

HUNDRED AND FIFTY-SEVENTH REPORT

PUBLIC ACCOUNTS COMMITTEE (1982-83)

(SEVENTH LOK SABHA)

**REVENUE DEMANDS WRITTEN OFF BY
THE DEPARTMENT**

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

[Paragraph 1.15 (iii) of the Report of the Comptroller and Auditor General of India for the year 1980-81—Union Government (Civil), Revenue Receipts, Vol. II—Direct Taxes]

*Presented in Lok Sabha on 29th April, 1983
Laid in Rajya Sabha on 29th April, 1983*

**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1983/Vaisakha, 1905 (Saka)

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**CORRIGENDA TO THE HUNDRED AND FIFTY SEVENTH
REPORT OF THE PUBLIC ACCOUNTS COMMITTEE
(1982-83)**

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24-11-1982 (AN)

25-11-1982 (FN)

27-04-1983 (FN)

*Not printed. One cyclostyled copy laid on the Table of the House and five copies kept in the Parliament Library.

PUBLIC ACCOUNTS COMMITTEE

(1982-83)

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Shri Satish Agarwal

MEMBERS

Lok Sabha

2. Shri Chitta Basu
3. Smt. Vidyavati Chaturvedi
4. Shri C. T. Dhandapani
5. Shri G. L. Dogra
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7. Shri K. Lakkappa
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11. Shri Jamilur Rahman
12. Shri Uttam Rathod
13. Shri Harish Rawat
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15. Shri Ram Singh Yadav

Rajya Sabha

16. Dr. Sankata Prasad
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18. Shri Syed Rehmat Ali
19. Shri B. Satyanarayana Reddy
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22. Shri A. P. Janardhanam

SECRETARIAT

1. Shri T. R. Krishnamachari—*Joint Secretary.*
2. Shri K. C. Rastogi—*Chief Financial Committee Officer.*
3. Shri Ram Kishore—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this One Hundred and Fifty Seventh Report of the Public Accounts Committee (Seventh Lok Sabha) on paragraph 1.15(iii) relating to 'Revenue Demands written off by the Departmental' included in the Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume-II, Direct Taxes.

2. The Committee have in this Report dealt with the case of late Raja Bahadur Kamakhya Narain Singh, ex-ruler of Ramgarh. This is perhaps a unique case in the annals of tax administration where the assessee managed to drag on the assessment proceedings (demand amounting to nearly Rs. 1.5 crores having been raised during 1948-49 to 1951-52) for as many as 23 years i.e. from 1947-48 till his death in May 1970. In the meantime, the assessee alienated all his assets which included 5 house properties, shares in limited companies, bank deposits etc. and the Department could do nothing to stop him from doing so. As a result, income-tax demand to the tune of Rs. 1.85 crores due from the assessee for the assessment years 1947-48 to 1952-53 and 1967-68 to 1973-74 remained unrealised. Of this a sum of Rs. 1.40 crores was ultimately written off by Government in July, 1980. The Committee have desired that the reasons for the inordinate delay in finalizing the assessments in this case (these were completed seven years after the death of the assessee) should be investigated thoroughly with a view to fixing responsibility

3. Even though the Wealth-tax Act had come into force in May 1957, it is regrettable that the Department did not proceed against the assessee in the matter and no wealth tax assessment was made. Responsibility for this serious lapse also needs to be fixed.

4. It was one of the bigger cases of revenue demands in arrears and should have been subjected to close supervision by the Board. However, the Board did not have any details of this case till it was taken up by the Committee for examination and that the so-called

'supervision' was on paper only. The Committee have urged the Government to take immediate measures to tone up the working of the CBDT so that income tax arrears in bigger cases do not get accumulated.

5. The instant case is an extreme example of the tendency on the part of ITOs to grant adjournments freely and sometimes on flimsy grounds. Numerous extensions were given on grounds of non-compliance or by the I.T.Os on their own. It would thus appear that the department machinery was so much over-awed by the assessee that it almost got petrified in its tracks. The Committee have desired the Government to take serious note of this aspect of working of the Income Tax Department if the administration of direct taxes is to be streamlined and harassment to the assessee avoided.

6. The demands written off during each of the years 1977-78 to 1981-82 range between Rs. 8.70 crores in 1981-82 (provisional figures) and Rs. 21.76 crores in 1978-79. The Central Board of Direct Taxes have not devised any system whereby the concerned authorities, such as the Ministry of Commerce, Chief Controller of Imports and Exports and others concerned including the State Governments, could be informed of the tax arrears written off against the defaulters so as to debar them from availing of any facilities like import licences.

7. The Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes, was laid on the Table of the House on 31 March, 1982. The Public Accounts Committee (1982-83) examined the para at their sittings held on 24 and 25 November, 1982. The Committee considered and finalised the Report at their sitting held on 27 April, 1983. Minutes of the sittings form Part II* of the Report.

8. A statement containing conclusions|recommendations of the Committee is appended to this Report (Appendix III).

*Not printed. One cyclostyled copy laid on the Table of the House and five copies place in Parliament Library.

(vi)

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

10. The Committee would also like to express their thanks to the officers of the Ministry of Finance (Department of Revenue) for the cooperation extended by them in giving information to the Committee.

NEW DELHI;
April 28, 1983
Vaisakha 8, 1905 (S).

SATISH AGARWAL,
Chairman,
Public Accounts Committee

REPORT

REVENUE DEMANDS WRITTEN OFF BY THE DEPARTMENT

Audit Paragraph

1.1 An ex-ruler had incomes from royalties and rents from mines, house property, dividends remuneration as director, revenues from forest etc. After prolonged litigation, including dispute on jurisdiction of assessing officer and innumerable adjournments and delays in assessments, arrears of tax amounting to Rs. 1,85,07,422 in respect of the assessments years 1947-48 to 1952-53 and 1967-68 to 1973-74, could still not be demanded finally or collected till 1977 when the ex-ruler died. Only a demand of Rs. 3.29 lakhs in respect of the assessment year 1947-48 became final on 7 August 1951. In the course of these years, five house properties, shares in limited companies, bank deposits and his other assets were disposed of by the ex-ruler, during his lifetime, in such a manner that Government could not prevent his alienating them. The house properties which had been sold to third parties and relatives did not pass on to legal heirs on his demise, and his interests in 23 companies floated by him in regard to the business of mining were "benami". Trusts were also created in some properties. With the abolition of Zamindari, his mining rights vested in the State and only two of the companies floated by him claimed compensation, the remaining 21 companies having gone out of existence. The shares held by the ex-ruler in a company were sold in July 1948 and the balances to his credit in various banks were either negligible or in the red. Thus no recovery was effected from any of the assets transferred or disposed of by the ex-ruler.

Out of the tax arrears of Rs. 1,85,07,422 a sum of Rs. 1,40,07,422 was written off by Government in July, 1980.

[Para 1.15 (iii) of the Report of the Comptroller & Auditor General of India for the year 1980-81, Union Government (Civil) Revenue Receipts, Volume II, Direct Taxes]

1.2 The assessee referred to in the Audit Paragraph is late Raja Bahadur Kamekhya Narain Singh ex-Ruler of Ramgarh. He had incomes from royalties and rents from mines, house property, dividends, remuneration as director, revenues from forest etc. The

assessee died on 6 May, 1970. A tax demand of Rs. 1.85 crores was outstanding against him for the assessment years 1947-48 to 1952-53 and 1967-68 and 1973-74. Out of this outstanding demand a sum of Rs. 1.40 crores was written off by Government in July 1980 and a sum of Rs. 45 lakhs has been kept outstanding for possible recovery.

1.3 The particulars of assessment years and the details of demand relating to the said arrears of Rs. 1.85 crores have been stated to be as under:

Assessment Year	Date of demand	Arrears Rs. in lakhs
1947-48	2-3-1957	3.31
1948-49	4-4-1977	86.94
1949-50	4-4-1977	36.77
1950-51	4-4-1977	26.20
1951-52	4-4-1977	6.57
1952-53	4-4-1977	25.07
1967-68	30-11-1977	0.19
1973-74	12-2-1976	0.02
		185.07

Sequence of events

1.4 At the instance of the Committee, the Ministry of Finance furnished the following sequence of events in respect of all the assessment years to which the arrears mentioned in the audit para relate:

Assessment Year	Sequence of events
1	2
1947-48	Notice under section 22(2) of the Old Act was issued by ITO Hazari bagh and served on the assessee on 30-5-47. The assessment was completed under section 23(3) on 11-2-48. By Order dated 30-5-49 the assessment was set aside by AAC. The set aside assessment was completed on 31-1-51.

On 24-3-56 ITO Special Circle Ranchi initiated proceedings under section 34 of the Old Act and the assessment was completed on 2-3-57. The assessee went in appeal against order under section 27 which was dismissed by AAC. In 2nd appeal, the Tribunal *vide* Order dated 6-5-64 set aside the assessment. In a reference to Patna High Court by the Department the matter was decided in favour of the Department.

1948-49

Though a notice under section 22(2) was issued on 26-4-48 the returns were filed only on 13-7-49 after a notice under section 22(4) was issued. By Central Board of Revenue's order 18-8-52, the case was transferred to ITO Central Circle Calcutta who completed the assessment on 26-3-53. In a writ petition filed in Supreme Court against the Order of GBR regarding transfer of jurisdiction the Supreme Court by order dated 22-3-56 set aside the assessment made by ITO Central Circle Calcutta and the case came back to ITO Special Circle Ranchi who started proceedings under section 34.

The assessee challenged the jurisdiction of ITO Special Circle Ranchi in a writ petition before the High Court but withdrew the writ petition and instead filed a title suit before Sub-Judge Hazaribagh. The assessee lost before the Sub-Judge as well as the High Court and went in appeal to the Supreme Court. Meanwhile assessment was completed under section 34 on 29-9-62 by ITO Hazaribagh.

The Supreme Court as per compromise arrived at between the Department and the assessee passed an order dated 10-10-63 setting aside the assessment orders for the years 1948-49 to 1950-51 and holding that the proceedings for these years were properly pending before ITO Hazaribagh.

Later when the ITO started proceedings for completion of assessments, the assessee filed a writ petition before the High Court Patna. The High Court by Order dated 24-7-68 directed the assessee to urge the bar of limitation before the Income-tax authorities. The assessee instead filed a title suit in the Court of Munsif, Hazaribagh. The injunction petition filed was rejected on 14-6-69 against which order, the assessee filed appeal before the District Judge but withdrew the same on 7-4-70. The Title Suit was also withdrawn by court order dated 13-3-73. The assessment was completed on 4-4-77.

1949-50 & 1950-51

Return for assessment year 1949-50 was filed on 28-12-49 in response to notice under section 22(2) issued by ITO Special Circle II, Patna and assessment was completed on 17-12-53 by ITO Central Circle, Calcutta.

The Return for assessment year 1950-51 was filed on 30-5-50 in Patna and assessment was completed on 24-3-55 at Calcutta.

The subsequent events as indicated above for assessment year 1948-49 covered these two years as well, and the assessments could finally be completed on 4-4-77.

1951-52 & 1952-53

For assessment year 1951-52, the return was filed on 27-4-53 in response to notice under section 22(2) and the assessment was completed under section 23(4) on 30-3-56. The assessee's petition under section 27 was rejected by the ITO and also dismissed by the AAC though a relief of Rs. 10,000/- was given by the latter. In further appeal the Tribunal set aside the orders under section 23(4) and 27. The Tribunal's orders were accepted by the Department.

For assessment year 1952-53, a notice under section 22(a) was issued on 27-5-52 and the assessment was completed under section 23(4) on 2-3-57. Like in case of assessment year 1951-52 above, the assessee's application under section 27 was rejected by the ITO and the appeal filed before the AAC was dismissed. However, in 2nd appeal the ITAT set aside the assessment and this order was accepted by the Department.

The assessments for assessment year 1951-52 and 52-53 were finally completed on 4-4-77.

1967-68

The return was filed by the assessee on 15-5-69 and assessment was made under section 143(3) on 30-11-71. In appeal the AAC confirmed the ITO's orders.

1373-74

On return filed by the Legal heir of the assessee on 17-11-73 the assessment was completed under section 143(3) on 12-2-76.

1.5 Details of income returned advance tax paid, date of assessment, sections under which assessed, the income assessed etc. the dates of issue of demand notices/amount of demand, reference to appeal, if any preferred, the outcome thereof, the tax recovered and dates of reference to the Collector/Tax Recovery Officer, in respect of each assessment year to which the arrears which had been written off related. The requisite information as furnished by the Ministry of Finance, is reproduced below:—;

The Committee called for the following further details of the case :

- (i) Date of issue of demand notice and amount of demand.
- (ii) Reference to appeals if any preferred and the outcome.
- (iii) Tax recovered.
- (iv) Dates of reference to the collector/Tax Recovery Officer for recovery.

The Ministry have accordingly furnished the following information:—

(a) Date of issue of demand notice and amount of demand :	A. Yrs. 1947-48	A. Yrs. 1948-49	A. Yrs. 1949-50	A. Yrs. 1950-51	A. Yrs. 1951-52	A. Yrs. 1952-53	A. Yrs. 1967-68	A. Yrs. 1973-74
(i) Date of notice	2-3-57	4-4-77	4-4-77	4-4-77	4-4-77	4-4-77	30-11-71 27-3-74	12-2-76
(ii) Amount (in Rs.)	3,31,278	86,04,406	36,76,945	26,19,729	6,57,219	25,06,925	(penalty) Rs. 12,040 3,413	2,072
(b) Reference to appeals if any preferred and the outcome:	As per details given separately							
(c) Tax recovered	Small amount of a few hundred rupees was collected by attachment of bank accounts.							
(d) Date of reference to the collector TRO	Order No. 879/51-52	14-10-77	14-10-77	14-10-77	14-10-77	14-10-77		29-3-77

Reference to appeals:

- 1947-48: I.T.O. rejected on 1-8-58 petition u/Sec. 27 filed in respect of order dated 2-3-57 u/s 23(4)/34.
- 10-10-61: Appeal dismissed by AAC.
- 15-6-64: I.T.A.T. sets aside the assessment and depts. files reference application before High Court.
- 1.5.73: High Court delivers judgement in favour of the depts. and ITO's order u/s 23(4)/34 dated 2-3-57 stands.
- 1948-49 and 1949-50 to 52-53: No appeals filed.
- 1967-68: Assessee files appeal against order u/s 143(3).
- 18-1-73: Assessment is confirmed by the AAC.

Reasons for appeal

In 1947-48 the assessee went in appeal before A.A.C. as the I.T.C. rejected the petition u/s 27 to re-open the assessment completed ex-parte u/s 23(4)34. The High Court upheld I.T.O's order on 1-5-73.

In 1967-68 the assessee filed appeal against the addition made by the I.T.O. amounting to Rs. 16,000/- as income from other sources. The addition was found reasonable and was confirmed by the A.A.C. on 18-1-73.

Statement showing details of income returned by the Raja of Ramgarh advance/tax paid, sections under which assessed etc.

	2	3	4	5	6	7	8	9
(a) Assessment Year	1947-48	1948-49	1949-50	1950-51	1951-52	1952-53	1967-68	1973-74
(b) Date of issue of notice calling for the return	15-5-47	26-4-48	18-3-49	30-5-50	31-5-51	27-5-52	..	..
(c) Date of filing of the return	10-12-47	13-7-49	28-12-49	20-2-51	27-4-53	14-3-58 (duplicate) 28-1-59 (Revised)	15-5-69	17-11-73
(d) Income returned (Rs. in lakhs)	2.03	() 3.34	0.43	0.68	() 8.25	(-) 19.00	(-) 0.11	Nil
(e) Tax deducted at source . . . . .	..	..	..	..	..	..	..	..
(f) Advance tax paid :(in Rs.)	*1,48,354	27,827	8,729	..	..	..	..	..
(g) Tax paid on self-assessment . . . . .	..	..	..	..	..	..	..	..
(h) Dates of adjournments granted and at whose instance	As per details given separately.							
(i) Date of asst. & sections under which assessed & income assessed head-wise	1947-48 2-3-77 u/s 23(4)/34	1948-49 4-4-77 23(3)	1949-50 4-4-77 23(3)	1950-51 4-4-77 23(3)	1951-52 4-4-77 23(3)/33(4)	1952-53 4-4-77 23(3)/ 33(4)	1967-68 30-11-71 143(3)	1973-74 12-2-76 143(3)

*On assessment being set aside in May, 1949, the amount was adjusted against the demands of Ys. 1945-46 and 1946-47.

	1	2	3	4	5	6	7	8	9
<i>Income from (in Rs.)</i>									
(1) Salary		1,728	1,947	1,901	2,000	2,915	1,660	4,645	..
(2) House property		7,500	32,500	22,500	22,500	15,000	15,000	..	15,000
(3) Royalties	18,31,783	6,44,225	9,59,275	5,14,900	16,45,540	..	..
(4) Forest	29,117	29,000	..	..	..	..	..
(5) Misc. (other sources)		6,36,398	9,681	..	..	..	..	16,000	..
(6) Interest U/s 18A	4,013	..	..	..	..	..	..
(7) Dividend		75,835	47,148	70,749	58,935	27,010	21,678	..	..
(8) Unexplained bank deposit	23,40,452	7,73,861	2,56,926	56,816	..	..	..
(9) Business & Profession (share dealing)		2,261	..	..	..	..	..	..	..
(10) Receipt from Sri A.P. Sarkar - Concealed income	2,96,581	1,18,466	2,23,553	..	..	..
(11) Lumpsum royalty from Sri Beni Shanker D. Mchta	27,000	..	..	..	..
(12) Director's Commission etc.	1,207	..	800	..	..
(13) Amount recd. from Jharkhand Mines and Industry	1,00,000	..	..	..	..
(14) Interest on rent & cess	258	..	..	..
TOTAL:—		7,23,722	42,96,641	17,48,017	15,46,657	8,40,194	16,84,678	20,645	15,000

Dates of adjournment 1947-48

<u>10-12-47</u>	.	.	.	'A' files return on 10-12-47 ITO partly examines and adjourns to 23-1-48 for further examination.
11-12-47	.	.	.	
<u>24-1-48</u>	.	.	.	ITO fails to reach Kodarns on 23-1-48 and partly examines on these two dates. For further compliance adjourns to 30-1-48.
25-1-48	.	.	.	
30-1-48	.	.	.	'A' partly complies requisites. ITO allows time at assessee's instance for full compliance.
1-2-48	.	.	.	Assessee makes further compliance. ITO adjourns to 7-2-48 for final compliance.
7-2-48	.	.	.	Assessee complies and on 11-2-48 order is passed. Original assessment being remanded ITO fixes on 31-8-49.
31-8-49	.	.	.	Partly examined and adjourned by ITO.
10-2-50	.	.	.	Partly examined and ITO adjourns to 27-2-50.
27-2-50	.	.	.	Assessee prays for adjournment. Date not given. On 4-11-50, the case is fixed by issuing notices.
19-11-50	.	.	.	No. compliance.
30-11-50	.	.	.	Assessee sends a telegram requesting for some other date, as the date given did not suit his lawyer and accountant was ill.
30-11-50	.	.	.	Partly examined and ITO adjourns to 18-12-50 for further compliance.
31-1-51	.	.	.	Assessment is completed and in between adjournments are not clear.

Dates after re-opening of assessment

1-3-57	.	.	.	Assessee fails to comply.
2-3-57	.	.	.	Assessment is completed under section 23(4)/34.

Dates of adjournment 1948-49

9-1-49	.	.	.	As AAG has fixed at Patna on 11-1-49 and hence ITO adjourns.
27-1-49	.	.	.	Assessee files petition and case is adjourn to 3-2-49— grounds not known since the petition could not be traced. As 3-2-49 was holiday case is fixed at Patna on 26-2-49.
2-2-49	.	.	.	Assessee's Manager moves for another date since he is down with measles. ITO adjourns to 6-3-49 communicating that no further time will be allowed.
6-3-49	.	.	.	On the basis of petition dated 4-3-49 ITO has already adjourned to 10-3-49, Assessee ground 'certain circumstances.'
10-3-49	.	.	.	Case partly examined and ITO adjourns to 11-4-49 for further compliance.
11-4-49	.	.	.	ITO adjourns to 5-5-49 on assessee's petition stating about accountant's illness.
5-5-49	.	.	.	On 29-4-49 assessee asks for certain documents and prays for another date in place of 5-5-49 since he is busy in connection with appeal before AAG and ITO adjourns to 20-6-49.

- 8-6-49 Assessee's representative asks for another date since books of accounts are with sales Tax Department in Sales Tax Appeal (Ranchi). Fixed on 13-7-49.
- 13-7-49 Assessee files return and accounts are examined on dates from 13-7-49 to 15-7-49. Adjourned to 5-8-49 by ITO for further compliance.;
- 5-8-49 Assessee partly complies and for balance case is adjourned to 31-8-49
- 31-8-49 Examined and adjourned by ITO for further examination on another date.
- 9-1-50 Assessee moves for time since management of the Estate has been taken over by the Government. Adjourned to 28-1-50.
- 28-1-50 Assessee sends telegram and case is fixed on 10-2-50.
- 10-2-50 ITO adjourns on assessee's petition and also directs office to get records from AAC's office.
- 11-2-53 Non compliance.
- 13-2-53 Assessee's representative appears and it is communicated that case is fixed on 27-2-53.
- 26-2-53 On assessee's telegraphic request case is refixed on 4-3-53.
- 4-3-53 Assessee appears partly heard ITO adjourns to 16-3-53 for further compliance.;
- 16-3-53 Partly examined and again adjourned by ITO to 18-3-53 for further compliance,
- 18-3-53 Assessee makes part compliance. On his request case is adjourned to 26-3-53 for balance compliance.
- 26-3-53 Compliance is made and assessment is *completed*.
- 20-12-73 Non-compliance. Refixed on 30-5-74.
- 30-5-74 Legal Representative prays for time. Amongst other grounds it is stated that the person dealing with the matter is on leave (who is conversant). Case fixed on 5-7-74.
- 5-7-74 No compliance. On 6-7-74 telegram is received praying for extension since person conversant is on leave.
- 29-7-74 Case partly heard. Adjourned for compliance to 13-8-74 as per letter.
- 13-8-74 Assessee makes written compliance on 12-8-74 and case fixed with letter for compliance on 10-9-74.
- 10-9-74 Legal Representative was in Delhi and he has received the letter there. On his telephonic direction in view of short time Assessee's representative moves time petition case is fixed on 28-9-74.
- 28-9-74 Non-compliance. Next date 7-11-74.
- 7-11-74 Non-compliance. Fixed subsequently on 10-3-75.
- 10-3-75 On 11-3-75 records were sent to CBDT.

In between letters of enquiry were sent to Banks etc. Inspector also conducted enquiries. Records were received from CBDT and fixed for hearing on 7-6-75.

- 7-6-75 . . . Non-compliance. Fixed on 23-6-75.
- 23-6-75 . . . Non-compliance.
- 28-10-76 . . . Partly heard.
- 8-12-76 . . . Telegram for time. Adjourned to 4-1-77 (Accountant on leave).
- 9-1-77 . . . Telegram for time. (Accountant gone to New Delhi).
- 2-2-77 . . . Telegram for time (Accountant sick).
Telegram sent by ITO being on 10-2-77.
- 10-2-77 . . . Manager prays for time on account of illness.
- 10-2-77 . . . Heard and adjourned to allow assessee to file documents etc.
- 19-3-77 . . . Complied.
- 4-4-77 . . . Assessment order passed.

Dates of adjournment—1949-50

- 28-1-1950 . . . Assessee sends telegram praying for a week time (i) Accountant required for land revenue payment (ii) Calcutta banks P. Books not returned.
- 10-2-50 . . . ITO writes—"1945-46 takes up. This will be taken up later.

Central Circle ii Calcutta

- 18-6-53 . . . Assessee raises objection about jurisdiction as is apparent ITO's letter dated 14-9-53 subsequently issued fixing the case on 22-9-52.
- 22-9-53 . . . No compliance is made. ITO sends letter to the assessee for compliance as per his letter dated 14-9-53. On 9-10-53 the assessee submits a letter denying receipt of ITO's letter dated 14-9-53. He prays for a date and in November 1953 since he was to be busy with Assembly Election ITO fixed on 12-11-53.
- 21-11-53 . . . No compliance but telegram received. Assessee prayed for one month's time to comply in response to ITO's letter copy of which he had just received. ITO sends telegram fixing on 21-11-53.
- 21-11-53 . . . No compliance. On 28-11-53 ITO received assessee's telegram. ITO observes that he cannot give further time and he passes order under section 23(4) on 17-12-53.

After this the order had become void as per decision of Supreme Court case No. 427/1955 dated. 20-3-56. Case records were transferred to ITO Special Circle Ranchi who issues notice under section 34. This is challenged in the Courts and finally the High Court gave verdict against the assessee on 30-8-62. Case was fixed and assessment was made on account of non-compliance under section 23(4)/34 on 29-6-62. This assessment was set aside by the Supreme Court on 10-10-63. After prolonged litigation the matter became finally settled when title suit No. 1875/68 was withdrawn on 13-3-73.

Proceedings there after.

- 20-12-73 . . . Non compliance. ITO refixes on 30-5-74.
- 30-5-74 . . . Legal Representative tries for time. Amongst other grounds it is stated that the person conversant and dealing with the matter is on leave. Case is fixed on 5-7-74.

- 5-7-74 On 6-7-74 telegram for adjournment is received since the person continues to be on leave.
- 29-7-74 Non-compliance in part on Letter issued for compliance mentioned therein on next date 13-8-74.
- 13-8-74 The case is adjourned to 10-9-74 alongwith that for the preceding year.
- 10-9-74 L/R was in Delhi and he had received fixation letter there. At his telephonic direction, 'A' representative moves time petition and ITO adjourns to 25-9-74.
- 25-9-74 Non-compliance. Next date 7-11-74.
- 7-11-74 Non-compliance. Fixed subsequently on 10-3-75.
- 10-3-75 On 11-3-75 records were sent to the CBDT. In between letter of enquiries were sent to Bnaks etc. Inspector also conducted enquiries, Records were received from CBDT and fixed for hearing on 7-6-75.
- 23-7-75 Non-compliance.
- 28-10-75 Partly heard.
- 8-12-76 Telegram for time since accountant on leave. ITO adjourns to 4-1-77.
- 4-1-77 Telegram for time since accountant has gone to Delhi.
- 2-2-77 Telegram for time since accountant sick. ITO sends telegram fixing on 10-2-77.
- 10-2-77 Manager prays for time on account of self-illness.
- 16-2-77 Heard and adjourned to allow 'a' to file documents etc.
- 19-3-77 Hearing completed.
- 4-4-77 Asst. order is passed.

Dates of Adjournments 1950-51

- 18-6-53 Non-compliance.
- 2-4-54 Accounts partly examined.
- 3-4-54 Further examined. Adjourned for compliance as communicated to 19-4-54.
- 19-4-54 No entry is in orders sheet.
- 22-4-54 Assessee complies. ITO asks for further things on 1-6-54.
- 1-6-54 Assessee's representative files written statements.
- 5-6-54 Partly discussed and further requisitions called on 10-6-54.
- 11-6-54 Representative appears and fresh particulars called for.
- 15-6-54 No order sheet entry.
- 1-7-54 ITO notes that on their request of assessee's representative he had fixed this date. On receipt of telegram about accountant's illness ITO adjourns to 10-7-54. On 2-7-54, assessee's representative requests stay of assessment proceedings in view of challenge of jurisdiction. ITO stays proceedings till High Court's order on 13-10-54. ITO refixes on 22-10-54.

- 22-10-54 No compliance. ITO receives a telegram on 26-10-54 in which inability to comply was expressed in view of late delivery of fixation letter which was received later after being redirected.
- 27-10-54 Assessee's representative voluntarily appears. Case is partly discussed and adjourned to 29-10-54.
- 29-10-54 No compliance.
- 30-10-54 Case further discussed and ITO adjourns to 11-11-54.
- 11-11-54 No order sheet entry.
- 24-11-54 Assessee representative appears and prays for short adjournment. Adjourned at assessee's instance to 7-12-54.
- 7-12-54 No order sheet entry.
- 9-12-54 Assessee's request for adjournment to 15-12-54 which is allowed.
- 15-12-54 Accounts under examination. Adjourned to 18-12-54.
- 18-12-54 Assessee asks for short adjournment. To 21-12-54 adjourned.
- 21-12-54 Accounts under examination. For production of all bank pass books ITO adjourns to 23-12-54.
- 23-12-54 Assessee complies and examination continues.
- 27-12-54 Further examined and assessee asked to furnish certain particulars on 29-12-54.
- 29-12-54 No order sheet entry.
- 5-1-55 ITO examines bank accounts and adjourns to 7-1-55.
- 7-1-55 Accounts examined. Left open for enquiries and subsequently date given in 20-1-55.
- 2-1-55 Assessee partly complies. On assessee's request he adjourns to 5-2-55 for making further compliance.
- 5-2-55 Manager prays for time in view of bereavement in his family. Adjourned to 23-2-55.
- 23-2-55 Assessee promises to send written reply to queries early.
- 25-2-55 Assessee representative is informed that 'A' to assessee dated 20-2-55 was not received. He is requested to comply by 5-3-55.
- 5-3-55 Assessee makes some compliance.
- 24-3-55 Assessee's representative appears and requests for time till 29-3-55 which is not entertained and assessment is completed.
- The assessment is set aside by court. As in the preceding year the assessee challenges jurisdiction when notice under section 24 is served. Fresh proceedings are as under:-
- 16-7-62 ITO issues notice under section 22(4) for compliance on 10-8-62.
- 29-8-62 ITO completes assessment under section 23(3)/34. After prolonged litigation the case is again taken up as in the preceding year as under fixing on 20-12-73 .
- 20-12-73 No compliance. ITO fixes on 30-5-74 and thereafter on 5-7-74.
- 5-7-74 On 6-7-74 telegram for extension is received since the person concerned is on leave.

- 29-7-74 Compliance in part. For further compliance adjourned to 13-8-74.
- 13-8-74 The case is adjourned to 10-9-74.
- 10-9-74 Legal representative was in Delhi and as in preceding year case is adjourned to 28-9-74.
- 28-9-74 Non-compliance. Next date is 7-11-74 as allowed by the ITO.
- 7-11-74 No order sheet entry. Fixed subsequently on 10-3-75.
- 10-3-75 As per ordersheet for assessment year 1948-49. Case was fixed
10 on 7-6-75 on which date no compliance was made. Next date
2-5-75 was 23-6-75.
- 23-6-75 Non-compliance and case on fixed 28-10-76
- 28-10-76 Partly heard and time allowed still 8-12-76 for compliance.
- 8-12-76 As in preceding year adjourned to 4-1-77.
- 4-1-77 As in previous year telegram received.
- 2-2-77 As in previous year and date given in 10-2-77.
- 10-2-77 Adjourned to 16-2-77 on assessee's request after part hearing.
- 16-2-77 to 19-2-77 Hearing completed and order passed on 4-4-77.

Dates of Adjournments

Assessment Year 1951-52

- 18-6-53 No compliance. On 12-5-55, the ITO fixes on 17-6-55. He calls for statement of assets and liabilities as on 31-3-51 with CIT's approval u/s 22(4).
- 17-6-55 No order sheet entry.
- 12-7-55 Assessee prays for time for preparing the above. It is also stated that books are required for production before Tribunal. ITO adjourns to 16-8-55.
- 16-8-55 No order sheet entry.
- 22-8-55 Assessee prays for time since books are required by him in High Court reference matter adjourned to 16-9-55.
- 16-9-55 Assessee seeks time since books not received from Patna adjourned to 3-10-55.
- 3-10-55 Assessee prays for adjournment showing various reasons and states that the required information could not be collected. Refined on 12-11-55.
- 12-11-55 Assessee's representative appears personally. ITO adjourns to 29-11-55.
- 29-11-55 No compliance. Assessee sends telegram which is received on 1-12-55. ITO sends letter fixing on 15-12-55 informing that no further adjournment will be allowed.
- 15-12-55 Assessee prays for time through his representative and ITO communicates final adjournment to 22-12-55.
- 22-12-55 No compliance. Assessee's representative appears on 23-12-55 and case is partly examined. Adjourned to 24-12-55.

24-12-55	Part examination and assessee is asked to furnish receipt/expenditure on 29-12-55.
29-12-55	No compliance. On 9-1-56 and 11-1-56 ITO sends letters fixing for furnishing certain information by 19-1-56.
24-1-56	Partly examined and adjourned to 3-2-56 for further compliance as communicated.
3-2-56	Assessee complies on 4-2-56. Partly examined and adjourned to 17-2-56.
17-2-56	Partly examined and adjourned for further compliance to 22-2-56.
22-2-56 & 23-2-56	Case further examined and adjourned to 28-2-56 for further compliance.
28-2-56	Representative appears and states there is nothing left to produce in support of the return 20-3-56 - Assessment is completed. Supreme Court holds on 20-3-56, the transfer order of case records to Calcutta <i>ultra vires</i> Hence the records were transferred back to ITO, Special Circle Ranchi, who acts as under :
29-3-56	Notices under section 23(2) and 22(4) were served by affixure but no compliance was made.
30-3-56	Assessment completed under section 23(4). After prolonged litigation the case is again taken up as in preceding year.
20-12-73	No compliance. Refined on 30-5-74.
30-5-74	Legal representative prays for time as per grounds mentioned in 1948-49.
5-7-74	As per 1948-49.
29-7-74	Do.
13-8-74	Do.
7-11-74	Do.
7-6-75	Do.
23-6-75	Do.
28-10-75	Do.
8-12-76	Do.
4-1-77	Do.
12-2-77	Do.
10-2-77	Do.
16-2-77	Do.
19-3-77	Hearing completed.

On 4-4-77 order was passed.

Dates of Adjournment—1952-53

- 9-10-52 On grounds of illness petition filed adjourned to 17-10-52.
- 17-10-52 Petition filed stating Chief Accountant has gone to Patna and prays for adjournment next date 21-1-53.
- 21-1-53 Adjournment sought on 2-2-53 since certain notices were received late. Adjourned to 17-2-53.
- 17-2-53 Assessee's representative appears.
- On 27-1-56 it is recorded that records have been received on transfer. Fixed on 1-3-57.
- 1-3-57 No compliance.
- 2-3-57 Assessment 's completed under section 23(4).
- On 1-10-58, ITO rejects re-opening petition 27. On 9-9-65 ITAT sets aside in ITA No. 10051 of 61-62. Fixed on 30-12-69.
- 30-12-69 Telegram received on 26-12-69 *Vide* order sheet of 1947-48. Refined on 22-1-70.
- 22-1-70 Heard and on 6-7-70 notice under section 23(2) is issued to legal representative fixing on 24-7-70.
- 24-7-70 Time prayed by legal representative for locating relevant files and making compliance.
- Therefore ITO could not take action for completing assessment because the assessment for previous years could not be completed on account of litigation. After withdrawal of I.S. No. 1875/68 in 1973 notice under section 23(2) was secured on 24-5-73 and fixed on 7-6-75.
- 7-6-75 *Vide* order sheet of 1948-49.
- 23-6-75 On 20-3-75 assessee files time petition. Telegram is sent for compliance on 23-6-75. No compliance was made. Next date fixed on 28-10-76.
- 28-10-76 As per order sheet of 1948-49 written explanation is filed subsequently fixed on 8-12-76 by ITO.
- 8-12-76 *Vide* order sheet of 1948-49.
- 9-1-77 *Vide* order sheet of 1948-49 telegram received and adjourned to 2-2-77).
- 2-2-77 As per order sheet of 1948-49 send telegram.
- 10-2-77 *Vide* order sheet of 1948-49 adjourned to 16-2-77.
- 16-2-77 Heard and adjourned to 19-3-77 *vide* order sheet of 1948-49.
- 19-3-77 Heard.
- On 4-4-77 order is passed.

Date of Adjournments—1967-68

- 15-7-71 Assessee moves time petition on 26-7-71 and notice under section 143(2) was received by him on 21-7-71. Refined by ITO on 16-8-71.

16-8-71	Assessee prays for extension by sending telegram and letter on grounds of urgent work. Adjourned by ITO to 25-8-71.
25-8-71	ITO partly examines and adjourns to 14-9-71 for further compliances.
14-9-71	Assessee makes compliances and for further (fresh) compliance ITO adjourns to 18-9-71.
18-9-71	Assessee makes compliance. ITO adjourns to 5-10-71 to allow the assessee to make one Shri K. Singh appears as already directed.
5-10-71	Representative appears and prays for a week's time. Adjourned to 12-10-71.
12-10-71	No compliance.
30-11-71	No compliance.

Assessment order is passed

Date of Adjournment—1973-74

29-11-76	Partly heard. For certain compliances as desired by ITO, adjourned to 11-2-76.
11-2-76	Representative files written explanations and is heard.
12-2-76	Assessment is completed.

1.6 The Committee desired the Ministry of Finance to furnish the names of 23 benami companies floated by the assessee along with the dates of formation, the nature and extent of assets transferred and the dates of winding up/taking over by Government on nationalisation. The Ministry of finance stated:

“The 23 benamin companies were being assessed at Calcutta. The enquiries made there reveal that most of these companies have not been in existence for many years. Therefore, it is not possible to give information regarding date of formation, the nature and extent of assets transferred and date of winding up/take over by the Government of these companies. However, the information to the extent it could be collected is as under:—

1. M/s. Hazaribagh Mines & Minerals Ltd. was incorporated on 27-6-1950.
2. M/s. Hindustan Mining Corporation Ltd. was incorporated in the financial year 1950-51.
3. M/s. Indian United Coal Co. Ltd. was incorporated on 7-7-49.
4. M/s. Pipradih Coal Co. Ltd. was incorporated on 9-8-1950.

5. M/s. Bokaro Mining Corporation Ltd. was incorporated in the year 1949-50.

6. M/s. Phusro Collieries Ltd. was incorporated in July 1949.

1.7 The Committee desired the Ministry of Finance to indicate whether the Department had made any substantial additions to the income returned in various assessment years by the assessee and if so, the details of such additions. The Ministry of Finance have furnished the following information.

Additions made:

1947-48 : Rs. 3,21,523 and Rs. 7,500.

1948-49 : Rs. 17,38,770; 32,500; 23,40,452,83; 796,12,889; 47,148.

1949-50 : Rs. 6,43,578; 22,500; 7,23,061; 70,749; and 2,06,581.

1950-51 : Rs. 9,34,586; 22,500; 2,56,926; 1,18,466 and 58,935.

1951-52 : Rs. 5,16,500; 15,000; 56,815 and 2,23,553.

1952-53 : Rs. 16,49,964 and 15,000.

1967-68 : Rs. 16,000.

1973-74 : Rs. 15,000.

The nature of additions made was as follows:—

“1947-48: (a) Royalty on coal, mica and other mines; and

(b) House property.

1948-49: (a) Income from arrears of rent and royalty from benami companies (b) House property; (c) unexplained bank deposits; (d) salami for leases granted; (e) rent and royalties received; and (f) undisclosed dividend.

1949-50: (a) Income from arrears of rent and royalties from benami companies; (b) house properties; (c) unexplained bank deposits; (d) undisclosed receipts; and (e) undisclosed dividend.

1950-51: -do-

1951-52: (a) Income from arrears of rent and royalties from benami companies; (b) house properties;

(c) unexplained deposits; and (d) unexplained receipts.

1952-53: (a) Income from arrears of rent and royalties from benami companies; and (b) house properties.

1967-68: Income from other sources.

1973-74: House properties.

1.8. Asked about the reasons for such addition and whether, these additions were sustained in appeal, the Ministry of Finance haven replied:—

Reasons for additions:

1948-49:

1. As per judgement dated 25-9-73 of the Sub-Judge, Hazari-bagh in F.S. No. 53/54, holding the 23 companies as benami, income was taken in the hands of the assessee.
2. Income from house properties not disclosed by assessee were taken in his hand holding that the properties belong to the assessee.
3. Unexplained bank deposits were added.
4. Salami for lease granted by the assessee to several persons were added.
5. Certain receipts in respect of forest were also added.
6. Undisclosed dividend was also added.

1949-50:

1. Income from benami companies as above.
2. Income from house property as above.
3. Income from forest as in the past.
4. Alleged receipts of Rs. 4,06,581/- from Sri A. P. Sarkar added as unexplained income since assessee failed to prove his contentions.
5. Unexplained bank deposits as in the preceding year.

1950-51:

- (i) As above, income of 23 benami companies were taken.
- (ii) As above, from house properties were taken.
- (iii) As above Unexplained bank deposits were added.

- (iv) Alleged receipt of Rs. 118,460 from Shri A. P. Sarkar was added as unexplained income since the assessee failed to substantiate his contentions.
- (v) Amount received as lump sum royalty.
- (vi) Amount received from M/s. Jharkhand Mines & Industries Ltd. treated as income.
- (vii) Dividend not fully disclosed was added.

1951-52:

- (i) As in 48-59 incomes of benami companies were taken.
- (ii) As in 48-49 incomes of house properties were taken.
- (iii) As in 48-49 as unexplained bank deposits were taken.
- (iv) Alleged receipts of Rs. 2,23,553 from one Shri A. P. Sarkar were added as unexplained income since the assessee failed to substantiate his contentions of the receipt.

1952-53:

- (i) As in 48-49 income of benami companies were taken.
- (ii) As in 48-49 income of house properties were taken.
- (iii) -do-

1967-68:

The ITO added Rs. 16,000 as income from other sources since assessee failed to explain source of expenditure incurred on election.

1973-74:

Income from house properties were assessed in assessee's hands. He had shown income at nil.

Reference to appeals:

1947-48:

I.T.O. rejected on 1-8-58 petition u/sec. 27 filed in respect of order dated 2-3-57 u/s 23(4)/34.

10-10-61: Appeal dismissed by AAC.

15-6-64: I.T.A.T. sets aside the assessment and deptt. files reference application before High Court.

1-5-73: High Court delivers judgement in favour of the dept. and ITO's order u/s 23(4) dated 2-3-57 stands.

1948-49 and

1949-50 to 52-53: No appeals filed.

1967-68: Assessee files appeal against order u/s 143(3).

18-1-73: Assessment is confirmed by the AAC.

Reasons for appeal

In 1947-48 the assessee went in appeal before A.A.C. as the I.T.C. rejected the petition u/s 27 to reopen the assessment completed ex-parte u/s 23(4)/34. The High Court upheld I.T.O's order on 1-5-73.

In 1967-68 the assessee filed appeal against the addition made by the I.T.O. amounting to Rs. 16,000/- as income from other sources. The addition was found reasonable and was confirmed by the A.A.C. on 18-1-73.

1.9 At the instance of the Committee the Ministry of Finance furnished the following particulars of properties alienated by the assessee, the dates of alienation and the names of transferees, during the period between 1947-56:

Name of the property	Date of transfer	To whom transferred
1	2	3
1	2	3
1. Padma Palace, Padma.	28-9-47	Rani Lalita Rajyaluxmi—wife of the assessee.
2. House property Fraser Road, Patna.	1949-50	Shri Brijeshwar Singh, Advocate, Patna.
3. Okney House, Bazaribag.	In 1948	Thakur Bateshwar Prasad Singh, an employee of the assessee. (Rs. 40,000 in later sales).
4. Matwari Bangalow	3-8-48	Dr. Basant Narian Singh assessee's brother (For Rs. 70,000 consideration).
5. Raj Bangalow, Hazaribagh	In 1950	Settled in a Trust—under litigation—Bihar Govt. and Banking Association.
6. 9,900 shares each in Jharkhand Industries & Rajasthan Mines Ltd.	1951-52	Wife Rani Lalita Rajyaluxmi.

1	2	3	4
7.	90687 shares of Bokaro Ramgarh Ltd.	1950-51 to 1955-56	Most of these shares were pledged with the banks. The banks sold the shares for realising outstanding loans.
8.	7119 shares in Indian Motor Co. Ltd.	July, 1948	Most of these shares were pledged with the banks. The banks sold the shares for realising outstanding loans.
9.	100 shares in Victoria Mills Ltd. Kanpur	..	Face value of these shares was Re. 1/- each.

1.10. The Ministry also stated that the Market value of these properties on the date of transfer was not available in the records of the Department.

1.11. When asked to indicate the amount of compensation payable on the take over of loans transferred to benami companies by the State Government either on abolition of Zamindari or on nationalisation of collieries, the amount actually paid, the parties to whom the payment was made, the position regarding final settlement of claims in this regard, the names of companies which did not claim compensation due, the Ministry stated in a written reply, as follows:

“Out of 23 companies only two companies had filed their claims for compensation after nationalisation of collieries. These are:

- | | |
|--------------------------------|-----------------------|
| (a) (i) Dhori Coal Co. Ltd., | Rs. 4,000 claimed. |
| (ii) Anderson Weight Ltd. | |
| (b) North Bokaro Coal Co. Ltd. | Rs. 1,89,500 claimed. |

However, no payment was made as the assessee had taken overdraft from various banks. A major portion of the shares were sold by different banks and the proceeds were adjusted against overdrafts/loans taken by the assessee.”

1.12. In a subsequent note the Ministry stated that “information regarding compensation due is not available in any of the cases” other than the companies referred to above.

1.13. The Committee further desired to know whether the wealth tax assessment of the assessee for all the years up to the date of his death had been completed and if so, the amount outstanding for recovery and the assessment years to which it related. In reply the Ministry stated: "No wealth-tax assessment was made."

1.14. During evidence, the Chairman, CBDT while narrating the broad facts of the case stated:

" . . . At the outset I may say that we suffer from two constraints. One is that this matter is 30 years old and some of the records might have been weeded out; complete records are not available with us. The second is, there are so many litigations raised, so many suits filed that we do not have all those records with us. . . . The actual assessment years involved are from 1947-48. . . . But the years in which the substantial demand was raised or written off are only six. The total demand outstanding was Rs. 1.85 crores. It includes interest which comes to Rs. 94 lakhs, and the balance of Rs. 91 lakhs relates to tax raised. For the first three years, i.e., 1947-48, 1948-49 and 1949-50, it appears from the records the assessee had even filed the advance tax estimates and had made payment of advance tax which amounts to Rs. 1.84 lakhs. The assessments for the earlier years upto 1946-47 were all completed in the normal course. But a particular assessment, 1947-48, where he had disclosed an income of Rs. 2.03 lakhs was taken up and finalised for the first time in February 1948. It was reopened on 24-3-1956 and completed in the year 1957 against which the assessee went on appeal. It was set aside by the Income-tax Appellate Tribunal. The entire amount of Rs. 1.48 lakhs which he had paid in the form of advance tax for the assessment years 1947-48, 1948-49 was adjusted against the outstanding arrears of earlier years, that is, upto 1946-47. The assessee died in May 1970 and the assessments for the later years were all finally made in 1977. These assessments were made without proper representation from the legal heirs of the assessee. Actually they did not furnish any adequate explanations with respect to the various points which were under examination by the ITO. He was, therefore, left with no option but to go according to the best of his judgment and draw whatever inferences were to be drawn. That would account

for the fact how these additions aggregated to a very big amount, Rs. crore and odd, had to be made. Out of these additions, the additions in respect of bank credit alone account for about Rs. 34 lakhs. The bank credits could perhaps, if the assessee had cooperated have been explained out of the earlier withdrawals, etc., but because the assessee was not cooperating and the legal heirs did not furnish any satisfactory explanation, the ITO had to include the credit side of the bank account with the result that Rs. 34 lakhs came to be added on this fact alone out of the additions of Rs. 1 crore and odd. The apathy or indifference with which the legal heirs of the assessee were handling the tax affairs is evident from the fact that they did not even choose to file appeals against the assessments for the assessment years 1948-49 to 1952-53 which are the substantial assessments in this case. Further facts which have come to light are that the assessee possessed five immovable properties which were known to the Department. He transferred or sold or settled them on trust in the following manner: one property was sold off in 1947; 2 in 1948; 1 in 1949 and 1 in 1950. This last property was settled on trust. Thus, it could be seen that even before the first assessment of 1947-48 could be finalised, he had transferred or alienated all his property and thus tried to place them out of the reach of the Department. Now it would appear that the assessee was in the know of things which were coming, being an MLA and a Minister. He knew that the Bihar Government was considering the Bihar Land Reforms Act which was very much on the anvil. This Act came into force from 1-1-51 and before that, he had transferred all his property, Zamindari and mining rights, etc. He wanted, I think and it appears, to save the mining rights from the operation of the Land Reforms Act. Therefore, what he did was that he floated 23 companies and he fixed the Hqrs of these companies in Calcutta. Later it would be evident, when we go into the matter in minute detail, how the cases came to be transferred to Calcutta.

Now, the Bihar Government knew all about this device which has been adopted by the assessee. So they filed a title

suit in the court of the Sub-Judge. This suit about the transfer of the mining rights dragged on till September 1973. The Sub-Judge gave a decision in favour of the Bihar Government and against the assessee. The heirs did not even contest this and they accepted this decision with the result that all those mining rights, etc. are vested with the Bihar Government.

The Sub-Judge also held that the floating of these companies is all shame and false and that the assessee himself was the real owner of all these properties which had been alienated or transferred—to the companies. With this judgment, the Bihar Government is the real owner of all the assets which have been transferred by this person. Raja of Ramgarh. Therefore, this point is very pertinent in the light of the fact that against the Zamindari which was taken over, the Addl. Secretary to the Bihar Government has estimated that the maximum compensation which will be payable to the assessee is Rs. 30 lakhs or so. The amount which the Bihar Government is claiming as due from the assessee becomes relevant in the context of that Rs. 30 lakhs compensation which will be payable. According to the Bihar Government nothing would be payable to the assessee. In any case they want to adjust the amounts which have been misappropriated by the assessee against that Rs. 30 lakhs.”

1.15 Asked about the efforts made by the Department during 1954—1979 to recover the tax dues, the Member, Central Board of Direct Taxes, stated:

“There is correspondence in the file to show that they tried to attach the possible dues or some amounts of the Mining Department, that they tried with the Bihar State Government, that they tried the Banks, they tried attachment of some other properties.”

Frequent changes in jurisdiction of ITO

1.16 Asked to explain the reasons for frequent changes in jurisdiction of ITO, the Chairman, CBDT stated in evidence:

“In the year 1940 the case was with the ITO, Hazaribagh. All his property and business were in Hazaribagh till 1940. In 1940 we created a special Investigation Circle at Patna. We had to create such a circle because in 1939 the Government had introduced EPT, and all

these big cases were transferred to Special Investigation Circle. Similar circles were created all over the country. In the year 1944 the case was transferred to ITO Hazaribagh because it was found that he was not liable to EPT. On 1-8-47 the case was again assigned to the ITO, Special Circle, Patna when it was thought that this being our important case had to be dealt with in a detailed manner.

On 21-4-51, the case was transferred to Special Circle, Ranchi because at that time another Special Circle was created at Ranchi and since Hazaribagh was closer to Ranchi, the assessee himself requested for transfer of his case to Ranchi. . . In the meanwhile, in order to defeat the provisions of Bihar Land Reforms Act, the assessee had created 23 companies and he had fixed the headquarters of all those 23 companies at Calcutta. Even at that time the Department suspected that 23 companies were created in order to defeat the Land Reforms Act. These cases were also transferred to ITO Central Circle, Calcutta on 18-8-52."

... In order to defeat the Land Reforms Act, the assessee had created these companies. The Bihar Government was disputing this. There was litigation going on, which was ultimately decided in 1973 by the Sub-Judge. We had this information because the Bihar Government was disputing this. He was filing writs. He was trying to forestall the decision of the sub-judge; he would not allow the case to be heard. Ultimately, in 1973 the Sub-Judge said that it is the assessee who is the real owner and that all these companies are bogus. We had knowledge of this. Because the registered office of this company was in Calcutta, we had to transfer the case to the Central Circle. The Commissioner (Central) has jurisdiction over cases of a complicated nature, which have ramifications all over the country. Therefore, we had created Central Circles with offices in all the metropolitan cities. He wanted his companies to be assessed in Calcutta and the individual cases somewhere else so that he can conceal this. In order to see that there was a co-ordinated approach for the finalisation of the assessment of the company, and also to prove that these companies were bogus, all these cases were transferred to Calcutta. At that stage the Board came into the picture.

He went up against the transfer order to the Supreme Court, and the court held that the Board's order dated 18-8-52, transferring the case to Calcutta was not valid. So, we had to transfer it to Ranchi. In the mean while, in May, 1957 the case was transferred to Hazaribagh by the Commissioner, at the request of the assessee. Thereafter, a mistake occurred and on 16-12-64 the case was transferred again to Calcutta by the order of the Board. In 1956 the case was at Ranchi. When the ITO served notice under Section 34 for re-opening the assessment, the assessee challenged the jurisdiction of the Special Circle, Ranchi, in issuing notice and filed a writ petition in the High Court, challenging the validity of the notice. The assessee withdrew the writ petition and he filed a title suit in the court of the Sub-Judge against the issue of notice. The case was decided against the assessee. Then the assessee went on appeal to High Court, and that was decided against the assessee on 30--8-62. In the meanwhile, the case was transferred from Ranchi to ITO Hazaribag who completed the assessment under Section 34 on 29-9-62. Against the orders of the High Court, the assessee went to the Supreme Court on 30 August 1962. At this stage of the hearing, the Supreme Court passed a compromise order between the department and the assessee; the Supreme Court disposed of the order in terms of the memorandum of agreed terms, signed by the counsel of the parties, setting aside the assessment order of 29-9-62 at Hazaribagh. The order of the Supreme Court was dated 10-10-63. The Department thought it better to agree to the compromise order. Under the compromise order the jurisdiction was to be with the ITO, Hazaribag. Again, he filed a writ petition challenging that notice has been issued beyond the time. The Supreme Court set aside the order and said that it should be considered by ITO, Hazaribagh again."

1.17 The Committee pointed out that in the assessment order for the year 1948-49, the loss of Rs. 3.34 lakhs shown by the assessee in his return had been converted into a profit of Rs. 42.97 lakhs. The Committee enquire on what basis additions to the tune of Rs. 46.31 lakhs were made. The Chairman, CBDT stated:—

"This is all actually an imaginary loss. It is not a real loss. The Income-tax Officer had no alternative...but to

make all these additions. Now the assessee is dead. He died in 1970. The assessments are being given in 1977. His legal heirs do not cooperate. They do not give any explanation regarding the bank credits. And the income accruing is in the hands of the 23 limited companies.... The I.T.O. had collected so much information on the basis of which a huge amount was raised. But they did not go in appeal. Even when in 1973, the Magistrate decided the case against them, they did not appeal. The Income-tax Officer is a revenue officer. He cannot, within the framework of the law, give up any amount which comes to his notice by way of his bank deposits. They could as well be unexplained deposits out of his black-money or they could be explained by withdrawal in the earlier years. If the assessee had furnished proper explanation the I.T.O. would not have made addition of Rs. 34 lakhs. In the assessee's books, he would have probably found a much smaller income.

Coming to the point of royalty, what happened is that the assessee had floated all those companies. He had diverted a part of rent to these companies. It was decided in 1973 that those companies are bogus; that everything belonged to the assessee. In the meanwhile, the assessments had been framed on the other 23 companies in respect of the rents and royalties actually received by those companies and incomes also. Since the companies were no longer a real entity, whatever had been assessed in the hands of companies, was bodily lifted and put in the assessment of the assessee.

1.18 The Committee drew the attention of the representatives of the Ministry to a letter from the Government of Bihar which stated *inter alia*:—

“Under Section 4-C of the Act, it will be made in cash and will be no difficulty in making any payment to the Income-tax Department....It will be possible for the Income-tax Department to take the bonds and redeem them during the period of 40 years.....

I request that the matter may be examined by you and the State Government informed what they should do.”

1.19 The Member CBDT stated:—

“There is a time element here. The information about assessments which we have was in 1952-53. We had some information that there were arrears of rent and royalty receivable. We had also information that there were bank deposits. These assessments were not completed in 1952-53, thanks to the various court proceeding, the assessments were completed only in April, 1977. By that time, all that had gone.”

1.20 Asked how the assessee could manage to transfer his properties while the Department remained a helpless spectator, the Chairman, Central Board of Direct Taxes replied:—

“It was possible at the time when this assessee was living. It is not possible now because we have brought about several amendments.... Now for every property—I was trying to explain—which is more than Rs. 50,000 in value, he has to approach the Income-tax Officer and get a clearance certificate from him. This is one provision. Then there is another provision which enables the I.T.O. to make an accelerated assessment in the case of persons who are likely to transfer property to avoid tax. These provisions take care of these types of fraudulent transactions but we had brought these much later. But at that time, in 1947-48, it was possible and he resorted to that. He resorted to that not with a view to avoid tax but with a view to cheat or defeat or circumvent the provisions of the Bihar Land Reforms Act, 1950.”

1.21 The Committee enquired about the background in which decision to write off the tax dues are taken in this case and the level at which the proposal was examined. The representative of the Ministry stated:—

“... this dossier was received for the first time for the quarter ending 31st March, 1978. Now, after giving the details of the demand year-wise, the Commissioner gave us the steps that he had taken to effect recovery in this case. He said that under the circumstances, the realisation of the amount was difficult and therefore it was a fit case for writing off of the arrears.

This was the Commissioner's assessment in the first dossier itself. It was sent in June, 1978. Thereafter this

was examined and the Commissioner was asked to expedite the examination of all feasible courses for recovery, and, if no recovery is possible, to submit suitable proposals to write off.

We asked him in February, 1979. Soon thereafter the Commissioner reported that although some recovery was possible—at least at that time it was found so—a partial write off could be resorted to. The entire amount could not be recovered. In March, 1979, he submitted a proposal to the Board for partial write off. Some queries were raised and clarified and, ultimately, it was decided to write off partially the tax arrears in this case.”

1.22 Asked why it was decided to retain a demand of Rs. 45 lakhs, the Chairman, Central Board of Direct Taxes replied:—

“The Commissioner of Income-tax thought that probably Rs 10 lakhs should be sufficient to recover, if at all there was going to be any. We examined it in the Board and we found that there was some chance of recovery from the compensation that he would receive for the abolition of zamindari which he had possessed. There was also some chance of recovery in respect of the claims which had been filed by 2 of the 23 collieries with the Commissioner of Payments. This case had not been decided yet. So, we thought that Rs. 10 lakhs was on a lower side. We kept it on a higher side deliberately out of abundant caution that, if any compensation by any chance was received by him, we will have to revive the demand. Here, I would like to mention one thing that just by writing off the amount, we do not give up our demand. We can still recover it if the assessee is able to get something in the next 30 years. In fact, we can revive it. The Government dues are not written off for good. But there is hardly any chance of recovering it. We thought that Rs. 45 lakhs which we had retained, should be sufficient.”

1.23 The Committee desired to know about the details that were called for by the Board at the time of writing off Rs. 1.40 crores out of the arrear demand of Rs. 1.85 crores in 1980. A copy of Board's

letter dated 8th June, 1979 furnished by the Ministry in this regard is reproduced below:—

To

The Commissioner of Income-tax,
Bihar-II, RANCHI.

Subject:—Writ off—partial—Case of Late Raja Bahadur Kamakhya Narayan Singh of Padma—Bihar II Charge Recommendations of the Zonal Committee—Consideration of—

Sir,

I am directed to refer to your D.O. letter No. OSD/XI/78-79/132/6, dated the 7th March, 1979 to Shri O. V. Kuruvilla on the subject and to say that the Board desired clarifications/information on the following points:—

- (i) Name of 23 benami companies whether assessed or not, details of investment made in them, if any;
- (ii) Valuation of Raj Bunglow, Hazaribagh should be made by Valuation Cell of the Department.
- (iii) It appears that the assessments for 1948-49 to 1952-53 were made as late as in 1977. The reasons for such delay in completing the assessments may be indicated;
- (iv) Whether legl heir(s) of the defaulter is assessed to tax;
- (v) Family tree of the defaulter alongwith relationship with him should be furnished. The nature of additions made in the hands of defaulter alongwith the amount of additions may be furnished;
- (vi) Whether the defaulter had received any compensation under Zamindari Abolition Act or something is still due to him may be indicated;
- (vii) Efforts made towards recovery of tax arrears against the estate of the defaulter from time to time may be indicated. The present irrecoverability certificate are all in the nature of "no objection" certificates. It will be necessary to advise the TRO of the matter to be certified by him and the matter to be looked into by him before such certificate is issued. Apparently he cannot give a certificate that he has "no objection" to the demand

being written off", considering the different circumstances. "Such circumstances have to be spelt out and he has to reach a positive conclusion himself that there are no assets from which recovery can be made. If he is aware of any assets from which any recovery is possible, he should proceed against such assets forthwith. He could, however, give a partial irrecoverability certificate, specifying the amount which he anticipates could be recovered and certifying to the irrecoverability of the balance demand. Recovery certificates have to be issued in respect of all the demands in arrears. The irrecoverability certificates may accordingly be obtained from the TRO and sent to the Board;

- (viii) Whether the defaulter was assessed to Wealth-Tax, if so send the assessment records of wealth-tax also. Whether the Estate return was furnished by the legal heir(s)/ defaulter; if so, therefrom may be furnished. The value of Padma palace stated to be finalised at the tribunal stage may be indicated alongwith the order of the tribunal in this regard. The details and value of all properties (moveable and immovable) transferred by the defaulter to his family members on or after 31-3-1947 may be furnished;
- (ix) Whether we have a priority claim regarding 'Raj Bungalow'. For this purpose, the facts relating to the date of certification or arrears to the TRO has to be looked into;
- (x) Details of assets shown by defaulter's including his wife and son in their returns of income and wealth may be indicated alongwith the source of acquisition of assets;
- (xi) How many of the 23 companies have been struck off from the Register of Registrar of Companies. In respect of the remaining companies, if not already struck off, what are the assets available for recovery of tax arrears according to the latest balance-sheet;
- (xii) It has been noticed that the defaulter sometime in 1947-48 had received Rs. 80 lakhs for transfer of certain assets to the companies. The manner in which the above sum was utilised should be looked into; and
- (xiii) What has happened to undisclosed income assessed in the hands of the defaulter may also be given.

2. You are requested to depute someone to collect the assessment records of the case, if the same is required to furnish the above information.

1.24 Asked about the procedure of write-off followed by the Board in this case, the Chairman, Central Board of Direct Taxes stated—

“So far as the writ off Rs. 25 lakhs and above is concerned, it is decided by the full Board consisting of the Chairman and six members. The Board considers the entire case and considers the recommendations of the Commissioner. The Board also considers the recommendations of the zonal committee. It considers the internal notes made in the Board's office and the recommendation of the Member concerned and then it authorises the write off. Where, however, the amount exceeds Rs. 50 lakhs, we obtain the specific approval of the Minister before we actually write it off from our books. In this case, the full Board had considered it and written it off and it thought that it was a fit case for write off.”

1.25 In reply to a question whether before coming to a decision in the matter, the Board had satisfied itself that the numerous adjournments granted in this case and the frequent changes in jurisdiction, were justified. The Chairman, Central Board of Direct Taxes replied:—

“Unfortunately, I must admit frankly, we did not examine in that light. We were concerned with the limited question of whether there was any chance of recovery and whether something could be recovered or whether it was a case of full write-off or partial write-off. We ultimately agreed that it should be partially written off to the extent of Rs. 1,40,07,422 and the balance Rs. 45 lakhs should be kept.”

Supervision by the Board

1.26. The Ministry of Finance had informed the Public Accounts Committee that w.e.f. 1-4-1973 the work of supervision of recovery of arrears exceeding Rs. 10 lakhs in each case had been allocated to the Central Board of Direct Taxes itself. While explaining the nature of this “supervision”, the Ministry had explained, “..... supervision is exercised in two ways. One is, we get quarterly dossiers. Secondly, whenever Members of the Board go to their res-

pective administrative zones, they discuss these cases—where the demand exceeds Rs. 10 lakhs—with the respective Commissioners and make an on-the-spot appraisal whether the authorities concerned are taking necessary steps from time to time. The Finance Secretary had added, during evidence before the Committee, that the crux of this supervision was developing a good information system so that, “. . . .the Board is fully informed as to what is being done. These statements are intended to ensure that while we have delegated executive powers to the officers we are not kept in the dark. Everything important is brought to the specific notice of the Board and to the Member of the Board who is able to watch the progress and issue directions, pull up people where necessary.” The Ministry had also informed the Committee that a special Cell had been set up in the Board to obtain comprehensive information regarding year-wise arrear demand, fresh demands created during the quarter, collection in cash or by adjustment, reduction on account of appellate orders or other revisionary action and steps taken for realization of these demands’, so as to keep the tax dossiers in the bigger cases complete and uptodate. (Vide Paras 5 to 15, 79 Report, Sixth Lok Sabha).

1.7. As regard monitoring of information about tax-arrears, the Chairman, Central Board of Direct Taxes stated in evidence:—

“So far as investigation and completion of assessment are concerned, it is the duty of the Income Tax Officer, his immediate boss viz. the Inspecting Assistant Commissioner and the local Commissioner of Income tax. So far as completion of assessment is concerned, it is primarily their responsibility. But so far as the arrears are concerned, we have made it the personal responsibility of the ITO for demands upto Rs. 25,000|-, that of the IAC between Rs. 25,000|- and Rs. 1 lakh; and then of the Commissioner between demand of Rs. 1 lakh and Rs. 10 lakhs. Beyond Rs. 10 lakhs, we have taken up the responsibility of monitoring through the Director of Recovery.”

1.78. Considering the heavy tax dues involved in the case, the Committee enquired why it was not specifically monitored by the Board or at least a Member of the Board. The Finance Secretary replied:—

“It is true that there are very tough and difficult cases where people could even suspect that the officer was not taking appropriate action in the proceedings. But, we will have

to recognise also that in the Departmental machinery, the statutory powers are vested with the officers from the ITO upwards and they will have to be allowed to exercise those powers.

When we talk about the responsibility of an individual member of the Board to monitor the work, a particular reference was there to the cases where there are arrears of Rs. 10 lakhs and over. That is also a case where demands have already been raised. But this is not a case like that.

In 1947-48 and 1948-49, adjournments were given. I do not say adjournment was given rightly or wrongly. That was the point which existed 35 years ago. I do not know really. No one can form a judgment if a particular adjournment given in 1945 was right or wrong. With due respect, I would say that we should accept this position. Further, no Department can work with the head of the department himself attending to all individual cases."

1.29. He added:—

"...it is not possible for a member of the Board or additional secretary to the Government as he is or Secretary to the Government for that matter, to deal with an individual case unless there is a specific report that case A or B should be examined because there is good reason to do so."

Arrears of Tax

1.30. The gross arrears of tax outstanding on 31st March, 1981 were Rs. 1112.89 crores including Rs. 250 crores which were not yet overdue (i.e. 35 days from the date of serving of notice was not over as on 31-3-81). The year-wise position of arrears from 1976-77 to 1980-81 is shown below:

Year	(Rs. in crores)	
	Gross arrears	Amount goverdue
1976-77	873.56	152.59
1977-78	989.87	180.56
1978-79	910.64	175.77
1979-80	1011.85	171.47
1980-81	1112.89	250.00

1.31. The following table shows the number of assesseees and demands from them at the end of each year:—

Year ending	(Rs. in crores)					
	Over Rs. 5 lakhs upto Rs. 10 lakhs each		Over Rs. 10 lakhs upto Rs. 25 lakhs each.		Over Rs. 25 lakhs	
	No. of cases	Amount Rs.	No. of cases	Amount Rs.	No. of Cases	Amount Rs.
March 1977	728	53.42	450	70.26	270	179.49
March 1978	840	57.00	505	79.00	305	237.00
March 1979	833	55.48	479	74.28	291	210.83
March 1980	892	61.41	494	78.30	337	260.47
March 1981	981	65.50	520	81.97	346	304.86

1.32. In paragraphs 2.10 to 2.13 of their 34th Report (Seventh Lok Sabha), the Public Accounts Committee took note of the 'commendable efforts' made in 1978-79 to reduce arrears of demand but reiterated that the achievement had still fallen short of the Action Plan Targets and efforts needed to be augmented. The Committee had recommended that information regarding tax arrears exceeding Rs. 10 lakhs should be made available to Parliament through the Annual Reports of the Ministry of Finance. In compliance with this recommendation, the Ministry furnished the following statistical information in their Annual Report 1981-82:

Sl. No.	Description	No.	Amount (Rs. in crores)
1.	Total No. of cases with gross Income-tax demand exceeding Rs. 10 lakhs as on 31-3-81	866	368.83
2.	Out of (1) cases with demands between —		
	(a) Rs. 10 lakhs and Rs. 25 lakhs	520	81.97
	(b) Rs. 25 lakhs and Rs. 50 lakhs	207	70.10
	(c) Rs. 50 lakhs and Rs. 1 crore	81	56.57
	(d) Above Rs. 1 crore	58	178.19

The Ministry stated in the Report that during 1980-81 'significant' collection/reduction had been achieved but arrears.

had still gone up because of the accretion of current demands. This is not, however, borne out by the following figures:—

Year	Arrears of current demand	Arrears upto the end of earlier year	Gross arrears Col. 2 & 3
1978-79	326.28	574.36	910.64
1979-80	388.88	623.17	1011.85
1980-81	461.84	651.05	1112.89

Reduction of Tax Arrears

1.33. In para 3-7-4 of their Annual Report for the year 1981-82 the Ministry of Finance stated that in the Action Plan for 1981-82 of the Income-tax department highest priority has been given to this collection/reduction of tax arrears. It was envisaged that 55 per cent of the demands outstanding on 31-3-1981 should be collected or reduced during the year and 85 per cent of the demands raised during the financial year 1981-82 should be similarly collected/reduced during the year itself. During evidence, the Committee enquired to what extent these targets had been achieved. The Chairman, CBDT stated:—

“It did not reach 55 per cent, it was about 40 per cent...on all the India basis some were able to achieve 55 per cent.”

1.34. The Committee enquired about the reasons for increase in the gross arrears of tax outstanding, from Rs. 1011.85 crores in 1979-80 to Rs. 1112.89 crores in 1980-81. The Chairman, CBDT stated:—

“So far as determining tax in arrears is concerned, we have for several years now adopted a system whereby we find out the gross pending demand as at the end of the financial year. That demand may consist of certain demands which have not fallen due; e.g. where an assessment was raised on 25th March, the time limit of 35 days for payment of demand may expire in April or May. Even this demand will be included in the gross demand. Actually, we can do nothing about it, because the time has not yet expired. We cannot insist upon the assessee to pay. Similarly, where the courts have held that certain payments should not be collected from the assessee, we can do nothing. There are also other demands which

are disputed or are pending verification. The assessee says he has made the payment, whereas the Department says he has not. There is a dispute about it. Even that demand is not enforceable. The demands in respect of which Tribunal, appellate authorities or others have granted instalments are also not strictly enforceable. So, from the gross outstanding demand, we deduct all these four types of demand, and then work out the net tax in arrears.

Now about the break-up of Rs. 1112 crores. The demand which had not fallen due as on 31-3-80 was Rs. 422 crores. As on 31-3-81, the figure was Rs. 477 crores. There was thus an increase of Rs. 55 crores in respect of the demand which was outstanding on 31-3-81, but it was not strictly enforceable and could not strictly be called arrears. The tax in arrears was Rs. 589 crores on 31-3-80, and Rs. 635 crores on 31-3-81, viz. an increase of Rs. 46 crores. Although the gross outstanding demand had increased by Rs. 101 crores, the actual increase of tax in arrears, was only Rs. 46 crores.

The explanation for this is this: During 1979-80, we had raised current demand of the extent of Rs. 2054 crores. In 1980-81 we had raised it to Rs. 2498 crores. The current demand had gone up by Rs. 444 crores. It would account, to a certain extent, for the growth of arrears. The demand collected within the year out of the current demand, during the year itself, was Rs. 1665/- crores in 1979-80. It was Rs. 2036 crores in 1980-81. In other words, the balance of current demand which was carried over, was Rs. 338 crores in 1979-80; and the current demand which was carried on 1-4-81 for the year so closed, was Rs. 462 crores. Thus the arrears had increased by Rs. 73 crores on account of current demand alone. That would explain how this Rs. 101 crores has increased. One reason is that we create more demand year after year. During 1980-81 we had created extra demand of Rs. 444 crores in one year alone... In addition to this, there are three more types of demands which have got to be deducted out of the outstanding gross demands. The total of such deductions to arrive at tax in arrears came to Rs. 427 crores as on 31-3-80 and to Rs. 477 crores as on 31-3-81."

1.35. The Committee enquired as to how much of the demand was irrecoverable and what steps were being taken to write it off. The Chairman, CBDT stated:

“All these arrears are watched by the various income tax authorities. We have fixed the personal responsibility of the Income Tax Officer to watch arrears upto Rs. 25,000. We have asked the Inspecting Assistant Commissioner to watch the arrears between Rs. 25,000 to Rs. 1 lakh in individual cases. We have made it personal responsibility of the Commissioner to watch the arrears from Rs. 1 lakh to Rs. 10 lakhs. Above Rs. 10 lakhs, it is the Board who are watching the recovery through the Director of Recovery who is in attached office of the Board. These are the cases where the demand is for more than Rs. 10 lakhs in each case; their number was 866 as on 31 March, 81.”

He added:—

“The amount pending consideration for write off or scaling down is of the order of Rs. 30.66 crores. Then there is another amount due from companies under liquidation which is of the order of Rs. 12 crores. The amount due from persons who left India for good without making payment or are not traceable is Rs. 39.52 crores. All told, it is Rs. 89 crores.”

1.36. The Committee pointed out that according to Ministry's Annual Report for the year 1981-82 there were 139 cases, where the arrears exceeded Rs. 50 lakhs each and 58 cases where arrears were Rs. 1 crore and above in each case and the amount involved in these cases was Rs. 235 crores. The Committee desired to know whether any special steps had been taken by the Board in these cases to effect recovery. The Chairman, CBDT replied:—

“Where the demand exceeds Rs. 10 lakhs, a dossier is prepared, which is kept with the Board's office. When the Director of Recovery goes from State to State and meets Commissioners and discusses those cases with the Commissioners. After consultation, they devise and decide upon the course of action to be taken in that particular case. The number of cases where the demand exceeds Rs. 1 crore, in 1980-81 was 58. They were not all of

monopoly houses or large business houses. I have got the figures of cases where the demand exceeded Rs. 1 crore. Most of them belonged to monopoly houses or non-resident foreign companies."

1.37. A statement showing details of gross demand outstanding against each of these 58 assesseees as on 31 March, 1981, and the collection/reduction effected during 1981-82 and the latest position of effecting recovery/writing of the demand, as subsequently furnished by the Ministry is reproduced in Appendix I. It will be seen from this statement that as against the total demand of Rs. 174.11 crores outstanding as on 31 March, 1981, collection|reduction effected during 1981-82 was of the order of Rs. 92.87 crores having a balance of Rs. 81.24 crores.

1.38. In reply to a question in Rajya Sabha on 22 February, 1983 (USQ No. 291), as to the steps proposed to be taken to tighten the tax collection machinery, the Minister of State in the Ministry of Finance stated:—

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

Amounts written off during 1977-78 to 1981-82.

1.39. In reply to a question in Rajya Sabha, USQ 291 dated 22-2-1983 the Minister of State in the Ministry of Finance gave the following information indicating the tax in arrears, demand created but not fallen due, number of assesseees against whom arrears

exceeding Rs. 10 lakhs were outstanding and the amount involved and the amount written off during the financial years 1977-78 to 1981-82:

Financial year	Tax-in-Arrears	Demand created but not fallen due	No. of assessee against whom demands exceeding Rs. 10 lakhs were outstanding and the amount involved.	
			No.	Amount
		(in crores of Rs.)	(in crores of Rs.)	
1977-78	633.53	356.34	810	316
1978-79	554.90	355.74	770	285
1979-80	589.65	422.20	831	340
1980-81	635.54	477.35	866	387
*1981-82	708.38	530.95	951	443

*Provisional

1.40. A statement showing the names of the assesseees in whose case arrears over Rs. 10 lakhs were written off during the financial years 1977-78 to 1981-82 along with the total demand outstanding (as given in reply to Rajya Sabha USQ No. 291 dated 22-2-1983) is reproduced in Appendix II.

1.41. As regards the reasons for write off, the Minister of State in the Ministry of Finance stated:—

“The irrecoverable arrears of tax were written off for various reasons of which the main ones are as under:—

1. assesseees having died leaving behind no assets;
2. assessee companies having gone into liquidation;
3. assesseees who are alive but have no attachable assets;
4. assesseees having left the country without leaving any assets;
5. assesseees being untraceable; and
6. amount being petty, etc.”

Procedure regarding write off/scaling down of arrears of Tax demands.

Powers of write off & procedure followed

1.42. At the instance of the Committee, the Ministry of Finance have furnished the following note indicating the powers of various authorities to write off tax demands or for scaling down of such demands and the procedure followed in this respect:—

“Method of Write—off .

Powers of Write off

The writing off of revenue demand is resorted to if it is found irrecoverable in the absence of any assets or no recovery can be legally effected from the available assets. The powers to do so are derived from the Delegation of Financial Power Rules and/or delegated thereunder. The powers of various authorities in respect of revenue of direct taxes as under:—

1. Department of Revenue—Full powers.
2. Commissioner of Income tax—Full powers.
3. Inspecting Assistant Commissioner of Income-tax—Upto Rs. 10,000 in each case.
4. Income-tax Officer Group ‘A’—Upto Rs. 1,000 in each case.
5. Income-tax Officer Group ‘B’—Upto Rs. 500 in each case.

Procedure.—The tax arrears of Rs. 500 are written off by the Income-tax officer Group ‘B’ after enquiries into the assets of the defaulter and chances of recovery and if he is satisfied that the demand is irrecoverable. The demand over Rs. 500 but not more than Rs. 1000, and upto Rs. 10,000 is to be written off by the Income-tax Officer Group ‘A’ and Inspecting Assistant Commissioner of Income-tax respectively after obtaining irrecoverability certificate from the Tax Recovery Officer over and above the procedure followed by the Income-tax Officer Group ‘B’. In the case of tax arrears exceeding Rs. 10,000 and upto Rs. 1 lakh the proposal for writing off is referred to the Local Committee consisting of Commissioner of Income-tax, IAC and ITO concerned for reviewing the case. The demand is written off only if it is recommended by the said Committee for writing off as irrecoverable. All proposals exceeding Rs. 1 lakh demand are placed before a Zonal Committee which consist

of CIT concerned and two other Commissioners and including CIT (Recovery) wherever possible for reviewing the arrear demand and making suitable recommendations. On the recommendations of the Zonal Committee, the CIT concerned passes necessary orders of write off. Although the CIT has full powers but by an administrative instruction the demand exceeding Rs. 10 lakhs is required to be referred to the Board alongwith the Zonal Committee's recommendations, assessment records, etc. for its prior approval. Such proposals are examined in the Board's office by two Dy. Secretaries|Directors and the proposal with their comments is placed before the Member, CBDT in case the arrears are upto Rs. 25 lakhs. If arrears exceed Rs. 25 lakhs the case is placed before Full Board. Minister's approval is also obtained in cases with tax arrears of more than Rs. 50 lakhs.

Scaling down.—The scaling down of the demand is resorted to wherein it results in more recovery than it is possible to make otherwise; The procedure is the same but administrative instructions issued envisage that the CIT can scale down arrear demand upto Rs. 1 lakh on the recommendations of the Zonal Committee. Where the arrears requiring scaling down exceed Rs. 1 lakh, the prior approval would be necessary as given below:—

Member, Board—Upto Rs. 5 lakhs.

Full Board—Upto Rs. 10 lakhs

Minister—Above Rs. 10 lakhs

Formal orders are, however, to be issued by the CIT."

1.43 The Committee enquired whether there was any system in the Department to inform the concerned authorities viz. the Ministry of Commerce, the Chief Controller of Imports & Exports and others concerned (including the State Governments), regarding the tax arrears written off against the defaulters so as to debar them from availing of any facilities like import licences. The Chairman, Central Board of Direct Taxes, replied:—

"We do not. We can consider this suggestion. These are written off after an individual is dead or the company is liquidated."

1.44 In reply to a further question whether any Press Note was issued in such cases to enable the public to come forward with information about such people or about the property still held or subsequently acquired by them and whether there was any system to reward the informers in such cases, the Chairman, CBDT stated:—

“Our procedure does not allow these things to be notified in the Press before write-off.... We will examine this We are considering whether we should reward those who have given information about possible ways of collecting or recovering the amount i.e. before they are written off.”

1.45 In a further note on the subject, the Ministry have stated:

“The Department is already publishing the names of assesseees in whose case the arrear irrecoverable demand of Rs. 1 lakh and above has been written off. The publication of the names of assesseees is normally done after the amount is written off. The system does not provide at present for information from public in respect of assets of assesseees in whose case the proposal for write off is under consideration.”

1.46 As regards the provision for reward to the informers, the Ministry, in a note, stated:

“Under the existing guidelines issued by the Central Board of Direct Taxes in 1980, there is a reward scheme which also covers those informants for rewards if they furnish specific information, documents, or other evidence leading to the recovery of taxes which were otherwise not recoverable.”

Recommendations re: Write Offs

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

1.48 The assessee involved the department in litigation mostly on the question of jurisdiction. From the information made available, the Committee, find that the jurisdiction of the Income-tax Officer in this case was changed nearly ten times between 1947 and 1966 among the Income-tax Officers, Hazaribagh, Special Circle, Patna, Special Circle, Ranchi, Central Circle, Calcutta and District II Calcutta. There is evi-

dence to suggest that quite often the transfer orders were made thoughtlessly. Thus in 1952 the Central Board of Direct Taxes transferred the case from Ranchi to Central Circle, Calcutta even when they had no powers to do so under the Income Tax Act, 1922. The order of transfer was quashed by the Supreme Court on 20 March, 1956. In December, 1964 the Board transferred the case from Hazaribagh to Distt. II, Calcutta. The order of transfer had to be cancelled as the Commissioner of Income-tax had earlier (September 1964) transferred the case from Hazaribagh to Ranchi. The Committee cannot but observe that the department and the Board were responsible to a considerable extent for the mess in which they found themselves in this case.

1.49 The Committee further observe that before the death of the assessee on 6 May, 1979 only one assessment, i.e. for the year 1947-48 could be completed and demand raised. The Ministry has stated that the assessment for the assessment year 1947-48 was re-assessed under Section 34 of the old Act on 2 March, 1957. The demand as per this assessment was Rs. 9.52 lakhs on a total income of Rs. 24.45 lakhs. The Ministry have also stated that the Patna High Court had upheld the re-assessment in May 1973. The Committee however find that the amount adopted in the write-off proposals was only Rs. 3.31 lakhs which was the amount raised in the original assessment made in January 1951. The Committee, would like to be apprised of the reasons for this discrepancy.

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

1.51 During the years 1947-48 to 1952-53, additions of Rs. 59 lakhs and Rs. 34.27 lakhs were made on account of royalty incomes of 'benami' companies and unexplained bank deposits. The Committee could get no

satisfactory answers to the questions, (a) what was the basis of these large additions, (b) were Royalty incomes assessed in the hands of the companies and did they pay any taxes thereon, and (c) what happened to the bank deposits?

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

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

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

1.54 In paras 5-15 of their 79th Report (Sixth Lok Sabha), the Public Accounts Committee had taken note of the statement of the Ministry of Finance that with effect from 1.4.1974 the work of supervision of recovery of arrears exceeding Rs. 10 lakhs in each case had been allocated to the Central Board of Direct Taxes itself. While explaining the nature of this "supervision", the Ministry had explained. ".....supervision is exercised in two ways. One is we get quarterly dossiers. Secondly, whenever Members of the Board go to their respective administrative zones, they discuss these cases-where the demand exceeds Rs. 10 lakhs-with the respective Commissioners and make an on-the-spot appraisal whether the authorities concerned are taking necessary steps from time to time. The Finance Secretary had added during evidence before the Committee, that the crux of this supervision was developing a good information system so that...the Board is fully informed as to what is being done. These statements are intended to ensure that while we have delegated executive powers to the officers we are not kept in the dark. Everything important is brought to the specific notice of the Board and to the Member of the Board who is able to watch the progress and issue directions, pull up people where necessary..." The Minis-

try had also informed the Committee that a special Cell had been set up in the Board to obtain comprehensive information regarding year-wise arrear demand, fresh demands created during the quarter, collection in cash or by adjustment, reduction on account of appellate orders or other revisionary action and steps taken for realization of these demands, so as to keep the tax dossiers in these bigger cases complete and upto date.

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

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

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

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

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

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

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

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

1.58 The Committee observe that in the action plan for 1981-82 highest priority was to be given to collection/reduction of tax arrears. The Committee however regret to observe that against the target of 55 per cent of the outstanding demands as on 31.3.1981 to be collected or reduced, the actual achievement was only 40 per cent. The Committee

consider that one of the important yardsticks of assessing the efficiency of the Department is the measure of success it achieves in realization of the arrear demand. The Committee consider that in the context of the failure of the Department to achieve the action plan target, the efforts in this direction should be intensified.

1.59 The data given in para 1.31 would indicate that in bigger cases of outstanding demands over Rs. 25 lakhs, the number of cases as well as the amount outstanding have been going up. As on 31 March 1979 the number of cases with outstanding demand over Rs. 25 lakhs in each case was 291 and the amount involved was nearly Rs. 211 crores. As at the end of the year 1980-81 this number had gone up to 346 and the amount to nearly Rs. 305 crores. The statement given in Appendix I . . . further reveals that 58 assesseees owed over Rs. 1 crore each to the Department and the gross demand outstanding as on 31 March 1981 in these cases amounted to Rs. 174.11 crores. During 1981-82 the Department is stated to have collected/reduced the demand by Rs. 92.87 crores, leaving a balance of Rs. 81.24 crores as on 31 March 1982. The Committee would like the Board to get these cases scrutinized very thoroughly by the Special Cell with a view to ensuring their early collection.

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

1.61 The demands written off during each of the years 1977-78 to 1981-82 range between Rs. 8.70 crores in 1981-82 (provisional figures) and Rs. 21.76 crores in 1978-79. The Committee were informed during evidence that the Board have not devised any system whereby the con-

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

NEW DELHI;
April 28, 1983

Vaisakha 8, 1905 (S)

SATISH AGARWAL.
Chairman,

Public Accounts Committee

APPENDIX-I

VIDE Para 1.37

**STATEMENT SHOWING THE COLLECTION/REDUCTION OUT OF INCOME TAX ARREARS AS ON 31-3-1981 OF RS. 1
CRORE AND ABOVE IN EACH CASE**

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

(Rs. in lakhs)

Sl. No.	Name of the assessee	Status	GIT's Charge	Gross demand outstanding as on 31-3-1981	Collection/reduction out of 5 during 1-4-81 to 31-3-82	Balance on 31-3-82 (5-6)	Latest action being taken for recovery Source : Dossiers for the Q.E. 30-9-82
1	2	3	4	5	6	7	8
1	Allen berry & Co. (P) Ltd.	Co.	Delhi-III	282.34	43.79	238.55	The demand is practically irrecoverable. Proposal for write off is under consideration of the Board.
2	Ansal & Saigal Properties Co. (P) Ltd.	Co.	Del(C)-I	301.51	301.26	0.25	Action u/s 221 has been taken.
3	Anupam Charitable Trust	AOP	Jaipur	103.91	..	103.91	*The demand is disputed and has been stayed by the GIT. He has also requested the GIT(A) to dispose of the appeals on a priority basis.
4	Assam Oil Co. Ltd.	Co.	Cal(C)-II	138.75	137.64	01.11	The amount is disputed in appeal pending before the ITAT.
5	Assam Tea Corp. Ltd.	Co.	NER-Shillong	361.49	321.85	39.64	The demand has been reduced to Rs. 23.48 and is disputed in appeal. GIT(A) has been requested to decide the appeal on a priority basis.

*Figures as on 31-3-81 as per revised dossier was Rs. 111.40 lakhs.

1	2	3	4	5	6	7	8
6	Associated Cement Co. Ltd.	Co.	Bom-IV	144.79	G.B.(144.79)	..	
7	Auto Pins (India) Regd.	R.F.	Del(G)-II	106.77	G.B.(106.77)		
8	Bank of Baroda	Co.	Bom. III	118.64	0.69	117.95	The demand has been adjusted against refund for the asstt. year 1976-77. The Challan on 30-9-82 as awaited.
9	Bhanabhai Kalpabhai.	Ind.	Guj(G)	338.62	14.84	323.78	All known assets of the assessee have been attached. The are also the subject matter of confiscation proceedings under the SAFEM(FOPP) Act, 1976. The rent is being recovered and adjusted against the outstanding demand of the wife. About Rs. 47 lakhs is involved in pending appeals.
10	Bharat Heavy Electricals Ltd.	Co.	Del-II	2181.03	2181.03	..	
11	B.N. Bhattacharjee	Ind.	Cal(G)-III	207.58	2.81	204.77	Rs. 136.04 lakhs were reduced in the Q.E. 30-9-82, as a result in the decision of some appeals ITAT. Rs. 27.60 lakhs being refund was pending for lack of receipt of intimation of adjustment from the State Bank of India. Assessee is also paying instalment of Rs. 5000/- per month. This is being revised in the light of final demand after ITAT decision.
12	Bihar State Financial Corp.	Co.	Bihar-I	130.31	130.31	..	

13	Brahmputra Tea Co. Ltd.	Co.	WB—IV	135.73	G.B. (135.73)	..	--
14	British India Crop. Ltd	Co.	Kanpur	274.87	1.61	273.26	Most of the outstanding demand is protestive in nature. Appeal involving Rs. 66.41 lakhs have since been decided and appeal effect is being given practically the entire demand is disputed in appeals.
15	Central India Machinery Mfg. Co. Ltd.	Co.	Bom(C)-I	125.81	120.31	5.50	Rs. 3.57 lakhs have since been paid.
16	Changdeo Sugar Mills Ltd.	Co.	Bom-I	111.02	34.97	76.05	Action is being taken u/s 226(g) against the debtors and various bank accounts of the company. action for sale of company's assets is also being taken.
17	Chander Nath Banik.	Ind.	W.B. II ;	261.65	2.86	258.79	Rs. 6.99 lakhs has further been reduced/collected till 30th Sept. 1982. Rs. 240.28 lakhs is stayed by the courts. Rs. 220.75 by the S.C. and Rs. 1953 by the Cal.H.C. Before the S.C. the legality of the search operation has been challenged by the assessee. Before H.C. the challenge is to the attachment of certain properties & rental income u/s 226(g) of the I.T. Act. 61. The matters have not come up for hearing before the 2 courts.
18	City Bank N.A.	(Foreign Co.)	Bom-III	305.19	297.22	7.97	The amount has been stayed pending disposal of appeal by GIT(A).

1	2	3	4	5	6	7	8
19	Dalmia Dairy Industries	Co.	Delhi(C)-II	401.88	50.00	351.88	The entire demand of Rs. 351.88 has since been reduced in appeal during the Q.E. 30-6-82.
20	Delhi Cloth & General Mills Co. Ltd.	Co.	Delhi-I	153.81	153.81	..	..
21	Ferro Alloys Corp. Ltd.	Co.	Vidarbha	176.17	73.94	102.23	The demand is disputed in appeals before the ITAT. Pending decision, the assessee has been granted instalment at the rate of Rs. 5 lakhs per quarter.
22	Gilkmans Georges.	Ind.	Delhi-VI	102.81	GB.(102.18)	..	..
23	Ghaziabad Engg. Co. (P) Ltd.	Co.	Delhi-IV	102.43	102.43	..	....
24	The Gwalior Rayon Silk Co. Mfg. & Wvg. Co. Ltd.	Co.	Bom(C)-I	108.55	45.08	63.47	Recovery has been stayed by the Bombay High Court in a writ petition challenging retrospective amendment of Section 80-J.
25	Haridas Mundra.	Ind.	BW.-IX	839.60	..	839.60	Assessee has been declared insolvent. The assessee has filed a statement of affairs declaring assets at 'Nil' Claim has been lodged with Official Assignee. The Cases of this Group of assessee are being centralised for pursuing co-ordinated action for recovery.
26	Hem Chand Golecha	Ind.	Jaipur	207.46	0.08	207.38	The whereabouts of the assessee are not known. Recovery proceedings against the known assets are in progress.

27	Hindustan Aluminium Corpn. Ltd.	Co.	Bom(O)-I	122.11	11.55	110.76	The entire amount is disputed in appeals and as such stayed. Request has been made to GIT(A) for early disposal.
28	Hindustan Lever Ltd.	Co.	Bom-II	143.61	143.61	..	..
29	I.B.M. World Trade Copr.	(Foreign Co).	Bom-II	895.33	3.77	891.56	The undisputed demand of Rs. 28.18 lakhs has been recovered in the Q.E. 30-6-82. For the rest of the disputed demand, bank guarantee has been executed by the assessee. GIT(A) has been requested to dispose of the appeals on a priority basis.
30	Indian Explosives Ltd.	Co.	W.B.-III	724.71	..	724.71	(Interest of Rs. 6.44 lakhs has been charged and added with demand on 31-3-82) Injunction has been granted by the Hon'ble Calcutta High Court and as such demand notice could not be served on it. Steps are being taken for expediting the hearing of the writ petition.
31	Indian Telephone Industries.	Co.	Karn-II	187.06	G.B. (187.06)	..	..
32	J. Dharma Taja	Ind.	Delhi-I	717.13	..	717.13	Action is being taken u/s 290(2) for fixing the liability of Panam Air Lines, which allegedly allowed the assessee to leave India without a clearance certificate.
33	Jiyajerao Cotton Mills Ltd.	Co.	Cal(C)-I	738.84	596.51	142.33	For demand of Rs. 110 lakhs demand notice could not be served because of High Court Injunction. Appeal for A.Y. 77-78 involving Rs. 95.71 lakhs has since been decided, appeal effect is being given.

1	2	3	4	5	6	7	8
34	J.K. Synthetics Ltd.	Co.	Delhi(C)-II	144.22	144.22	..	..
35	K.S. Abdulla	Ind.	Bom(C)-I	124.29	..	124.29	Assessee is involved in proceeding under COFEPOSA and SAFBM (FOP) Acts. The major amount is disputed in appeals. The chances of recovery are bleak as no tangible assets are available to be proceeded against.
36	Kalindi Investment Pvt. Ltd.	Co.	Guj. I	208.41	1.47	206.94	The disputed demand has been stayed by CIT. Request has been made for early disposal of appeals by CIT (Appeal).
37	Kanoria Chemicals & Industries Ltd.	Co.	CalG.(II)	101.16	48.44	52.72	The matter concerns retrospective amendment of Section 80-J and is pending with the Supreme Court.
38	Karodimal Lohariwalla	HUF	WB-IV	147.55	..	147.55	Potential of recovery is very Limited in view of small value of the assets of the assessee. Proposal for partial write off is under consideration of the Board.
39	Lakshmiji Sugar Mills	Co.	Delhi-I	120.14	101.70	18.44	Two of the Units are under the management of Central and State Govts. The purchaser of the third Unit has obtained stay against recovery of demand from the High Court. The demand is otherwise disputed in appeals before the CIT(A). He has been requested to dispose of the same on priority basis. The High Court is being requested for vacation of the stay obtaining bank guarantee from the petitioner.

40	Linde A.G.	Foreign Co.	Bom. III	755.6	755.63	..	..
41	M.M.T.C. of Indio Ltd.	Co.	..	469.65	469.65	..	..
42	Manni Lal Gupta	HUF	Kan(G)	176.24	0.49	175.85	The matter is pending before the Settlement Commission. CIT has recently requested the Commission for early hearing of the Settlement petition.
43	Misrimal Jain	Indl.	Delhi (C)-I	178.21	178.21	..	..
44	Modi Pvt. Ltd.	Co.	Delhi (C-I)	426.26	426.36	..	..
45	Nirlong Synthetic Fibre and Chemicals Ltd.	Co.	Bom. (C-II)	603.38	603.38	..	..
46	Oriental Fire & General Insurance Co. Ltd.	DGo.	Delhi-II	291.47	291.47	..	..
47	Phoenix Mills Ltd.	Co.	Bo-In	121.95	8.21	113.74	The company has been declared as a sick mill and the recovery of income-tax arrears has been stayed by the Bombay High Court. Unless the Company stands up on its feet, changes of recovery of income-tax arrears are rather dim.
48	Ram Nath Bajoria	Indl.	W.B. XI	116.53	..	116.53	The assessee had transferred almost all his properties to the members of his family. A suit has been filed before the High Court, Calcutta by the Deptt. in 1971 to get the transfers declared void. The matter is being pursued.
49	R.B. Sinceram Digiprasad & Fatechand Narsingdas (export) Firm, Fumsar.	R.F.	Vidarbha	360.80	7.13	353.67	The known assets of the defaulter have been attached by the TRO. Writ petition is pending against the attempted sale of a flat in Bombay. Some payment on pre-rata basis has been received in

1	2	3	4	5	6	7	8
							July, 1982 from the Commissioner of Payments (Ceal Dv.) Calcutta Recovery is also pursued from R.B. Srirams Co. Which has been treated as a deemed defaulter.
50	R.B. Shreeram, Durgaprasad (P) Ltd.	Co.	Vidarbha	234.27	..	234.27	The High Court has appointed an Official Liquidator to pay Departmental claims u/s. 178 of the I.T. Act. The Department's claim has been registered. However stay has been granted in a writ petition by the High Court. The question of getting the stay vacated is being pursued.
51	R.N. Shroff, Nadiad	URF	Guj. III	241.62	55.19	186.43	Practically the entire demand is irrecoverable. Assessments were made mostly ex parte. A partial write off proposal has been sent to the Board.
52	Shahibag Entrepreneurs Pvt. Ltd. (Karam Chand Prem Chand Pvt Ltd.)	Co.	Guj. I	345.31	31.32	502.99	The demand has been reduced to NIL after appeal effect as per the dossier for the O.E. 30-9-82.
53	Singarani Collieries Co. Ltd.	Co.	A.P. -I	131.94	131.94	..	..
54	South India Viscose Ltd.	Co.	Madras (C)	232.78	230.55	2.23	
55	Steel Industrial Corpn.	R.F.	Delhi (C)-I	109.26	20.38	88.88	Practically the entire demand is irrecoverable. The assessee has moved the settlement Commission. Decision is awaited.

56	Swadeshi Polyteax Ltd.	Co.	Delhi (C-I)	577.91	198.56	379.35	The entire demand is disputed in appeals and Interim stay against recoveries has been allowed by the Supreme Court.
57	Thanti Trust	AOP	Madras (C)	128.80	7.80	121.00	Practically the entire demand is disputed in appeal.
58	Weston Bengal Coal Fields Ltd.	Co.	Cal (C-I)	157.73	G.B. (157)73)	..	
TOTAL :				17411.28	9287.01	8124.27	

APPENDIX II

(VIDE PARA 1.40)

**STATEMENT SHOWING THE NAMES OF ASSESSEES IN WHOSE CASES ARREARS
OVER RS. 10 LAKHS WERE WRITTEN OFF DURING THE FINANCIAL YEARS
1977-78 TO 1981-82 VIS-A-VIS THE TOTAL DEMAND OUTSTANDING**

S.No.	Name of the Assessee	Total demand outstanding Rs.	Amount written off Rs.
1	2	3	4
1977-78			
1	Shri Sankalchand G. Shah, Bombay	23,47,637	21,42,737
2	M/s Shri Gopal Vasdev, Delhi	19,92,612	17,56,612
3	M/s A.R. Agarwal (P) Ltd. Kamptee Nagpur	11,65,156	10,47,086
4	M/s R.R. Loiya Sons, Kamptee	20,65,790	16,79,355
5	M/s Ramkrishan Ramnath (RF)	28,20,214	25,38,322
6	M/s Ramkrishan Ramnath (HUF)	21,54,779	15,23,587
7	Late Shri Radhakrishna Leiya	15,73,564	12,71,774
8	M/s Gudi dev Singh Pakhar Singh Phagwara	1,88,61,338	1,83,61,388
9	Shri R.P. Saha, Calcutta	60,53,433	55,53,433
10	Shri B.P. Patel, Bombay	1,82,60,817	1,57,60,817
1978-79			
11	Shri Gopal Singh Choudhry, Asansol	18,19,232	18,13,732
12	Sarva/Shri C.B.J. Seth & G.B.J. R.Seth Executors of Late Shri R.C. Jall, Indore	1,76,98,700	1,32,98,700
13	Dealers & Company Pvt. Ltd. Calcutta	24,29,067	20,00,000
14	Shri A.R. Kardar, Bombay	15,66,296	14,50,000
15	M/s S.G. Sanyal Co., Calcutta	11,74,037	11,74,037
16	Shri Shyamsundar Dhanuka, Calcutta	18,50,123	18,00,000
17	Shri Rajesh alias Lalchand, Madras	31,88,836	24,88,236
18	M/s Hussienbhoy Sons & Co. Bombay	17,31,565	16,48,032
19	Shri Mohammed Usman, Bombay	45,34,777	44,34,777

1	2	3	4
20	Shri B.G. Bhandari, Bombay	31,79,684	30,79,684
21	Dhun Investors(P) Ltd., Bombay	32,02,554	30,02,554
22	Shri Purshotam das Moda, Raigarh	30,06,076	28,06,076
23	Sh. Shyumsuddin Virjee, Calcutta	17,34,543	17,34,543
24	Shamsar Sterling Cable Corpn. Ltd., Bombay	24,36,881	18,27,660
25	V.K. Menon, Calcutta	58,63,971	58,63,971
26	Shri Anandji Vishanji, Calcutta	10,81,226	10,81,226
27	Shri J.K. Saraf, Bombay	17,32,154	15,32,154
28	Shri Lal Chand Mahalchand, Calcutta	10,98,226	10,98,226
29	Shri B.P. Patel, Bombay	25,00,000	24,00,000
30	Shri M. Maraindas, Madras	28,08,112	23,08,112
31	Burdwan Colliery Col. Ltd., Calcutta	16,87,026	15,37,026
32	Jete Dhemu Colliery Col. (P) Ltd., Calcutta	13,26,424	13,11,242
33	Sunderdas Karsandas Calcutta	11,0,2072	11,00,000
34	Shri Sreedam Chandra Bhur, Calcutta	24,02,168	18,82,100
35	Shri Moosa Abdulla Kara, Salaya	13,61,050	11,61,050
36	Chandicherra Tea Co. Ltd. Calcutta	20,92,267	20,92,267
37	M/s Mangalchand Hukumchand, Bombay	26,00,675	25,38,675
38	Shri Firoz Ismail Charania, Bombay	26,22,492	25,00,000
39	M/s Munrohan Corpn. India Ltd., Calcutta	56,89,000	44,00,000
40	Shri B.A. Dalal, Bombay	12,92,858	12,92,858
41	Kalol Bone Mills, Bombay	18,28,303	13,71,303
42	Reliable Traders, Bombay	69,81,526	52,36,526
43	Bengal Textile Agency Pvt., Ltd., Calcutta	53,46,922	50,00,000
44	Scaracle Coal Co. Ltd., Calcutta	57,81,040	49,71,040
45	Shri Noormohmed Abdulla Kara, Salaya	1,11,06,957	83,06,957
46	Shri H.S. Rawail, Bombay	29,59,892	26,59,892
47	M/s Dalmia Jain Airways Ltd. & Allenberry & Co. (P) Ltd., Delhi	16,83,393	14,83,399
48	Clevdon Tea Co. Ltd., West Bengal	26,10,000	26,10,000

1	2	3	4
1979-80			
49	Ramkil Prop. M/s Rajasthan Trading Co.	25,29,966	25,29,966
50	Tulsiram Bandiprasad, West Bengal.	17,95,974	16,49,976
51	General Machinery & Electrical Pvt. Ltd., West Bengal.	18,49,851	18,49,851
52	Sholapur Spg. & Weaving Mills Ltd., Bombay.	49,63,529	40,00,000
53	J.R. Pillani (Firm) Bombay	28,87,871	25,57,669
54	B.N. Mondal & Co, West Bengal	22,05,902	18,12,402
55	Edison & Electrical Engineering Co. Pvt. Ltd., West Bengal	13,96,017	12,66,017
56	M.J.M. Rawjee, Bombay	26,57,000	21,57,000
57	Abdullhussein Gukamally Tembwalla, Bombay	44,42,956	41,42,956
58	Smt. K. poor Sandri Devi, Agra	10,31,474	10,31,473
59	Pure-Sitapur Col Concrtn Ltd., West Bengal	17,48,816	16,00,000
1980-81			
60	Late Raja Bhadur Namkhya Narayan Singh of Padma, Bihar	1,85,07,422	1,40,07,422
61	S.B. Industrial Development Co. Ltd., Calcutta	79,08,237	69,08,037
62	Renwick & Co. Pvt. Ltd., Bombay	16,77,503	16,77,503
63	Tehapasa Tea Co. Ltd.	17,58,484	17,50,000
64	Chunilal Mehta & Co. (P) Ltd.	12,68,391	10,00,000
65	Ladha Singh Bedi & Sons	32,12,551	28,12,551
66	K. Natarajan, Kumarapalayam	41,46,640	41,46,640
67	Chhajar & Co. (P) Ltd., Calcutta	27,89,636	24,89,636
68	Syed Mustaffi Syed Murtaza, Bombay	12,77,369	12,87,369
69	G.N. Velummal, Madras	14,22,756	14,22,756
70	Late M.G. Roy, Calcutta	42,61,871	38,35,871
71	K.M. Mody, Bombay	I.T. A.D. 35,42,867 54,584	30,00,000
72	Ass Ram Verma, Delhi	46,99,504	35,99,504
73	K.G. Modi, Ahmedabad	44,80,651	40,80,651
74	E.E. Jhirad, Delhi	18,49,692	18,00,692
75	M.B. Sarkar & Sons, Calcutta	25,98,176	21,00,000
76	Late R.K. Patel Baroda,	38,20,576	20,90,576
77	Dubchand Sharma of Raipur	13,17,813	13,17,813
78	Amirali Noormohmed of Ghola	14,26,045	12,50,000

1	2	3	4
1981-82			
79	Ismail Habib	10,10,492	9,95,492
80	T.D. Murthy & Co.	59,86,765	50,00,000
81	New Bhopal Textile Mills Ltd.	12,37,684	12,37,684
82	R.S. More Ltd.	31,08,162	17,93,732
83	Asa Ram Verma	11,00,000	11,00,000
84	Ahmed Dadabhai & Co. (Firm)	46,23,037	36,23,037
85	Late Gurusaranlal	12,65,577	12,65,577
86	Ahaja Construction Co. (P) Ltd.	19,21,505	18,41,274
87	Ram Prasad Shaw (Deceased)	30,58,689	22,94,579
88	Nursingh & Co. Ltd.	16,78,533	12,75,778
89	R.S. Gopikishan Aggarwal (Shippers) (P) Ltd.	15,18,000	15,18,000
90	Bhagwandis Madanlal	17,53,784	17,53,784
91	Ajit Sengupta (Deed.)	11,10,260	9,97,760
92	Muneklal Agriwalla	35,92,426	34,92,426
93	Panipat Woollen & General Mills	33,67,164	33,16,164
		regular demand	
94	Babu Ram Aggarwal	IT AD WT	18,53,597 1,15,000 34,550
			16,53,597 1,15,000 34,550
95	Girson Knitting Works	13,22,271	13,22,271
96	Shiv Kumar	13,49,517	13,49,517
97	Satnam Singh Sabota	12,41,207	11,41,207
98	Asia Electric Co.	13,45,364	11,32,441
99	Mahalaxmi Transport Co. (P) Ltd.	16,14,320	12,10,740
100	Jamalhandi Bros.	14,14,270	11,14,270

APPENDIX III

(Vide Introduction)

CONCLUSIONS|RECOMMENDATIONS

S. No.	Para No.	Ministry/ Department	Recommendations
1	2	3	4
1.	1.47 and 1.48	Finance (Revenue)	<p>The assessee in the case referred to in the Audit Paragraph under examination is the late Raja Bahadur Kamakhya Narain Singh. This is perhaps a unique case in the annals of tax administration where the assessee managed to drag on the assessment proceedings for as many as 23 years i.e., from 1947-48 til lhis death in May 1970. In the meantime, the assessee alienated all his assets which included 5 house properties, shares in limited companies, bank deposits etc. and the Department could do nothing to stop him from doing so. As a result, income-tax demand to the tune of Rs. 1.85 crores due from the assessee for the assessment year 1947-48 to 1952-53 and 1967-68 to 1973-74 remained unrealised. Of this, a sum of Rs. 1.40 crores was ultimately written off by Govern-ment in July, 1980.</p> <p>The assessee involved the department in litigation mostly on the question of jurisdiction. From the information made available, the Com-mittee find that the jurisdiction of the Incometax Officer in his case was</p>

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

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2. 1.49 do.

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

1	2	3	4
3.	1.50	Finance (Revenue)	<p>The Committee find that bulk of the demand amounting to nearly Rs. 1.5 crores was raised by the Department during 1948-49 to 1951-52. In respect of the demand of nearly Rs. 87 lakhs for the assessment year 1948-49, the assessee lost before the Sub-Judge as well as the High Court and went in appeal before the Supreme Court. As per a compromise arrived at by the Department with the assessee, the Supreme Court set aside the assessment order for the years 1948-49 to 1950-51 holding that the proceedings for these years were properly pending before I.T.O. Hazaribagh. Subsequently, the assessee managed to stall the proceedings, first by filing a writ petition in the Patna High Court and then a title suit. It is amazing that the Department, having won the case in the lower court and in the High Court, should have agreed to a compromise with the assessee. The Committee would like the Ministry to examine the matter and apprise the Committee of the findings.</p>
4.	1.51	do.	<p>During the years 1947-48 to 1952-53, additions of Rs. 59 lakhs and Rs. 34.27 lakhs were made on account of royalty incomes of 'benami' companies and unexplained bank deposits. The Committee could get no satisfactory answers to the questions, (a) what was the basis of these large additions, (b) were royalty incomes assessed in the hands of the companies and did they pay any taxes thereon, and (c) what happened to the bank deposits?</p> <p>It is amazing that the Board should have processed write off proposals of this magnitude without finding out the answers to these crucial questions. The Committee recommend that these matters should be gone into even now with the seriousness that they deserve so as to fix responsibility.</p>

5. 1.52 -do-

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

6. 1.53 -d--

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

7. 1.54
and
1.55 -do-

In paras 5-15 of their 79th Report (Sixth Lok Sabha), the Public Accounts Committee had taken note of the statement of the Ministry of Finance that with effect from 1.4.1974 the work of supervision of recovery of arrears exceeding Rs. 10 lakhs in each case had been allocated to the Central Board of Direct Taxes itself. While explaining the nature of this "supervision", the Ministry had explained. ".....supervision is exercised in two ways. One is, we get quarterly dossiers. Secondly, whenever Members of the Board go to their respective administrative zones, they discuss these cases-where the demand exceeds Rs. 10 lakhs-with the respective Commissioners and make an on-the-spot appraisal whether the authorities concerned are taking necessary steps from time

to time. The Finance Secretary had added during evidence before the Committee, that the crux of this supervision was developing a good information system so that.....the Board is fully informed as to what is being done. These statements are intended to ensure that while we have delegated executive powers to the officers we are not kept in the dark. Everything important is brought to the specific notice of the Board and to the Member of the Board who is able to watch the progress and issue directions, pull up people where necessary. . ." The Ministry had also informed the Committee that a special Cell had been set up in the Board to obtain comprehensive information regarding year-wise arrear demand, fresh demands created during the quarter, collection in cash or by adjustment, reduction on account of appellate orders or other revisionary action and steps taken for realization of these demands, so as to keep the tax dossiers in these bigger cases complete and uptodate.

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The Committee observe that in the case examined by them the arrears amounted to Rs. 1.85 crores. Apparently, it was one of the bigger cases and should have been subjected to close supervision by the Board. However, the Committee find that in respect of some of the items of the advance questionnaire seeking detailed particulars of assessments and recovery of taxes the Ministry informed the Committee that the requisite information was not available and had been called for from the Commissioner of Income Tax concerned. The requisite information was furnished to the Committee in piecemeal fashion by September 1982 i.e.

3 months after the questionnaire was forwarded. The inference is obvious that the Board did not have any details of this case till it was taken up by the Committee for examination and that the so-called 'supervision' was on paper only. The Committee have a strong feeling on the basis of their examination of this case that such lukewarm response of the Central Board of Direct Taxes itself to the Committee's repeated exhortations for speedier collection of taxes is responsible in good measure for the arrears of tax continuously going up. The Committee strongly recommend that Government should take effective measures to tone up the functioning of the CBDT so that the tax arrears in bigger cases do not get accumulated as it ultimately goes to increase the tax burden of the poor tax payers.

8. 1.56 -do-

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

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

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

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

074

The instant case is an extreme example of this same tendency. From the information made available, the Committee find that the ITOs were extremely liberal in granting adjournments to the assessee. Numerous adjournments were given on grounds of non-compliance and so many more were given by I.T.Os on their own. It would thus, appear that the departmental machinery was so much over-awed by the assessee that it almost got petrified in its tracks. The Committee would reiterate that this aspect of working of the Income-tax department needs to be taken serious note of by Government if the administration of direct taxes is to

be streamlined and also harassment to the assessee avoided. The cases should be adjourned only when there are valid and strong grounds for doing so. This aspect should be taken into consideration while making an assessment of the performance of the officer.

9. 1.57 -do-

The gross arrears of tax outstanding on 31st March, 1981 was Rs. 1,112.89 crores as against Rs. 1,011.85 crores as on 31-3-1980, i.e. an increase of over Rs. 101 crores. In their Annual Report for 1981-82, the Ministry of Finance claimed 'significant' collection/reduction on arrears during the financial year 1980-81 and stated that the arrears had nevertheless gone up mainly because of the current demand remaining unpaid.

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

10. 1.58 -do-

The Committee observe that in the action plan for 1981-82 highest priority was to be given to collection/reduction of tax arrears. The Committee however regret to observe that against the target of 55 per cent of the outstanding demands as on 31.3.1981 to be collected or reduced, the actual achievement was only 40 per cent. The Committee consider

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that one of the important yardsticks of assessing the efficiency of the Department is the measure of success it achieves in realization of the arrear demand. The Committee consider that in the context of the failure of the Department to achieve the action plan target, the efforts in this direction should be intensified.

11.

1.59

Finance (Revenue)

The data given in para 1.31 would indicate that in bigger cases of outstanding demands over Rs. 25 lakhs, the number of cases as well as the amount outstanding have been going up. As on 31 March, 1979 the number of cases with outstanding demand over Rs. 25 lakhs in each case was 291 and the amount involved was nearly Rs. 211 crores. As at the end of the year 1980-81 this number had gone up to 346 and the amount to nearly Rs. 305 crores. The statement given in Appendix I further reveals that 58 assesseees owed over Rs. 1 crore each to the Department and the gross demand outstanding as on 31 March, 1981 in these cases amounted to Rs. 174.11 crores. During 1981-82 the Department is stated to have collected|reduced the demand by Rs. 92.87 crores, leaving a balance of Rs. 81.24 crores as on 31 March, 1982. The Committee would like the Board to get these cases scrutinized very thoroughly by the Special Cell with a view to ensuring their early collection.

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12.

1.60

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During evidence, the Committee were informed that the total amount pending consideration for write-off|scaling down was of the order of Rs. 89 crores. The Committee were given to understand that 5 posts of Commissioners of Income-tax (Recovery) have been sanctioned to be lo-

cated at Bombay, Delhi, Calcutta, Madras and Ahmedabad in order to provide a fillip to the work of recovery at these places. The Committee have been further informed that the question of tax administration and its rationalization/improvement has been referred to Economic Administration Reforms Commission and that further measures to tighten up the administrative machinery in respect of recovery of taxes will be taken in the light of its recommendations. The Committee see no reason why the Department should not *suo motu* take necessary steps in this direction in the light of the various recommendations made earlier by this Committee as well as by several other Committees/Commissions such as the Wanchoo Committee and the Chokshi Committee. It is the Committee's experience that mere creation of additional posts does not add to the efficiency of tax collection machinery. The Committee would like to be appraised of the concrete steps taken and results achieved, particularly in the towns mentioned above where the Department have strengthened the tax recovery administration.

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13. 1.61 Finance (Revenue)

The demands written off during each of the years 1977-78 to 1981-82 range between Rs. 8.70 crores in 1981-82 (provisional figures) and Rs. 21.76 crores in 1978-79. The Committee were informed during evidence that the Board have not devised any system whereby the concerned authorities, such as the Ministry of Commerce, Chief Controller of Imports and Exports and others concerned including the State Governments, could be informed of the tax arrears written off against the defaulters so as to debar them from availing of any facilities like import licences. The Committee were also informed that there was no system of issuing a

Press Note in such cases so as to enable the public to come forward with information about such people or about the property still held subsequently acquired by them. The Committee desire that necessary action in the matter may be taken without delay so that not only the tax defaulters are debarred from deriving any benefits but also they are brought to book for false declarations, if any. The Committee would further recommend that before approving the write-off proposals the Board should carefully examine whether the case has disclosed any defects in departmental systems and procedures or in their actual implementation resulting in non-recovery of arrears.

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