

**HUNDRED AND NINETY-SEVENTH
REPORT**

**PUBLIC ACCOUNTS COMMITTEE
(1983-84)**

(SEVENTH LOK SABHA)

**DIRECT TAXES RELATING TO PROVISIONAL
ASSESSMENTS AND REFUNDS**

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

[Action taken on 100th Report (7th Lok Sabha)]

4
12

Presented to Lok Sabha on-----

Laid in Rajya Sabha on-----

**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1984/Chaitra, 1906 (S)

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Corrigenda to the Hundred and Ninety
Seventh Report of the Public Accounts
Committee(1983-84).

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PUBLIC ACCOUNTS COMMITTEE

(1983-84)

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Shri Sunil Maitra

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Lok Sabha

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3. **Shrimati Vidyavati Chaturvedi**
4. **Shri C. T. Dhandapani**
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21. Shri Nirmal Chatterjee
22. Shri Kalyan Roy

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1. Shri T. R. Krishnamachari—*Joint Secretary*
2. Shri H. S. Kohli—*Chief Financial Committee Officer*
3. Shri K. K. Sharma—*Senior Financial Committee Officer*

* Ceased to be member of the Committee consequent upon his retirement from Rajya Sabha w. e. f. 2-4-84.

INTRODUCTION

I, the Chairman of Public Accounts Committee, as authorised by the Committee, do present on their behalf this 197th Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 100th Report (Seventh Lok Sabha) on Paragraphs 2.5 (i) and 3.15 (ii) of the Report of the Comptroller and Auditor General of India for the year 1979-80 (Revenue Receipts), Vol. II, Direct Taxes relating to Provisional Assessments and Refunds.

2. In their earlier Report, the Committee had pointed out two instances where there was an aggregate tax undercharge of nearly Rs. 18 lakhs due to failure of Assessing Officer to take into account at the time of regular assessment the refunds already allowed in the provisional assessment made under Section 141A. What really surprised the Committee was that although the tax calculation in these cases had to be checked both by the Head Clerk as well as by the Income Tax Officer himself, it was not done by either of them. The refund allowed on provisional assessment was not entered in the relevant columns in the assessment/refund form, and the register of provisional assessment was also not maintained. Further these cases escaped the attention of the Inspecting Assessing Commissioner as well as Internal Audit. The Committee had *inter alia* desired that responsibility for the failure in these cases should be fixed and appropriate follow up action taken. In their reply, the Ministry have stated that the Commissioner of Income Tax has been asked to fix responsibility for failure in this particular case and take appropriate action against the defaulting officials. In this Report, Committee has expressed surprise that although more than one and a half years has elapsed since the presentation of their Report, the specific action taken against the defaulting officers has not yet been intimated to the Committee. The Committee has desired that the specific action taken against the defaulting officers may be intimated to them within a period of three months.

3. The Committee considered and adopted this Report at their sitting held on 28 March, 1984. Minutes of the sitting form Part II of the Report.

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

(vi)

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

NEW DELHI ;

March 30, 1984

Chaitra 10, 1906 (Saka)

SUNIL MAITRA

Chairman,

Public Accounts Committee.

CHAPTER I

This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 100th Report (Seventh Lok Sabha) on Paragraphs 2.5 (i) and 3.15 (ii) of the Report of the Comptroller & Auditor General of India for the year 1979-80 (Revenue Receipts), Vol. II Direct Taxes relating to Provisional Assessments and Refunds.

1.2 The Committee's 100th Report was presented to Lok Sabha on 30 July, 1982 and contained 19 recommendations. Action Taken Notes have been received in respect of all the recommendations/observations. The Action Taken Notes received from Government have been broadly categorised as follows :—

- (i) Recommendations and observations that have been accepted by Government :
Sl. Nos. 5 to 12, 16, 17, 18, 19
- (ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government :
Sl. No. 15
- (iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration :
Sl. Nos. 13 & 14
- (iv) Recommendations/observations in respect of which Government have furnished interim replies :
Sl. Nos. 1 to 4

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

Avoidable Mistakes in the Computation of Tax

1.4 Commenting upon the avoidable mistakes in the computation of tax, resulting into loss of revenue, the Committee in paras 1.28 to 1.31 of their earlier Report had recommended/observed as follows ;—

“The phenomenon of under-assessment of taxes of substantial amounts has been noticed, year after year, on account of avoidable mistakes resulting from carelessness or negligence on the part of the assessing officers and the supervisory staff. The Committee regret to observe that in spite of repetitive instructions issued by the Board from time to time, such mistakes continue to occur. The Committee note with concern that during the year 1979-80 alone, as many as 2,304 cases of avoidable mistakes involving short levy of taxes of the order of Rs. 74.95 lakhs were noticed by Revenue Audit under Corporation tax and Income-tax. As Revenue Audit is only a test audit, the number of such mistakes and the amount involved are bound to be much higher. It would, therefore, appear that the Board have failed to secure compliance with their instructions with regard to maintenance of records, ensuring close supervision of work at various levels and periodic inspections by superior officers so as to obviate patent mistakes.

In the paragraph under examination, Audit has brought to notice two instances (M/s. Dishergarh Power Supply Co. Ltd. and M/s. Associated Power Supply Co. Ltd.) where there was an aggregate tax undercharge of nearly Rs. 18 lakhs due to failure of Assessing Officer to take into account at the time of regular assessment the refunds already allowed in the provisional assessment made under Section 141A. Although the Department has claimed that procedures and system had been so designed as to prevent mistakes of the type pointed out by Audit in the two cases, the fact stands out that in these two cases, there was a complete failure of the system. As per Board's instructions on the subject, the tax calculations in these cases had to be checked both by the Head Clerk as well as by the Income Tax Officer himself but it was not done by either of them. The reason given is that it is clerical error that occurred through oversight in the rush of work. This is hardly convincing. The Committee find that the mistake went unnoticed despite the fact that the refund allowed on provisional assessment was required to be verified and entered in the relevant columns in the assessment/refund form ITNS-150A. Apparently, the entries in the relevant form were not made. The Ministry have also admitted that the register of provisional assessments, which is supposed to provide another check in the system designed prevent such mistakes “does not appear to have been maintained at that time”.

The Committee further find that these cases escaped the attention both of the Internal Audit as well as the Inspecting Assistant Commissioner, But for the vigilance on the part of Revenue Audit, the State would have been put to a loss of about Rs. 18 lakhs in these two cases only. This is indeed a very sad reflection on the working of

the circle concerned. The Committee would like to be apprised of the specific steps since taken to tone up the working of this Circle, particularly with regard to the maintenance of relevant records and their scrutiny at higher levels. The Committee further desire that the responsibility for the failure in these cases should be fixed and appropriate follow up action should be taken."

In their action taken note, the Ministry of Finance (Deptt. of Revenue) have stated as follows :

"The observations of the P. A. C. have been noted."

The C. I. T. has been asked to thoroughly scrutinise the working of this Circle to ensure that all prescribed registers are duly maintained and procedures laid down are followed. He has also been asked to ensure that such registers are maintained and procedures followed in all the Wards/Circles. The senior Officers namely the I. A. C. and the C. I. T. have been directed to personally ensure by regular inspections as also by surprise inspections that the relevant registers are maintained and the procedurs followed.

Commissioner of Income-tax has been asked to fix responsibility for failure in this particular case and take appropriate action against the defaulting Officials."

In their earlier Report, the Committee had pointed out two instances where there was an aggregate tax undercharge of nearly Rs. 18 lakhs due to failure of Assessing Officer to take into account at the time of regular assessment the refunds already allowed in the provisional assessment made under Section 141A. What really surprised the Committee was that although the tax calculation in these cases had to be checked both by the Head Clerk as well as by the Income Tax Officer himself, it was not done by either of them. The refund allowed on provisional assessment was not entered in the relevant columns in the assessment/refund form, and the register of provisional assessment was also not maintained. Further these cases escaped the attention of the Inspecting Assessing Commissioner as well as Internal Audit. The Committee had *inter alia* desired that responsibility for the failure in these cases should be fixed and appropriate follow up action taken. In their Action Taken reply the Ministry have stated that the Commissioner of Income Tax has been asked to fix responsibility for failure in this particular case and take appropriate action against the defaulting officials. The Committee are surprised that although more than 1½ years has elapsed since the presentation of their Report, the specific action taken against the defaulting officers has not yet been intimated to the Committee. The Committee therefore desire that the specific action taken against the defaulting officers may be intimated to them within a period of three months.

Avoidable or Incorrect Payment of Interest by Government (Sl. Nos. 13 and 14 (Paras 2.29 and 2.30))

Commenting on the delay in giving effects to the appellate orders, which led to payment of (Rs. 81,758/- to the assessee), the Committee in paras 2.29 and 2.30 of their 100th Report observed/recommended as follows :—

“According to the Ministry, the delay in giving effect to the appellate orders was primarily on account of the frequent change of ITOs dealing with the case. It is seen that in a period of 4 years there were 7 changes in the incumbency of Income-tax Officer dealing with the case under reference. The delay has also been partly attributed to the search and seizure operations conducted at the premises of the assessee from 23rd December, 1975 to 3rd January, 1976 and order under section 132(5) passed on 19th march, 1976 for retaining the assets seized.

Though too frequent transfers must be avoided in the interest of work, the Committee are not convinced with the plea of transfer of ITOs as a reason for the inordinate delay in this case. The Committee would like to be apprised of the reasons for transfer of each ITO during the period in question. The Committee would also like to point out that any system to be effective must provide inadequate inbuilt safeguards/ checks so as to guard against any dislocation of work on this account. As admitted by the Ministry, it is actually the failure to observe the prescribed procedures such as correct and systematic filling up of transfer memoranda which is the cause of such lapses. The Committee consider it unfortunate that inspite of this admission, the only action taken against the erring official was a homely advice by the commissioner to be more careful in future. The Committee are of the view that stern action is called for in this case so as to act as a deterrent to others and to minimise occurrence of such failures. The matter should, therefore, be reviewed and the Committee apprised of the action taken.”

In their action taken note, the Ministry of Finance (Deptt. of Revenue) have stated as follows:

“Regarding frequent changes of officers, it was seen that seven officers had held the charge during the relevant period. Of these, two Income-tax Officers went on promotion. one officer was posted in a special pay post and thrice the charge had been held as an additional charge either because the incumbent went on leave or due to vacancy arising out of officer going on promotion. Only once there was a routine transfer.

2. The recommendation of the Public Accounts Committee for taking stern action against the officers has been considered very carefully by

Government but it has not been found possible to accept the same. The officers have been found to be good and sincere and as such stern action will tell upon the morale of such sincere officers.”

In their earlier Report, the Committee had adversely commented on the delay of nearly four years in giving effect to certain appellate orders granting refund of Rs. 1.49 lakhs which had resulted in payment of interest amounting to Rs. 81, 758 to the assessee. According to the Ministry, the delay in giving effect to the appellate order was primarily on account of frequent change of ITOs dealing with the case. The Committee, however observed that it was actually the failure to observe the prescribed procedures such as correct and systematic filling up of transfer memoranda which was the cause of such lapses. In the opinion of the Committee, stern action was called for in this case so as to act as a deterrent to others and to minimise occurrence of such failures. The Committee accordingly recommended that the matter should be reviewed and the Committee apprised of the action taken. In their reply, the Ministry have stated that recommendation of the Committee for taking stern action against the officials had been considered very carefully by Government but it had not been found possible to accept the same as the officers have been found to be good and sincere and such stern action would tell upon the morale of such sincere officers. The Committee are surprised at this reply of the Government. The case clearly revealed that there had been failure on the part of the concerned officers to observe the prescribed procedures which had resulted in avoidable loss to Government. The Committee, therefore, feel that any attempt to minimise or condone the gravity of such lapses would not be justified. The Committee reiterate their earlier recommendation that stern action should be taken against the defaulting officers so as to act as a deterrent to others.

CHAPTER II
RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN
ACCEPTED BY GOVERNMENT

Recommendation

The Committee have been informed that none of the 220 statutory forms in use under various tax enactments have been reviewed so far. However, 67 per cent of the 303, non-statutory forms in use have been reviewed. The Ministry have claimed that columns in the assessment/refund form (ITNS-150) have been so designed as to prevent mistakes of the type pointed out in the instant case. In columns (F) (G) & (H) in part II of the form, attention is invited to the adjustment of any amount already refunded. The form has apparently not been revised on the introduction of Section 141A in 1968. The Committee therefore desire that the work of reviewing all the forms, both statutory and non-statutory, should be taken up on a priority basis so as to bring them up-to-date keeping in view the amendments made in the Income-tax Act over the years. Opportunity may also be taken to simplify these forms to the extent possible and to reduce their number to the minimum extent possible. The Committee would like to be apprised of the precise steps taken in this regard.

Sl. No.5(para 1.32)

Action Taken

The review of the statutory and non-statutory forms in use under various tax laws is a continuous exercise as the same is linked with Act and Rules which are amended from time to time. It is not a one time action. This is already a priority item. The work for the review of statutory and non-statutory forms has been entrusted to the DOMS (IT) which submits draft to the CBDT for approval. Sometimes, the statutory forms are reviewed directly by the TPL Section of the CBDT.

The total number of statutory and non-statutory forms is as follows :—

Statutory	Income-tax	108	Non-statutory	Income-tax	203
	wealth-tax.	27		wealth-tax	24
	Gift-tax	9		Gift-tax	22
	Estate-duty	23		Estate duty	39
	Sur-tak	15		Sur-tax	15
	I.T.C.P.	31			
	Interest-tax	7			
		<u>220</u>			<u>303</u>

The position of review is as follows:

	Statutory Forms	Non-statutory Forms
Reviewed and sub- Mitted to the CBDT	103	210
Under review	117	93
	— —	— —
	220	303

So far as ITNS 150 is concerned, it has already been revised to incorporate the effects of Section 141 A. The new ITNS 150 presently in use provides Col, 'O' as follows:

“Tax refunded as per original assessment/prior re-assessment/prov. assessment on.....”

[Ministry of Finance (Department of Revenue) F. No, 241/6/82-A&PAC.II
D. O. No.6/2/82-OD/3850 dated 20. 10. 1982]

Recommendation

The object of Section 141A, which lays down the procedure for provisional assessments, was to avoid inconvenience and hardship to tax payers on account of money likely to become refundable to them, lying locked up with the Department till the completion of the regular assessment. When asked whether there were still cases where such provisional assessments were not made thus causing harassment to assesseees and avoidable payment of interest by Government, the Ministry stated that the Board did occasionally come across cases where provisional assessments were not made in time.

Detailed procedure for finalising provisional assessments by the Assessing Officers has been laid down through various instructions issued by the CBDT, In their instruction No. 1078 dated 22.7.77, the Board directed that even in cases where there is no claim from the assessee for the provisional assessment, the Income Tax Officers should *Suo moto* make the provisional assessment if the returned income exceeds Rs. 50,000. This instruction was apparently issued with a view to avoiding the payment of interest under Section 214 of the Income Tax Act. The Committee feel that the question of incorporating this salutary provision in the law itself may be examined so that a statutory duty is cast on the Income Tax Officer to complete all the provisional assessments within a fixed time schedule.

[Sl. Nos. 6 & 7 (paras 1.33 and 1.34)]

Action Taken

Observations of the Public Accounts Committee have been noted and would be processed while formulating proposals for comprehensive Amendment Bill, expected to be introduced this year.

[Ministry of Finance (Department of Revenue) F.No.241/6/82-A & PAC.II/
F.No. 155 (38)/83-TPL]

Recommendation

Under Section 214 of the Income-Tax Act 1961, where the advance tax paid by the assessee during a financial year exceeds the amount of tax determined on regular assessment, the Government is liable to pay interest at the rate of 12 per cent on such amount of advance tax as is found to be in excess and the interest is computed in respect of the period from 1st of April next following the said financial year upto the date of regular assessment. In respect of any amount refunded on the basis of provisional assessment made under Section 141A, no interest is payable for any period after the date of such provisional assessment. However, the Board in their Instruction No. 91 dated 2.8.1969 had clarified that interest should be paid alongwith the refund made on the basis of the provisional assessment. The Kerala High Court in N. Devaki Amma and others Vs. I. T. O. A Ward, Quilon (1980) (122 ITR 272) have held that the Circular cannot be treated as an authority for the proposition that interest is payable on the amount of refund ordered under Section 141A at the provisional assessment stage. The court have held that under Sub-Section (1) of Section 214, interest on such amount refunded could be and should be paid on regular assessment.

As the position is not entirely free from doubt and in view of the observations of the Kerala High Court in the above case, the Ministry of Law have advised that the position may be clarified by a suitable amendment. The Committee would therefore like the Board to bring forward a clarificatory amendment to Section 214 at an early date.

[Sl. Nos. 8 & 9 (Paras 1.35 and 1.36)]

Action Taken

Recommendations of the Public Accounts Committee have been noted and would be processed while formulating Proposals for the comprehensive Amendment Bill, expected to be introduced this year.

[Ministry of Finance (Department of Revenue) F. No. 241/6/82-A & PAC
II F. No. 155 (38)/83-TPL]

Recommendation

Under Section 215 of the Income-Tax Act whenever amount on which interest was payable by the assessee is reduced, interest demanded is reduced accordingly and the excess interest paid, if any, is refunded. However, such is not the position in respect of interest paid by the Government to the assessee under Section 214. Where tax due from the assessee subsequently increases as compared to what was determined as per provisional assessment or as per regular assessment, in practice interest on additional amount due is not levied from the 1st of April next following the relevant financial year, to the date of re-assessment or even the regular assessment. As early as in 1972-73, the Public Accounts Committee in their 51st Report had drawn attention to this inequities situation. The Committee find out that the Law Ministry are of the view that in the absence of a specific provision in Section 214 on the lines of the provision contained in Section 215 (3) of the Act it is not permissible for the Income-tax Officer to reduce the quantum of interest payable by Government as a result of an order of rectification or an order in appeal or revision which has the effect of increasing the tax payable by the assessee for the relevant years and that the anomaly pointed out by the Committee could be removed only by a suitable amendment of the Act. The Ministry of Finance have now informed the Committee that the recommendation made by the Public Accounts Committee would be examined in the light of recommendations which might be made by the Economic Administration Reforms Commission which is at present engaged in the task of simplification and rationalisation of the direct taxes laws. The Committee regret to point out that the Ministry of Finance have failed to take any action on the recommendations made by this Committee as far back as in 1972-73 to rectify the inequities situation which was to be disadvantage of Government. The Committee would now like the attention of the Economic Administration Reforms Commission to be specifically drawn to this situation. They would like to be informed of the views of the Commission in this regard as soon as available.

[Sl. No. 10 (Para 1.37)]

Action Taken

The recommendation of the Public Accounts Committee has been conveyed to the Economic Administration Reforms Commission.

[Ministry of Finance (Department of Revenue F. No. 241/6/82—A &
PAC. II, F. No. 155 (38)/83—TPL]

Recommendation

Under Section 215, where the advance tax paid by an assessee is less than 75 per cent of the assessed tax (as determined on regular assessment) simple interest@12 per cent per annum is payable on the shortfall for the period from 1st

April Next following the relevant financial year to the date of regular assessment. Where, however, the initial payment of advance tax is not less than 75 per cent of assessed tax, but the residual amount after allowing refund on provisional assessment is so short, no interest is chargeable under Section 215 even if the shortfall is more than 25 per cent. This is apparently an anomalous situation which calls for a suitable amendment of the law to remove the lacuna. The Committee recommend that Government should examine this question and bring forth suitable amendment to the Act forthwith.

[Sl. No. 11 (Para 1.38)]

Action Taken

The recommendation of the Public Accounts Committee has been noted and would be processed while formulating Proposals for the comprehensive Amendment Bill, expected to be introduced this year.

[Ministry of Finance (Department of Revenue) F. No. 241/6/82—A & PAC. II F. No. 155 (38)/83—TPL]

Recommendation

Under the provisions of the Income-tax Act, 1961, whereas a result of any order passed in appeal or other proceeding under the Act, refund of any amount becomes due to the assessee and if the Income-tax Officer does not grant the refund within a period of 3 months from the end of the month in which the order is passed, the Central Government is required to pay to the assessee simple interest at 12 percent per annum on the amount of refund due from the date immediately following the expiry of the period of 3 months aforesaid to the date on which the refund is granted. Instructions were also issued by the CHDT on July 1962 to the effect that the Income-tax Officer shall dispose of the refund cases within a fortnight of receipt of appellate orders. Audit has brought to notice a case where the orders passed by the Appellate authority in January, 1974 and February, 1975 granting a refund of Rs. 1.49 lakhs were given effect to only in September, 1978. As a result of the abnormal delay of about four years in giving effect to the appellate orders, the assessee had to be paid a huge sum of Rs. 81,758 as interest under Section 246 of the Income Tax Act, 1961.

The Committee find that despite elaborate instructions issued by the Board from time to time and various measures devised for prompt issue of refund orders, the number of pending application for refunds has been going up. The number of pending applications for refunds under Section 237 recorded an increase from 10843 on 31st March, 1979 to 15269 as 31st March, 1980. Likewise the applications for refund under section 240 rose from 6582 to 9322 during the same period. The contention of the Ministry that 10063 refund claims under Section 237 were filed in March 1980, against 7987 during March 1979 explains the position only partly. "On the other hand, the Committee expect disposal of larger number of the pending cases through improved perfor-

mance from year to year." The Committee understands that a study is being undertaken of a few charges in Delhi to further evolve measures for tightening the administrative machinery in this behalf. The Committee desire that such a study should not be confined to a few charges in Delhi alone but it should be extended to other charges also where the position is not satisfactory so that their functioning can be streamlined and the clearance of refund applications expedited.

In this connection, the Committee regret to observe that the instructions of the Board in regard to setting up of a separate Cell for preparing lists of all cases of reduction of tax by appellate/revisionary authorities so as to ensure expeditious compliance of such orders, have not been taken seriously by the Commissioners of Income-tax. The Board should secure compliance of these instructions without delay and lapses on this account should be taken serious note of.

[Sl. Nos. 12, 16 and 18 (paras 2.28, 2.32 and 2.34)]

Action Taken

The Board is aware of the problem. As pointed out the P.A.C., the Director, O & M Services made a study with a view to finding out the reasons for delay in the disposal of applications for rectification and other applications e.g. applications u/s 146 of I.T. Act, applications for refunds, application for giving effect to appellate/revision order etc. It was observed by the study team that such applications are not entered in the registers prescribed for the purpose and, therefore, it becomes difficult to keep a watch over their disposal. After considering the report of the DOMS, the Board have issued instructions (Instruction No. 1452 dated 3-2-1982) detailing the procedure to be followed for the receipt and disposal of such applications. It also provides for a direct control over their disposal by the I.A.C. A copy of Instruction No. 1452 dated 3-2-1982 is enclosed.

[Ministry of Finance (Department of Revenue) F.No.241/6/82-A&PAC-II
F.No.228/37/82-ITA-II]
INSTRUCTION NO. 1452

F.No.225/46/81-ITA.II
Government of India

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 3rd February 1982.

To

All Commissioners of Income-tax.

Sir,

Subject:—Procedure for receipt and disposal of rectification and other applications.

The Directorate of Organisation and Management Services have made a study with a view to finding out the reasons for delay in the disposal of applications for rectification and other applications received from the assesseees such as:—

- (i) Applications u/s 146 of the I.T. Act, 1961.
- (ii) Applications for refund.
- (iii) Applications for giving effect to appellate/revision orders.
- (iv) Applications for exemption certificates.
- (v) Applications for tax clearance certificates.
- (vi) Applications for certificates u/s 230A.
- (vii) Applications for relief u/s 89 (1).
- (viii) Applications for DIT relief etc.

2. During the course of the study, it has been observed by the Study Team that such applications are not entered in the registers prescribed for the purpose, and, therefore, it becomes difficult to keep a watch over their disposal. Some of these applications ultimately get lost or destroyed and the control provided by these registers is thus lost. It was also observed that sometimes applications are directly handed over by the assesseees to the I. T. Os/Staff and these do not get entered in the prescribed registers.

3. After considering the report of the D. O. M. S., the Board have decided that the following procedure should be adopted for the receipt and disposal of applications mentioned in para 1 above.

- (i) The Central Receipt section should give to the I. A. C. a circle/District/Wardwise break-up of the applications received each month. This list should separately be for each type of applications mentioned in para 1 above.
- (ii) The I.A.C. should check up this number with the number of pending applications reported in the MPR to ensure that all the applications received in the month have been properly accounted for by the concerned ITO in the MPR.
- (iii) The I. A. C. should on the 10th of the following month call for 15 to 20 files mentioned in the list received by him from the central receipt section and check up whether the applications are placed on the files:

- (iv) The I.A.C. should also check the prescribed registers maintained by the ITOS to satisfy himself whether these applications have been entered there by the concerned member of the Ministerial staff.
- (v) The I. A. C. should take suitable follow-up action to expeditiously process them and for avoiding remissness on the part of the staff.

4. These instructions should be brought to the notice of all I.A.Cs/ITOs working under your charge for strict compliance.

Yours faithfully,

Sd/-

(P. SAXENA)

SECRETARY, CENTRAL BOARD OF DIRECT TAXES

[Ministry of Finance (Department of Revenue) F.No.241/16/82-A&PAO-II
F.No. 228/37/82-ITA-III]

Copy forwarded as usual :

Recommendation

The Committee note with concern that the figures regarding disposal of refund applications given earlier by the CBDT and printed in the Audit Reports for 1979-80 were incorrect. The Ministry have offered the explanation that officers concerned inadvertently gave figures of pendency of appeals rather than pendency of appellate orders to be given effect to. The Committee are not satisfied with this explanation. The Committee consider it very unfortunate that the date given to Committee for incorporation in the Audit Report which is required to be presented to Parliament was finished in a casual manner and without proper care and scrutiny. The Committee consider it to be a serious lapse and would like the matter to be enquired into with a view to fixing the responsibility. This is a clear illustration of the haphazard manner of maintenance of records and their scrutiny at higher levels. Such wrong reporting of data would necessarily affect the managerial efficiency of the Board itself. The Committee urge that effective effects should be taken to avoid recurrence of such mistakes.

[S. No. 17 (Para 2.33)]

Action Taken

The need has been felt on this point for quite some time. The Directorate checks the statistics received from Commissioners of Income-tax and points out the discrepancies to them.

The discrepancies can broadly be classified in the following three categories :

- (a) Mistakes apparent from information [like arithmetical inaccuracies.]
- (b) Mistakes detected as a result of difference in figures furnished on the same topic :

- (i) in two different statements.
- (ii) in two different authorities on the same subject.
- (c) mistakes which do not fall in above two categories and remain undetected.

The D. I. (RS & PR) had taken possible steps in requesting the Commissioners to make a senior officer (Senior Assistant Commissioner) responsible for checking the data and ensuring their accuracy. In fact, this had formed an important part of the guidelines issued to Cs. I. T. for furnishing data for C & AG's Report.

In this connection this Directorate had presented a brief for the conference of Commissioners of Income-tax, held in 1982, enlisting the types of mistakes, reasons therefor and suggested effective steps to check occurrence of such lapses. Re-elevant extracts are reproduced below :

“3.1.2 An Assistant Commissioner of Income-tax must be made In-charge of statistics in major metropolitan charges and a Senior I.T.O. should be made incharge of statistics in other charges of the Commissioners, wherever the staff position does not permit appointing an Asstt. Commissioner for this work. It will be the duty of the Officer nominated to collect the information from the various field organisations well within time and after verifications with reference to earlier reports compile the statements and submit them in time. He should report cases of lapses on the part of the field officers to the Chief Commissioner/Commissioner, as the case may be, who may after taking into account such lapses on the part of the field officers, remedy the situation. This, in my opinion, would reduce the time lag and help in speedy preparation of the reports”.

“3.1.3. It is proposed that as in other Directorates (Audit, Investigation etc.) DI (Statistics) should have a DDI in each metropolitan city and an ADI under other Commissioners. It will be the function of these units to verify the statistical statement, and test check the accuracy of the statements furnished with reference to source materials. Such a step would improve the credibility of figures furnished by the Department”.

“3.1.5. In order to ensure the incorporation of correct information in the monthly progress reports, it should be ensured that the information contained in the important registers is reflected month by month in the managerial statistics as the monthly progress reports. It has been observed that even though the reductions in demands have been effected on the files, they have not yet been adjusted in the registers. And if adjusted in the registers, they have not yet been reported

in the monthly progress reports. This deprives the Commissioners concerned from obtaining credit for the work done as it is not reflected in the M.P.Rs."

"3.1.6. It has been observed that the information contained in the Action Plan Reports to the DOMS are at variance with the information given in the M.P.Rs. Likewise, the information given to the Director of Recovery is different from the figures incorporated in the quarterly reports on the identical cases and topics. This leads to supply of cross-information to the PAC and the Estimate Committee resulting in the Department facing embarrassing situations. This situation can be avoided by sole single method of verifying the figures contained in one statement with those sent in the other statements, a fact which most of the Commissioners have lost sight of".

This Directorate feels that the above recommendations are still equally relevant and should be implemented by the Board for any worthwhile improvement in the present position.

There are however areas and factors responsible for mistakes which do not fall within the above discussion. The most important cause for the inaccuracies in data is that for some areas of information requisitioned, for which the field formations do not have appropriate source records as none can be prescribed. The result is that information called for is not available from specific records maintained but has to be collected from bits of information found in individual assessment records available at the material time, e. g.

- (a) Relief granted u/s 80J for the past five years.
- (b) Remuneration paid to Directors in some leading companies.
- (c) Gross demand before deduction of T. D. S. self-assessment etc. in Foreign Companies.

There are other ingredients like the human factor, the manpower shortage, the preponderance of reports to be furnished by the ITOs, etc. It is understood that the D. I. Systems is presently coordinating a feasibility study for computerisation of the system of statistics, in consultation with Computer Maintenance Corporation, which may go a long way in removing the difficulties.

Notwithstanding all this, the views of the PAC have been carefully noted for all possible efforts in that direction.

[Ministry of Finance (Department of Revenue) F. N. 241/6/82—A & PAC.
II D. O. No. S. 13/42/RS/82—83/6819]

Recommendation

In the light of the foregoing, the Committee consider that it is of paramount importance for the Board to build up a sound management information system. The question of computerising the data processing system should therefore be gone into in depth without much delay. The Committee would like to be apprised of the decision taken in the matter.

(Sl. No. 19, Para 2.35)

Action taken

A comprehensive study on computerisation for the Income-tax Department as a whole has been entrusted to the Computer Management Corporation (CMC) of the Department of Electronics. The feasibility report of the C.M.C. is awaited. DI (RSP & R) and DI (Systems) of the Income-tax Department are co-ordinating in this regard. A study has also been entrusted to the Instt. of Public Finance & Policy by Economic Administrative Reforms Commission for evolving a management information system for the Income-tax Department. Director (Statistics) of Income-tax Department is associated with this study.

[Ministry of Finance (Department of Revenue) F. No. 241/6/82-A& PAC-II
S(12)/RS&PR/81-82/7484]

CHAPTER III

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

Recommendation

So far as the plea that the search and seizure operations were also partly responsible for the delay in granting refund in this case is concerned, the Committee consider that the department should devise ways and means to ensure that any apprehended liability in such cases gets crystallised within a specified period, say, six months during which no interest need be paid, so that the assessing officers do not take the easy course of refusing or unduly delaying the grant of refund. The question whether this objective can be achieved through amendment of the Act or by executive instruction, may therefore be examined and the Committee apprised of the outcome.

(Sl. No. 15 Para 2.31)

Action Taken

Kind attention is invited to this Ministry's O. M. of even number dated the 7th July, 1983 in respect of recommendation at Sl. No. 13 of the Report, wherein the Hon'ble Committee was apprised of position regarding frequent changes of officers.

2: As regards the above recommendations of the Committee that ways and means should be devised to quantify the apprehended liability within six months, there does not appear to be need of either amending the Act or issuing executive instructions because even under the existing provisions of Section 132 (5) this is required to be done within the time limit of 90 days. In the instant case order u/s 132 (5) was passed on 19.3.1976 determining the apprehended liability and consequent retention of assets seized.

[Ministry of Finance (Department of Revenue) F.No.241/6/82-A&PAC-II
F.No.286/33/83- (Inv.III)]

CHAPTER IV

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

Recommendation

According to the Ministry, the delay in giving effect to the appellate orders was primarily on account of the frequent change of ITOs dealing with the case. It is seen that in a period of 4 years there were 7 changes in the incumbency of Income-tax Officer dealing with case under reference. The delay has also been partly attributed to the search and seizure operations conducted at the premises of the assessee from 23rd December, 1975 to 3rd January, 1976 and order under section 132 (5) passed on 19th March, 1976 for retaining the assets seized.

Though too frequent transfers must be avoided in the interest of work, the Committee are not convinced with the plea of transfer of ITOs as a reason for the inordinate delay in this case. The Committee would like to be apprised of the reasons for transfer of each ITO during the period in question. The Committee would also like to point out that any system to be effective must provide adequate inbuilt safeguards/checks so as to guard against any dislocation or work on this account. As admitted by the Ministry, it is actually the failure to observe the prescribed procedures such as correct and systematic filling up of transfer memoranda which is the cause of such lapses. The Committee consider it unfortunate that inspite of this admission, the only action taken against the erring official was a homely advice by the Commissioner to be more careful in future. The Committee are of the view that stern action is called for in this case so as to act as a deterrent to others and to minimise occurrence of such failures. The matter should, therefore, be reviewed and the Committee apprised of the action taken.

[Sl. Nos. 13 & 14 (Paras 2.29 and 2.30)]

Action Taken

Regarding frequent changes of officers, it was seen that seven officers had held the charge during the relevant period. Of these, two Income-tax Officers

went on promotion, one officer was posted in a special pay post and thrice the charge had been held as an additional, charge either because the incumbent went on leave or due to vacancy arising out of officer going on promotion. Only once there was a routine transfer.

2. The recommendation of the Public Accounts Committee for takings stern action against the officers has been considered very carefully by Government but it has not been found possible to accept the same. The officers have been found to be good and sincere and as such stern action will tell upon the morale of such sincere officers.

3. This issues with the approval of the Hon,ble Minister of State for Finance.

[Ministry of Finance (Department of Revenue) F.No. 241/6/82-A&PAC II]

CHAPTER V

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

Recommendation

The phenomenon of under assessment of taxes of substantial amounts has been noticed, year after year, on account of avoidable mistakes resulting from carelessness or negligence on the part of the assessing officers and the supervisory staff. The Committee regret to observe that in spite of repetitive instructions issued by the Board from time to time, such mistakes continue to occur. The Committee note with concern that during the year 1979-80 alone, as many as 2,304 cases of avoidable mistakes involving short levy of taxes of the order of Rs.74.95 lakhs were noticed by Revenue Audit under Corporation tax and Income-tax. As Revenue Audit is only a test audit, the number of such mistakes and the amount involved are bound to be much higher. It would, therefore appear that the Board have failed to secure compliance with their instructions with regard to maintenance of records, ensuring close supervision of work at various levels and periodic inspections by superior officers so as to obviate patent mistakes.

In the paragraph under examination, Audit has brought to notice two instances M/s. Dishergarh Power Supply Co. Ltd. and (M/s. Associated Power Supply Co. Ltd.) where there was an aggregate tax undercharge of nearly Rs. 18 lakhs due to failure of Assessing Officer to take into account at the time of regular assessment the refunds already allowed in the provisional assessment made under Section 14IA. Although the Department has claimed that procedures and systems had been so designed as to prevent mistakes of the type pointed out by Audit in the two cases, the fact stands out that in these two cases there was a complete failure of the system. As per Board's instructions on the subject, the tax calculations in these cases had to be checked both by the Head Clerk as well as by the Income Tax Officer himself but it was not done by either of them. The reason given is that it is clerical error that occurred through oversight in the rush of work. This is hardly convincing.

The Committee find that the mistake went unnoticed despite the fact that the refund allowed on provisional assessment was required to be verified

and entered in the relevant columns in the assessment/refund form ITNS-I50A. Apparently, the entries in the relevant form were not made. The Ministry have also admitted that the register of provisional assessments, which is supposed to provide another check in the system designed prevent such mistakes "does not appear to have been maintained at that time."

The Committee further find that these cases escaped the attention both of the Internal Audit as well as the Inspecting Assistant Commissioner. But for the vigilance on the part of Revenue Audit, the State would have been put to a loss of about Rs. 18 lakhs in these two cases only. This is indeed a very sad reflection on the working of the Circle concerned. The Committee would like to be apprised of the specific steps since taken to tone up the working of this Circle, particularly with regard to the maintenance of relevant records and their scrutiny at higher levels. The Committee further desire that the responsibility for the failure in these cases should be fixed and appropriate follow up action should be taken.

[S.Nos. 1 to 4 (paras 1.28, 1.29., 1.30 and 1.31)]

Action Taken

The observations of the P.A.C. have been noted.

The C.I.T. has been asked to thoroughly scrutinise the working of this Circle to ensure that all prescribed registers are duly maintained and procedures laid down are followed. He has also been asked to ensure that such registers are maintained and procedures followed in all the Wards/Circles. The senior Officers namely the I.A.C. and the C.I.T. have been directed to personally ensure by regular inspections as also by surprise inspections that the relevant registers are maintained and the procedures followed.

The Commissioner of Income-tax has been asked to fix responsibility for failure in this particular case and take appropriate action against the defaulting Officials.

[Ministry of Finance (Department of Revenue F.No.241/6/82A&PAC II
F. No. 228/36/82/-ITA-II)]

NEW DELHI:
March 30, 1984

Chaitra 10, 1906 (S)

SUNIL MAITRA,
Chairman,
Public Accounts Committee.

APPENDIX

Statement of Recommendations and observations

S.No.	Para No.	Ministry concerned	Recommendation/Observation
1	2	3	4
1	1.6	Ministry of Finance (Department of Revenue)	

In their earlier Report, the Committee had pointed out two instances where there was an aggregate tax undercharge of nearly Rs.18 lakhs due to failure of Assessing Officer to take into account at the time of regular assessment the refunds already allowed in the Provisional assessment made under Section 141A. What really surprised the Committee was that although the tax calculation in these cases had to be checked both by the head Clerk as well as by the Income Tax Officer himself, it was not done by either of them. The refund allowed on provisional assessment was not entered in the relevant columns in the assessment/refund form, and the register of provisional assessment was also not maintained. Further these cases scaped the attention of the Inspecting Assessing Commissioner as well as Internal Audit. The Committee had *inter alia* desired that responsibility for the failure in these cases should be fixed and appropriate follow up action taken. In their Action Taken reply the Ministry have stated that the Commissioner of Income Tax has been asked to fix responsibility for failure in this particular case and take appropriate action against the defaulting officials. The Committee are surprised that alth-

1**2****3****4**

ough more than 1½ years has elapsed since the presentation of their Report, the specific action taken against the defaulting officers has not yet been intimated to the Committee. The Committee therefore desire that the specific action taken against the defaulting officers may be intimated to them within a period of three months.

2**1.9**

In their earlier Report, the Committee had adversely commented on the delay of nearly four years in giving effect to certain appellate orders granting refund of Rs. 1.49 lakhs which had resulted in payment of interest amounting to Rs. 81,758 to the assessee. According to the Ministry, the delay in giving effect to the appellate order was primarily on account of frequent change of ITOs dealing with the case. The Committee, however, observed that it was actually the failure to observe the prescribed procedures such as correct and systematic filling up of transfer memoranda which was the cause of such lapses. In the opinion of the Committee, stern action was called for in this case so as to act as a deterrent to others and to minimise occurrence of such failures. The Committee accordingly recommended that the matter should be reviewed and the Committee apprised of the action taken. In their reply, the Ministry have stated that recommendation of the Committee for taking stern action against the officials had been considered very carefully by Government but it had not been found possible to accept the same as the officers have been found to be good and sincere and such stern action would tell upon the morale of such sincere officers. The Committee are surprised at this reply of the Government. The case clearly revealed that there had been failure on the part of the concerned officers to observe the prescribed procedures which had resulted in avoidable loss to Government. The Committee, therefore, feel that any attempt to minimise or condone the gravity of such lapses would not be justified. The Committee reiterate their earlier recommendation that stern action should be taken against the defaulting officers so as to act as a deterrent to others.

PART II
MINUTES OF THE SIXTY-SEVENTH SITTING OF THE PUBLIC
ACCOUNTS COMMITTEE HELD ON 28 MARCH 1984 (AN)

The Committee sat from 1500 hrs. to 1900 hrs.

PRESENT

Shri Sunil Maitra — *Chairman*

MEMBERS

Lok Sabha

2. Shri Chitta Basu
3. Shri Bhikhu Ram Jain
4. Shri Satyanarayan Jatiya
5. Shri Jamilur Rahman

Rajya Sabha

6. Dr. Sankata Prasad
7. Shri Syed Rahmat Ali
8. Smt. Pratibha Singh
9. Dr. (Smt.) Sathiavani Muthu
10. Shri Nirmal Chatterjee

REPRESENTATIVES OF THE OFFICE OF THE C & AG

1. Shri R. K. Chandrasekharan—*Addl. Dy. C & AG of India (Reports)*
2. Shri S. R. Mukherjee—*Addl. Dy. C & AG of India (Railways)*
3. Shri K. N. Row—*Director of Audit, Defence Services*
4. Shri V. Sundaresan—*Director of Receipt Audit I*
5. Shri N. Sivasubramanian—*Director of Receipt Audit II*
6. Shri A. N. Mukhopadhyay—*Jt. Director (Report-Central)*
7. Shri K. H. Chhaya—*Jt. Director (Railways)*
8. Shri S. K. Gupta—*Jt. Director (Receipt Audit)*
9. Shri N. R. Rayalu—*Jt. Director of Audit, P&T*
10. Shri Gopal Singh—*Jt. Director of Audit, P&T*
11. Shri N. Balasubramanian—*Jt. Director (Receipt Audit)*
12. Shri R. S. Gupta—*Jt. Director of Audit, Defence Services*

SECRETARIAT

1. Shri T. R. Krishnamachari—*Joint Secretary*
2. Shri H. S. Kohli—*Chief Financial Committee Officer*
3. Shri K. K. Sharma—*Senior Financial Committee Officer*

4. Shri R. C. Anand—*Senior Financial Committee Officer*

3. The Committee also considered and adopted the following draft Report without any amendments/Modifications :

(2) Action Taken on 100th Report of PAC (7th Lok Sabha) relating to Direct Taxes-Provisional Assessments and Refunds.

The Committee also authorised the Chairman to finalise the Reports in the light of modifications/amendments suggested by Audit as a result of factual verification and present the same to the House.

The Committee then adjourned.

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P.A.C. No. 1008

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