

**FIFTEENTH REPORT**  
**PUBLIC ACCOUNTS COMMITTEE**  
**(1985-86)**

(EIGHTH LOK SABHA)

**RECEIPT OF THE ADMINISTRATION OF THE  
UNION TERRITORY OF DELHI—SALES TAX—  
SURVEY, REGISTRATION AND DECLARATION  
FORMS**

**MINISTRY OF HOME AFFAIRS**

**[Action Taken on the 227th Report of the Public  
Accounts Committee (7th Lok Sabha)]**



*Presented in Lok Sabha on 29 August, 1985.  
Laid in Rajya Sabha on 29 August, 1985.*

**LOK SABHA SECRETARIAT  
NEW DELHI**

*August, 1985/Sravana, 1907 (Saka)*

*Price : Rs. 1.90*

CORRIGENDA TO 15TH REPORT OF PUBLIC ACCOUNTS  
COMMITTEE (8TH LOK SABHA)

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## PUBLIC ACCOUNTS COMMITTEE

(1985-86)

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Shri Erasu Ayyapu Reddy

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1. Shri N. N. Mehra—*Joint Secretary*
2. Shri K. H. Chhaya—*Chief Financial Committee Officer*
3. Shri Brahmanand—*Senior Financial Committee Officer*

## INTRODUCTION

1. The Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this Fifteenth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Two Hundred and Twenty Seventh Report (Seventh Lok Sabha) on Receipts of the Administration of the Union Territory of Delhi—Sales Tax—Survey, Registration and Declaration Forms.

2. In this Report the Committee have reiterated the view expressed in Original Report that unless a fear of prosecution is created in the mind of recalcitrant trader who carries on his business without getting himself registered under the Delhi Sales Tax Act, it would be difficult to effectively deal with the situation. The Committee, therefore, desire Government to take positive decision in the matter and not hesitate to have recourse to prosecution of recalcitrant traders.

3. The Committee have observed that, although large number of surveys were undertaken by Delhi Administration recently for detection of dealers evading registration and payment of Sales Tax, these were only *ad hoc* in nature. The Committee, have, therefore, reiterated the view that establishment of adequate institutional arrangements for conducting market surveys on a regular basis will make it impossible for the dealer who is required to register under the Act to escape registration.

4. In this Report, the Committee have observed that a large number of assessment cases relating to Local and Central Sales Tax have been outstanding for a long period. Mainly, the magnitude of the pending assessment cases is attributed to the inadequacy of the staff available with the Delhi Administration. The Committee desire that adequate staff should be provided expeditiously to quicken the pace of disposal of the pending cases.

5. The Committee have also recommended Government to consider the feasibility of immediate suspension of registration of cases pending for cancellation. The Committee observe that by suspending registration, the Departmental machinery will be compelled to be more vigilant in its dealings with defaulters in the matters of issuing forms or recovering tax revenues.

(vi)

6. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 16 August, 1985. Minutes of the sitting form Part II of the Report.

7. For facility of reference and convenience, the recommendations and conclusions 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.

8. 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:  
August 19, 1985  
Sravana 28,1907 (S)

E. AYYAPU REDDY,  
*Chairman,*  
*Public Accounts Committee*

## CHAPTER I

### REPORT

1.1 This Report deals with the action taken by Government on the recommendations of the Public Accounts Committee (1984-85) contained in their Two Hundred and Twenty Seventh Report (Seventh (Lok Sabha) on Paragraph 3.04 of the Report of the Comptroller and Auditor General of India for the year 1981-82, Union Government (Civil) Revenue Receipts Vol. I—Indirect Taxes relating to Receipts of the Administration of the Union Territory of Delhi—Sales Tax—Surveys, Registration and Declaration Forms.

1.2 The 227th Report was presented to Parliament on 24 August, 1984. Action Taken Notes in respect of all the recommendations have been received from Government. These have been broadly categorised as follows:

- (i) Recommendations or Observations which have been accepted by Government.  
S. Nos. 1, 5, 6, 7, 8, 9, 12, 13, 14, 17 and 18.
- (ii) Recommendations or observations which the Committee do not desire to pursue in the light of the replies received from Government.  
Nil.
- (iii) Recommendations or observations replies to which have not been accepted by Committee and which require reiteration:  
S. Nos. 2, 3, 4, 10, 11 and 16.
- (iv) Recommendations or observations in respect of which Government have furnished interim or no replies:  
S. No. 15.

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

*Prosecution of unregistered dealers (Paras 73 and 74. Sl. No. 2 and 3).*

1.4 Commenting upon the question of penal measures against dealers who persistently avoid registration the Committee, in para 73 of their 227th Report, recommended as follows:

“The Committee are surprised to find that although between 1979-80 and 1981-82, as many as 5,317 dealers were

found carrying on business without registration, all of them were proceeded against under Section 23(6) and action for prosecution under Section 50(1)(b) was not taken even in a single case. The argument advanced by the Ministry for not launching prosecution even in a single case is that 'if a penalty is imposed on a dealer, he cannot be prosecuted under Section 50(1)(b) and they would like to have the money instead of prosecuting the person'. The Committee need hardly point out that a powerful instrument for forcing dealers to register themselves is the fear of prosecution. If a dealer has been evading tax for year but not registering himself, which is quite common, the penalty under Section 23(6) would hardly be a sufficient deterrent. The Committee, therefore, feel that prosecution under Section 50 could invariably be launched in cases where it is found that the dealer has been evading registration deliberately for a number of years."

1.5 In reply to the recommendation, Government have reiterated their earlier stand and stated as under:

"Section 23(6) contains an inbuilt provision for the levy of penalty for such defaults. The jurisdiction to assess and to levy penalty under this provision is not dissectible. This being so, non-levy of penalty could tantamount to exoneration and prosecution could be barred or could, if initiated, terminate into acquittal. Keeping this in view, Sales Tax Department has hitherto been taking recourse to imposition of penalty in such cases. In case the dealer, however, after fixation of his liability persists with the default and continues to carry on business without registration, the assessing authority, after making his intention clear in the assessment order, can take recourse to the prosecution under section 50(i)(b), instead."

Having been informed that the Sales Tax Department had been instructed to launch criminal prosecution in selected cases under section 50(1) as an exemplary measure the Committee had in Para 74 of the Original Report desired to be informed of the number of cases in which such prosecution cases had been launched since the issue of instructions, together with outcome thereof.

The Committee have been informed on 30-3-1985 that after issue of instructions to launch criminal prosecution, no criminal prosecutions have been launched.

1.6 The Committee see no justification for the attitude of helplessness exhibited in the Government's reply in regard to the defaulting trader who carried on his business without getting himself registered under the Delhi Sales Tax Act. According to them with the existing provisions in law, since jurisdiction to assess and to levy penalty is not dissectible, non-levy of penalty tentamounts to exonerate prosecution is debarred and if initiated, bound to end in acquittal. In the Committee's view, this should not create any difficulty in dealing with the recalcitrant defaulter as a suitable amendment to the Law can be devised. In any case, even under the existing provisions, the assessing authority, after making his intention clear in the assessment order, can take recourse to prosecution under Section 50(1)(b). The Committee would like to reiterate their view that unless a fear of prosecution exists in the mind of recalcitrant trader, it would be difficult to effectively deal with the situation. The Committee would, therefore, like Government to take positive decision in the matter and not hesitate to have recourse to prosecution wherever the trader persistently avoids registration.

*Arrangements to conduct Market Surveys for Registration (Para 75 Sl. No. 4)*

1.7 Commenting upon the unsatisfactory arrangements to conduct surveys on regular basis to register dealers, the Committee in Para 75 of their 227th Report had recommended as follows:—

"It is surprising that although survey work is basic for detection of dealers evading registration and payment of sales tax, there is no inbuilt arrangement in the Sales Tax Department to conduct surveys on regular basis. There is no separate staff specially earmarked for surveys and these are being conducted by Inspectors who are already charged with multifarious other duties. The Sales Tax Commissioner admitted before the Committee that "we do not undertake the market survey in a very methodical manner". No wonder there has been an appreciable fall in the detection of dealers evading registration. Thus, while during 1975-76 and 1976-77, the number of unregistered dealers detected was 1,966 and 3,179 respectively, it came down to 735 and 630 in 1981-82 and 1982-83 respectively. The argument put forth by the Ministry that it is now unattractive for a dealer not to register himself is not convincing.

The Sales Tax Commissioner was frank enough to admit before the Committee "Looking on the number of dealers who should have registered and who have not registered,

our efforts have not been commensurate with the problems that exist" and that "such dealers cannot exist unless there is collusion between unscrupulous dealers and our unscrupulous staff". This, to say the least is very unsatisfactory state of affairs. The Committee, therefore, recommend that the Sales Tax Department should make adequate institutional arrangements to conduct market surveys on a regular basis so as to ensure that no dealer who is required to be registered escapes registration. However, the Committee would like to caution that adequate steps should be taken to ensure that these surveys are not allowed to become means for harrasing innocent dealers."

1.8 In their action taken note dated 30-3-1985, the Ministry of Home Affairs have stated:

"Keeping in view the observations of the Committee and the note of caution sounded by it, in addition to the normal surveys conducted by the ward Inspectors, a special drive was launched to undertake surveys of the dealers by Sales Tax Inspectors in groups under the over-all supervision of senior Officers. For this purpose some specific areas were identified in different Zones and these areas were surveyed by a team of Inspectors headed by a Sales Tax Officer. On the occasion of Diwali festival also during 1984, a special survey drive was launched. Certain areas and markets were identified and the dealers dealing in commodities like sweets, utensils, toys and readymade garments were surveyed. As many as 19 teams were formed, each team consisted of one Sales Tax Officer, one Assistant Sales Tax Officer and three Inspectors. On this occasion alone 1841 surveys were conducted. During the period 1-4-1984 to 31-12-1984, 18,412 surveys have been conducted, including surveys of unregistered dealers".

1.9 The Committee had recommended in their Original Report that adequate institutional arrangements should be evolved to conduct market surveys on a regular basis. Instead, however, the Committee find that the Delhi Administration have made efforts towards stepping up surveys of selected areas by way of special drives for identifying dealers and registering them. Although a large number of surveys were undertaken in these drives, these measures were only ad hoc in nature and did not lead to a long term solution of the problem. The

**Committee, therefore, reiterate their view that establishment of adequate institutional arrangements for conducting market surveys on a regular basis will make it impossible for the dealer who is required to register under the Act to escape registration.**

*Control over declaration forms (Para 81 Sl. No. 10)*

1.10 Expressing their dissatisfaction over distribution of declaration forms to the registered dealers without adequate control rendering this instrument of control ineffective and resulting in misuse thereof, the Committee in Para 81 of their 227th Report had recommended as follows:

"From the above cases, the Committee are led to the irresistible conclusion that the instrument of control over dealers through declaration forms has been ineffective and has therefore not served the underlying purpose. The cases given in the audit para are symbolic of the growing phenomenon of traders getting themselves registered, obtaining declaration forms, using these forms and then disappearing from the scene without rendering any account of the forms or discharging their tax liability and re-appearing at a later stage under other names. It is really pathetic that the Sales Tax Department has failed to take any action against such unscrupulous dealers who in admittedly collusion with unscrupulous staff of the Sales Tax Department are depriving the public exchequer of considerable tax revenue. The Committee cannot but express their deep concern at this. The Committee recommend that urgent measures should be taken for streamlining the existing procedure for issue and account of declaration forms and in particular for matching of declaration forms with the returns of the purchasing dealers, at least in cases involving heavy amounts".

1.11 In their action taken note dated 30-3-1985, the Ministry of Home Affairs have stated:

"So far as issue of ST-1 forms is concerned the following measures to safeguard the interest of revenue have been taken by the Sales Tax Department. Only limited number of forms are issued to newly registered dealers and further supplies are made to them after being fully satisfied with the utilisation of the forms issued in the past. No stock of fresh forms are issued without obtaining utilisation account from a dealer relating to the forms issued

to him on the last occasion. Big dealers who are issued large number of ST-1 forms are also surveyed and sales conducted by them are verified from time to time.

Electronic Data Processing Cell has been set up in the Sales Tax Department. With the implementation of this scheme, it will be possible for the Sales Tax Department to cross check the claims of exemption made by the registered dealers on the basis of the statutory forms ST-1.

It is hoped that with the adoption of strict measures taken by the Sales Tax Department with regard to the issue of ST-1 forms, verification of heavy sales by certain dealers through the field staff and also cross checking of claims made by the registered dealers on the basis of statutory form ST-1, by the EDP Cell, chances of misuse of ST-1 forms would be minimised".

1.12 The Committee note that Government have taken certain measures towards streamlining the procedure for issue and accounting of declaration forms in order to safeguard against dishonest dealers taking undue advantage of inadequate control over the issuance of declaration forms and evading tax in collusion with unscrupulous staff. The Committee, however, find that measures such as issuing only limited number of forms in a controlled manner, cross checking claims of exemption by the Electronic Data Processing Cell in the Sales Tax Department are limited to S.T. 1 forms only. Since Tax evasions are being practised in case of Central Sales Tax also, the Committee, fail to understand why similar measures have not been made applicable to the Central Tax as well. The Committee hope that this aspect of the matter will also be attended to.

*Heavy arrears of assessment work (Para 82, Sl. No. 11)*

1.13 Resenting over the inordinate delay in finalisation of assessments resulting in heavy arrears of Sale Tax in Delhi, the Committee in Para 82 of the 227th Report had recommended as follows:—

"The Committee are concerned to note that the assessment work in the Sales Tax Department is heavily in arrears and in 1983-84 the Department was doing assessment of 1979-80. The seriousness of the position can be seen from the fact that as on 1-4-1980 as many as 2,89,430 assessments

relating to local Sales Tax and 2,65,688 assessments relating to Central Tax were pending and out of these nearly one-fifth related to the year 1979-80. The Sales Tax Commissioner was frank enough to admit before the Committee that "These things will continue to be there till such time we are able to come upto date in assessment". The Ministry have explained that the pendency is due to acute shortage of staff which was sanctioned as far back as in 1975 when the number of registered dealers was far less and that the proposal for augmentation of the staff strength is under consideration of Government. The Committee need hardly point out that delay in finalisation of assessments not only results in undue hardship and harassment of dealers but also provide ample scope for unscrupulous practices, manipulations and dishonest deals. The Committee would recommend that the statutory time allowed for completion of assessment may be reduced from four years to two years. Presently all returns are being taken up for assessments only after three and a half years by which time the unscrupulous dealers manage to disappear or dispose of their net assets".

1.14 In their action taken note dated 30-3-85 the Ministry of Home Affairs have stated:

"As already admitted by the Commissioner, Sales Tax before the Committee, upto date assessment is very much desirable. But this would not be possible unless adequate staff is provided. As soon as the required strength of staff is in position, the question of upto date assessment of the dealers will be taken up. However, to begin with, efforts are being made to assess big dealers, with a gross turnover of Rs. 75 lakhs and above and monthly tax payers for the years 1980-81, 1981-82 and 1982-83. It is hoped that it shall be possible to cover all these big dealers and monthly tax payers upto 1982-83 for the assessment purpose. The National Institute of Public Finance and Policy and also the Department of Personnel, Government of India Ministry of Home Affairs have made some recommendations for augmenting the staff strength and the recommendation|suggestions made in this regard are under consideration.

The suggestion with regard to reduction of limitation for assessment from 4 to 2 years is linked up with the adequacy of staff and can be considered after the huge pendency has been brought to level. Moreover, the reduction in the limitation period of assessment required amendment of Delhi Sale Tax Act, 1975".

1.15. The Committee note with regret that the Delhi Administration has been adopting a lukewarm and lackadaizical approach to the problem of the large number of outstanding assessment cases relating to local and central sales tax in the Union Territory of Delhi running into lakhs. On 1-4-1983 as many as 2,89,430 assessments relating to local sales tax and 2,65,688 assessment relating to central tax were pending. A large number of these have been outstanding for a long period. Delay of this magnitude enable dishonest dealers to indulge in unscrupulous practices with a view to evading the payment of the taxes due. Mainly, the magnitude of the pending cases is attributed to inadequacy of the Staff available with the Administration. The National Personnel, Government of India have recommended for additional staff, and these recommendations are under consideration of Government. The Committee desire that adequate staff should be provided expeditiously to make possible the disposal of the pending cases speedily.

*Immediate suspension of registration (Para 87—Sl. No. 16)*

1.16 Considering that the provision of cancellation had proved ineffective a suggestion had been made during the course of evidence that there should be a provision in the Law for immediate suspension of registration of dealers under the Sales Tax Act, pending cancellation. In this connection the Committee in para 87 of their 227th Report had recommended as follows:

"The representative of the Ministry of Home Affairs suggested that there should be legislative provisions providing for immediate suspension of registration, pending cancellation. The Committee desire Government to give a serious thought to the proposal. The Committee further desire that the matter should be examined in depth to find out the reasons for so much delay in the department in taking action against the defaulting traders and the failure of the instrument of cancellation of registration to serve as a deterrant against the defaulters as also the corrective

measures that may be taken to ensure timely recovery of tax. It may also be examined as to how far the lapses pointed out in the preceding paragraphs were due to the negligence/collusion on the part of the departmental staff.

1.17 In their action taken note dated 30-3-1985, the Ministry of Home Affairs have stated:

“For a proper appreciation of the suggestion made by the Public Accounts Committee, enquiries were made from various States and Union territories. From the replies received from 18 States and Union Territories, it was found that they have not made any provision in the Sales Tax Law in force in their respective States for suspension of registration certificates granted to the dealers. Suspension of Registration Certificate even if resorted to by inserting a proviso in the law, will not have the effect of absolving a dealer of his liability to pay the tax. The provisions relating to cancellation of registration certificates contained in Section 20 of the Delhi Sales Tax Act, 1975 are exhaustive and extreme step of cancellation of registration certificates in cases other than cases of closure of business firms is resorted to for activities of the dealers which are considered to be prejudicial to revenue and violative of the provisions of law as would be seen from sub-section (3) of Section 20 of the Act. The purpose sought to be achieved by inserting provision for suspension of registration certificates can adequately be served by sub-section (5) of Section 3 of the Delhi Sales Tax Act, 1975, according to which provision:

‘Any dealer whose certificate of registration has been cancelled under sub-section (3) of Section 20 shall:—

- (a) If his turnover calculated from the date of cancellation any subsequent year, exceeds the taxable quantum on day within the year; or
- (b) If his turnover calculated from the commencement of any subsequent year, exceeds the taxable quantum on any day within that year.

be liable to pay tax under this Act with effect from the date immediately following the day on which such turnover again first exceeds the taxable quantum, on all sales effected by him after that day of goods

imported by him from outside Delhi or manufactured by him in Delhi or purchased by him without payment of tax leviable under this Act”.

Such a dealer is also under a legal obligation to obtain special registration under Section 17 of the Act *ibid*. This registration, unlike the registration under Section 14, deprives the dealer of his right to avail of the benefits of making tax free purchases on the strength of his registration certificate as no item is specified in such a certificate. This being so, insertion of new provision for suspension of the certificate does not appear to be necessary”.

**1.18 The Committee during the course of their proceedings observed that provisions of cancellation of registration certificates are not used in time against defaulting trader. By the time the cancellation action is taken the defaulting dealer either runs away or disposes of all his goods. It is to avoid this eventuality that the Committee had asked Ministry to consider the feasibility of immediate suspension of registration of cases pending for cancellation. By suspending registration, the Departmental machinery will be compelled to be more vigilant in its dealings with defaulters in the matter of issuing forms or recovering tax revenues.**

1.19 The Committee desire that final reply to Recommendation Sl. No. 15 in respect of which only interim reply has been furnished by Government so far may be furnished to the Committee expeditiously.

## **CHAPTER II**

### **RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT**

#### **Recommendation**

As per the Delhi Sales Tax Act, 1975, a dealer is liable to pay tax if his annual gross turnover exceeds a prescribed figure which is currently Rs. 1 lakh in the case of a trader, Rs. 30,000 in the case of a manufacturer and Rs. 75,000 in the case of a halwai. A dealer carrying on business without registering himself is liable to prosecution under Section 50(i)(b), and in case of conviction, is punishable with rigorous imprisonment for a term which may extend to six months or with fine or with both. Under Section 23(6), the dealer is liable to pay, by way of penalty, in addition to the amount of tax so assessed, a sum not exceeding twice that amount.

[S. No. 1 Appendix I Para 72 of 227th Report of Public Accounts Committee. (Seventh Lok Sabha)].

#### **Action Taken**

No comments, as it is a statement of facts based on the provisions of the Act.

[Ministry of Home Affairs O.M. No. U-16014/14/84 Delhi dated 30-3-85]

#### **Recommendation**

The Committee feel that there is an urgent need for creating a climate of confidence among the traders in Delhi about the working of the Sales Tax Department. It needs to be investigated as to why, in spite of the fact that registration confers a number of benefits on the traders such as free intra-State transactions, a large number of traders avoid registration and tax free purchases locally. In particular it needs to be enquired whether it is because these traders have to face needless constraints, procedural or otherwise or they are apprehensive of harassment by the officers of the department. In this connection, the Committee note that the Sales Tax Department have

started holding series of meetings and discussions with the trade associations on problems of mutual interest. The Committee feel that, though belated, this is a step in the right direction. The Committee recommend that such meetings should be held regularly and necessary follow-up action taken to remove the difficulties and grievances of traders brought out during discussions.

[S. No. 5 Appendix I Para 76 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)]

### **Action Taken**

Sales Tax Officer (H. Qrs) has been designated as Public Relation Officer to look into the complaints and grievances of the dealers. Meetings between the Commissioner, Sales Tax and leading Federations|Associations of Traders are being arranged from time to time. Difficulties|problems being faced by the traders are discussed in these meetings, and the traders are also informed about the steps taken by the Sales Tax Department to simplify the procedures and ameliorate their difficulties in various spheres of work. Such meetings have proved very useful. These have enabled the top functionaries of the Sales Tax Department to have a first hand knowledge of the problems of the trading community and the areas of work which call for corrective action. The trading community has also been benefited as they get knowledge of the measures taken or being taken by the Sales Tax Department to solve their problems.

[Ministry of Home Affairs O.M. No. U-16014|14|84 Delhi dated 30-3-85]

### **Recommendation**

The Committee note that at present Sales Tax is largely being levied at the last point, which is leading to a lot of complications and tax evasion. When asked why the tax could not be levied at the first point, the representative of the Ministry stated 'you have a very good suggestion. In fact our effort has been that as many commodities as possible we can tax at the first point itself. But all commodities do not admit of taxation at the first point. This is a point to consider whether more things cannot be included in the first point'. The Committee recommended that the matter of bringing as many commodities as possible to tax at first point be examined expeditiously and if necessary, changes in legislation introduced.

[S. No. 6 Appendix I Para 77 of 227th Report of Public Accounts Committee (Seventh Lok Sabha).]

### **Action Taken**

At present 23 goods|classes of goods are taxable at first point under Delhi Sales Tax Act, 1975. The National Institute of Public Finance and Policy, New Delhi and the Department of Personnel and Administrative Reforms, Ministry of Home Affairs have made studies of the "Sales Tax Administration in the Union territory of Delhi". These reports also contain suggestions|recommendations with regards to the shifting of tax from the last point to first point. The matter regarding shifting of additional goods|classes of goods from the last point to the first point is under consideration of Delhi Administration.

[Ministry of Home Affairs O.M. No. U-16014|14|84-Delhi dated 30-3-85]

### **Recommendation**

In respect of sales to registered purchasers, a registered dealer has to enter them in declaration forms and get them duly signed by such purchasers, in order to claim exemption in respect of such sales. Blank declaration forms duly numbered are issued and controlled by the department. The Audit para has brought out three cases which show that there is a hardly any watch over the issue of declaration forms and their accountal, leaving ample scope for tax evasion. In one case, a trader (M/s. Sunil traders, Inderpuri) was issued 125 declaration forms but he furnished account for 96 forms only. The Sales Tax Department continued to issue these forms in spite of the fact that proper accounts in respect of forms issued earlier had not been rendered. The dealer made purchases valuing more than Rs. 10 lakhs between December, 1981 and January, 1982 but on the assessing authority issuing notices in February, 1982 to produce his records in order to settle discrepancies in his returns, he surrendered his registration certificate with a request for its cancellation. The dealer has since disappeared and is not traceable and the dues from him have not yet been realised.

[S. No. 7 Appendix I Para 78 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)]

### **Action Taken**

So far as issue of ST-1 forms is concerned certain measures to safeguard the interest of revenue have been taken by the Sales Tax Department. Only limited number of forms are issued to newly registered dealers and further supplies are made to them after being fully satisfied with the utilisation of the forms issued in the past. No stock

of fresh forms are issued without obtaining utilisation account from a dealer relating to the forms issued to him on the last occasion. Big dealers, who issued large number of ST-1 forms are also surveyed and sales conducted by them are verified from time to time. These measures have proved to be very useful in checking misuse of forms by the dealers.

Electronic Data Processing Cell has been set up in the Sales Tax Department. With the implementation of this scheme, it will be possible for the sales tax department to cross check the claims of exemptions claimed by the registered dealers on the basis of the statutory form ST-1.

It is hoped that with the adoption of strict measures taken by the Sales Tax Department with regard to the issue of ST-1 forms, verification of heavy sales by certain dealers through the field staff and also cross checking of claims made by the registered dealers on the basis of statutory forms ST-1, by the EDP Cell, chances of misuse of STD forms would be minimised.

In so far as the case of M's. Sunil Traders, Inderpuri, is concerned, it is stated that the dealer has already been assessed upto date *vide* orders dated 8-12-1983 and demand of Rs. 1,04,418/- was created under the Local Act and Rs. 226/- under the Central Act. Proceedings for the recovery of the additional demand were initiated on 10.2.1984. The dealer is however, not traceable at the business premises as well as the residential address. However, efforts are being made to trace out his whereabouts with the help of the local police in order to effect the recovery. The dealer had filed cash security of Rs. 2,000/- each under the Local and Central Act which is being adjusted towards the arrears of demand.

[Ministry of Home Affairs O. M. No. U-16014/14/84-Delhi  
dated 30-3-85]

### **Recommendation**

In the same case the dealer filed three separate returns for the same period showing huge discrepancies but the suspicion of the Department was not aroused. This is indeed disquieting. When questioned in evidence, the Sales Tax Commissioner admitted the lapse in the following words "if somebody files a revised return, when he is changing figures, not only in thousands, but in lakhs, certainly a vigilant Sales-tax Officer should try to find out why he is filing the revised returns even though under the Law it may be permissible for him to do so". The Committee would like to be informed what action has been

taken against the officer responsible for the lapse and whether suitable instructions to the officers to obviate such lapses have since been issued.

[S. No. 8 Appendix I Para 79 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)]

### **Action Taken**

The explanations of the concerned Officers have been called. Of 3 Officers who happened to deal with this case at different levels, one has since retired from service. Explanations from one Officer has been received. Further action in the matter will be taken on receipt of explanations of the remaining Officers.

[Ministry of Home Affairs O.M. No. U-16014/14/84-Delhi, dated 30-3-85]

### **Recommendation**

In another case, a dealer (M/s. Cross Enterprises, Mayapuri) was issued 175 declaration forms during September, 1979 and May, 1980. The dealer has disappeared without rendering account of declaration forms issued to him and without paying anything against the demand for Rs. 45,289.

[S. No. 9 Appendix I para 89 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)]

### **Action Taken**

The dealer M/s. Cross Enterprises, Mayapuri, Delhi was registered in Ward No. 47 under the Local and Central Sales Tax Acts with liability and validity from 10-8-1979. The dealer was issued 150 S.T.-1 forms and 35 'C' forms. Out of 150 S.T.-1 forms, the dealer furnished the utilization account of 64 S.T.-1 forms and had also furnished utilization account of 10 'C' forms out of 35 'C' forms issued to the dealer. On receipt of the Sales Tax Inspector's report dated 21-7-1980, wherein it was stated that the firm was not functioning at the given address *suo-moto* cancellation proceedings were initiated to cancel the R.C.s of the dealer by the then assessing authority and finally the registration certificates were cancelled on 18-11-1980 w.e.f. 18-8-1980.

The assessment proceedings against the dealer were finalised on best judgement basis (ex-parte) on 18.8.1983 and the following demands were raised against the dealer:—

Year	Central	Local
1979-80	Rs. 56.00	Rs. 45,233.00
1980-81 (upto 18-8-80)	Rs. 20,200.00	Rs. 1,00,200.00

Recovery certificates were issued to the dealer on 29-9-1983, which were received back unserved with the report of the postal authorities that the dealer has left the place without address. The notices were also sent to Shri Ram Karan s/o Shri Durga Prasad, owner of the property No. 365 and Plot No. 31 IB Samepur, Delhi, who stood surety at the time of the registration of the above mentioned dealer for Rs. 10,000/- each the local and central Act, against property papers, which were also received back unserved. The matter has now been referred to the police authorities to trace out the dealer as well as the surety.

The final report from the Police Authorities is still awaited.

[Ministry of Home Affairs O.M. No. U-16014/14/84—Delhi  
dt. 30-3-85]

### Recommendation

The registration of a dealer can be cancelled, if among other things, he furnishes or accepts false declaration with a view to obtaining tax exemption or fails to furnish security demanded or is convicted under the Sales Tax Act. However, the cases given in the audit para show that the threat of cancellation of registration has proved to be ineffective and has not produced the desired results.

[S. No. 12, Appendix I, Para 83 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)].

### Action Taken

The registration certificate of a dealer can be cancelled as provided under Section 20 of Delhi Sales Tax Act, 1975. The Sales Tax Department has the power to cancel the registration certificate of dealers, who are engaged in activities detrimental to Government revenue. Such dealers can also be proceeded against under Section 50 of the Local Act. These provisions are considered to be sufficiently deterrent. However, with a view to exercise better control over regis-

tration of dealers, the Sales Tax Department has centralised all registrations to be made by a Central Registration Cell under over-all supervision of an Assistant Commissioner. This, it is felt, has considerably arrested the growth of bogus dealers.

[Ministry of Home Affairs, O.M. No. U-16014/14/84-Delhi,  
dated 30-3-85.]

### Recommendation

In the first case given in the audit Para, a dealer (M/s Anand Electrical, Lajpat Rai Market, Delhi) did not file his returns nor did he pay his tax regularly for a long time. In June, 1975, he was asked to furnish two sureties of Rs. 25,000 each under the Local and Central Sales Tax Acts. He did not furnish sureties but the registration certificate was cancelled only in September, 1979 retrospectively. The firm has since been declared insolvent. Tax demand of Rs. 2,66,437 is still due for recovery. When asked about the reasons for belated action for cancellation, the Department has tried to explain that because of bifurcation of the Ward, the matter was lost sight of. This in the view of the Committee, is a sad commentary on the working of the Sales Tax Department.

[S. No. 13 Appendix I Para 84 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)].

### Action Taken

The dealer M/s. Anand Electricals Lajpat Rai Market, Delhi, filed an application in the court of Insolvency judge Shri G. P. Tharaja. This petition was dismissed by the Insolvency judge in the month of May, 1984 and the cost of Rs. 500/- was awarded in favour of Sales Tax Department. Immediately after this warrants of arrests of the partners of the firm were issued on 24.5.1984. The dealer then filed a copy of the stay order from the court of Shri C.D. Vasistha, Addl. District Judge, Delhi. The Addl District Judge has ordered that *status-quo* shall be maintained till further order of the court and the dealer should not be arrested or any sort of attachment made against the dealer. The appeal filed by the dealer is being contested.

To avoid recurrence of such omissions in future, necessary measures have been initiated by the Sales Tax Department to liquidate the pendency in various spheres of work. The disposal of pending cases is being regularly monitored at the higher level and position reviewed from time to time. These measures it is hoped, will to a large extent eliminate the chances of such omissions.

[Ministry of Home Affairs, O.M. No. U-16014/14/84-Delhi,  
dated 30-3-85]

### Recommendation

**In the second case cited in the audit para, a registered dealer (M/s. Tara Chand and Sons, Shahdara) did not file his return for the quarter ended September, 1978, nor for subsequent quarters. In August, 1979 the dealer was not reportedly traceable at his business address. However, in November, 1981 the dealer informed the assessing authority that he had closed down his business and asked for cancellation of registration certificate, which was cancelled on 17 November, 1981. On assessments upto 31-3-1978, which were finalised only in 1982, tax amounting to Rs. 6,87,509 is still to be recovered. However, in the meantime the dealer has already disposed of his goods and nothing can be recovered from him.**

[S. No. 14, Appendix I, Para 85 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)]

### Action Taken

**Recovery certificate for Rs. 6,87,509.00 has been issued. The security of Rs. 2,500/- deposited by the dealer at the time of registration has been appropriated against the demand. Efforts are being made to trace out the whereabouts of the dealer at the business premises as well as the residential address with the help of the police and also obtain intelligence about his movable/immovable assets, if any, with a view to effect recovery of the balance.**

[Ministry of Home Affairs, O. M. No. U-16014/14/84-Delhi, dated 30-3-85.]

### Recommendation

**The Committee note that the National Institute of Public Finance and Policy who had been entrusted in September, 1982, with the task of undertaking an indepth study of the structure and assessment of Sales Tax in Delhi has not yet submitted its report. The Committee desire that this should be expedited so that the sales tax structure as well as the working of the Sales Tax Department in Delhi can be streamlined and toned up at the earliest.**

[S. No. 17, Appendix I, Para 88 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)].

### Action Taken

**The National Institute of Public Finance and Policy have furnished their report to Delhi Administration. Simultaneously, the Department of Personnel and Administrative Reforms, Ministry of Home**

**Affairs, which had also conducted a study relating to Sales Tax Administration in the Union Territory of Delhi, have also sent their report. Recommendations|suggestions made by these agencies are being examined by Delhi Administration.**

[Ministry of Home Affairs O.M. No. U-16014|14|84-Delhi.  
dated 30-3-85]

### **Recommendation**

The examination of the audit para has left an impression in the mind of the Committee that the Sales Tax Department in Delhi suffers from a number of shortcomings leading to considerable leakage of revenue. There is no regular system to conduct surveys to find out dealers evading registration and even though there is a provision in the Act for the prosecution of such dealers, the provision has never been enforced. The work of assessment in the department is heavily in arrears and the returns pending assessment run into several lakhs. The two administrative instruments available with the department to serve as deterrent against malpractices viz. control over declaration forms and cancellation of registration have not been effectively enforced. Such a situation cannot be allowed to continue. The Committee hope that the Ministry of Home Affairs will take necessary steps to tone up the sales tax administration in the capital.

[S. No. 18, Appendix I Para 89 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)].

### **Action Taken**

The working of the Sales Tax Department in Delhi has been studied by the National Institute of Public Finance and Policy. Simultaneously the Department of Personnel and Administrative Reforms have also conducted a study of the Sales Tax Administration in the Union Territory of Delhi. The recommendations|suggestions made by these agencies are being examined and efforts will be made to remove the shortcomings leading to leakage of revenue etc. Regular surveys are being conducted by the Inspectors of the Ward as well as by the Inspectors of the Enforcement Branch to find out the dealers evading registration. A special cell for the assessment of the unregistered dealers has been created and upto date assessment of the unregistered dealers is being made.

Section 23(6) contains an inbuilt provision for the levvy of penalty for such defaults. The jurisdiction to assess and to levy penalty under this provision is not desectible. This being so, non-levvy of penalty would tentamount to exoneration and prosecution could be barred

or could, if initiated, terminate into acquittal. Keeping this in view, the Sales Tax Department has hitherto been taking recourse to imposition of penalty in such cases. If however, the dealer after fixation of his liability persists with the default and continues to carry on business without registration, the assessing authority may, after making his intention clear in the assessment order, take recourse to prosecution under section 50(i) (b) instead.

Due to shortage of staff, it has not been possible to make upto date assessment of the dealers. The National Institute of Public Finance and Policy and also the Department of Personnel, Government of India, Ministry of Home Affairs have made some recommendations for augmenting the staff strength and the recommendation| suggestions made in this regard are under consideration. As soon as the required staff is in position, upto date assessment of the dealers shall be taken up. The procedure regarding issue of ST:-1 forms has been streamlined. Several measures have been taken to safeguard the interest of revenue. Only limited number of forms to the newly registered dealers are issued and further supply is made to them after being fully satisfied about the utilisation of the forms issued in the past. No stock of forms are issued without obtaining the utilisation of accounts from the dealer relating to the forms issued to him on earlier occasion. Necessary action for the cancellation of the registration certificates of the dealers who have closed down their business or who are found to be unscrupulous is now being taken expeditiously.

The Administration is examining as to how far the lapses pointed out by the Public Accounts Committee were due to the negligence| collusion of the departmental staff so that appropriate action could be taken against the departmental staff for their negligence|collusion.

[Ministry of Home Affairs O.M. No. U-16014|14|84-Delhi,  
dated 30-3-85]

**CHAPTER III**

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

— NIL —

## CHAPTER IV

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

#### *Recommendation*

The Committee are surprised to find that although between 1979-80 and 1981-82, as many as 5,317 dealers were found carrying on business without registration, all of them were proceeded against under section 23(6) and action for prosecution under Section 50(i) (b) was not taken even in a single case. The argument advanced by the Ministry for not launching prosecution even in a single case is that "if a penalty is imposed on a dealer, he cannot be prosecuted under Section 50(i)(b) and they would like to have the money instead of prosecuting the person".

The Committee need hardly point out that a powerful instrument for forcing dealers to register themselves is the fear of prosecution. If a dealer has been evading tax for years but not registering himself, which is quite common, the penalty under Section 23(6) would hardly be a sufficient deterrent. The Committee, therefore, feel that prosecution under Section 50 should invariably be launched in cases where it is found that the dealer has been evading registration deliberately for a number of years.

[S. No. 2, Appendix I, Para 73 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)].

#### **Action Taken**

Section 23(6) contains an inbuilt provision for the levy of penalty for such defaults. The jurisdiction to assess and to levy penalty under this provision is not dissectible. This being so, non-levy of penalty could tantamount to exoneration and prosecution could be barred or could, if initiated, terminate into acquittal. Keeping this in view, Sales Tax Department has hitherto been taking recourse to imposition of penalty in such cases. In case the dealer, however, after fixation of his liability persists with the default and continues to carry on business without registration, the assessing authority after making his intention clear in the assessment order, can take recourse to the prosecution under Section 50(i) (b), instead.

[Ministry of Home Affairs, O.M. No. U-16014/14/84-Delhi, dated 30-3-85]

### Recommendation

The Committee have been informed that "Sales Tax Department has now been instructed to launch criminal prosecution in selected cases under Section 50(i) as an exemplary measure". The Committee would like to be informed of the number of cases in which such prosecution proceedings have been launched since the issue of the instructions, together with the outcome thereof.

[S. No. 3, Appendix I, Para 74 of 227th Report of the Public Accounts Committee (Seventh Lok Sabha)].

### Action Taken

No criminal prosecution has been lodged so far in the case of unregistered dealers under Section 50(i)(b) of Delhi Sales Tax Act, 1975. However, in such selected cases, where the dealers, after fixation of their liability still persists with the default and continue to carry on business without registration, the assessing authority, after making his intention clear in the assessment order, can take recourse to prosecution under section 50(i)(b).

[Ministry of Home Affairs O.M. No. U-16014||14|84-Delhi, dated 30-3-85]

### Recommendation

It is surprising that although survey work is basic for detection of dealers evading registration and payment of sales tax, there is no inbuilt arrangement in the Sales Tax Department to conduct surveys on a regular basis. There is no separate staff specially earmarked for surveys and these are being conducted by Inspectors who are already charged with multifarious other duties. The Sales Tax Commissioner admitted before the Committee that "we do not undertake the market survey in a very methodical manner". No wonder there has been an appreciable fall in the detection of dealers evading registration. Thus, while during 1975-76 and 1976-77, the number of unregistered dealers detected was 1,966 and 3,179 respectively, it came down to 735 and 630 in 1981-82 and 1982-83 respectively. The argument put forth by the Ministry that it is now unattractive for a dealer not to register himself is not convincing.

The Sales Tax Commissioner was frank enough to admit before the Committee "Looking on the number of dealers who should have registered and who have not registered, our efforts have not been commensurate with the problems that exist" and that "such dealers

cannot exist unless there is collusion between unscrupulous dealers and our unscrupulous dealers and our unscrupulous staff". This, to say the least is very unsatisfactory state of affairs. The Committee, therefore, recommend that the Sales Tax Department should make adequate institutional arrangements to conduct market surveys on a regular basis so as to ensure that no dealer who is required to be registered, escapes registration. However, the Committee would like to caution that adequate steps should be taken to ensure that these surveys are not allowed to become means for harassing innocent dealers.

[S. No. 4, Appendix I, Para 75 of 227th Report of the Public Accounts Committee (Seventh Lok Sabha)]

#### Action Taken

Keeping in view the observations of the Committee and the note of caution sounded by it, in addition to the normal surveys conducted by the ward Inspectors, a special drive was launched to undertake surveys of the dealers by Sales Tax Inspectors in groups under the over-all supervision of Senior Officers. For this purpose some specific areas were identified in different Zones and these areas were surveyed by a team of Inspectors headed by a Sales Tax Officer. On the occasion of Diwali festival also during 1984, a special survey drive was launched. Certain areas and markets were identified and the dealers dealing in commodities like sweets, utensils, toys and readymade garments were surveyed. As many as 19 teams were formed, each team consisted of one Sales Tax Officer, one Asstt. Sales Tax Officer and three Inspectors. On this occasion alone 1841 surveys were conducted. During the period 1.4.1984 to 31.12.1984, 18,412 surveys have been conducted, including surveys of unregistered dealers.

[Ministry of Home Affairs O.M. No. U-16014/14/84-Delhi, dated 30-3-85]

#### Recommendation

From the above cases, the Committee are led to the irresistible conclusion that the instrument of control over dealer through declaration forms has been ineffective and has therefore not served the underlying purpose. The cases given in the audit para are symbolic of the growing phenomenon of traders getting themselves registered, obtained declaration forms, using these forms and then disappearing from the scene without rendering any account of the forms or discharging their tax liability and reappearing at a later stage under other names. It is really pathetic that the Sales Tax Department has failed to take an action against such unscrupulous dealers who in admittedly collusion with unscrupulous staff of the Sales Tax Department are depriving the public exchequer of considerable tax revenue.

The Committee cannot but express their deep concern at this. The Committee recommend that urgent measures should be taken for streamlining the existing procedure for issue and accountal of declaration forms and in particular for matching of declaration forms with the returns of the purchasing dealers, at least in cases involving heavy amounts.

[S. No. 10, Appendix I, Para 81 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)]

### **Action Taken**

So far as issue of ST-1 forms is concerned the following measures to safeguard the interest of revenue have been taken by the Sales Tax Department. Only limited number of forms are issued to newly registered dealers and further supplies are made to them after being fully satisfied with the utilisation of the forms issued in the past. No stock of fresh forms are issued without obtaining utilisation account from a dealer relating to the forms issued to him on the last occasion. Big dealers who are issued large number of ST-1 forms are also surveyed and sales conducted by them are verified from time to time.

Electronic Data Processing Cell has been set up in the Sales Tax Department. With the implementation of this scheme, it will be possible for the Sales Tax Department to cross check the claims of exemption made by the registered dealers on the basis of the statutory forms ST-1.

It is hoped that with the adoption of strict measures taken by the Sales Tax Department with regard to the issue of ST-1 forms, verification of heavy sales by certain dealers through the field staff and also cross checking of claims made by the registered dealers on the basis of statutory form ST-1, by the EDP Cell, chances of misuse of ST-1 forms would be minimised.

[Ministry of Home Affairs O.M. No. U-16014/14/84-Delhi dated 30-3-85.]

### **Recommendation**

The Committee are concerned to note that the assessment work in the Sales Tax Department is heavily in arrears and in 1983-84, the Department was doing assessment for 1979-80. The seriousness of the position can be seen from the fact that as on 1-4-1983 as many as 2,89,430 assessments relating to local Sales Tax and 2,65,688 assessments relating to Central Tax were pending and out of these nearly

one-fifth related to the year 1979-80. The Sales Tax Commissioner was frank enough to admit before the Committee that "these things will continue to be there till such time we are able to come upto date in assessment". The Ministry have explained that the pendency is due to acute shortage of staff which was sanctioned as far back as in 1975 when the number of registered dealers was far less and that the proposal for augmentation of the staff strength is under consideration of Government. The Committee need hardly point out that delay in finalisation of assessments not only results in undue hardship and harassment of dealers but also provides ample scope for unscrupulous practices, manipulations and dishonest deals. The Committee would recommend that the statutory time allowed for completion of assessment may be reduced from four years to two years. Presently all returns are being taken up for assessment only after three and a half years by which time the unscrupulous dealers manage to disappear or dispose of their assets.

[S. No. 11 Appendix I, Para 82 of 227th Report of Public Accounts Committee (Seventh Lok Sabha).]

#### **Action Taken**

As already admitted by the Commissioner, Sales Tax before the Committee, upto date assessment is very much desirable. But this would not be possible unless adequate staff is provided. As soon as the required strength of staff is in position, the question of upto date assessment of the dealers will be taken up. However to begin with, efforts are being made to assess big dealers, with a gross turnover of Rs. 75 lakhs and above and monthly tax payers for the years 1980-81, 1981-82 and 1982-83. It is hoped that it shall be possible to cover all these big dealers and monthly tax payers upto 1982-83 for the assessment purpose. The National Institute of Public Finance and Policy and also the Department of Personnel, Government of India, Ministry of Home Affairs have made some recommendations for augmenting the staff strength and the recommendations/suggestions made in this regard are under consideration.

The suggestion with regard to reduction of limitation for assessment from 4 to 2 years is linked up with the adequacy of staff and can be considered after the huge pendency has been brought to level. Moreover, the reduction in the limitation period of assessment requires amendment of Delhi Sale Tax Act, 1975.

[Ministry of Home Affairs O.M. No. U-16014/14/84-Delhi.  
dated 30-3-85]

### **Recommendation**

The representative of the Ministry of Home Affairs suggested that there should be legislative provisions providing for immediate suspension of registration, pending cancellation. The Committee desire Government to give a serious thought to the proposal. The Committee further desire that the matter should be examined in depth to find out the reasons for so much delay in the department in taking action against the defaulting traders and the failure of the instrument of cancellation of registration to serve as a deterrent against the defaulters as also the corrective measures that may be taken to ensure timely recovery of tax. It may also be examined as to how far the lapses pointed out in the preceding paragraphs were due to the negligence, collusion on the part of the departmental staff.

[S. No. 16 Appendix I, Para 87 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)].

### **Action Taken**

For a proper appreciation of the suggestion made by the Public Accounts Committee, enquiries were made from various States and Union territories. From the replies received from 18 States and Union territories, it was found that they have not made any provision in the Sales Tax Law in force in their respective States for suspension of registration certificates granted to the dealers. Suspension of Registration Certificate even if resorted to by inserting a proviso in the law, will not have the effect of absolving a dealer of his liability to pay the tax. The provisions relating to cancellation of registration certificates contained in Section 20 of the Delhi Sales Tax Act, 1975 are exhaustive and extreme step of cancellation of registration certificates in cases other than cases of closure of business firms is resorted to for activities of the dealers which are considered to be prejudicial to revenue and violative of the provisions of law as would be seen from sub-section (3) of the Section 20 of the Act. The purpose sought to be achieved by inserting provision for suspension of registration certificates can adequately be served by sub-section (5) of Section 3 of the Delhi Sales Tax Act, 1975, according to which provision:—

"Any dealer whose certificate of registration has been cancelled under sub-section (3) of Section 20 shall:—

(a) If his turnover calculated from the date of cancellation

of such certificates exceeds the taxable quantum on any day with in the year; or

- (b) If his turnover calculated from the commencement of any subsequent year, exceeds the taxable quantum on any day with in that year,

be liable to pay tax under this Act with effect from the date immediately following the day on which such turnover again first exceeds the taxable quantum on all sales effected by him after that day of goods imported by him from outside Delhi or manufactured by him in Delhi or purchased by him without payment of tax leviable under this Act.”

Such a dealer is also under a legal obligation to obtain special registration under Section 17 of the Act *ibid*. This registration, unlike the registration under Section 14, deprives the dealer of his right to avail of the benefits of making tax free purchases on the strength of his registration certificate as no item is specified in such a certificate. This being so, insertion of new provision for suspension of the certificate does not appear to be necessary.

[Ministry of Home Affairs O.M. No. U-16014|14|84-Delhi  
dated 30-3-85]

## CHAPTER V

### RECOMMENDATIONS OR OBSERVATIONS IN RESPECT OF WHICH GOVT. HAVE FURNISHED INTERIM OR NO REPLIES

#### Recommendation

The cases cited above clearly show that the provisions of the sales tax law for cancellation of registration certificates are not used in time against the defaulting traders. The Committee have reasons to believe that these are not isolated cases and that the failure is widespread indicating *malafide* negligence on the part of Department officers. These cases, therefore, call for investigation with a view to fixing responsibility.

[S. No. 15, Appendix I, Para 86 of 227th Report of Public Accounts Committee (Seventh Lok Sabha)].

#### Action Taken

It is true that there has been delay in cancellation of registration certificates of the dealers. However, as desired by the Public Accounts Committee, the matter is being looked into by the Sales Tax Department to see if there was any intentional lapse on the part of any officer.

[Ministry of Home Affairs O.M. No. U-16014/14/84-Delhi dated 30-3-85.]

NEW DELHI:  
August 19, 1985  
Sravana 28, 1907 (S)

E. AYYAPU REDDY,  
Chairman  
Public Accounts Committee.

## APPENDIX

### *Conclusion and Recommendations*

Sl. No.	Para No.	Ministry/Department concerned	Conclusion/Recommendation
1	2	3	4
1	1.6	Home Affairs	<p>The Committee see no justification for the attitude of helplessness exhibited in the Government's reply in regard to the defaulting trader who carried on his business without getting himself registered under the Delhi Sales Tax Act. According to them, with the existing provisions in law, since jurisdiction to assess and to levy penalty is not dissectible, non-levy of penalty tantamounts to exoneration, prosecution is debarred and if initiated, bound to end in acquittal. In the Committee's view, this should not create any difficulty in dealing with the recalcitrant defaulter as a suitable amendment to the Law can be devised. In any case, even under the existing provisions, the assessing authority, after making his intention clear in the assessment order, can take recourse to prosecution under Section 50(1)(b). The Committee would like to reiterate their view that unless a fear of prosecution exists in the mind of recalcitrant trader, it would be difficult to effectively deal with the situation. The Committee would, therefore, like Government to take positive decision in the matter and not hesitate to have recourse to prosecution wherever the trade persistently avoids registration.</p>

2 1.9

Do. The Committee had recommended in their Original Report that adequate institutional arrangements should be evolved to conduct market surveys on a regular basis. Instead, however, the Committee find that the Delhi Administration have made efforts towards stepping up surveys of selected areas by way of special drives for identifying dealers and registering them. Although a large number of surveys were undertaken in these drives, these measures were only *ad hoc* in nature and did not lead to a long term solution of the problem. The Committee, therefore, reiterate their view that establishment of adequate institutional arrangements for conducting market surveys on a regular basis will make it impossible for the dealer who is required to register under the Act to escape registration.

3 1.12

Do. The Committee note that Government have taken certain measures towards streamlining the procedure for issue and accounting of declaration forms in order to safeguard against dishonest dealers taking undue advantage of adequate control over the issuance of declaration forms and evading tax in collusion with unscrupulous staff. The Committee, however, find that measures such as issuing only limited number of forms in a controlled manner, cross checking claims of exemption by the Electronic Data Processing Cell in the Sales Tax Department are limited to S.T. 1 forms only. Since Tax evasions are being practised in case of Central Sales Tax also, the Committee, fail to understand why similar measures have not been made applicable to the Central Tax as well.

The Committee hope that this aspect of the matter will also be attended to.

Home Affairs

The Committee note with regret that the Delhi Administration has been adopting a lukewarm and lackadaizical approach to the problem of the large number of outstanding assessment cases relating to local and central sales tax in the Union Territory of Delhi running into lakhs. On 1-4-1982 as many as 2,89,430 assessments relating to local sales tax and 2,65,638 assessment relating to central tax were pending. A large number of these have been outstanding for a long period. Delay of this magnitude enable dishonest dealers to indulge in unscrupulous practices with a view to evading the payment of the taxes due. Mainly, the magnitude of the pending cases is attributed to inadequacy of the Staff available with the Administration. The National Institute of Public Finance and Policy and also the Department of Personnel, Government of India have recommended for additional staff, and these recommendations are under consideration of Government. The Committee desire that adequate staff should be provided expeditiously to make possible the disposal of the pending cases speedily.

Dr.

The Committee during the course of their proceedings observed that provisions of cancellation of registration certificates are not used in time against defaulting trader. By the time the cancella-

tion action is taken the defaulting dealer either runs away or disposes of all his goods. It is to avoid this eventuality that the Committee had asked Ministry to consider the feasibility of immediate suspension of registration of cases pending for cancellation. By suspending registration, the Departmental machinery will be compelled to be more vigilant in its dealings with defaulters in the matters of issuing forms or recovering tax revenues.

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## PART II

### MINUTES OF THE NINTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (1985-86) HELD ON 16 AUGUST, 1985

The Committee sat from 0930 hrs. to 1030 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

#### PRESENT

Shri E. Ayyapu Reddy—*Chairman*

#### MEMBERS

2. Shri J. Chokka Rao
3. Shri Ranjit Singh Gaekwad
4. Shri Raj Mangal Pandey
5. Shri H. M. Patel
6. Shri Nirmal Chatterjee
7. Shri Ghulam Rasool Kar

#### SECRETARIAT

1. Shri K. H. Chhaya—*Chief Financial Committee Officer.*
2. Shri R. C. Anand—*Senior Financial Committee Officer.*
3. Shri Brahmanand—*Senior Financial Committee Officer.*

2. The Committee considered the following draft Action Taken Reports and adopted the same with certain modifications/amendments as shown in \*Annexures I to III respectively:

- (i) Draft Report on action taken on 180th Report of PAC (7 L.S.) relating to Union Excise Duties—Exemption of goods falling under Tariff Item 68.
- (ii) Draft Report on action taken on 216th Report of PAC (7 L.S.) relating to Drawback Payments.
- (iii) Draft Report on action taken on 27th Report of PAC (7 L.S.) relating to Delhi Sales Tax—Survey, Registration and Declaration Forms.

3. The Committee authorised the Chairman to present the Reports to the House.

*The Committee then adjourned.*

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\*Annexures I and II not printed.

### ANNEXURE III

*Modifications/Amendments made by the Public Accounts Committee in the Draft Report on Action Taken on the 227th Report of the PAC (7th Lok Sabha) Relating To Receipts Of The Administration of The Union Territory of Delhi Sales Tax-Survey, Registration And declaration Forms, at Their Sitting Held on 16th August, 1985 in-Committee Room No. 'C' Parliament House Annexe, New Delhi.*

Page	Para	For	Read
4	1-6	"The Committee..... persistantly avoids registra- tion	"The Committee see no justification for the attitude of helplessness exhibited in the Government's reply in regard, to the defaulting trader who carried on his business without getting himself registered under the Delhi Sales Tax Act. According to them, with the existing provisions in law, since jurisdiction to assess and to levy penalty is not dis- sectible, non-levy of penalty Could tantamount to exoneration, prosecution could be barred and if initiated, could end in acquittal. In the Committee's view this should not create any difficulty in dealing with the recalcitrant defaulters as a suitable amendment to the Law can be devised. In any case, even under the existing provisions, the assessing authority, after making his intention clear in the assess- ment order, can take recourse to prosecu- tion under Section 50(1)(b). The Committee would like to reiterate their view that unless a fear of prosecution exists in the mind of recalcitrant trader, it would be difficult to effectively deal with the situa- tion. The Committee' would, therefore like Government to take positive decision in the matter and not hesitate to have recourse to prosecution wherever the trader persistently avoids registration."
7	1-9	"Looking to the unsatisfact- ory....escapes registration	"The Committee had recommended in their Original Report that adequate insti- tutional arrangements should be evolved to conduct market surveys on a regular basis. Instead, however, the Committee find that the Delhi Administration have made efforts towards stepping up surveys of selected areas by way of special drives for identifying dealers and registering them. Although a large number of surveys were undertaken in these drives, these measurs were only <i>ad hoc</i> in nature and

Page	Para	For	Read
			did not lead to a long term solution of the problem. The Committee, therefore, reiterate their view that establishment of adequate institutional arrangements for conducting market surveys on a regular basis will make it impossible for the dealer who is required to register under the Act to escape registration."
10	1-12	"The Committee note..... made up without delay."	"The Committee note that Government have taken certain measures towards streamlining the procedure for issue and accounting of declaration forms in order to safeguard against dishonest dealers taking undue advantage of inadequate control over the issuance of declaration forms and evading tax in collusion with unscrupulous staff. The Committee, however, find that measures such as issuing only limited number of forms in a controlled manner, cross checking claims of exemption by the Electronic Data Processing Cell in the Sales Tax Department are limited to S.T.1. forms only. Since Tax evasions are being practised in case of Central Sales Tax also, the Committee, fail to understand why similar measures have not been made applicable to the central Taxes well. The Committee hope that this aspect of the matter will also be attended to."
13	1-15	"The Committee are unhappy to find..... ascape the tax net."	"The Committee note with regret that the Delhi Administration has been adopting lukewarm and lackadaizical approach to the problem of the large number of outstanding assessment cases relating to local and central sales tax in the Union Territory of Delhi running into lakhs of rupees. On 1-4-1983 as many as 2,89,430 assessments relating to local sales tax and 2,65,688 assessments relating to central tax were pending. A large number of these have been outstanding for a long period. Delay of this magnitude enable dishonest dealers to indulge in unscrupulous practices with a view to evading the payment of the taxes due. Mainly the magnitude of the Pending cases is attributed to inadequacy of the staff available with the Administration. The National Institute of Public Finance and Policy and also the Department of Personnel, Government of India have recommended for additional staff, and these recommendations are under consideration of Government. The Committee desire that adequate

Page	Para	For	Read
17	1.18	"The Committee during... ....pending cancellation"	<p>staff should be provided expeditiously to make possible the disposal of the pending cases speedily.</p> <p>"The Committee during the course of their proceedings observed that provisions of cancellation of registration certificates are not used in time against defaulting trader. By the time the cancellation action is taken the defaulting dealer either runs away or disposes of all his goods. It is to avoid this eventuality the Committee had asked Ministry to consider the feasibility of immediate suspension of registration of cases pending for cancellation. By suspending registration, the Departmental machinery will go compelled to be more vigilant in its dealings with defaulters in the matters of issuing forms or recovering tax revenues.</p>

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