary as and when changes are made by the Finance Act, instructions are invariably issued. Of course, for typographical mistakes, as in the instant case, the Income Tax Officers are to check up the totals of salary statements before adopting the figures for assessment purposes.

[Deptt. of Revenue & Insurance D.O. No. 15/50/68-IT (Audit)
dt. 7-3-69]

Recommendation

"The Committee hope that Government will take suitable steps to remove the lacuna existing in Section 9 of the Central Sales Tax Act with a view to facilitate the levy of Sales-tax in such cases. The Committee would like to be informed of the action taken in this case."

[Sl. No. 59 Appendix VII (para 3.11) of 29th Report of Public
Accounts Committee—Fourth Lok Sabha]

Action taken

With effect from 1st February 1963, coal including coke in all its forms, imported from outside Delhi, is liable to tax in the Union Territory of Delhi at the first point of sale under Section 5(1)(b) of the Bengal Finance (Sales Tax) Act, 1941, as extended to the Union Territory of Delhi. It was noticed by Audit that coal was delivered directly by importers (without taking delivery thereof) to the depot holders by endorsing the railway receipts in favour of the latter. In view of this procedure the sale by the importers to the depot holders was not first sale within the Union Territory of Delhi for the purpose of levy of tax under the aforesaid Act. Such a sale by endorsement of railway receipts actually fell within the ambit section 3 of the Central Sales Tax Act, 1956 and was liable to be taxed in accordance with provisions contained in that Act.

The Central Sales Tax Act normally exempts inter-State sales, subsequent to the first, during the same movement of the goods if such subsequent sales are made to registered dealers under the Act. In case subsequent inter-State sales are made to unregistered dealers or consumers, sub-section (1) of Section 9 of the Act lays down the procedure and machinery for collection of the tax. It was noticed that there was a lacuna in the said sub-section (1) of Section 9 as it did not provide for the State entitled to collect the tax on the subsequent inter-State sale in case the purchaser does not utilise the forms prescribed under the Act at the time of his purchase of the goods. A Bill to amend the Central Sales Tax Act, 1956, including *inter-alia* a provision to remove the above lacuna was circulated by the Ministry of Finance to the State Governments for their comments on 28th September 1967. Replies are awaited from some of the State Governments, on receipt of which further action would be initiated.

It may be added that as far as levy of Sales Tax on coal in Delhi is concerned, the procedure for delivery of coal to depot holders has since been revised. The importers, instead of endorsing the railway receipts, now take delivery of the coal in Delhi before it is sold by them to the depot holders. In view of this revised procedure, the sale by the importer to the depot holder becomes first sale in Delhi liable to tax under the Bengal Finance (Sales Tax) Act, 1941.

[Deptt. of Revenue & Insurance D.O. No. 16/20/68-IT,
dt. 12-11-68]

CHAPTER III

**RECOMMENDATIONS/OBSERVATIONS WHICH THE
COMMITTEE DO NOT DESIRE TO PURSUE IN
VIEW BY THE REPLIES OF GOVERNMENT**

NIL

CHAPTER IV

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

Recommendation

Government should also consider in this connection the suggestions made in the Final Report on Rationalisation and Simplification of the Tax Structure.

[Serial No. 8 (Para 2.23) of Appendix VII to the 29th Report
(Fourth Lok Sabha)].

Action taken

1. In regard to Shri Bhoothalingam's First Interim Report on Rationalisation and Simplification of the Tax Structure, a statement setting the list of the recommendations in that Report and indicating the action taken thereon, is enclosed (Annexure).

2. Decisions on the recommendations in Shri Bhoothalingam's Final Report will be taken by Government after a careful and through study of their implications and after considering the views of Chambers of Commerce, expert bodies and members of the public. However, some of the suggestions in the Final Report on matters which were already engaging the attention of the Government and which did not involve any radical changes in the tax structure have been implemented through the Finance Act, 1968. These relate to discontinuance of the 'dividend tax' on domestic companies with reference to their excess distributions of equity dividends; prescription of standard deductions for expenditure on maintenance and the wear and tear of conveyance owned by salaried tax-payers; and deduction, in the computation of the annual value of let-out house property, of the whole of the local taxes in respect of the property, in all cases.

3 Some of the recommendations in Shri Bhoothalingam's reports relate to structural changes of a far-reaching nature and decisions on these recommendations can be taken by Government only after considering the views and comments thereon, which had been invited from Chambers of Commerce, expert bodies and members of the public. These recommendations and the comments thereon are at present under examination

[Deptt. of Revenue & Insurance D.O. No. 15/15/68-IT (Audit)
dt. 28-11-68]

ANNEXURE

*List of Recommendations Referred to in Shri Bhoothalingam's First Interim Report
on Rationalisation and Simplification of Direct Tax Laws, with Remarks
Indicating the Action Taken Thereon*

| Recommendations | Remarks |
|--|--|
| 1. <i>Annuity Deposit</i> | |
| A. Recommendation for abolition of the Scheme. | A. Accepted and implemented through the Finance Act, 1968. |

| Recommendations | Remarks |
|---|---|
| B. Recommendation for creation of a Public Provident Fund. | B. Accepted and implemented through the Public Provident Fund Act, 1968 and the Finance Act, 1968. |
| II. <i>Earned and Unearned income</i> | |
| Recommendation for abolition of the distinction. Recommendation for increase in rates of Wealth tax and income-tax. | Accepted and implemented through the Finance Act, 1968. |
| III. <i>Rebates and other Concessions</i> | |
| Rebates to be replaced by deductions from income : | |
| 1. Co-operative Societies. 2. Dividends from Co-operative Societies. 3. Income of a Marketing Authority. 4. "Tax Holiday" income of newly established industrial undertaking or hotel. 5. Dividend related to "Tax Holiday" profits. 6. Interest on "Tax free" Government securities. 7. Shares of partners in firms. 8. Expenses incurred on education of children abroad. 9. Recognised donations to charitable institutions and for repairs of holy or historical places. 10. Export incentive rebate. 11. Inter-corporate Dividend. 12. Dividends, fees, royalties, etc. received by Indian companies from foreign companies for technical know-how. | Accepted, except for the recommendation under item 5 for discontinuance of the present exemption from tax of shareholders on dividends attributable to the 'Tax holiday profits of the company paying the dividends. Necessary amendments to the Income-tax Act, 1961 have been effected through the Finance (No. 2) Act, 1967. |
| 13. Dividends distributed by companies subjected to Agricultural income-tax. 14. Compensation received on termination or modification of managing agency agreements. 15. Interest on National Savings Certificates (First Issue) and Bank Series of such certificates. 16. Short-term Capital Gains. 17. Long-term Capital Gains. 18. Personal Allowances. | Accepted. Necessary amendment to the Income-tax Act, 1961 have been effected through the Finance (No. 2) Act, 1967. |
| IV. <i>"Assessment Year", "Previous Year" and "Tax Year"</i> | |
| A. Recommendation for prospective application of provisions of the Finance Act and adoption of the "Tax Year" for all purposes. B. "Pay as you earn" Scheme and extension of the scope of deduction of tax at sources. C. "Advance payment of Tax" to be replaced by "Pay as you earn" followed by self-assessment. D. Allocation of registration number to each tax payer and maintenance of his ledger account. E. Announcement to be made of the proposed change over. | The recommendation in item 'B' regarding extension of the scope of deduction of tax at sources has been accepted subject to certain modifications. Other recommendations have not yet been adopted as these require further consideration |
| V. Distribution of work among Income-tax Officers on a "functional" basis. | Accepted. Necessary amendments to the Income-tax Act, 1961 have been effected through the Finance (No. 2) Act, 1967. The functional system of working has been extended to 73 I.A.C.'s Ranges out of a total of 125 I.A.C.'s Ranges in the country. |

Recommendation

It will be seen that in Britain as well as Malaysia there is a provision in law to enable the assessee to proceed against an Income-tax official who wilfully makes false and vexatious surcharge of tax or resorts to any fraudulent, corrupt or illegal practice in the execution of his office. The Committee have noted in para 2.54 of the Report that there is a growing tendency in the Department of revenue to overpitch assessments which can be a source of great vexation to assessees. In order to instil a sense of responsibility in Income-tax officials Government should seriously consider incorporation of a suitable provision in the Income Tax Act to make Income-tax officials and other official liable to judicial proceeding for wilfully making a false and vexatious assessment, dishonest underassessment or resorting any fraudulent, to corrupt or illegal practice in the discharge of their official duties.

[S. No. 25 (Para 2.59) of Appendix VII to the P.A.C.'s 29th Report, 1967-68 (4th Lok Sabha)]

Action taken

The recommendation of the Committee has been considered by the Ministry.

2. The U.K. Income Tax Act had till 1964 some penal provisions for tackling the cases of petty officials, attached to non-official Commissioners who were not borne on the regular Government establishment. Even in their cases the provisions have not been invoked and were really otiose. In this context, it would not perhaps be advisable to introduce any penal provisions in the Indian Income Tax Act on the lines of the discarded provisions in the U.K. Income Tax Act.

3. The Government proposes to take suitable administrative measures for minimising the scope of disputed additions in assessments and eliminate vexatious assessments. Under assessments too are proposed to be prevented by more effective vigilance by the superior officers.

[Deptt. of Revenue & Insurance D.O. No. 15/4/68-IT (Audit)
dt. 13-12-68]

Recommendation

The Committee take a serious view of the device adopted by the Income-tax Officer in this case to make good the shortfall in the budget estimates of collections in their charges by collecting amounts from the assessees at the close of the financial year and refunding it in the beginning of the next financial year. The Committee feel that such collections without issue of demand notices are unauthorised and illegal.

It is clear that this practice results from the fixing of targets of collections which the Income-tax Commissioners and Officers are expected to reach. Under pressure of such target being set for him, the officer in question then exerts pressure on the assessee to cooperate with him in fulfilling the target on paper. The Committee recommend that Government should issue clear instructions that no such targets or estimates of collections in respect of each Income-tax Commissioner or officer exist or are expected to be fulfilled and to see that this directive is scrupulously carried out.

The Committee hope that the Department will go into cases of such abuse and take suitable action against the officers concerned wherever

necessary. The Committee regret that they have not so far been furnished with the information asked for about similar cases in all the Circles in India. [Serial No. 54 to 56 (Para 2.145, 2.146 and 2.147) of Appendix VII to the 20th Report (Fourth Lok Sabha)]

Action taken

The Board have issued instructions in the Circular F. No. 83/92/66-IT(B) dated 9-12-67. This recommendation of the Committee has been noted.

The budget collections are fixed on the basis of :

- (a) revenue potential
- (b) actual performance in the past trades
- (c) trend of the important trades and business in particular charges.

It is not that arbitrary targets are fixed for each charge of an I.T.O. by his I.A.C. and the C.I.T. and of each CTT's charge by the Board. The targets, fixed on the basis of the past and present trends of business and collection, are expected to serve as realisable objectives only. This help in securing sustained efforts for reaching the target. The system should work well unless some of the authorities make a fetish of the target. Suitable instructions are being issued in this respect.

There have been only stray cases of unauthorised collection by a few ITOs for attaining the budget target. The steps taken (*Vide* the Ministry's reply to the observations of the PAC at para 2.145 of their 29th Report) are expected to prevent a recurrence of such irregularities. As such, the Ministry would wish to continue the present practice.

A statement showing the number of cases in which tax had to be paid by assesseees without their being a legal liability during the last 3 years, 1964-65, 1965-66 and 1966-67 is enclosed. (Annexure). It will be seen that the total number of such cases is only 57 involving an amount of Rs. 33 lakhs.

The Commissioners of Income-tax were asked to take action against the officers who made such irregular collections and necessary action has been taken and is being taken where considered necessary.

In view of the position explained above, it is presumed that the PAC will please reconsider their recommendations that no budget target for each Commissioner's charge need be fixed.

[Deptt. of Revenue & Insurance D.O. No. 15/6/68-IT (Audit)
dt. 14-11-68]

ANNEXURE

| C.I.T. charge | No. of cases | Amounts collected |
|-----------------------------------|--------------|-------------------|
| Bihar } | 7 | 3,51,000-00 |
| Orissa } | | |
| Madras II | 16 | 1,63,000-00 |
| Poona | 3 | 37,500-00 |
| West Bengal I, II and III | 2 | 12,00,000-00 |
| Delhi (C) | 4 | 7,50,000-00 |
| Rajasthan | 22 | 1,73,800-00 |
| Madras I | 3 | 6,25,000-00 |
| | 57 | 33,00,300-00 |

CHAPTER V

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

Recommendation

The Committee would also like to know whether the recovery of arrears of tax of Rs. 59,900 has been effected from the party concerned in this case.

[Serial No. 31 (Para 2.74) of Appendix VII to the 29th Report
(Fourth Lok Sabha)]

Action taken

The arrear of tax of Rs. 59,900 in the case of M/s. Imperial Art Cottage has not yet been realised from the assessee. All the properties and assets of the assessee are now vested with the Receiver appointed by the Honourable High Court, Calcutta. Necessary action to obtain leave of the Hon'ble High Court to proceed against the Receiver for the realisation of the dues is being taken.

[Deptt. of Revenue & Insurance D.O. No. 15/38/68-IT (Audit)
dt. 10-2-1969]

Recommendation

The Committee would like to know the final outcome of this case.

[Serial No. 42 (Para 2.106) of Appendix VII to the 29th Report
(Fourth Lok Sabha)]

Action taken

A sum of Rs. 1,14,453/- (Rs. 91,490, 18,845 and 4,118) was raised as additional tax in the case of M/s. Ennala Belaram (P) Ltd. for the asstt. years 1956-57, 57-58 and 58-59. The stay of recovery of additional demands granted by the High Court for the asstt. years 1956-57 and 57-58 is not yet vacated.

2. The additional demand for the asstt. year 1958-59 was completely wiped out consequent on the AAC's order. The departmental appeal filed against the AAC's order was dismissed by the Appellate Tribunal. Filing of a reference application is under consideration.

3. A further report in the matter would be sent to the P.A.C. later on.

[Deptt. of Revenue & Insurance D.O. No. 15/49/68-IT (Audit)
dt. 14-1-69]

M. R. MASANI,
Chairman,
Public Accounts Committee.

NEW DELHI:

April 28, 1969.

Vaisakha 8, 1891 (Saka).

APPENDIX I

Statement showing the Outstanding Recommendations

| S. No. | Paragraph No. |
|--------|---------------|
| 7 | 2-22 |
| 10 | 2-35 |
| 11 | 2-36 |
| 12 | 2-37 |
| 13 | 2-38 |
| 14 | 2-39 |
| 17 | 2-43 |
| 18 | 2-44 |
| 19 | 2-45 |
| 20 | 2-46 |
| 26 | 2-51 |
| 27 | 2-52 |
| 29 | 2-53 |
| 30 | 2-54 |
| 32 | 2-55 |
| 34 | 2-56 |
| 35 | 2-57 |
| 36 | 2-58 |
| 38 | 2-59 |
| 39 | 2-60 |
| 40 | 2-61 |
| 44 | 2-62 |
| 45 | 2-63 |
| 47 | 2-64 |
| 48 | 2-65 |
| 52 | 2-66 |
| 57 | 3-6 |
| 58 | 3-7 |
| 60 | 4-1 |

APPENDIX II (a)

Summary of main Conclusions/Recommendations

| S. No. | Para Number | Ministry Deptt. concerned. | Conclusion/Recommendation. |
|--------|-------------|----------------------------|--|
| 1. | 1-9 | Finance | <p>The Committee note the measures taken by the Income-Tax Deptt. for speedy finalisation of pending cases of assessments involving business income of over Rs. 25,000 in particular. During the period, 1st April 1968, to 31st October 1968, 77,995 category I cases (involving business income of over Rs. 25,000) were disposed of against 56,083 cases during the corresponding period of the preceding year. The Committee, however, find that the number of category I cases disposed of during period 1st April 1968 to 31st October, 1968 represented only about 23 per cent of the total number of cases for disposal (arrears and current cases). The number of assessments pending as on 31st October 1968 was 2,56,770. The Committee desire that sustained attention should be given to the disposal of category I cases so as to ensure that all arrears are cleared and all outstanding taxes realised.</p> <p>The Committee need hardly stress that assessment of cases involving business income of Rs. 25,000 or more should be finalised on a priority basis and not allowed to go into arrears.</p> |
| 2. | 1-15 | -do- | <p>The Committee are concerned to note that the gross arrears of income-tax have increased from Rs. 541.73 crores as on 31st March 1967, to Rs. 645 crores as on 30th September 1968, out of which the net arrears amount to Rs. 471 crores. The Committee desire that special attention should be paid to cases involving tax demand of Rs. 5 lakhs and more which numbered 1085 involving tax amounting to Rs. 198 crores as on 1st April 1968.</p> |
| 3. | 1-16 | -do- | <p>The Committee note that in pursuance of their recommendations, the Central Board of Direct taxes have issued instructions to the Commissioners of income tax to pay particular attention to collection of tax from companies and discourage, by levying deterrent penalties, any attempt by them to utilise in their businesses taxes withheld. The Committee desired to be furnished break-up of arrears due from companies category-wise viz.</p> <p>(a) companies which have sufficient funds to pay the tax and;</p> <p>(b) companies which have not sufficient funds.</p> |

| S. No. | Para Number | Ministry/Deptt. concerned. | Conclusion/Recommendation |
|--------|-------------|----------------------------|---|
| | 1-17 | Finance | The information is still awaited. The Committee desire that this information should be compiled expeditiously and special attention paid to realise the arrears from the companies which have sufficient funds to pay so that the tax withheld is not utilised by them in their business. |
| 4. | 1-18 | -do- | As regards the amounts due from companies which have no ready funds to pay the taxes, the matter should be kept continuously under review so as not to jeopardise chances of recovery. |
| 5. | 1-23 | -do- | The Committee would like Government to critically look into cases of overpitched assessments in important revenue circles like Calcutta, Bombay, Madras and Delhi, where the income-tax tribunals, High Courts and the Supreme Court have passed strictures against such assessments during the last three years or where assessments made by the Income-Tax officers have been reduced by either Rs. 50,000 or 25 per cent of the originally assessed tax. Apart from taking deterrent action against officials held responsible for indulging in vexatious taxation, Government should analyse the cases and issue general guidelines for the information and use of income-tax officers. |
| 6. | 1-27 | -do- | The Committee note that the Tax Evasion Enquiry Committee (1968) has recently submitted their report. The Enquiry Committee have opined that there is no need to offer any further voluntary Disclosure Scheme. They have, however, suggested that "a provision should be made in law vesting the Commissioners with a specific power to spread the concealed income, falling within the provisions of sections 68, 69, 69-A and 69B over more than one assessment year, where an assessment is made on an agreed basis." The Enquiry Committee have also suggested a number of measures to put effective curbs on the flow and utilisation of unaccounted money. The Committee hope that Government will expeditiously process the recommendations of the Tax Evasion Enquiry Committee, and take necessary steps to put an end to evasion of tax in all walks of life of the country. |
| 7. | 1-31 | -do- | The Committee regret to note that the Ministry had not made headway in making a detailed study of all the aspects of taxation obtaining in other countries such as, United States, Belgium, West Germany, Holland, Norway, Sweden, Japan, Ireland, Nigeria and Malaysia. The Committee desire that the Ministry should take early steps to complete the study which should cover the administrative aspects of the system of assessment and collection and measures adopted to check tax evasion and in the light thereof Government may |

| S. No. | Para number | Ministry/Deptt. concerned. | Conclusion/Recommendation. |
|--------|-------------|----------------------------|--|
| | | | examine, to what extent, the present laws and structure of taxation should be further rationalised to gain willing compliance of the public. |
| 8. | 1-32 | Finance | The Committee note that Government placed before Parliament on 9-12-1968 (in reply to the unstarred question No. 3827 in Lok Sabha), the current rates of tax in India on the business income of domestic companies and corresponding rates of tax in the United States, Britain, France and Japan. The Committee desire that a comparative study of the rates obtained in other countries such as West Germany, Belgium, Holland, Norway, Sweden, Ireland, Nigeria and Malaysia should also be made early so as to provide upto-date information to Government about the rate and incidence of taxation in other developed and developing countries. |
| 9. | 1-36 | -do- | The Committee would like Government to continuously improve the survey technique in the light of experience so as to spot out cases of substantial income which are escaping assessment. The Committee would, in this context, reiterate their suggestion that a systematic study of cases which have come to notice for the first time through the Voluntary Disclosure Scheme should be made to find out how these escaped attention during surveys carried out by the Department. |
| 10. | 1-41 | -do- | The Committee note that the Tax Evasion Enquiry Committee (1968) have observed in their report that "to create an effective climate of deterrence to tax evasion, it is necessary to launch and complete as many prosecutions as possible within the shortest time," and "to this end, it is necessary to exploit to the full the expertise at the disposal of the Department." The Tax Evasion Enquiry Committee have made a number of suggestions for launching successful prosecutions which include making procedural and organisational changes in the Income Tax Department, training of officers, bringing out a detailed prosecution manual, amending the income-tax etc. etc. The Committee hope that necessary and expeditious action will be taken in pursuance of the recommendations of the said Committee. |
| | 1-42 | -do- | The Committee would like the Central Board of Direct Taxes to ensure that launching of prosecutions in clear and glaring cases of deliberate large-scale tax evasion is preferred to mere imposition of penalties. While giving their approval to launching or withdrawal of prosecutions, the Board should satisfy themselves that the prosecution is not launched merely with a view to compounding the case and thereby recovering larger composition fees. |

APPENDIX II (b)

Summary of the main conclusion/Recommendations

| S. No. | Para No of Report | Ministry/Deptt. concerned. | Recommendations |
|--------|-------------------|----------------------------|--|
| 1. | 2.7 | Deptt. of Revenue | The Committee note that some of the suggestions contained in the "Final Report on the Rationalisation and Simplification of Tax Structure" which did not involve any radical changes in the tax structure, have been implemented by Government through Finance Act, 1968 and Finance Bill, 1969. Some of the more important recommendations contained in that Report which involve structural changes in the Statute are stated to be still under examination. The Committee would like Government to complete their examination of these recommendations along with the recommendations made by the Administrative Reforms Commission and the latest Report of Tax Evasion Enquiry Committee, 1968, as well as the practice obtaining in other advanced countries so as to make the tax structure rational, simple and effective. |
| 2. | 2.8 | -do- | <p>The Committee would also like to reiterate in this connection the following observations made by them in para 2.22 of their Report to which no reply has been received so far :</p> <p>"It is widely felt that rates of personal and corporate taxation have reached such heights that the process of diminishing returns has already set in. The Committee would urge that Government undertake a comprehensive study of the structure of direct taxes with a view not merely for reviving but to increasing the pace of savings and economic growth in the country. Such a study should carefully consider taxation measures adopted by countries which have administered their tax laws successfully making <i>inter alia</i> tax evasion unrewarding. This will enable suitable steps being taken to augment tax revenues."</p> |
| 3. | 2.12 | -do | The Committee note that Government propose to "take suitable administrative measures for minimising the scope of disputed additions in assessments and eliminate vexatious assessments. Under-assessments too are proposed to be prevented by more effective vigilance by the superior officers." |
| 4. | 2.13 | -do- | The Committee would like to watch the results of administrative measures proposed to be taken by Government through future Audit Reports. |

| S. No. | Para No. of Report | Ministry/Deptt. concerned. | Recommendations |
|--------|--------------------|----------------------------|---|
| 5. | 2-16 | Deptt. of Revenue | The Committee note from the statement that the number of cases of irregular collection by Income-tax Officers towards the end of the financial year in order to reach the prescribed target of collections for their circle numbered 57 involving Rs. 33 lakhs. Out of the amount of Rs. 33 lakhs, Rs. 12 lakhs pertain to the West Bengal charge, Rs. 7.5 lakhs to Delhi and Rs. 7.88 lakhs to Madras. |
| 6. | 2-17 | -do- | The Committee note that Government have since issued instructions that such irregular collections should not be resorted to and that action should be taken against the Officers who indulge in such irregular collections. |
| 7. | 2-18 | -do- | The Committee would like the Central Board of Direct Taxes to keep a special watch in this behalf, particularly in the Charges referred to above, so as to ensure that such unauthorised and illegal collections are not made by Income-tax Officers, on pain of deterrent penalty. |

| Sl. No. | Name of Agent | Agency No. | Sl. No. | Name of Agent | Agency No. |
|--------------|---|------------|------------------------------------|--|------------|
| DELHI | | | 33. | Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi-1. | 68 |
| 24. | Jain Book Agency, Connaught Place, New Delhi. | 11 | 34. | People's Publishing House, Rani Jhansi Road, New Delhi. | 76 |
| 25. | Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi. | 3 | 35. | The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi. | 88 |
| 26. | Atma Ram & Sons, Kashmere Gate, Delhi-6. | 9 | 36. | Hind Book House 82, Janpath, New Delhi. | 65 |
| 27. | J. M. Jaina & Brothers, Mori Gate, Delhi. | 11 | 37. | Bookwell 4, Sant Narakari Colony, Kingsway Camp, Delhi-9. | 96 |
| 28. | The Central News Agency, 23/90, Connaught Place, New Delhi. | 15 | MANIPUR | | |
| 29. | The English Book Store, 7-L, Connaught Circus, New Delhi. | 20 | 38. | Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annex, Imphal. | 77 |
| 30. | Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi. | 23 | AGENTS IN FOREIGN COUNTRIES | | |
| 31. | Bahree Brothers, 188 Lajpatrai Market, Delhi-6. | 27 | 39. | The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON, W.C.-2. | 59 |
| 32. | Jayana Book Depot, Chaparwala Kuan, Karol Bagh, New Delhi. | 66 | | | |

