P.A.C. No. 156

PUBLIC ACCOUNTS COMMITTEE (1967-68)

THIRD REPORT

(FOURTH LOK SABHA)

[Audit Report (Civil) on Revenue Receipts, 1966]

CHAPTER I - Income Tax
CHAPTER II - Other Revenue Receipts
CHAPTER III - General

LOK SABHA SECRETARIAT
NEW DELHI
July, 1967
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Shri R. M. Bhargava—*Under Secretary.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Third Report on the Audit Report (Civil) on Revenue Receipts, 1966. In this Report the Committee have dealt with (i) Income-tax; and (ii) Other Revenue Receipts (Chapters IV and V of the Audit Report).

2. The Audit Report (Civil) on Revenue Receipts, 1966 was laid on the Table of the House on 28th April, 1966. The Public Accounts Committee 1966-67 (Third Lok Sabha) considered the Audit Report (Chapters IV & V) at their sittings held on the 20th July, 14th, 15th and 16th December, 1966. Minutes of each sitting has been maintained and forms part of the Report (Part II*).

3. The draft of this Report was approved by the Chairman, P.A.C. (1966-67) but the Committee (1966-67) could not finalise the Report for want of time due to the sudden dissolution of the Third Lok Sabha on 3rd March, 1967. The Committee, 1967-68 (Fourth Lok Sabha) considered and finalised the Report at their sitting held on 22nd July, 1967.

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

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

They would also like to express their thanks to the Officers of the Ministry of Finance (Department of Revenue & Insurance and Department of Economic Affairs), Central Board of Direct Taxes, Central Board of Excise and Customs, Ministry of Home Affairs and Delhi Administration for the co-operation extended by them in giving information to the Committee during the course of evidence.

NEW DELHI;
July 22, 1967.
Asadha 31, 1889 (*Saka*).

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

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I

INCOME TAX

Results of test audit in general, paras 32, 33—*Pages* 43-44

1.1. During the period from 1st September, 1964 to 31st August, 1965, a test audit of the documents of the Income-tax offices revealed a total under-assessment of tax of Rs. 864·48 lakhs in 9141 cases and over-assessment of tax of Rs. 36·88 lakhs in 1408 cases. Besides this, several defects in following the prescribed procedure also came to the notice of Audit.

1.2. Of the total of 9141 cases of under-assessment, there was a short levy of tax of Rs. 768·67 lakhs in 653 cases alone. The remaining 8488 cases accounted for an under-assessment of tax of Rs. 95·81 lakhs.

1.3. The position regarding the rectification of the cases of under-assessment and over-assessment mentioned above is indicated below:—

	No. of cases	Amount of tax (In lakhs of Rs.)
Under-assessment :		
(*a*) Cases since rectified or being rectified by the Department of Revenue at the instance of Audit	6806	480·86
(*b*) Cases where no rectification is possible because of time-bar resulting in loss of Revenue	155	12·73
(*c*) Cases where proper action has still to be taken by the Deptt. of Revenue . .	2022	244·26
(*d*) Cases which are not accepted by the Ministry and are under verification and examination in Audit	158	126·63

	No. of cases	Amount of tax (In lakhs of Rs.)
Over-assessment :		
(*a*) Cases since rectified or being rectified by the Department of Revenue at the instance of Audit	1200	29·58
(*b*) Cases where no rectification action is possible because of time-bar	10	0·42
(*c*) Cases where proper action has still to be taken by the Deptt. of Revenue . . .	198	6·88

1·4 According to Audit, the under-assessment of Rs. 864·48 lakhs had been the result of the following lapses:—

	(In lakhs of Rs.)
(1) Errors and Omissions attributable to carelessness and negligence and failure to apply the correct rate of tax .	41·86
(2) Incorrect determination of income under the head 'Salaries'	5·97
(3) Incorrect determination of income under the head 'House property'	11·86
(4) Failure to compute the income from business properly	87·60
(5) Failure to compute the income from dividends and interest on securities properly	8·46
(6) Under-assessment arising from wrong computation of development rebate and depreciation, and failure to withdraw the rebate in cases of breach of the conditions prescribed in the law	368·42
(7) Incorrect computation of income under capital gains and omission to levy tax on capital gains . .	3·73
(8) Irregular set-off of losses	5·14

	(In lakhs of Rs.)
(9) Irregularities committed while making assessments of firms and partners	18.05
(10) Irregular exemptions and excess reliefs given . .	118·93
(11) Failure to levy super-tax on companies correctly .	22.57
(12) Failure to levy additional super-tax in the case of companies	34·04
(13) Irregular grant of refunds	6·23
(14) Non-levy of penal interest	17·72
(15) Mistakes committed while giving effect to appellate orders	1·07
(16) Income escaping assessment	27·52
(17) Incorrect determination of super profits tax and sur-tax	24·20
(18) Other lapses	61·11

1.5. The Committee referred to the recovery of tax amounting to Rs. 390·82 lakhs only as on 1-8-66 as against the total under-assessment of tax amounting to Rs. 1,773 lakhs reported in the Audit reports for the years 1962 to 1966 as intimated to the Committee by the Department and enquired about the steps taken to recover the under-assessment of tax.

The representative of the Central Board of Direct Taxes stated that instructions were issued in February, 1966 at the instance of Audit asking the Commissioners to maintain registers in regard to the various objections pointed out by Audit and the stages at which rectification had been made. Thereafter, the Commissioners had to report the result of rectification, collection of tax etc. Rs. 390·82 lakhs was the amount that had been recovered. But action might have been taken in regard to larger amounts. In reply to a question, the witness stated that, even prior to the issue of instructions in February, 1966, the Board was getting reports. It was felt that the reports must be in concrete form, hence concrete steps had been taken so that the results of the review might be available at any time.

1.6. In reply to a question, the witness stated that a report had been given to Audit for the year 1966 stating the number of mistakes committed where action was still being taken, number of mistakes which had

not been accepted by the Deptt. and the number of mistakes in which action had become time-barred. When the Committee pointed out that the amount of under-assessment reported by Audit was Rs. 121 lakhs in 1962, which had increased to Rs. 865 lakhs in 1966, the witness stated that the number of assessments and the demands raised had increased considerably.

1.7. On its being pointed out that the mistakes reported by Audit related to a particular type of case where there was no increase in the number of assessments, the Chairman, Central Board of Direct Taxes, stated that there had been certain types of mistakes in the Circles which should not have occurred. Companies and Central Circles had been strengthened. It was now proposed to take stronger action against erring officers. The plea of over-work could not hold good in a large number of cases. He added that mistakes have not arisen due to any defect in the system.

1.8. In reply to a question, the representative of the Central Board of Direct Taxes stated that in terms of numbers and amount the mistakes had probably gone up but in terms of percentage in relation to cases checked the number had gone down. Steps were being taken to see that mistakes were not committed in the same way as in the past. In 1961-62 the number of cases that were reviewed by Audit was 42,243 and the number of cases in which mistakes were found was 8,604. In 1962-63 the corresponding figures were 84,485 and 13,534 respectively and in 1963-64 (up to August, 1964) the figures were 1,68,104 and 16,000 and odd respectively. So between 1962 and 1964, the mistakes had come down from 20% to 10%. In 1965-66 the percentage went upto 13%.

1.9. On being asked about the steps taken to eliminate the mistakes disclosed in the Audit Reports, the witness stated that the number of Internal Audit parties had been increased. 35 audit parties were sanctioned in 1963 bringing the total to 72 and in this way the work-load of audit parties had also been reduced. In reply to a question, the witness stated that there had been no further increase in the internal audit parties since 1963.

1.10. On its being pointed out that inspite of the increase in the number of Internal Audit parties, there had been no improvement, the witness stated that previously the scope of the Internal Audit was not comprehensive which had been made comprehensive from 14-2-1964. The Comptroller and Auditor General of India informed the Committee that the scope of the Internal Audit had been further revised on 13-1-1965 which was quite comprehensive.

1.11. In regard to the reduction in the work-load of the Internal Audit Parties, the representative of the Central Board of Direct Taxes stated that, even in regard to cases below Rs. 10,000, the audit parties were required to examine 5% of the cases earlier which had now been reduced to 1%. The Chairman, Central Board of Direct Taxes added that even with the reduced work-load, the audit parties had not been able to cope with the position and had not been able to cover all the cases. Therefore, the steps taken by the Board were not fully effective. In reply to a question, the representative of the Central Board of Direct Taxes stated that it was not correct to say that the Revenue Audit took up the cases only after Internal Audit had checked up the cases. The Revenue Audit took up cases which were completed in a particular period. The Internal Audit took up cases after the assessments were completed. Some cases were first seen by the Revenue Audit and then taken up by the Internal Audit. Explaining the further steps taken to avoid mistakes, the witness stated that the Commissioners had been asked in August, 1966 to put more Income-tax Officers in company circles, so that the work-load was also reduced. The Chairman, Central Board of Direct Taxes, stated that a refresher course to improve the efficiency of the Income-tax officers had been started last year in Bombay and also a similar course for class II officer, in the Commissioners' charges. The representative of the Central Board of Direct Taxes added that the UDCs and LDCs were given foundational training and advanced training.

1.12. As regards action taken against the officers, the Chairman, Central Board of Direct Taxes, informed the Committee that sometimes warnings had been issued to the officers and sometimes certain entries had been made in the confidential rolls. It was proposed to take strict action in future. The witness further stated that in the first few years no strong action was taken because the mistakes were generally due to carelessness or want of proper application of the law on the facts of the case. Now instructions had been issued in February, 1964 to maintain a dossier of the officers who had been committing mistakes of under-assessment and also to take severe action against the officer if he continued to commit mistakes. The witness found, however, that the Commissioners had not taken stronger action although they had been advised to take action against the officer if he was guilty of gross neglect or if he committed mistakes repeatedly.

1.13. On being asked about the amounts written off during the previous years due to under-assessments and the delay in regard to the recovery proceedings, the representative of the Central Board of Direct Taxes, stated that there was no question of writing off of any amount except

where the assessee had no assets from which he could pay. In most of the individual cases, the tax had been recovered.

1.14. In reply to a question, the Chairman, Central Board of Direct Taxes, stated that the Board had not noticed any case where the under assessment had taken place in the case of the same party more than once. The representative of the Central Board of Direct Taxes added that there were instrances where the same type of mistake was committed by two or three officers.

1.15. The Committee desired to know the period at the end of which claims became time-barred. The witness stated that the period was 4 years if it was a question of mistake in the records. If it was a case of concealment of income, the period was 8 years in respect of the income below Rs. 50,000 in a particular year and 16 years in respect of the income above Rs. 50,000 in a year. In the case of a mistake in the records, the limitation was from the date of assessment order. In other cases the period was from the end of the assessment year. In reply to a question, the witness stated that the assessments in regard to the cases pointed out by audit had been reopened whenever the Board had accepted their mistakes. In reply to another question, the witness stated that even where the Board had not accepted the mistakes, the Board as a precautionary measure had reopened the assessments because it had been found that revenue involved was large and therefore the Board did not want to take any risk.

1.16. The Committee desired to know the number and amount of under-assessments and over-assessments pointed out by Internal Audit during the years 1962-63, 1963-64 and 1964-65, the number of cases in which action had been taken and the additional demand raised or refunded. The representative of the Central Board of Direct Taxes stated that the figures for 1962-63 were not available and added that the following were the figures for the later years:—

	1963-64	1964-65	1965-66
No. of assessments checked . .	3,74,323	3,48,743	4,02,577
No. of mistakes found	57,244	58,432	61,088
No. of cases of under-assessment .	48,920	49,096	47,879
Amount of tax under-assessed . .	Rs. 123·41 lakhs	Rs. 330·87 lakhs	Rs. 493·30 lakhs
No. of cases where over-assessment was made . .	8,324	9,336	13,209
Tax over-charged .	Rs. 18·89 lakhs	Rs. 20·19 lakhs	Rs. 47·31 lakhs

1.17. On being pointed out that the Internal Audit had been examining more and more cases and also detecting more mistakes in so far as the amount was concerned, which indicated that there was no improvement at the assessment level, the Chairman, Central Board of Direct Taxes, admitted that there was no improvement at the assessment level as seen from these figures.

1.18. The representative of the Central Board of Direct Taxes further stated that all possible steps were taken to avoid mistakes but many of the major mistakes were due to certain questions of law not having been properly appreciated by the officers. The witness added that another difficulty was that after serving for 6 to 7 years, roughly about 8 to 10 officers resigned from the Department every year and sought better prospects elsewhere.

1.19. In reply to a question, the Chairman, Central Board of Direct Taxes, stated that now the things had settled down, the resignations were much less but there might be odd cases of resignations for personal reasons.

1.20. The Committee desired to be furnished with a statement showing the break up of the total under-assessment of Rs. 1773 lakhs pointed out in Audit Report of the years 1962 to 1966 giving details as on 1st December, 1966 of the under-assessment pointed out by Audit, amount not accepted by Deptt., amount barred by time, demands raised, recoveries made and amount under recovery (reasons to be given for variations in the amounts accepted and the demands raised).

1.21. The note* (Appendix I) has been furnished by the Ministry which gives the details of under-assessment of Rs. 1773 lakhs as under:

	(In lakhs of Rs.)
1. Amount involved in cases where the Audit objection has been accepted by the Deptt.	788
2. Amount involved in cases where the Audit objection has not been accepted by the Deptt.	856
3. Amount involved in cases where the admissibility or otherwise of the audit objection is still to be decided	106
4. Amount involved where rectification is barred by limitation of time [This may be either in Category (1) or (2)]	23
TOTAL	1773

*Not Vetted by Audit.

1.22. The Committee note that out of a total under-assessment of tax amounting to Rs. 1773 lakhs reported in the Audit Reports for the years 1962 to 1966, the Department has accepted objections involving under-assessment of Rs. 788 lakhs and further the admissibility or otherwise of the audit objections involving a sum of Rs. 106 lakh was still to be decided. The Committee also note that out of a sum of Rs. 788 lakhs for which the Audit objections have been accepted, the demands have been raised for Rs. 718 lakhs and a sum of Rs. 487 lakhs has been collected as on 1st December, 1966.

1.23. The Committee desire that the Department should take effective measures to recover the remaining amount, viz. Rs. 301 lakhs, for which audit objections have been accepted. They also desire that the question of admissibility or otherwise of the audit objection involving a sum of Rs. 106 lakhs should also be decided early. Efforts should also be made to avoid such cases getting time-barred.

1.24. The Committee are far from happy to note that out of a total under-assessment of tax amounting to Rs. 1773 lakhs reported in the Audit Reports for the years, 1962 to 1966, only a sum of Rs. 487 lakhs have been recovered as on 1st December, 1966. Steps taken by the Board in the direction of liquidating the arrears of under assessment of tax do not seem to have produced any substantial results.

1.25. The Committee note that the number of cases that were reviewed by Audit during the years 1961-62, 1962-63 and 1963-64 (upto August, 1964) were 42,243; 84,485 and 1,68,104 respectively and the number of cases in which mistakes were noticed were 8604; 13534 and 16,000 odd respectively. The percentage which had come down from 20% to 10% had gone upto 13% in 1965-66. The under-assessment of tax has increased to Rs. 865 lakhs in 1966 as against Rs. 121 lakhs in 1962.

1.26. The Committee note that the following steps have been taken to improve the position regarding the mistakes found in assessments:

(i) Commissioners have been asked to maintain a register in regard to the various objections pointed out by Audit and stages at which rectifications have been made;

(ii) It is now proposed to take stronger action against erring officers;

(iii) The Number of Internal Audit parties have been strengthened thereby reducing the work load of the parties;

(iv) The Scope of Internal Audit has been made more comprehensive;

(v) Commissioners have been asked to put more income tax officers in company circles so that the work load is reduced;

(vi) Refresher courses and training courses have been introduced for officers and staff.

1.27. The Committee hope that the results of these steps will be reflected in the future Audit Reports.

Errors and omissions attributable to carelessness and negligence and failure to apply the correct rates of tax, para 34, *pages* 44—46, *Sub-para* (*a*)

1.28. A non-resident who had not opted to be assessed at the rates applicable to the world income is required to pay income-tax at the maximum rate and super-tax at a flat rate of 19 per cent or at the rates applicable to the total income whichever is higher.

1.29. In six cases of non-residents it was noticed that the flat rate of 19 per cent of super-tax was applied even though the tax payable at the rates applicable to the total income were higher. This resulted in an under-assessment of tax to the extent of Rs. 1·71 lakhs.

1.30. The Ministry had stated that action was being taken to rectify the assessments.

1.31. Explaining the position in this case, the Chairman, Central Board of Direct Taxes, stated that, in respect of all the six cases, the assessments had been rectified and an amount of Rs. 1,65,666 had been recovered. In reply to a question, the witness stated that these cases were not checked by Internal Audit. On being asked whether the reasons in regard to these mistakes had been ascertained, the witness stated that the officer did not apply the law correctly. According to the law the tax was leviable at the rate of 19 per cent upto a certain limit but if the personal income was more, then the rate could be higher. The mistake had occurred in regard to the application of the higher rate. This mistake was committed by an officer in the Delhi Circle (Foreign Section). The officer had applied the rate of 19 per cent without distinguishing between the levels of income.

1.32. In regard to the action taken against the officer, the representative of the Central Board of Direct Taxes stated that the explanation received in this regard from the officer was under consideration. In reply to a question, the Chairman, Central Board of Direct Taxes, stated that the explanation was called for by the Commissioner on 13-10-1966. When the Committee pointed out that the Local Audit Report was sent to the Department in October, 1964 but the explanation was called for after two years, the witness stated that there was delay on the part of the Commissioner to the extent of nearly a year in calling for the explanation, as the acceptance of the mistake was only in October, 1965. The explanation was more or less clear that the officer was not aware that the higher rate should be applied. In reply to a question, the witness stated that it had

been noticed that promptness had not been observed in a number of cases and the Board would emphasise this aspect on the Commissioners and see that such delays did not recur.

1.33. The Committee regret that, due to the incorrect application of the provisions of the law, there was an under-assessment of tax in respect of 6 cases. These cases disclose lack of care in applying the provision of the Act, on the part of the Income Tax Officer who has been warned by Commissioner of Income-Tax.

1.34. Another disturbing aspect in this case is that the explanation of the I.T.O. concerned was called for by the Commissioner on 13th October, 1966 after a lapse of about 2 years from the date of the receipt of Audit objection. The Committee are surprised to be informed that there was a delay on the part of the Commissioner to the extent of a year in calling for the explanation after the audit objection was accepted in October, 1965, and that there was no promptness in a number of cases.

1.35. The Committee suggest that necessary instructions laying down a time limit within which the explanation should be called for and disposed of should be issued immediately. It should also be ensured that these instructions are actually followed by the authorities concerned.

Sub-para (b) :

1.36. A company while returning its total income for the assessment year 1959-60 included a share income of Rs. 40,19,611 from a registered firm in which it was a partner. In working out the total income of the company the Income-tax Officer first deducted from the total income a share income of Rs. 44,19,611 instead of the correct figure of Rs. 40,19,611 as returned by the assessee and added the correct share income as ascertained from the firm's assessment.

1.37. The total income was, thus, under-assessed by Rs. 4 lakhs resulting in a short levy of tax of Rs. 2,13,983.

1.38. The Committee enquired as to how a mistake was committed in this case by the ITO when the work-load in the Central Circle was much less than in an ordinary circle. The Chairman, Central Board of Direct Taxes informed the committee though the workload was much less than in other circles, the cases in the Central circle had to be investigated very intensively. The mistake committed in this case was not about investigation but it was a purely arithmetical and clerical mistake due to negligence and carelessness. The witness added that it was very reprehensible that this type of mistake should have occurred in the Central Circle. When the Committee pointed out that this case was also checked by the Internal Audit, the witness stated that the explanation of

the officer concerned in Internal Audit had been called for in September, 1966. On being asked whether the delay in calling for the explanation of the officer did not indicate laxity in the Administration, the witness stated that there was no laxity as such, but the Commissioners were busy with many immediate things. The commissioners had to find out first as to how the mistakes had occurred and then call for the explanations. In reply to a question, the witness stated that "I cannot see any sensible explanation for this inordinate delay". There was great laxity in the matter of promptness in attending to things and it was proposed to take steps to see that there was no delay in future.

1.39. On being asked as to how he was satisfied that no *mala-fides* were involved in this case, the witness stated that it appeared that the officer had left computation of the tax to the clerk. The aspect of *mala-fides* would also be gone into. In reply to a question, the Committee were informed that the additional tax had been recovered.

1.40. The Committee regret to note that the mistake which occurred in this case was a purely arithmetical and clerical mistake "due to negligence and carelessness". Had the assessing Officer been a little more careful, the mistake could have been avoided.

1.41. They note that the explanation of the officer concerned in the Internal Audit had been called for in September, 1966. The delay in calling for the explanation after the mistake had come to the notice of the authorities indicates laxity on the part of the Department. The Committee hope that with the steps proposed to be taken by the Board such inordinate delays would be avoided.

1.42. The Committee would like the Board to carefully investigate into this case so as to satisfy themselves that there were no mala-fides involved.

Sub-para (*c*) :

1.43. The total income of a non-resident banking company for the assessment year 1961-62 was computed on the basis of its Profit and Loss Account in which the assessee had debited an amount of Rs. 98,247 as bad debts. The Income-tax Officer held that out of this amount, only Rs. 61,509 was admissible as deduction, the balance of Rs. 36,738 being inadmissible. This inadmissible amount should have been added back to the net amount.

1.44. However, while computing the income, the Income-tax Officer instead of adding Rs. 36,738 to the net profits returned, wrongly deducted the sum of Rs. 61,509 resulting in an under-assessment of income by Rs. 98,247. The consequent short levy of tax amounted to Rs. 61,896.

1.45. Explaining the position in regard to the short levy of tax amounting to Rs. 61,896 in this case, the representative of the Central Board of Direct Taxes stated that the demand of Rs. 61,896 had been collected and the explanation of the officer had also been called for. This was a case in which an amount which had been debited was again deducted. On being pointed out that this must be a deliberate mistake, the witness stated that aspect would be taken into account when taking appropriate action against the officials. In reply to a question, the Chairman, Central Board of Direct Taxes stated that the officers were still in service. In reply to another question, the Committee were informed that this case was not seen by Internal Audit. Asked why at the time of audit objection itself, simultaneous action could not be taken for rectification and pursuing disciplinary action to avoid delay, the Chairman, Central Board of Direct Taxes, agreed that action "should be simultaneous."

1.46. The mistake that occurred in this case cannot be justified even on the ground of heavy work load. The Committee would like the Board to satisfy itself, after investigation, whether the mistake was bona fide **or deliberate.**

1.47. The Committee hope that in future action would be initiated at the time of receipt of Audit objection itself by the Board as agreed to by the Chairman, Central Board of Direct Taxes simultaneously for rectification and pursuing disciplinary aspect of the case to avoid delay.

Sub-Para (d):

1.48. The income returned by a company for the asssessment year 1959-60 was not accepted by the Department. The Income-tax Officer estimated the income and determined that a sum of Rs. 1,25,153 was to be added to the income returned. But while computing the income, only a sum of Rs. 12,515 was actually added, resulting in a short levy of tax of Rs. 58,007. The Ministry had reported that the mistake was under rectification.

1.49. In another case, the income for assessment year 1959-60 was determined at Rs. 3,37,230, but while calculating tax it was taken as Rs. 2,37,230 with the result that tax was short levied to the extent of Rs. 73,500. The Ministry had accepted the mistake. Report regarding rectification and recovery was awaited.

1.50. Explaining the position in regard to the short levy of tax amounting to Rs. 58,007, the Chairman, Central Board of Direct Taxes, informed the Committee that the Commissioner had stated that the officers had failed to exercise proper vigilance and caution and the officers had been warned to be careful in future. In reply to a question, the witness stated that according to the report of the Commissioner there were no

mala fide in this case. The Committee pointed out that after the demand was raised, the party had gone in appeal and enquired the grounds of appeal. The witness stated that the appeal might be on other grounds, but it would have to be ascertained whether the appeal was on this ground.

1.51. The Committee drew the attention of the witness to another case where there was a short levy of tax to the extent of Rs. 73,500 and pointed out that this mistake could not be due to pressure of work. The witness agreed with the Committee and added that stronger notice would have to be taken and the Board would go into these cases to find out whether there was any collusion between the assessees and the officers. The witness added that in the present case the I.T.O. had left the Deptt. In reply to a question, the witness stated that since this case was not a vigilance case, the I.T.O. could not be stopped from leaving the Deptt.

1.52. On being asked about the additional tax demanded and recovered, the representative of the Central Board of Direct Taxes stated that in one case the tax had been kept in abeyance because of an appeal. In the other case, the recovery proceedings had been started as there was no indication that the party had gone on appeal. In reply to a question the witness stated that these cases were not looked into by the Internal Audit.

1.53. The Comptroller and Auditor General of India pointed out that the Deptt. had informed Audit that there was very little prospect of collecting the tax because Rs. 11 lakhs was already due from the party. The witness stated that it was true. Even then the Board had taken the necessary recovery proceedings and whatever was possible would be recovered. In reply to a question, the witness stated that Rs. 11 lakhs had accumulated from year to year. This particular man had failed in business and had lost all his assets. So the Commissioner had indicated that there was no prospect of recovering the tax.

1.54. The Committee regret to note the careless and negligent manner in which the assessment of a case in a high income group had been made. They suggest that special steps should be taken to avoid such costly mistakes in cases relating to high income groups. The Committee also suggest that as agreed to by the Chairman, Central Board of Direct Taxes, such cases should be gone into to find out whether there was any collusion between the assessees and any of the officials of the department.

Sub-para (e) :

1.55. With effect from the assessment year 1962-63, 'not ordinarily residents' were equated to 'Non-residents' for the purpose of working out the tax liability on their Indian income. Consequently, a 'not ordinarily resident' under the new Act had to pay income-tax at the maximum rate and super-tax at 19 per cent unless he opted to be taxed at the rates applicable to his world income. This important change in the Income-tax Act

was overlooked by one Income tax Officer with the result that 93 cases test-checked by Audit in his circle, revealed an under-assessment of tax amounting to Rs. 20,76,480 for the assessment year 1962-63. Even for the subsequent assessment year, these mistakes were found by Audit in three cases involving a tax of Rs. 19,073. The Department had been requested to review the remaining cases. Necessary review has been made in all the remaining cases as a result of which an additional demand of Rs. 11,02,124 has been created in 29 cases. Out of the said demand, a sum of Rs. 10,38,163 has been recovered.

1.56. The Ministry, while accepting the mistakes, had stated that in 26 cases involving a tax of Rs. 1,68,919 no recovery could be effected as the assessees had already left the country and that in the remaining 70 cases, involving a tax of Rs. 19,26,634, steps were being taken to effect recoveries.

1.57. The Committee desired to know whether the Government had instituted an enquiry to find out as to how the ITO had failed to charge the tax correctly in all these cases and whether there was any cases where the correct amount was charged by him. The Chairman, Central Board of Direct Taxes, stated that there was no case where the ITO had charged the correct tax. He had uniformly committed this mistake. On being asked whether this circle was inspected by the inspecting Asstt. Commissioner at any time after the assessments were completed, the witness stated that the circle was not inspected by the inspecting Assistant Commissioner because he was not able to inspect all the circles in a year. In reply to a question, the witness stated that "sometime or other" the Inspecting Asstt. Commissioner had to supervise the work of the ITOs under him. There were about 30 ITOs under one Inspecting Asstt. Commissioner.

1.58. The Committee desired to know the number of cases looked into by the Internal Audit. The Chairman, Central Board of Direct Taxes, stated that out of these 96 cases, 82 cases had been looked into by the Internal Audit. On being asked whether the desirability of issuing some explanatory statement had been considered in view of the fact that some of the ITOs had not understood the provisions of law, the witness stated that the mistakes had not occurred in other places. The representative of the Central Board of Direct Taxes stated that in Bombay where all these cases were concentrated, assessments had been properly made.

1.59. On being asked about the additional demand raised and recovered, the Chairman, Central Board of Direct Taxes, stated that a sum of Rs. 18,62,920 had been recovered as against the additional demand of Rs. 18,97,095.

1.60. From the note (Appendix II) furnished at the instance of the Committee, it is seen that the important change made in the Income Tax Act, 1961 in regard to the rates of tax applicable to "resident but not ordinarily resident" persons was overlooked by the Income Tax Officer. All the 96 cases were dealt with by the same Income Tax Officer. There was no inspection of this Income Tax Officer by the Inspecting Asstt. Commissioner during the years 1963-64 and 1964-65. The Inspecting Asstt. Commissioner who was incharge of the Foreign Section during year 1963-64 had 28 circles under him and it was not possible for him to inspect the work of all the circles. He had inspected the work of 12 important circles dealing with business cases. Similarly during 1964-65 the Inspecting Asstt. Commissioner incharge of Foreign Section completed inspection of 8 circles but these did not include the Foreign Section.

1.61. It is also seen from the note that the Foreign Section was last inspected by the Inspecting Assistant Commissioner, in 1955. It has been stated that from the point of view of inspection, the Foreign Section was not considered very important since the bulk of revenue of this section was derived by book adjustment between the two Departments of the Government of India. This was because the foreigners assessed in the Foreign Section were mostly those employed in the various projects of the Government of India, and in their cases the tax liability was being met by the Government of India.

1.62. The Committee regret to note that the Income Tax Officer overlooked a very important change made in the Income Tax Act, 1961 in regard to the rates of tax applicable to "resident but not ordinarily resident" persons in as many as 96 cases. If this omission had not been reported by Audit there would have been a heavy loss of revenue.

1.63. The Committee are further surprised to learn that the Foreign Section was last inspected by Inspecting Asstt. Commissioner, in 1955 and only 12 and 8 circles were inspected by him during 1963-64 and 1964-65 respectively which did not include the Foreign Section.

1.64. The Committee desire that instructions should be issued to the Commissioners to chalk out a programme for inspection of all the Circles at regular intervals. They also suggest that the changes brought out in the law from time to time and the implications thereof should be brought to the notice of all the officers concerned immediately.

1.65. In reply to a question, the witness stated that the explanations of the Internal Auditors had been called for. On being asked about the persons in charge of Internal Audit, the representative of the Central Board of Direct Taxes stated that the Internal Audit party was in charge of a Supervisor who was a non-gazetted official. There were some UDCs

under him. There was one Chief Auditor who was an Income-tax Officer in charge of all these Audit parties. In reply to a question, the witness stated that in view of the large number of mistakes which the Internal Audit had not been able to detect, the Board had been thinking of raising the status of the official in charge of an Audit party to an Inspector who had passed ITO examination.

1.66. The Committee hope that the Board would take adequate steps to ensure that such big mistakes involving heavy financial loss to the exchequer are not overlooked by Internal Audit.

Sub-para (b) :

1.67. While determining the income from salary, entertainment allowance received by an employee is added to the income but a deduction is allowed under certain conditions in the case of non-Government employees of the actual amount of the allowance received or 1/5th of his salary or Rs. 7,500 whichever is the least. An important condition imposed in this respect is that the employee must be continuously in receipt of such allowance regularly from the same employer from a date prior to 1st April, 1955. This condition was overlooked in two cases resulting in an under-assessment of tax of Rs. 14,400 for the years 1962-63 to 1964-65.

1.68. The Committee desired to know whether the assessments had been rectified in these cases and if so the additional tax demand raised and recovered. The representative of the Central Board of Direct Taxes stated that the mistake had been rectified and an additional demand of Rs. 11,506 had been raised but the demand had not been collected so far. The Chairman, Central Board of Direct Taxes added that the person concerned was reported to have left for United Kingdom but had been requested through employers to pay the demand.

1.69. The Committee feel that the mistake had occurred in this case due to failure on the part of the I.T.O. to exercise proper vigilance because the computation in this case did not involve any complication. The Committee would like to be informed whether the amount has since been realised. They hope that such instances would not recur.

Incorrect determination of income under the Head 'House property'— Para 36, page 48.

1.70. An assessee and his wife owned several house properties in a city, the income from which was assessed in the hands of the assessee as income from property upto the assessment year 1955-56. In the previous year relevant to the assessment year 1956-57, the house properties which

fetched an annual rent of more than Rs. 50,000 were transferred on lease on a monthly rent of Rs. 1,750 to a Private Limited Company in which the assessee and his wife were the sole shareholders. The Income-tax Officer while making assessments for 1956-57 and 1957-58 held that the lease rental as stated in the deed, had been deliberately understated. He accordingly assessed the income from the properties on the basis of the gross rental which the assessee used to receive from his properties. However, for the subsequent year 1958-59 and 1959-60 and the Income-tax Officer failed to do this and took the income from property on the basis of the rent noted in the lease-deed. This resulted in an under-assessment of tax of Rs. 74,942.

1.71. The Ministry had replied that action had been taken to rectify the mistake. The result of the action was awaited.

1.72. The Committee pointed out that *prima facie* the facts of the case indicated deliberate under assessment to favour a particular assessee and enquired whether the Board was satisfied that the action of the ITO who made the assessments in 1958-59 and 1959-60 was not *mala fide*. The representative of the Central Board of Direct Taxes stated that the explanation received from the ITO in March, 1966 was under examination. When the explanation was received in Board's office the Board felt that the explanation of the ITO had not been properly considered by the Commissioner. The Board raised the question of *mala fide* and suggested to the Commissioner to see whether this was a satisfactory explanation. During the course of the discussion, the Committee were further informed that the explanations of the officers responsible in this case and also in certain other cases referred to in Chapter IV of the Audit Report were under consideration. In this connection the Committee desired to be furnished with a statement stating the action taken against the officers concerned. The statement has since been furnished.

1.73. In reply to a question, the Chairman, Central Board of Direct Taxes, stated that the assessment had been rectified raising an additional demand of Rs. 76,221 and the demand was being recovered in instalments.

1.74. The Committee desired to be furnished with a note stating whether the case referred to in para 36 was checked by the Internal Audit party and, if so, how the mistake escaped their notice. The note has been furnished stating that the case was not looked into by Internal Audit Party.

1.75. From the facts placed before them, it is difficult for the committee to rule out the possibility of deliberate under-assessment on the part of the ITO to favour the assessee. The Central Board of Direct Taxes

have themselves raised the question of mala fides **and asked the Commissioner to see whether the explanation offered by the ITO, was satisfactory. The Committee suggest that a thorough investigation should be conducted in this case by the Board and the result of the findings and the action taken against the officials found responsible communicated to them.**

1.76. The Committee find from the statement showing action taken against delinquent officers mentioned in cases in Chapter-IV of the Audit Report that out of 53 cases no action has been considered necessary in 4 cases which are of a controversial nature; in one case the explanation of the officer has been accepted, and in all the remaining 48 cases action has been taken to issue a warning to the officers concerned. In the opinion of the Committee, apart from the disciplinary action taken or proposed to be taken in these cases, a greater degree of vigilance, inspection and supervision of assessment cases is urgently called for with a view to preventing as far as possible, and early detection of costly mistakes.

Failure to compute income from business properly—Para 37, pages 48—51.

Sub-para (a) :

1.77 While determining the income of a registered firm for the assessment year 1955-56 the Income-tax Officer took the value of the opening stock of certain shares held by the firm at Rs. 28,02,209 against Rs. 25,96,374 which was the value adopted for the very same shares as the closing stock for the assessment year 1954-55. This resulted in an underassessment of tax of Rs. 1,84,126 in the hands of the six partners of the firm. The paragraph was sent to the Ministry in November, 1965 but no reply had been received upto February, 1966.

1.78. The Committee desired to know whether the assessments of the firm and the six partners had been completed and, if so, the additional tax demand raised and collected. The representative of the Central Board of Direct Taxes stated that the Commissioner was taking action to rectify the assessments. Additional demand had not yet been raised because under Section 147(b) of the Income Tax Act, the permission of the Commissioner had to be taken to issue the notice. Thereafter sometime had to be given to the parties to file the return. The Commissioner had been asked to initiate proceedings under Section 147(a) of the Act. A reply was sent to Audit on the 6th July, 1966 after examining the matter. On being pointed out that the Audit objection was communicated to the Department on 22nd May, 1965, the witness stated that a little delay took place because the Board had to get the records. In this case, the assessment orders were sent on 19th May, 1966 which was probably the reason for the delay.

The Chairman, CBDT, gave an assurance to the Committee that the audit paras would be dealt with at a higher level promptly in future and stated: "We shall make arrangements in future so that these things do not happen."

1.79. In reply to a question, the Chairman, Central Board of Direct Taxes, informed the Committee that this case was not checked by the Internal Audit before the mistake was pointed out by the Revenue Audit.

1.80. On being asked whether the Ministry had enquired into the circumstances as to why the officer did not carry out his basic function of scrutinising the previous assessment to find out whether the opening stock was the same as the closing stock of the preceding year, the witness stated that the explanation of the officer had been called for which was awaited. The mistake was not of a general nature. Generally, the opening stock and the closing stock was checked by the ITO's.

1.81. The Committee regret to note that the assessing officer did not carry out the basic function of scrutinising the previous assesssments to find out whether the opening stock of a registered firm was the same as the closing stock of the preceding year. Failure to exercise proper scrutiny of the accounts statements filed by the assessee alongwith the Income tax return resulted in an under-assessment of tax amounting to Rs. 1,84,126 in the case of 6 partners of the firm.

1.82. The Committee are not happy to note the dilatory manner in which the audit objection in this case was dealt with. They hope that, as assured by the Chairman, Central Board of Direct Taxes the audit paras would be dealt with more promptly and at a higher level in future.

Sub-para (b)

1.83. A registered firm, the income of which was estimated for the assessment year 1960-61 had wrongly debited a sum of Rs. 4,12,273 to the purchase account of the year although the amount pertained to purchases in the preceding year. The Income-tax Officer made a note of this fact in the assessment order also. However, while computing the taxable income from the net loss returned by the assessee for the subsequent year the Income-tax Officer did not disallow this wrong debit. Thus, the taxable income was short assessed by Rs. 4,12,273 resulting in an under-assessment of tax of Rs. 3,54,554. The mistake had since been rectified but report regarding recovery was awaited.

1.84. The Chairman, Central Board of Direct Taxes, informed the Committee that the tax amounting to Rs. 3,54,554 had not yet been recovered because the assessment passed had been set aside on 30th October, 1965 which had to be redone. In reply to a question, the representative

of the Central Board of Direct Taxes stated that the assessment would not be time-barred, as there was no time limit for the assessment that had been set aside by the Assistant Commissioner. On being asked about the reasons for the short levy of tax, the witness stated that the purchases pertaining to an earlier year were shown in the later year. There was no entry in the earlier year. The Chairman, Central Board of Direct Taxes added that the income was overstated in the earlier year and understated in the next year. The representative of the Central Board of Direct Taxes further stated that the ITO had made a mistake in the computation. It was for this reason that the assessments of both the years had been set aside by the Appellate Assistant Commissioner and the assessments for both the years were being made afresh.

1.85. In reply to a question, the Chairman CBDT stated, "I entirely agree that there appears to be more in it than meets the eye because the overstating of income by Rs. 4 lakhs should be noticeable to the assessee himself. We will get this looked into from all angles."

1.86. The Committee desired to be furnished with a note stating how the mistake occurred, the present position of reassessment and when it was likely to be completed.

The note furnished is at Appendix III.

1.87. The Committee find that the ITO failed to compute the income properly although the discrepancies were noticed in the accounts. The Committee find from the note furnished by the Ministry that "there was no malafide on the part of the Income Tax Officer" and that he has been warned to be careful.

The Committee hope that such cases will not recur.

Sub-para (c) :

1.88. Under the provisions of the Income-tax Act, only expenditure if a revenue nature incurred for the purpose of carrying on business is allowed as a deduction but not capital expenditure.

1.89. It was noticed that payments made by a non-resident company to its subsidiaries as subvention during the assessment years 1957-58 to 1962-63 were allowed by the Department as revenue expenditure even though these payments were clearly of a capital nature. This resulted in an under-charge of tax of Rs. 58,427. The Ministry had replied that the mistake was being rectified.

1.90. Explaining the position in regard to the revision of the assessments in this case, the representative of the Central Board of Direct Taxes

informed the Committee that action was being taken to revise the assessment under Section 147 of the Income Tax Act. The Commissioner had been asked to expedite the matter. On being pointed out that the case was reported by Audit on 2nd September, 1964, the witness stated that the procedure had been to take the appropriate action after the acceptance of the Audit objection which was the reason for the delay. The witness added that such delays would not happen in future. Steps would be taken simultaneously with the receipt of Audit objection to call for the explanation and necessary action would be initiated. Asked, whether it was not likely that public revenue might be jeopardised by the element of delay, the witness admitted that "it will be" but added that "we will see that no such delays occur in future". In reply to a question, the witness stated that the Board ensured that all important cases were checked by the Inspecting Assistant Commissioners and instructions were issued to the Income-tax Officers.

1.91. The Committee regret to find in this case yet another instance of delay. Since delay in rectification and revision of assessments may affect the collection of public revenues, the Committee need hardly emphasize the urgent necessity of curtailing delays in such cases.

Sub-para (f)

1.92. For working out the incomes from Construction contracts, the gross payments received by contractors should be taken as the basis without allowing deduction for amounts withheld as security deposit. Further, the cost of any materials supplied to the contractor should also be added to ascertain the gross receipts.

1.93. While auditing a project circle it was found that in the case of 13 contractors, only the net payments received by them after deduction of security deposit were taken as the basis for determining their total incomes for the years 1963-64 and 1964-65. In one of these cases, the total income for these assessment years was taken on the basis of the payment received after deduction of cost of materials supplied to the contractor. These omissions resulted in an under-assessment of tax to the extent of Rs. 51,243.

1.94. This paragraph was sent to the Ministry in October 1965 but no reply had been received upto February, 1966.

1.95. The Chairman, CBDT, stated in reply to a question that the security deposit must be added to the other receipts and taxed. In the present case this was not done and it was a mistake.

1.96. The Committee desired to know the particulars of the total income of the 13 assessees in the year in which security deposits had been refunded. The representative of the Central Board of Direct Taxes stated

that the security deposits were to be refunded in the assessment years 1965-66 and 1966-67. The Chairman, CBDT added that the assessments for both the years were pending. On being asked whether any instructions had been issued, the witness stated that this mistake occurred in respect of one Commissioner's charge in U.P. The law was clear and there had been ruling of the High Court and no general instructions were needed, but the Commissioner, U.P. had issued local instructions to the officers.

1.97. The Committee desire that suitable instructions should be issued urging upon the Income Tax Officers to follow the procedure correctly, so as to fulfil the requirements of law.

Sub-para (g)

1.98. A Financial Corporation which is engaged in providing long term finance for industrial development in India is entitled to an allowance not exceeding 1/10th of its total income in respect of any special reserve created by the Corporation. As the percentage is to be applied to the total income excluding the special reserve the amount to be allowed has to be taken 1/11th of the total income as computed before making deduction for such a reserve. It was, however, noticed in audit that in two cases the allowance was allowed at 1/10th of the total income before deduction of the reserve which resulted in short-levy of tax of Rs. 2·94 lakhs, for the assessment year 1961-62 to 1964-65.

1.99. The Committee pointed out that in one case under assessment of tax amounting to Rs. 2.93 lakhs had occured in four assessments during 1961-62 to 1964-65 and in another case the under assessment of tax amounted to Rs. 6,432 and enquired whether the assessments in the first case were completed by the same ITO or different officers. The Chairman, CBDT, stated that one was by the same ITO and the others by different officers. On being asked as to why instructions were not issued by the Board clarifying the provisions of the Act, the witness stated that the provisions of the Act were very clear. The ITO should have taken 1/11th of the income but he took 1/10th of the income. The representative of the CBDT added that clarificatory instructions were issued when the Board came across cases where the officers had some doubts. As soon as the Act was passed, circulars explaining the provision and changes made therein were issued.

1.100. On being asked as to how the mistakes escaped the notice of the Internal Audit which had checked two of the assessments, the Chairman, Central Board of Direct Taxes, stated that explanation called for was awaited.

1.101. In reply to a question the witness stated that the additional demand of Rs. 2.93 lakhs had been recovered.

1.102. The Committee regret that in the first case though the mistake occurred in four assessments for the years 1961-62 to 1964-65, it was not noticed at any stage. In view of the fact that the mistake had occurred in four assessments, the Committee desire that suitable instructions be issued clearly bringing out the provisions of the Act.

Under-assessment arising from wrong computation of depreciation and development rebate and failure to withdraw development rebate in cases of breach of the conditions prescribed in the law—Para 39, pages 51—54.

Sub-para (a)

1.103. According to the rules framed under the Income-tax Act, extra shift allowance admissible at the rate of 50% of the normal allowance should be proportionate to the number of days during which the machinery or plant worked double/multiple shift taking the number of days in a year as 300 for the purpose. In eleven cases of companies for the assessment years 1956-57 and 1958-59 to 1964-65 this provision was overlooked and the extra shift allowance was granted at the maximum of 50 per cent of the normal allowance, without restricting it proportionately to the number of days during which there was double/multiple shift. This resulted in an under-assessment of tax of Rs. 8.93 lakhs in the 11 cases.

1.104. The Ministry accepted the mistakes in all the cases involving the under-assessment of Rs. 8·93 lakhs of which Rs. 1·04 lakh was recovered and Rs. 9,338 was lost to Government as the rectification had become time-barred.

1.105. Explaining the position in regard to the under-assessment of tax relating to 11 cases, the representative of the Central Board of Direct Taxes stated that the assessment in respect of 9 out of 11 cases had already been rectified. Out of the additional demand of Rs. 8·93 lakhs in these cases, Rs. 7·74 lakhs had already been collected. In one case, the assessment had become time-barred which involved tax amounting to Rs. 9,338. In another case, action had been taken but the demand was yet to be raised and collected. These cases occurred under different Income Tax Officers under the charge of different Commissioners.

1.106. In reply to a question the Chairman, Central Board of Direct Taxes, stated that seven cases had been checked by the Internal Audit Party. On being asked whether any explanation was called for from the Internal Audit Party, the witness stated that the Internal Audit Party did

not go into the mistakes of the interpretation of law but went into arithmetical calculations. The Committee pointed out that the type of mistakes appeared to be common in the 11 assessments concluded by the different Income Tax Officers and enquired whether any special instructions had been issued to the Commissioners to review the cases where similar allowance was given and to carry out necessary rectification. The representative of the Central Board of Direct Taxes stated that the Board had issued instructions to the commissioners on the 5th September, 1966. In reply to a question, the witness added that the mistakes pointed out by Audit were brought to the notice of the Commissioners, informing them about the correct position. They were asked to look into the whole matter and inform all the Income Tax Officers and take remedial action. On being asked whether the reasons for the mistakes pointed out by Audit were investigated to find out other cases of similar mistakes, the Chairman, Central Board of Direct Taxes stated that investigation was undertaken if the Board thought that it was a general Development.

1.107. In reply to a question the Chairman, Central Board of Direct Taxes stated: "In this case we would ask for review."

1.108. The Committee regret to note that in as many as 11 cases there were under assessments of tax for the assessment years 1956-57 and 1958-59 to 1964-65 amounting to Rs. 8.93 lakhs. They note however, that in 9 cases assessments have been rectified and in one case a demand has yet to be raised and collected. The under assessment of tax amounting to Rs. 9,338 in another case has become time barred.

1.109. The Committee have been informed in a note by the Ministry that "Orders have been issued that a special review should be conducted in all the other charges with a view to check the correctness of the calculations of development rebate and depreciation allowance. The result of the review will be communicated to the Committee as early as possible."

1.110. The Committee would like to be informed of the result of the review and the action taken thereon.

Sub-para (b)

1.111. One of the conditions for the grant of depreciation is that the total amount of depreciation shall not exceed the original cost of the asset. This condition was over-looked in the assessment of two cases (a firm and a company), resulting in a total under-assessment of tax of Rs. 31,240 while making the assessments for the year 1962-63 and 1963-64.

1.112. An amount of Rs. 19,197 had since been recovered as a result of rectification action in the case of the company. The details of recovery action in the other case were awaited.

1.113. Explaining the position in regard to the assessment in the two cases reported in this sub-para, the representative of the Central Board of Direct Taxes stated that the assessment in regard to the firm and the partners had already been revised by taking action under Section 147 of the Income Tax Act. Out of the additional demand of Rs. 18,797 raised in this case, a sum of Rs. 6,413 had already been collected. The Chairman, Central Board of Direct Taxes added that in the other case Rs. 19,197 had been fully collected.

1.114. The Committee suggest that a chart showing the depreciation allowed from year to year should be maintained in respect of all such assets to avoid similar mistakes in future.

Sub-para (c)

1.115. Under the provisions of the Income-tax Act, 1922, the special concession by way of additional depreciation on plant and machinery installed after 1st April, 1948 was admissible only upto the assessment year 1958-59. An instance where the special concession was wrongly allowed in the assessment year 1959-60 was reported in the Audit Report on Revenue Receipts, 1963. Similar irregularity was found during test check of assessments of five companies for the assessment year 1959-60 resulting in under-assessment of tax of Rs. 3·88 lakhs. The mistakes in all the cases had been accepted by the Department. Out of Rs. 3·88 lakhs, a sum of Rs. 3·47 lakhs had so far been recovered in three cases. Intimation regarding recovery in the remaining two cases was awaited in February, 1965.

1.116. Explaining the position in regard to the recovery of tax in the remaining two cases, the representative of the Central Board of Direct Taxes stated that the demand of Rs. 41,000 raised against the remaining two cases had been collected. With regard to the mistakes of the type, the witness stated that the additional depreciation was admissible only upto the assessment year 1958-59 and the assessment for 1959-60 could not be completed beyond 31st March, 1963 at the latest. "So there is nothing which can be done to remedy the situation." The instructions were issued in 1953 to the effect that the depreciation would be admissible only upto 1958-59. The attention of the Income Tax Officers was also drawn to this fact. In reply to a question, the witness stated that a circular explaining the position in regard to the admissibility of depreciation would be issued. On being pointed out that in spite of the fact that the attention of the Ministry was drawn to the same type of irregularity on two previous occasions, the mistakes were still recurring, the Chairman, Central Board of Direct Taxes, stated "It is the individual lapse of the officer and it does happen some time." In reply to a question, the witness stated that if there was some mistake somewhere it was not the system which could be blamed.

The Board had, however, strengthened the internal audit party and the scope of their audit. On being asked whether the mistakes were bonafide or malafide, the representative of the Central Board of Direct Taxes stated that there was no malafide report. It had been decided to make a specific reference in such cases to this particular fact and investigate the question whether a mistake was bonafide or malafide. The Chairman, C.B.D.T., added, "Now we propose to ask the Commissioners to give the reasons why they consider it *bonafide*."

1.117. The Committee regret to note that, in spite of the fact that the attention of the Ministry was drawn to the same type of irregularity on a previous occasion, a similar irregularity was noticed during test check of assessments of five companies involving under-assessment of tax of Rs. 3.88 lakhs. The Committee suggest that immediate steps should be taken to review all the cases in the different charges so that mistakes if any, could be found and action by way of rectification taken before the claims become time barred. The Committee further desire that it should be investigated whether or not in this case the mistake was malafide.

1.118. The Committee hope that with the strengthening of the Internal Audit and the enlargement of its scope such mistakes would be avoided.

Sub-para (d)

1.119. For the assessment year 1962-63 a company was allowed a development rebate of Rs. 2,10,535 on various assets although the particulars thereof were not furnished by the assessee as required under the rules.

1.120. At the instance of Audit, the Income-tax Officer obtained the particulars of the various assets which disclosed that the assets included second hand machinery on which development rebate was not admissible at that time. The irregular grant of development rebate without ascertaining the particulars of the assets resulted in a short levy of tax of Rs. 11,000 which had since been recovered.

1.121. The Committee enquired as to how the Income Tax Officer had allowed the development rebate when the assessee had failed to furnish the particulars in the prescribed form. The representative of the Central Board of Direct Taxes stated that it was a mistake, but the mistake had been rectified and the demand had also been collected. On being asked whether any punishment was awarded in this case, the witness stated that explanation was called for in every case, the Commissioner examined the explanation and a report was sent to the Board which was again examined by the Board. In reply to a question, the Chairman, Central Board of

Direct Taxes stated, "We propose to take a much more serious view than we have yet taken of the lapses on individual mistakes and to impose stricter punishment on the officers and also to look at things from the vigilance angle." In reply to another question, the representative of the Central Board of Direct Taxes stated that the explanation of the official was awaited which would be scrutinised when it was received. On being asked whether the assessment was seen by the Inspecting Assistant Commissioner, the witness stated that the records would have to be seen to ascertain whether the Inspecting Assistant Commissioner had inspected this case. At two stages, the cases were seen by the Inspecting Assistant Commissioner. In regard to some cases, sometimes the draft assessment orders were referred to him. The other stage was when the Inspecting Assistant Commissioner inspected the work of the Income Tax Officers. He was expected to look into 15 to 20 cases. He could not examine more cases because there were a number of Income Tax Officers under him. In reply to a question the witness stated that approximately the number of Income Tax Officers under an Inspecting Assistant Commissioner was between 15 to 25.

1.122. On being asked whether it would not be desirable to lay down that all assessments above Rs. 15 lakhs or Rs. 20 lakhs should be seen by the Inspecting Assistant Commissioner, the witness stated that the number of cases would be large. Unless the strength of the cadre of the Inspecting Assistant Commissioner was sufficiently enlarged, they would not be able to manage. The witness added that most of the Income Tax Officers and the Assistant Commissioner had much more work than they could manage.

1.123. "The same cases are not looked up from year to year but different cases are looked up. From experience we have found that an assistant commissioner cannot examine, cannot give an inspection note, on more than twelve to fifteen income-tax officers in a year; and he cannot examine more than fifteen cases, not all types. So it can only be a test check."

1.124. The Committee regret to note that the omission reported in this case clearly discloses the failure on a part of the I.T.O. to exercise elementary scrutiny to see whether the assessee had furnished the necessary particulars. The I.T.O. should have carefully scrutinised the particulars, specially when a large sum of Rs. 2,70,535 was admitted as a development rebate.

1.125. The Committee are glad to be assured that a more serious view would be taken of such lapses and individual mistakes and that cases would be looked at from the point of view of vigilance also. The Committee suggest that the dossier of the Income tax Officer should be maintained in greater

detail, indicating various details of cases of wrong [illegible] and its subsequent [illegible]. This, in the opinion of the C[illegible] would help in toning up the administration.

1.126. The Committee also suggest that, having regard to the large number of assessments, each Inspecting Assistant Commissioner should check a certain number of cases of each Income tax Officer under his circle at regular intervals.

Sub-para (g)

1.127. Two essential conditions prescribed by the Income-tax Act for admissibility of development rebate are that—

(i) the development rebate reserve must not be utilised for distribution by way of profits or dividends or remittance out of India within a period of 8 years next following the year in which the reserve is created, and

(ii) the assets in respect of which the development rebate was given, should not be sold or transferred within a period of eight years except when such sales or transfers are made to Government, local authority or a statutory corporation or in connection with amalgamation of companies or conversion of a firm into a company.

1.128. (i) In the case of three companies it was noticed that a part of the development rebate reserve was withdrawn and credited back to the Profit and Loss Account. Thereafter, the amount was utilised for distribution of dividends during the previous years relevant to the assessment years 1960-61, 1961-62 and 1962-63. Accordingly, under the provisions of section 35(11) of the Income-tax Act, 1922, section 155(5) of the Income-tax Act, 1961 read with the instructions of the Central Board of Direct Taxes issued in July, 1964 the entire development rebate of Rs. 5·93 crores allowed during the assessment years 1959-60 to 1962-63 in these three cases should have been deemed to be wrongly allowed according to Audit and the concerned assessments rectified withdrawing the rebate.

1.129. In one of these three cases, the Ministry had replied that though the development rebate reserve created was utilised for declaration of dividend, on account of a subsequent appellate order the total income turned out to be a loss. The Ministry had accepted the mistake in another case and an additional tax of Rs. 49,596 had since been recovered.

1.130. In the third case, the assessments for two years 1960-61 and 1961-62 had since been rectified by the department raising an additional

demand of Rs. 2·53 crores. Action taken for the assessment year 1962-63 involving a tax of Rs. 14·40 lakhs in this case was awaited.

1.131. Asked about the manner in which the development rebate reserve should be kept, the representative of the Central Board of Direct Taxes stated that the Income Tax Act did not require that a development rebate should be kept in a particular name or a particular reserve account but it required that a particular reserve should be created. The Act permitted development rebate being utilised for the purpose of business but not for distributing dividends or for other prohibited purposes. In the present case, the audit objection was that because a portion of the development rebate reserve had been transferred through the general reserve account to the profit and loss appropriation account, there had been use of development rebate for a prohibited purpose. The Board had examined the position and found that the development rebate reserve which had been maintained in this case by the company was Rs. 678 lakhs in the first year, Rs. 844 lakhs in the second year and Rs. 866 lakhs in the third year. But the amount which was to the credit of the two accounts (development rebate reserve account and general development reserve account) was Rs. 9·98 crores, Rs. 11·04 crores and Rs. 11·18 crores respectively. Actually there was a reserve in excess of the amount required to be created and to the kept He added that the peculiar feature in this case was that the development rebate reserve had been utilised for repayment of loan to the World Bank. Repayment of loans was one of the permitted purposes because it was for the development of the business. The development rebate reserve could be utilised for any purpose of the business other than distribution of dividend and remittance of profit out side India. The amount repaid to the World Bank was Rs. 1·65 crores in the year ending 31st March, 1960, Rs. 3 crores in the year ending 31st March, 1961 and Rs. 3·32 crores in the year ending 31st March, 1962.

1.132. In reply to a question the witness stated that as a precautionary measure the Board of Direct Taxes had gone in appeal to the Appellate Tribunal to sustain the Audit Point. The Chairman, Central Board of Direct Taxes, added "the Appellate Assistant Commissioner passed strictures on the department for the additional demand raised."

1.133. The representative of the Central Board of Direct Taxes further stated that the amount transferred to the profit and loss appropriation accounts in 1960-61, 1961-62 and 1962-63 was Rs. 1·03 crores, Rs. 66 lakhs and Rs. 7,19,000 respectively. In these years, there was also a transfer to the General Development Reserve Account from the Development Rebate Reserve account of Rs. 1·65 crores, Rs. 3·00 crores and Rs. 3·32 crores respectively.

1,134. He added that there were no *mala-fides* in this particular matter. When the Committee drew the attention of the witness to the circular of the Board which had laid down the steps to be taken where the development rebate reserve was transferred to profit and loss Appropriation Accounts for the purpose of paying dividend, the witness stated "I would only point out that the Board's circular refers to the direct transfer from the development rebate reserve account to the profit and loss appropriation accounts it does not refer to a case which has gone through another account and the amount transferred to could easily be traced to the credits in that account."

1.135. When the Committee asked why a restriction should not be imposed that the development rebate should not be transferred to or merged in the general reserve, the Chairman, Central Board of Direct Taxes stated "You are suggesting that an improvement in the drafting in the Act should be made. We will consider that."

1.136. The witness further stated, "When all is said and done, I think the matter requires reconsideration, and discussion between us and audit to see how we can support our case in the Tribunal".

1.137. The Committee suggest that the feasibility of imposing a restriction that the development rebate should not be transferred to or merged in the general reserve may be examined.

1.38. The Committee may be apprised of the final outcome of the case.

***Incorrect** computation of income under capital gains and omission to levy tax on capital gains—Para 40, page 54.*

1.139. In the previous year relevant to the assessment year 1960-61, an assessee made a capital gain of Rs. 91,032 by selling away his house property for a sum of Rs. 2,51,032. The Assessing Officer allowed the capital gain to be adjusted in full towards the cost of a new residential building constructed by the assessee and hence no tax on capital gains was levied. Under the Income-tax Act, such adjustment is permissible only when the assessee 'purchased' a new property for the purpose of his own residence and not for 'construction' of residential building. The wrong adjustment of capital gain by the department had resulted in under-assessment of tax of Rs. 28,828. The Ministry accepted the mistake and reported that action was being taken for rectification.

1.140. Explaining the position in regard to the under assessment of tax in this case, the representative of the Central Board of Direct Taxes stated that the assessment in this case had been revised by the Commissioner under Section 33B of the Income Tax Act. The actual information regard-

ing the demand raised and collected was being obtained. The witness further added that the case was not looked into by the Inspecting Assistant Commissioner.

1.141. The Committee inquired as to what was the rationale behind the provision that if one 'purchased' a new house, the Capital gain made in getting the house was exempt, whereas if one 'constructed' a new house, tax had to be paid. The Chairman, Central Board of Direct Taxes, stated that there was a drafting error in the Act with regard to the matter and that it had been corrected in the new Act.

1.142. The Committee regret that the mistake that occurred in this case was due to the application of the provision of the Income Tax Act, 1961, whereas the assessment was completed under the provision of the Income Tax Act, 1922. They hope that such mistakes will not recur in future.

Irregularities Committed while making assessments of firms and Partners— Para 42 Sub-Para (b) Pages 55-56.

1.143. A firm was carrying on business of running crossword prize competitions and publication of a weekly paper. It was allowed registration for the years 1955-56 and 1956-57 notwithstanding the fact that according to a Supreme Court judgment crossword prize competitions through the medium of newspapers is in the nature of gambling and cannot be considered as 'trade and commerce'. According to the ex-Madhya Bharat Gambling Act No. 51 of 1949 as well, gambling in any form was prohibited. Therefore, under the law, a firm engaged in an illegal activity cannot be considered as a partnership.

1.144. The registration granted to another firm consisting of the same partners and carrying on the same business in another Commissioner's charge was cancelled and the decision was upheld by the High Court. This information was also available on the file at the time the registration was allowed by the Income-tax Officer.

1.145. By allowing registration wrongly there has been a loss of revenue of over a lakh of rupees. The Ministry while accepting the mistake had stated that the assessment could not be rectified as it had become time-barred.

1.146. Explaining the position in this case, the representative of the CBDT stated that the tax affect for the two assessment years 1955-56 and 1956-57 was over Rs. 1 lakh. In reply to a question, the witness stated

that one case was dealt under the Bombay Lotteries and Prizes Control and Tax Act, 1948 and the other case was under the ex-Madhya Bharat Gambling Act, 1949. The registration was refused in one case on the ground that the firm had not obtained a valid licence as required under the Bombay Lotteries and Prize Control and Tax Act, 1948. In another case the ITO had made enquiries and found that there was no corresponding Act in Madhya Pradesh under which the firm was required to obtain a licence to conduct the crossword puzzle competition.

1.147. The Committee asked if this business was illegal under the Madhya Pradesh Act. The witness stated "Of course, it was illegal. On that point we need not go into any Act at all." On being pointed out that the ITO granted registration for this illegal business, the witness stated that in Madhya Pradesh there was no specific statute corresponding to the Bombay Act. In the old Madhya Bharat State, there was an Act against gambling. But the ITO had stated that he was not aware of the existence of such an Act. In reply to a question, the witness stated that the only information available was an extract from the judgement sent by the authorised representative of the Income Tax Tribunal to the Commissioner who had passed it on to the ITO. The extract was to the effect that a licence had not been taken and the business carried on was not legal. The officers were not supplied with the copies of the Judgement and therefore the ITO did not know the full scope of the decision. The witness further stated that in this case the ITO should not have taken a decision on his own, but should have consulted the Assistant Commissioner or the Commissioner. The witness admitted that the ITO was at fault to that extent. The Chairman, CBDT added the Board would have to go into the vigilance aspect of the matter.

1.148. The Committee are unable to understand how a mistake could occur in this case when the order of the High Court in a similar case under the charge of a different Commissioner was specially brought to the notice of the I.T.O. The I. T. O. had before him all the relevant facts about the nature of the business and the partners of the firms who were refused registration in another circle.

1.149. The Committee suggest that the Board should immediately go into the case from the point of view of vigilance and intimate to the Committee the findings and the action taken thereon.

Irregular exemptions and excessive reliefs given—para 43—*pages* 56-57.

Sub-para (*a*)

1.150. The rebate from tax admissible under the scheme of 'tax holiday' to a new industrial undertaking depends upon the capital employed in the undertaking. The rules for computation of the capital employed provide

that in the case of depreciable assets acquired by purchase prior to the computation period, their value for the purpose should be taken to be the written down value of the assets, as per definition in the Income-tax Act. The term 'written down value' has been defined as the actual cost of the assets reduced by all depreciation actually allowed under the Act. In three cases assessed in one Income-tax Officer's ward and in two cases assessed in different wards the initial depreciation allowed in the year of installation of the assets acquired prior to 1st April, 1956, was not deducted while arriving at the written down value, with the result that there was an under-assessment of tax to the extent of Rs. 9,22,342. Out of this, recovery of Rs. 25,334 had become time-barred. The Ministry had stated that the mistakes in other cases were under rectification.

1.151. The Committee desired to know the present position in regard to the rectification of the assessment in this case. The representative of the Central Board of Direct Taxes stated that in the case of one company, the assessments of all the previous years had been revised raising an additional demand of Rs. 8,36,000, but the demand had not yet been collected. The company had filed a writ petition against the rectification under section 154 of the Income Tax Act. The court had permitted only rectification but not the collection of demand. In the case of the second company the rectification was barred by limitation. A request was made to the assessee but the assessee had not agreed to the rectification of assessment. The amount involved in the second case was Rs. 98,000. In the third case, the rectification had not yet been made but the matter was under correspondence with the assessee. In the fourth case, the rectification for the year 1956-57 was time barred and the amount involved was Rs. 7,584. For the year 1957-58 the assessment had been rectified and a demand of Rs. 7221 had been collected. In the fifth case, for the years 1958-59 to 1960-61 a revised demand of Rs. 17,750 had been raised and collected. The reason for the mistake was due to fact that different Income-tax Officers had proceeded on the computation that was made in the earlier year instead of making fresh computation.

1.152. In reply to a question, the witness stated that four cases were not looked into by the Internal Audit. In regard to the fifth case, the board had not received any information whether the case had been looked into by the Internal Audit. On being pointed out that the case occurred several years ago and the Audit para was also received by the board about two years ago, and yet the board did not have the required information, the Chairman, CBDT stated that "actually the mistake was at the level of the Board. We did not scrutinise the report so well as we ought to have done and asked for this information, which we did not. There have been mistakes in the matter of promptness at all levels.".

1.153. The Committee are unhappy to note that even though the assessments were completed by different Income-tax Officers, the same kind of mistakes was committed in all the cases. As the under-assessment of tax is considerable due to this kind of mistake, the Committee suggest a review of all case following under the 'tax holiday' scheme, so that the mistakes could be rectified before the cases became time barred.

1.154. The Committee regret that the Board did not have complete information about the fifth case even though they received the audit para about two years ago. They expect the representatives of the Ministries and Departments to be fully prepared with facts and figures when appearing before the Committee.

Sub-para (b)

1.155. If an Indian company pays dividend deducting tax therefrom in respect of any previous year relevant to the assessment year 1960-61 and later, wholly or partly out of its profits actually charged to income-tax in any assessment year previous to 1960-61, it is entitled to a rebate of 10 per cent, of the amount of dividend attributable to the income actually charged to tax in the earlier assessment years. For this purpose, the dividend declared in respect of any previous year is considered first to have come out of the distributable income of that year and the balance, if any, out of the undistributed part of the income of one or more prior years.

1.156. A dividend of Rs. 1.68 crores declared by a Company in September 1961 was incorrectly taken in its assessment as relating to the previous year relevant to the assessment year 1961-62 instead of to the previous year relevant to the assessment year 1962-63. This eventually resulted in the computation of Rs. 1,06,48,953 as the dividend attributable to the previous year relevant to the assessment year prior to 1960-61 on which a tax relief of Rs. 10,64,895 was obtained. According to Audit, had the dividend of Rs. 1·68 crores been correctly regarded as declared in respect of the previous year relevant to the assessment year 1962-63, no part of the dividend of Rs. 1·68 crores could have been attributed to the distributable income of the previous year relevant to the assessment year prior to 1960-61. Taking into account a further dividend of Rs. 1·20 crores declared by the company on 18th December, 1961 in respect of the previous year relevant to the assessment year 1962-63, the company was actually entitled to a relief of income-tax to the extent of Rs. 9,26,541 in the assessment year 1963-64. The incorrect method followed in this case had resulted in a net excess allowance of income-tax relief of Rs. 83,303 and consequent to the relief of Rs. 9,26,541 have been granted in 1962-63 itself instead of in 1963-64 the chargeable profits for Super Profits

Tax were reduced to that extent with consequent tax effect of Rs. 5,55,925. This paragraph was sent to the Ministry in November, 1965 but no reply had been received upto February, 1966.

1.157. In two other cases, two companies were allowed rebate of 10 per cent, though no such relief was admissible firstly because the dividend had not been paid in the relevant previous years and secondly because the dividends were entirely attributable to the profits and gains arising after the assessment year 1959-60. This resulted in an under-assessment of tax to the extent of Rs. 42,523. The Ministry had accepted the mistakes Report regarding rectification and recovery was awaited.

1.158. Asked whether the Board had accepted the audit objection in the first case, the Chairman, CBDT stated that the reply had been sent to Audit on the 5th December, 1966 accepting substantially the audit objection.

1.159. On being asked the reasons for the delay in replying to Audit, the witness stated that the matter had involved a detailed examination of balance sheets etc. In reply to a question, the Chairman C.B.D.T. stated ". . . . . The Commissioner has expressed his own regret in this matter for the delay caused at his level." On being asked about the position in regard to the demand of Rs. 5,55,925, the witness stated that the audit objection had been accepted only recently, and the demand would now be raised. The assessment related to the period 1962-63 and 1963-64.

1.160. The Committee understand that in this case the objection was first raised by Audit in October, 1963, and this was communicated to the Ministry in November 1965. The Committee are far from happy to note that the Ministry have sent the reply to Audit only on the 5th December, 1966, accepting substantially the Audit objection. They are unable to accept the plea of detailed examination of balance sheets etc. as a valid reason for such a long delay. The Committee suggest that the reasons for the inordinate delay in dealing with the Audit objection should be looked into and suitable steps taken to avoid such delays.

1.161. The Committee would like to be informed of the final outcome of the case.

Sub-para (c)

1.162. In paragraph 75(a) of the Audit Report, 1965, three cases were cited where on account of erroneous grossing up of dividends an under-assessment of more than Rs. 3 lakhs had occurred, of which a sum of Rs. 98,439 had become time barred.

1.163. Similar mistakes came to the notice of Audit in two other cases during the test-check of assessment documents of an Income-tax ward. The Income-tax Officer grossed up the net dividends received by the two companies at 100 per cent, taxable profit although the certificate issued by the company paying the dividends showed a much smaller percentage. This resulted in an excess tax credit of Rs. 56,704 which was refunded to the two companies.

1.164. The Ministry while accepting the mistake had stated that rectification was not possible due to the operation of time bar. Thus a loss of Rs. 56,704 had occurred to the Government in these two cases.

1.165. Explaining the position, the representative of the Central Board of Direct Taxes at the outset admitted "It is a clear mistake. It was absolutely wrong. It was not at all correct on h's (ITO's) part, to have taken 100 per cent when the dividend warrant itself showed 72:79%. The calculations were not checked by Internal Audit party." On being pointed out that if remedial action had been taken immediately when the defects were pointed out by Audit, the revenue might not have been lost, the Chairman, Central Board of Direct Taxes, stated that the Board would take steps to ensure more promptness in dealing with such matters.

1.166. The Committee feel that, if the Board had taken prompt action on the Audit objection, loss of revenue amounting to Rs. 56,704 could have been avoided. In these circumstances, the Committee need hardly emphasise the necessity of prompt action by the Board on objections pointed out by the Audit. The Committee also suggest that a review should be conducted, in respect of cases involving large amounts of dividend income, under the charge of all the Commissioners, in order to ensure prompt and timely action in regard to the rectification of errors.

Failure to levy super-tax on companies correctly, para 44—*Page* 58.

Sub-para (*a*)

1.167. The Finance Acts of 1956 to 1959 provided for the levy of additional super-tax on companies distributing dividend on ordinary shares in excess of 6 per cent of the paid up capital. This additional super-tax was levied by way of reduction of the rebate from super-tax admissible to the companies, and if in any year the amount of rebate due was insufficient to absorb the reduction on account of the excess distribution of dividend, the unabsorbed portion of reduction in rebate should be carried forward for being set off against the reliefs available for subsequent years. These provisions were overlooked while assessing a company with the result that an unabsorbed reduction in rebate of Rs. 2,18,950 was omitted to be set-off against the super-tax rebate of Rs. 4,97,429 of a subsequent year. This resulted in a short levy of tax to the extent of Rs. 2,18,950.

1.168. The Ministry had stated that the mistake was being rectified. The report of completion of the rectification and recovery of the amount was awaited.

1.169. Three more of such cases noticed in another charge involving a short levy of tax of Rs. 70,252 of which Rs. 23,560 cannot be recovered, having become time-barred.

1.170. Explaining the case, the representative of the Central Board of Direct Taxes stated that the I.T.O. had requested the Commissioner to permit him to look into the records and submit the explanation. The Chairman, Central Board of Direct taxes, added that there was a mistake in the assessments. The question as to how the mistake was committed would be looked into after the explanation was received from the I.T.O.

1.171. Asked why this case had not been looked into to see whether the mistake was *bonafide* or not, the Chairman Central Board of Direct Taxes stated "that is being looked into. That has not been completed."

1.172. The Committee may be informed of the action taken on the explanation of the I.T.O. and the amount of tax recovered.

Sub-para (b):

1.173. The Finance Act, 1963 provides for reduction of rebate on super-tax allowable to companies in the event of companies issuing bonus shares.

1.174. In the case of a company which issued bonus shares of Rs. 9 lakhs during the previous year relevant to the assessment year 1963-64, no reduction in rebate was made resulting in a short-levy of tax to the extent of Rs. 1,12,500.

1.175. The Ministry had accepted the objection and stated that the mistake had been rectified, raising an additional demand of Rs. 1,12,500.

1.176. The representative of the Central Board of Direct Taxes stated that the mistake in this case had been rectified and the demand had been collected. Explaining further the witness added that inspite of the fact that priorities had been fixed, the Internal Audit parties were still unable to cope with the current assessments promptly which was the reason as to why the case was not looked into by the Internal Audit. The Chairman, Central Board of Direct Taxes stated that in this case there was a super-profit tax demand also which had to be reduced. The net gain to the revenue as a result of increase in the income-tax and reduction in the Super profit tax was Rs. 45,000.

1.177. The Committee understand from Audit that though the assessment was completed in December, 1963, the case was not checked in Internal Audit till the mistake was pointed out in January, 1965. The Committee suggest that in respect of cases relating to companies, particularly falling under higher income groups, the Board should take steps to get the assessments checked in Internal Audit within a reasonable time after the assessments are completed.

Non-levy of additional super-tax on companies in which the public are not substantially interested, para 45—Pages 58-59.

Sub-para (a):

1.178. Prior to 1965 a company was regarded as a company in which the public were not substantially interested if the affairs of the company or shares carrying more than 50% of the total voting power were at any time during the previous year controlled or held by less than six persons. This would be so even if the persons who held the shares are public limited companies, unless the parent company being a public limited company holds the entire share capital of the subsidiary company.

1.179. In two cases, Audit came across an omission on the part of the Income-tax Department correctly to classify companies the bulk of whose shares were held by less than six persons including public limited companies. Consequently, there was a failure to levy additional super-tax on the undistributed income of these companies to the extent of Rs. 0.99 lakhs. On this being pointed out, the Ministry had replied that action by way of rectification had been taken. The Ministry had been requested to initiate action in all similar cases where this omission had occurred. Their report was awaited.

1.180. Explaining the action taken in respect of the two cases the representative of the Central Board of Direct Taxes stated that the assessments in regard to one case had been rectified and the additional tax demand for the year 1959-60, 1960-61 and 1961-62 amounting to Rs. 75,147, Rs. 94,816 and Rs. 1,01,320 respectively had been raised. Rectification of assessments for the years 1962-63 and 1963-64 was under consideration.

1.181. In regard the second case, a tax demand of Rs. 96,710 had been raised. But the recovery of demands in both the cases had been stayed by the Calcutta High Court.

1.182. Explaining the action taken in regard to similar cases of omission, the witness stated that 19 cases were reviewed by the Commissioners and the total demand involved in all these cases amounted to Rs. 1·19 crores. Orders under Section 23-A of the Income Tax Act had been passed on all

these cases and a sum of Rs. 3,86,229 had so far been collected. Collection of Rs. 84 lakhs was pending due to writ petitions filed by the assessees. The balance was being collected.

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

(i) A statement giving the break up of Rs. 1·19 crores involved in 19 other cases giving details of the amounts collected and the reasons for the pending amounts. The statement has since been furnished.

(ii) A statement showing the arrears of tax as on 1st April, 1966 due from different groups of firms mentioned in the Monopolies Commission Report giving details of the amounts under appeal before the Department and Courts.

1.184. The statement has been furnished to the Committee. **The Committee note that, out of a large number of cases included in the statement, there are 23 cases of companies where arrears of income-tax outstanding on 1st April, 1966, was Rs. 25 lakhs or more in each case. The arrears of income-tax outstanding against these companies amounted to Rs. 13·96 crores (Approx), out of which appeals have been preferred by the companies concerned to AAC/CIT/Tribunal in respect of Rs. 7·25 crores (approx.) of income-tax, while they have gone up in appeals to courts in respect of income-tax arrears amounting to Rs. 1·12 crores (approx.). The Committee need hardly stress that every effort should be made by Government to speed up the recovery of arrears from theso big companies, specially in respect of amount of Rs. 5·59 crores which is not under appeal. The Committee would like to watch the progress made by Government in recovering these amounts through future Audit Reports.**

1.185. **In this case the Committee are of the opinion that the Board and the Income-tax Officers were not aware of the correct legal position. If Audit had not pointed out this mistake, the mistake would have gone unnoticed.**

1.186. **In regard to the amount of Rs. 1·19 crores, the Committee find from the note that in some cases collection of the demand has been stayed till the disposal of the appeal, and in some cases time has been allowed for the payment of tax.**

1.187. **The Committee would watch the progress of collection of the demand through subsequent Audit Reports.**

Irregular grant of refunds, para 46—Pages 59-60.

Sub-para (a):

1.188. In working out the net demand payable by a company, a sum of Rs. 92,500 was deducted on account of advance tax payment for the assessment year 1959-60. Actually the company had paid a sum of Rs. 15,000 only as advance tax in respect of this year, of which Rs. 10,000 were paid within the due date and Rs. 5,000 later. This resulted in an excess tax credit of Rs. 77,500. The Ministry had replied that the mistake had been rectified. Report regarding recovery was awaited.

1.189. The representative of the Central Board of Direct Taxes stated that the I.T.O. had not followed the prescribed procedure in regard to the accounting and adjustment of advance tax paid by the assessee. The explanation of the I.T.O. had been called for. Appropriate action would be taken after the explanation was obtained.

1.190. The Committee understand from Audit that for watching the raising of a demand, and payment in instalments of advance tax, a register of demand and collection under Section 18A is prescribed. The detailed procedure for maintenance of the register and the adjustment to be made on completion of regular assessments are laid down in para 16 of Chapter XIV (a) of office Manual, Vol. II, Section II. On completion of regular assessment payment under Section 18A as per this register will have to be taken to the Demand and Collection Register and a note to that effect should be made in the remarked column of the 18A Demand and Collection Register. While making a demand for the payment of the balance of the tax from the gross demand, the advance tax paid and adjusted as shown in the Demand and Collection Register should be deducted.

1.191. It is apparent that the correct procedure was not followed by the Income Tax Officer, resulting in a costly error.

1.192. The Committee desire that suitable instructions bringing out the provision of the law in regard to the maintenance of the register etc. and its compliance may be issued.

1.193. They may be informed of the action taken against the I.T.O. involved in this case.

Sub-para (b):

1.194. An assessee paid an advance tax of Rs. 30,300 for the assessment year 1963-64. She did not pay any advance tax for the assessment year 1962-63, but the Income-tax Officer while completing assessments for 1962-63 and 1963-64 in June, 1963 and March 1964 respectively, allowed a deduction of Rs. 30,300 for each of these two years, from the tax payable and refunded in July 1963 an amount of Rs. 16,246 inclusive of interest, for the assessment year 1962-63.

1.195. On this being pointed out, the Department had rectified the mistake and collected the excess payment of Rs. 31,024 inclusive of interest wrongly allowed in October, 1964.

1.196. The representative of the Central Board of Direct Taxes stated that the assessment had been revised raising the additional demand of Rs. 31,024 which had since been collected. When the Committee pointed out that in this case before making the refund figures were not properly collected, the representative of C.B.D.T. stated, "we have made a note of it.".

1.197. The Committee understand that a refund of Rs. 16,246 was made in July 1963 and the mistake in this case was pointed out by Audit in September, 1964. According to the instructions of the Board all refund orders in excess of Rs. 500 should be checked by the Inspecting Assistant Commissioner.

1.198. The Committee suggest that it may be verified whether the refund orders were checked by the Inspecting Assistant Commissioner.

Sub-para (c) :

1.199. An order under section 35 of the Income-tax Act, 1922 granting a refund of Rs. 45,749 was passed by an Assessing Officer, in June 1962, for the assessment year 1951-52 while giving effect to a Tribunal's decision in the case of the firm in which the assessee was a partner. This refund was adjusted against the demands of Rs. 16,993 and Rs. 28,756 due from the assessee for the assessment years 1956-57 and 1957-58 respectively. Again another rectification order was passed in September, 1964 in respect of the same assessment granting a refund of Rs. 49,882 ignoring the refund already granted by way of adjustment in June, 1962. This resulted in an excess refund of Rs. 45,749. The Ministry had accepted the mistake and the excess refund had also since been recovered

1.200. The representative of the Central Board of Direct Taxes informed the Committee that the assessment in this case had been revised and the amount of Rs. 45,749 had been recovered. The Chairman, Central Board of Direct Taxes, added that an adverse entry had been made in the character roll of the officer concerned. In reply to a question, the representative of the Central Board of Direct Taxes stated that, according to the Commissioner, there were no *malafides* in this case. It was a case of a lapse in not following the correct procedure. In reply to another question, the Chairman, Central Board of Direct Taxes, stated that the Commissioners had not reported any case of *malafides* in respect of the objections pointed out by the Audit. Now the Board proposed to ask the Commissioners to give reasons as to why they did not consider a case *malafide*, so that the Board could look into the matter.

1.201. The Committee suggest that the Board should investigate into the lapse and ascertain the circumstances which led to the double payment. Suitable instructions pointing out the correct procedure in regard to such cases should be issued immediately.

1.202. The Committee also desire to be informed whether the Inspecting Assistant Commissioner who is responsible for checking refund orders in excess of Rs. 500 had looked into this case.

Non-levy of penal interest—Para 47—Page 60

1.203 In paragraphs 65 and 75(b), (c) and (d) of the Audit Reports 1964 and 1965 respectively, cases were cited where the Income-tax Department failed to levy interest prescribed by law. Short recovery of interest on account of this failure was on the increase.

1.204 During this year, a total amount of Rs. 17.72 lakhs towards non-levy of interest had been noticed in audit.

1.205. A new company which failed to pay advance tax in respect of the assessment year 1952-53 was assessed to a tax of Rs. 80,750 for that year. At the time of the assessment the Income-tax Officer should have issued a demand notice for penal interest of Rs. 9,973 for the assessee's failure to pay the advance tax. This was not done with the result that the rectification had now become time-barred.

1.206. Explaining the steps taken to avoid the recurrence of the mistakes reported in this para, the representative of the Central Board of Direct Taxes stated that instructions were issued in 1965, which were reiterated in 1966. A special review was also ordered. As a result, 85,841 cases were reviewed resulting in a tax demand of Rs. 74,44,000. These cases were in respect of the year for which assessments had been completed.

1.207. The Committee desired to be furnished with a note stating the amount recovered out of the demands amounting to Rs. 74.44 lakhs raised as a result of the special review.

The note is at Appendix IV.

1.208. From the note, it is seen that a total amount of Rs. 39.95 lakhs have been recovered out of demands raised amounting to Rs. 93.61 lakhs.

1.209. It appears to the Committee that the omission to levy interest is wide-spread, which indicates that the steps taken by the Board have not been very effective. The Committee desire that steps should be taken to rectify the cases before they become time barred.

Mistakes committed while giving effect appellate orders—Para 48—*Pages* 60-61.

1.210. In his appellate decision on the asessment order for assessment year 1958-59 in the case of a company, the Appellate Assistant Commissioner held, *inter alia*, that an amount of Rs. 1,94,552 being expenditure incurred on repairs to a ship prior to its sale should be treated as expenses of sale and hence permissible as a deduction in the computation of capital gains. The effect of this decision was to increase the business income of the assessee by Rs. 1,94,552 with a corresponding reduction in its capital gains. This observation of the Appellate Assistant Commissioner was confirmed by the Appellate Tribunal in further appeal. While giving effect to the Tribunal's orders, the Income-tax Officer omitted to increase the business income and reduce the capital gains by Rs. 1,94,552. As no supper-tax was leviable on capital gains, the omission resulted in an under-assessment of tax to the extent of Rs. 27,537. The Ministry had stated in reply that the assessment had since been rectified and the additional demand raised.

1.211. The representative of the CBDT informed the Committee that the additional demand had been raised and collected. The case was cheked by the Internal Audit party but they did not find the mistake. The Commissioner had been asked to obtain the explanation of the Internal Audit party. The explanation of the ITO who was now working in a different charge was being obtained and appropriate action would be taken.

1.212. The Committee regret to note that due to failure to give effect properly to the orders of the Appellate Tribunal, there was an under-assessment of tax amounting to Rs. 27,537.

1.213. The Committee desire that suitable instructions should be issued indicating the action to be taken on the orders of the Appellate Tribunal. They also desire to be informed of the action taken against the ITO and Internal Audit.

Income escaping assessment, Para 49—*Pages* 61-62 *Sub-para* (*a*).

1.214. In terms of the definition of Dividend under the Income-tax Act, 1922, the amounts paid by a private company as advance to its shareholders will form part of the taxable income of the shareholder. An individual who was the Managing Director of a private limited company received a sum of Rs. 30,696 as advance from the company during the previous year ended 16th August, 1958. While computing his total income for the assessment year 1959-60, the Income-tax Officer omitted to include this amount in his taxable income for the year. Though the

mistake had been pointed out in audit as early as November, 1961, no timely action was taken by the Department with the result that rectification became time-barred on 1st April, 1964. The revenue lost to Government on this account worked out to Rs. 20,316 (approximately). The Ministry had accepted the mistake and had stated that recovery was time-barred.

1.215. The Committee pointed out that due to failure to take appropriate action immediately after the mistake was pointed out by Audit, there was a loss of revenue amounting to Rs. 20,316 in this case and enquired whether any instructions had been issued laying down a time-schedule for taking action on audit objection. The representative of the C.B.D.T. stated that there had been delay in taking action. The Board would issue necessary instructions to take simultaneous action to rectify the errors. He assured that cases of this kind would not recur.

1.216. The Committee understand from Audit that the Audit objection was raised in November, 1961 and till 31st March, 1964, the Department had not taken any action on the audit objection. The Board should investigate into the circumstances in which no action was taken on the audit objection for over two years. The failure to take timely action resulted in a loss of revenue amounting to Rs. 20,316. The Committee are distressed to note that due attention was not paid to this Audit objection. The Committee expect the Department to set an example for others to follow. They hope that the Department will take necessary action to avoid the recurrence of such a lapse.

Incorrect adoption of previous year', Para 50(a), Page 62.

1.217. According to the provisions of the Income-tax Act, share income of a partner from a registered firm is assessable in the hands of the partner for the same previous year as adopted in the firm's case. A company which closed its accounts on 30th June, 1959 included therein its share incomes from several registered firms which closed their accounts on 30th September, 1958/31st March, 1959 and the entire share income was charged to tax in the assessment year 1960-61 instead of in the assessment year 1959-60. Thus the contravention of the provisions of the Act had, not only resulted in postponement of the demand by a year but also resulted in short-levy of tax of Rs. 4,23,161 as the company rates of taxation for the assessment year 1960-61 were lower than those for the assessment year 1959-60.

1.218. Similarly, due to the assessment of share incomes of Rs. 6,79,098, in the hands of the same assessee-company from two firms, in the assessment year 1957-58 instead of in the assessment year 1956-57, an under-assessment of tax of Rs. 21,647 had resulted.

1.219. In reply the Ministry have stated that—

(i) the Income-tax Officer had followed the practice of his predecessors;

(ii) the procedure adopted by the Income-tax Officer was examined and approved by higher authorities; and

(iii) though there was an under-assessment of Rs. 4.45 lakhs for the two years as pointed put by Audit, there has been an over-assessment in the assessment years 1962-63, 1963-64 and 1964-65 resulting in extra revenue of Rs. 10.5 lakhs and thus there was no loss of Revenue.

1.220. It is not clear how an over-assessment can justify an under-assessment when both are against the provisions of the law.

1.221. During evidence the representative of the Direct Taxes Board explained that in the case, referred to in the Audit Report para 50(a), the practice of taking the share income of the previous years which accrued from the various firms in the total income of the assessee had been in vogue for sometime and it was considered whether any departure should be made, but it was found that there was no advantage or disadvantage to revenue. The practice, the witness stated, was therefore allowed to continue. The Committee enquired if it was according to law. The witness replied in the negative. In reply to another question the witness stated that instructions would be issued to rectify it within the period of rectification and set that right. In reply to another question, the witness stated that they could rectify the assessment only for 4 years.

1.222. The Chairman, Board of Direct Taxes, informed the Committee that in 1950-51, this mistake came to the notice of the Commissioners and they thought of correcting it and then they dropped it.

1.223. The Committee feel that both under-assessments and over-assessments are not in accordance with the provisions of the law and should be guarded against. They hope that the C.B.D.T. would issue suitable instructions to the Income-tax Officers to adopt a correct assessment year so as to bring the whole position in accordance with the provisions of the Income-tax Act. Action to rectify the assessment with the provision of the Act should also be taken.

Failure to take timely action leading to loss of revenue—Para 50(*b*)—*Page* 63.

1.224. In order to protect themselves against the loss resulting from over-production, the Jute Mill-owners under a mutual agreement imposed some restrictions upon their working time, according to which the weaving

capacity of the jute mills was curtailed on an agreed basis and a percentage of the looms was sealed. The surplus loom hours available in a jute mill which does not utilise the loom hours allotted to it are transferable for monetary consideration to other jute mills which can utilise it.

1.225. One Jute Mill owned by an unregistered firm purchased the surplus loom hours of another mill during the previous year relevant to the assessment year 1957-58 on payment of Rs. 1,43,328. This expenditure was debited to the Profit and Loss Account of the firm and was also allowed by the Income Tax Department in the assessment (completed on 26th March, 1962) as admissible expenditure. As the expenditure was of a capital nature, this irregular allowance was pointed out to the Department on 7th October, 1963 by audit. On the 29th January, 1964 instructions were issued by the Central Board of Direct Taxes for disallowing such expenditure in the hands of the purchaser of loom hours. Under the provisions of the Income-tax Act, a Commissioner of Income-tax is empowered to revise the order of an Income-tax Officer prejudicial to revenue within a period of two years from the date of the assessment order. Even though the time left after the receipt of instructions of the Central Board of Direct Taxes was sufficient for revision of the assessment by the Commissioner (*i.e.* within 25th March, 1964), no action was taken in this case, leading to a loss of revenue of Rs. 1,20,396, the demand for which cannot be raised now because of the operation of time-bar.

1.226. The Ministry have, however, stated in reply that necessary action has been taken to request the Appellate Assistant Commissioner before whom an appeal is pending against the assessment, for a suitable enhancement on this account.

1.227. The Committee referring, to the case mentioned in the Audit Report enquired, at what stage the rectification of assessment stood. The witness replied that it had not been decided to rectify the mistake because of some confusion on the part of the Commissioner. It was added that it was the Commissioner who had to issue instructions to the Income-tax Officer to raise the point before the Appellate Commissioner but owing to some reason, this was not done and so this mistake had occurred. The witness also informed the Committee that information required in this connection had since been received which would be considered and necessary action would be taken. The Chairman of the Board of Direct Taxes informed the Committee that the Commissioner concerned in this case had retired long ago.

1.228. The Committee desired to be furnished with a note stating reasons for the non-rectification of assessment in the case after the mistake had been pointed out by the Audit.

1.229. This note *inter-alia* stated as under:

"It may be mentioned here, incidentally, that although after the assessment in question was completed, there was an authoritative decision by the Supreme Court that the sale price of loom-hours in the hands of seller is a capital receipt, there is yet no decision by any Court of law that it is capital expenditure in the case of the buyer. In the case of another jute mill, where the purchase price of loom-hours was disallowed by the I.T.O., the A.A.C. has held that the purchase price is a revenue deduction. A Departmental appeal before the Appellate Tribunal was filed in this case, and the same is still pending.

In the present case, in his report to the Board on the audit objection, sent in December, 1965, the Commissioner of Income-tax stated that the Income-tax Officer had already been directed to request the A.A.C. for a suitable enhancement of the assessment by adding back the cost of loom-hours, while disposing of the appeal pending before him in respect of assessment year 1957-58. This Ministry, therefore, wrote to the Audit that the loss of revenue caused by the I.T.O's order allowing cost of loom-hours, would be retrieved. The Commissioner has, however, now explained that the above statement in his report was a mistake as he had taken his predecessor's letter relating to another mill (Annexure B) as relating to this case and no instructions had been issued to the I.T.O. for asking the A.A.C. to enhance the assessment in this case. The A.A.C. disposed of the relevant appeal on 24-2-66. Since there was no request for enhancement, before the A.A.C and the A.A.C. did not deal with this point in his order, the question of filing an appeal against A.A.C.'s order did not arise."

1.230. The Committee regret to note that due to a lapse in the office of the Commissioner of Income-tax concerned, timely action could not be taken for rectification of the assessment at the appeal stage and that no instructions were issued to the Income-tax officer for asking the Appellate Commissioner to enhance the assessment in this case. It is all the more surprising that incorrect information was supplied to the Board in December, 1965, by the Commissioner of Income tax and on the basis of the same [illegible] the Board informed Audit that necessary action had been taken to request the Appellate Commissioner before whom the appeal was pending against the [illegible] for a suitable enhancement of the [illegible]. The Committee take a serious view of this lapse on the part of the Commissioner of Income-tax as this has resulted in a loss of revenue

to the extent of Rs. 1,20,396. They understand that the Co[illegible]er concerned in this case had retired long ago. The fact that this mistake did not come to the notice of the department during its normal course is to say the least, most unsatisfactory. They desire that suitable measures should be devised to avoid repetition of such cases.

1.231. As the transferring of surplus loom-hours by one mill to another is not a new thing, the Committee feel that the Board of Direct Taxes should have examined in detail, if necessary, in consultation with the Ministry of Law, whether the purchase price of such looms was to be treated as capital expenditure or revenue expenditure. In the light of an authoritative decision by the Supreme Court that the sale price of loom-hours in the hands of seller is a capital receipt, the question whether in the case of the buyers, it should be treated as capital expenditure needs to be carefully examined. The Committee find from the note furnished by the Ministry that a departmental appeal was filed in another case before the Appellate Tribunal and the same was still pending. The Committee would like to be informed of the result of the appeal and also the action taken by the Department to ensure that the practice followed is in conformity with the law.

Defects in following the prescribed procedure involving risk of loss of revenue—Para 52—Page 65

1.232. The Income tax Act provides for deduction of tax at source from the salaries paid by any person. All sums deducted at source by private employers towards tax should be paid to the credit of the Central Government within one week from the date of such deduction or from the date of receipt of chalan from the Department by the employer. The private employers, under the Income-tax Rules, must also furnish the Income-tax Department a monthly statement showing particulars of employees, salaries paid, tax deducted at source, date on which tax credited to Government etc. Further, an annual return in the prescribed form should also be rendered by the private employers within 30 days from 31st March in each year. Under the Act, if an employer does not deduct or after deducting fails to remit the sum into Government account, he should be treated as an assessee in default, and relevant penal provisions in the Act invoked in such cases.

1.233. In order to ensure that tax is deducted and deposited in all cases and also to see that the annual and monthly returns are submitted in time, departmental instructions provide for the maintenance of a Register of Employers. On receipt of the annual return, the Income-tax Officer should check that total tax shown as deducted during the financial year in respect of each employee is correct, that the entire amount deducted has been credited to Government account by each employer and in case of default, take penal action.

1.234. During test-check conducted in a few Income-tax Offices in 10 Commissioners' charges, the following irregularities were noticed in this regard:—

(1) The Register of Employers was not maintained properly and consequently the department could not have exercised any control over the receipt of returns, correct deduction of tax at source and remittance of the tax collected into Government account.

(2) From the information available in the income-tax offices it was noticed that the monthly and annual returns are still due from the employers to the extent indicated below:—

	1963-64	1964-65
Monthly returns	1614	1521
Annual returns	4206	6677

(3) In the cases where returns were received the Department had failed to check the correctness of tax deducted at source and raise demands for balance of tax due. The following short deduction of tax was noticed in audit.

Year	No. of cases	Amount
		Rs.
1963-64	218	1,71,624
1964-65	246	1,13,116

(4) According to the rules if the tax deducted at source is not credited to Government account within one week from the date of deduction, penal action has to be taken on the employers. In the following cases of (i) delay in remittances (delay ranging upto sixteen months) and (ii) non-remittance of tax deducted at source, no such penal action was taken by the Department.

(i) Delay in remittance :

Year	No. of cases	Amount
		Rs.
1963-64	222	18,52,862
1964-65	191	16,72,735

(ii) Non-remittance of tax collected into treasury :

Year	No. of cases	Amount
		Rs.
1963-64	36	68,756
1964-65	40	1,03,697

(5) The statutory provisions relating to deduction of tax at source from payments of salaries are not being complied with by most of the foreign Missions in India. A test check of the records sent by ten Missions revealed that only one Mission was deducting tax at source and was sending the prescribed annual statements to the Department. Three Missions did not deduct tax at source but sent the prescribed statements. The remaining six Missions neither furnished the statements nor deducted the tax at source.

1.235. The witness, replying to a question during evidence, stated that some steps had been taken to see that proper deduction of tax at source was made. Commissioners had been asked to ensure that registers of employers were brought upto date and also the employers should be forced to file the returns of salaries. The witness stated that the Commissioners had also been told that if the employer was not deducting the tax at the source and was not submitting monthly and annual returns in spite of reminders, he should be asked to deduct the tax immediately, inviting his attention to the prosecution provision. Similarly in the case of Government departments the matter was to be taken up with the heads of Department. The witness further stated that jurisdiction over salary cases had been vested exclusively in one Income Tax Officer so that a proper watch could be kept on the receipt of annual and monthly returns, and electric computers wherever possible, were being used for working out the accuracy of deduction of tax at source and recovery of balance.

1.236. The Committee hope that the improvements made in the procedure as indicated by the representative of the Central Board of Direct Taxes, would help to clear the outstanding cases relating to tax-returns and would also facilitate their regular and timely receipt in future. The Committee would also like the authorities to keep a watch on the working of the system and take quick remedial measure if the improvements do not come up to the expectation. The Committee also desire that delays in remittance or non-remittence of tax revenues deducted at source should be veiwed seriously.

1.237. In regard to deduction of tax at source by the foreign missions in India, the witness stated that "out of 74 missions, 33 had given the lists." For the rest efforts were being made to get the lists through the diplomatic channels. The witness further stated that the Ministry of Law had been consulted, who had advised that though the employees were liable to deduction of tax at the source from their salaries, there was no provision in the law to enforce that. It was stated that the names of the employees would be ascertained by local enquiries and it was also proposed to prosecute those employees of the missions who had not filed the return voluntarily.

1.238. The Committee enquired whether any study had been made to know as to what was the legal position in other countries about foreign employees. The witness replied that proper study had been made and added that the Indian authorities were guided by the Act of this country. Asked if the Act could not be amended to fall in line with the rest of the world, the witness replied "we will examine it."

1.239. In reply to a questionnaire issued by the Public Accounts Committee, the Ministry has furnished following particulars:

Total number of Missions	74
No. of Missions that which had sent the prescribed returns and deducted the tax	4
No. of Missions that have sent the annual returns but not deducted the tax	35
No. of Missions that have neither filed prescribed returns nor deducted tax at source	35

1.240. From the Ministry's reply it is further noticed that the question of deduction of the tax at source in the case of Indian employees of the foreign Missions in India was examined in 1959, *i.e.* 12 years after 1947 and even after a period of 7 years the matter has not yet been finalised.

1.241. The Committee are disturbed to note that out of 74 foreign missions in India, 70 missions have either not sent annual returns or have not deducted the tax at source. What surprises the Committee most is that the authorities did not look into this matter for nearly 12 years after 1947 and, when they did move in the matter in 1959, they have not been able to arrive at a conclusion even after considering it for more than seven years. The Committee cannot but take a serious view of the Government's apathy in the matter.

1.242. The Committee would like the authorities to examine the practice followed in other countries in this matter and take suitable measures. In the meantime they would desire the Ministry of External Affairs to pursue the matter at the diplomatic level and request foreign Missions to co-operate with the Indian authorities in this matter. The Committee also desire that after ascertaining the names of the Indian employees in foreign mission, notices should be issued to them to file the return voluntarily, failing which action should be taken under the provisions of the I.T. Act.

Other topics of interest—Para 53—*Page* 66.

Sub—Para (a)

1.243. Companies which derive dividends from Indian companies formed and registered after 31st March, 1952 and are engaged in an industry for the manufacture or production of any of the articles specified in a schedule attached to the Income-tax Act, need not, pay super-tax on the dividend so received.

1.244. A company was mainly engaged in the manufacture of an optical bleaching agent with a particular trade name. It secured a licence from the Government in August, 1955 under the Industries (Development) Regulation Act by claiming that the product manufactured by it was a dye-stuff falling under item 20 of the list of articles specified in section 56A of the Income-tax Act, 1922.

1.245. The company accordingly made a claim for the purpose of Income-tax assessment that the product manufactured by it was a dye-stuff and therefore the dividend declared by it must be exempt from super-tax in the hands of the companies holding its shares. This was accepted and the companies receiving dividends from this company have been getting exemption of super-tax on the dividend income.

1.246. Before the Central Excise authorities it was, however, claimed by the assessee that the product was not a dye-stuff in the practical sense since it was not used for dyeing cloth. On a chemical analysis by the

Central Excise authorities this product was found to be neither a dye-stuff nor a synthetic organic derivative used in a dyeing process and accordingly, it was exempted from payment of duty.

1.247. As on the result of a chemical analysis, the bleaching agent manufactured by this company had been proved to be not a dye-stuff and on that score the company also has been enjoying exemption from Central Excise Duty, a contrary decision for the purpose of Income-tax Act has resulted in a wrong exemption being given to the dividends declared by this company. The amount of tax lost due to non-levy of Super-tax on dividends received by six companies from the said company for the years 1958-59 to 1963-64 comes to Rs. 24.16 lakhs.

1.248. In their reply, the Ministry have stated that the Directorate General of Technical Development (Dyes and Explosives etc.) had classified the bleaching agent as a dye-stuff. It is not clear how this was done even though the Company itself has stated before the Central Excise Department that it is only a whitening agent and not a dye-stuff and from another a rebate on the claim that it is actually a dye-stuff.

1.249. The Ministry have added that the phraseologies used in the Income tax Act and in the Central Excise tariff are not identical and it is unfair to interpret the one in the light of the other. It is not clear on what grounds of fairness the different phraseologies which mean the same thing entitle the Company to get exemption from one Department on the claim that it is only a whitening agent and not a dye-stuff and from another a rebate on the claim that it is actually a dye-stuff.

1.250. During evidence in reply to the Committee's question as to how the optical bleaching Agent in this case was held to be a "dye-stuff", the witness stated that under the Income-tax Act, "dye-stuff" industry as specified in the First Schedule to the Industries Development and Regulation Act, 1951, was entitled to the benefit of exemption. It was added by the Chairman, Board of the Direct Taxes, that the matter was referred to the Ministry of Commerce and Industry, who referred it to their Development Wing. The latter informed the Board that the optical bleaching agent in this case fell under "dye-stuff" and it was only after that information that the exemption was granted.

1.251. It is surprising to note that the same item, viz., optical bleaching agent was treated as Dye-Stuff by the Income-tax authorities, whereas the Central Excise Authorities treated it otherwise; with the result that the assessee got exemption both from the Income tax (Super tax, on dividends) and the Central Excise Duty. The Committee understand from Audit that in the Finance Act, 1966 a new tariff item has been introduced "synthetic organic products of a kind used as organic luminophores products of the kind known as Optical Bleaching Agents, substantive to the Fibre." The Committee feel that with a little more co-ordination between the Board of

Central Excise and Custom and the Board of Direct Taxes, this case of the same product being treated differently by the two Boards could have been avoided. They hope that such cases would not recur.

Para 53(*c*)

1.252. Under the provisions of the Income-tax Act depreciation and development rebate are admissible on assets owned by an assessee. In the case of assets acquired through hire purchase system, the transfer or ownership thereof in favour of the hirers, happens only after the last instalment of hire charges are paid to the vendors. Since the assets do not become the property of the hirers, no depreciation and development rebate are allowable to them, while computing the taxable income. This view was upheld in February, 1962 by the Madhya Pradesh High Court in a case. The Supreme Court also in a judgement delivered in November, 1964 held that in the case of hire purchase agreement, sale fructifies only when option is exercised by the intending purchaser after fulfilling all the terms of the agreement. Only when all the terms of the agreement are satisfied and the option is exercised, does a sale takes place of the goods which till then had been hired.

1.253. The Central Board of Revenue in their circular of March, 1943 reiterated in July, 1963 issued instructions that depreciation and development rebate are allowable in the case of assets acquired through hire purchase system. These instructions are contrary to the provisions of the Act and the judicial pronouncements. During test check, it was found that in 24 cases where the Income-tax officers followed the Board's instructions and wrongly allowed depreciation and development rebate the under assessment of tax amounted to Rs. 6,79,221.

1.254. The Committee asked if the Board was competent to issue instructions of 1943, and 1963 and why no provision for allowing depreciation was made in the old or new Act. The representative of the Board informed the Committee that for the sake of uniformity the Board examined the nature of transactions and where necessary Ministry of Law was consulted and the appropriate course to be adopted was decided upon. Referring to the case in question, the witness stated that as different methods were being adopted by different officers, the matter was examined in the Board's office and instructions, both from a legal and an equitable point of view, were issued.

1.255. In reply to a question it was stated that though technically the hire-purchaser was not the owner, yet practically he was the owner. The witness also disclosed that the Supreme Court had recently given a decision that the ownership could not vest in the hire-purchaser. In view of that

decision, the witness stated, instructions would be reviewed and it would be decided if the law was to be amended or not.

1.256. Since a number of audit objections arose out of development rebate or depreciation, the Committee enquired if the Board had considered simplification of these two provisions in the Income-tax Act. The Chairman of the Board also admitted that no thought had been given to simplify the law relating to development rebate. He, however, promised to examine that and see if it could be simplified.

1.257. The Committee hope that, keeping in view the recent judgement of the Supreme Court that the ownership could not vest in the hire purchaser, the Central Board of Direct Taxes would review their instructions and would take an early decision whether or not the law itself required any amendment.

1.258. The Committee also hope that the provisions of I.T. Act relating to the development rebate and depreciation would be examined with a view to simplifying it.

Income-tax demands written off by the Revenue Department during the year 1964-65.—Para 55—Pages 69-70.

1.259. During the year 1964-65, the Income-tax department have written off a demand of Rs. 97,47,072 of which Rs. 11,92,533 relate to Companies and the balance relates to assessees other than Companies. The reasons for write off, as furnished by the Ministry, in the case of both companies and non-companies are as follows:—

	Companies		Non-companies		Total	
	No.	Amount	No.	Amount	No.	Amount
		Rs.		Rs.		Rs.
I. Assessees having died leaving behind no assets, or have gone into liquidation or become insolvent:						
(*a*) Assessees having died leaving behind no assets . . .	..	..	24	1,93,719	24	1,93,719
(*b*) Assessees having gone into liquidation	39	8,01,268	..	..	39	8,01,268
(*c*) Assessees having become insolvent	..	..	10	90,160	10	90,160
	39	8,01,268	34	2,83,879	73	10,85,147

	Companies		Non-companies		Total	
	No.	Amount	No.	Amount	No.	Amount
II. Assessees being untraceable	25	3,91,265	123	2,00,356	148	5,91,621
III. Assessees having left India			21	2,84,960	21	2,84,960
IV. For other reasons :						
(i) Assessees who are alive but have no attachable assets			113	12,11,905	113	12,11,905
(ii) Amount being petty etc.			17	97	17	97
(iii) Amount written off as a result of settlement with assessees			18	63,65,630	18	63,65,630
(iv) Demands rendered unserviceable by subsequent developments such as duplicate demands wrongly made, demands being protective etc.			3	2,07,712	3	2,07,712
			151	77,85,344	151	77,85,344
V. Amount written off on grounds of equity or as a matter of international courtesy or where the time, labour and expenses involved in legal remedies for realisation are considered disproportionate to the amount for recovery						97,47,072
	64	11,92,533	329	85,54,539	393	97,47,072

1.260. The Committee referring to the Audit para and the reply given by the Ministry to their questionnaire, enquired if the reasons for the completion of assessment in 15 cases after the liquidation of companies, had been investigated. The witness replied that there was no avoidable delay in making the assessment. He added that in 10 cases, the return of income had not been received and assessment had to be completed under section 23(4), after the information about the companies which had gone into liquidation had been received. In another case, it was stated that the delay was due to some investigations which were being carried out. Whereas in another case, company had taken adjournment which resulted in delay. In regard to the remaining three cases, the witness stated that information regarding the liability of the company to tax had come to knowledge, after the companies had gone into liquidation.

1.261. The Committee desired to be informed whether there had been any avoidable delay in any of these 15 cases.

1.262. The note has been furnished stating that there were 14 cases in which assessments were completed after the companies had gone into liquidation instead of 15 cases mentioned earlier. In six cases the delay in completing the assessments had been found to be due to inaction on the part of the Income-tax Officers. This inaction was attributable to the fact that the cases were not important enough from the revenue point of view to engage the continuous attention of the Income-tax Officers. In the other cases there was no avoidable delay in completion of the assessments.

1.263. **The Committee regret to note that in as many as 39 cases of companies, an amount of about Rs. 8 lakhs could not be collected as the assessee companies went into liquidation. The Committee desire that the Board of Direct Taxes should devise suitable measures to get income tax returns from the companies in time so as to avoid the repetition of such cases.**

Arrears of Tax Demands—Para 56—Pages 71-72

1.264. At the end of 31st March, 1965, the total outstanding demand of Corporation Tax and Income-tax amounted to Rs. 341·70 crores. Separate figures for Corporation Tax and Taxes on income other than Corporation tax are not available as the Ministry have stated that no separate statistics are kept for this purpose. The amount of Rs. 341·70 crores as compared to actual realisation during 1964-65, works out to 75 per cent. The corresponding figures for the years ending March 1963 and March 1964 are as follows :—

	Rs. in crores	% of total realisation
Year ending March 1963	270·43	87
Year ending March 1964	282·37	68

1.265. The years to which the arrear demand of Rs. 341·70 crores related are as follows :—

Year	Rs. in crores
Arrears of 1954-55 and earlier years	46·61
Arrears of 1955-56 to 1962-63	106·94
Arrears relating to 1963-64	42·52
Arrears relating to 1964-65	145·63
TOTAL	341·70

1.266. One of the reasons for the amounts remaining outstanding is stay of collections of tax granted by the various appellate authorities on appeals and revision petitions. The figures relating to the number of cases in which the tax has been stayed together with the amount of tax stayed as on 30th June, 1965, are given below. The corresponding position as on 30th June, 1964 is also indicated below.

	Number of cases in which tax was stayed		Amount of tax stayed (In crores of Rs.)	
	30-6-65	30-6-64	30-6-65	30-6-64
(*a*) Before Appellate Asstt. Commissioners . .	6,593	3,785	17·47	12·37
(*b*) Before Tribunals .	868	480	2·78	3·90
(*c*) Before High Courts .	212	357	3·67	3·44
(*d*) Before Supreme Court	36	22	0·77	0·44
(*e*) Revision petitions before Commissioners . .	623	252	0·44	0·23
	8,332	4,896	25·13	20·38

1.267. The number of cases pending with the Appellate Assistant Commissioners, as on 30th June, 1965, is 1,20,736, the corresponding figure for the last year being 84,736. The number of revision petitions pending with the Commissioners of Income-tax as on 30th June 1965, is 4,760. The year-wise break-up of the pending appeals/revision petitions as on 30th June, 1965 with reference to the year of institution of appeals is given below.

Year of institution	Appeals with Appellate Asstt. Commissioners	Revision petitions with Commissioners of Income-tax
1953-54	2	..
1954-55	2	1
1955-56	11	6
1956-57	24	5
1957-58	36	19
1958-59	104	47
1959-60	182	73
1960-61	253	106
1961-62	786	146
1962-63	2,948	314
1963-64	10,438	931
1964-65	66,242	2,236
1965-66	39,713	876
TOTAL . . .	1,20,736	4,760

1.268. The written information pertaining to the break-up of arrears of tax demand furnished by the Ministry in reply to the Committee's questionnaire is at Appendix V.

1.269. The Committee were informed that one of the reasons for the increase in arrears was the fact that a large number of assessments were completed in the last quarter when the demand became due. The Chairman of the Board added that as against the demand of Rs. 131·48 crores raised in 1963-64 in the last quarter of the financial year, the corresponding figure in 1964-65 was Rs. 181·28 crores. The witness stated that the rise in arrears was not alarming. From 1955-56 to 1964-65 the arrears had risen only by Rs. 114 crores as against a tax demand during those ten years of about Rs. 2500 crores. The witness added that during last ten years all the tax had been collected except about 4 per cent.

1.270. The Committee asked if the arrears could not be defined separately as effective and non-effective. The witness replying in the negative stated that the arrears could be realised even upto 60 years.

1.271. In reply to a question as to how the arrears which had been stayed by court orders or which had been amended in appeal, had been shown as due, it was stated that even assessments made on 31st March and the amount due in April were shown as arrears. The witness added that the same system had been obtaining all the time and for a comparative understanding it was not thought necessary to change that.

1.272. The Committee were informed that another factor responsible for raising the arrears for a particular year was that the advance tax already paid was not deducted and was adjusted subsequently. The approximate amount of advance tax was stated to be Rs. 320 crores during the last year.

1.273. The Committee desired to be furnished with a note giving the break up of tax arrears of Rs. 61·58 crores referred to in the Ministry's note as due from 109 companies involving tax of over Rs. 25 lakhs in each case. The information has been furnished.

1.274. The Committee regret to note that the gross arrears of income tax have been increasing progressively over the last 3 years. On 31st March 1963, the amount outstanding was Rs. 270·43 crores; on 31st March 1964 this figure rose to Rs. 282·37 crores. As on 31st March 1965 the amount of arrears outstanding was Rs. 322·72 crores. Similarly, the amount of the effective arrears has gone up from Rs. 161·41 crores as on 31st March 1964 to Rs. 184·85 crores as on 31st March 1965. Keeping in view, this rising trend in the arrears of collection of revenue, the Committee would like to impress upon the Board of Direct Taxes the necessity of special steps to expedite the collection of these arrears. The

delay in the collection of arrears, the Committee feel, would make it more difficult for the Board to realise them.

1.275. **The Committee learnt from Audit that the Central Board of Direct Taxes instructed Income-tax Commissioners in August last to form special recovery units in multiward circles to reduce arrears of tax and for maximising collections. The Committee hope that the Board would keep a proper watch over the working of these units and ensure that the arrears of collections are liquidated as early as possible.**

Appeal cases pending and collection of tax stayed

1.276. The Committee were informed that on 1st September, 1965 and 1st June 1966 the number of Appelate Assistant Commissioners on roll was 106 and 148 respectively. Where as the number of appeals pending on 1st May 1966 was 1,60,475, on 1st November 1966 it was 1,36,294. The Committee were also informed that there was a quota for the disposal of each AAC and there was a proposal to raise that.

1.277. In reply to a query it was stated that emphasis was being given to the disposal of older cases, and at that time only one appeal relating to the year 1953-54 was pending. The witness added that instructions had also been issued to the AACs and other officers, that they should see that older appeals were posted for hearing first and disposed of. Explanation was also called for if there was non-disposal of older cases.

1.278. The Committee asked if it was not possible to dispose of all cases which were older than five years during the next six months, excepting those pending for want of a high court decision. The witness replied that the emphasis was on the disposal of all appeals of 1962-63 and earlier years. Next year appeals of 1963-64 and earlier would be disposed of.

1.279. In reply to a query it was stated that for more important charges a smaller quota for the disposal of cases had been fixed. For big company circles, the number fixed was 90 a month which works out 3 cases a day. The quota, the witness stated, had been fixed on the basis of worked out averages.

1.280. The Committee enquired if the cases where the Board lost an appeal in the Courts were examined and whether the officers concerned were made accountable for it. The witness informed the Committee that before the Board went to the Supreme Court, the Solicitor General, the Law Ministry and others were consulted. Sometimes, he said, the Finance Minister himself went into the case and if he did not agree, no appeal was filed. The witness further added that every precaution was taken to avoid frivolous appeals but where points of law and principles and big amounts were involved appeals had to be made. It was stated that instructions had also been issued in that regard.

1.281. The Committee feel that the present number of appeals pending with the Appellate Asstt. Commissioners is very large. The fact that there were 1,20,736 appeals pending with Appellate Asstt. Commissioners as on 30th June 1965 as against 84,736 as on 30th June 1964 does not speak well about the adequacy of appellate machinery. The Committee hope that with the recent arrangements made for the disposal of appeals, their number would be reduced; they, however, feel that the new procedure prescribed needs to be watched carefully. They would like the Board to review the progress of disposal quarterly and if expected progress is not visible other augmenting corrective measures should be taken soon.

1.282. **In regard to revision petitions pending with the Commissioners of Income-tax, the Committee find that on 30th June 1965 their number was 4760. The number of cases in which tax was stayed was 252 on 30th June 1964 and 623 on 30th June 1965. The Committee would like the Board to look into reasons for this abrupt rise in the number of cases in which tax was stayed.**

Arrears of Assessments—Para 57—*Pages* 72-73

1.283. (a) As on 31st March, 1965 17·85 lakhs cases were outstanding with Income-tax Officers pending assessment. The number of cases pending for the corresponding period last year was 12·26 lakhs. The year-wise break-up of the outstanding cases is shown below :—

Year	No. of assessments
1960-61 and earlier years	28,900
1961-62	73,488
1962-63	1,52,440
1963-64	3,86,556
1964-65	11,43,131
TOTAL	17,84,515

1.284. Categorywise break-up of the cases that are pending is as follows :—

(*i*) Business cases having income over Rs. 25,000	97,657
(*ii*) Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000	95,941
(*iii*) Business cases having income of over Rs. 7,500 but not exceeding Rs. 15,000	2,53,457
(*iv*) All other cases except those mentioned in category (v) and refund cases	9,72,451
(*v*) Small income scheme cases, Govt. salary cases and non-Government salary cases below Rs. 18,000	3,65,009
TOTAL	17,84,515

1.285. Status-wise break-up of the pending cases is indicated below :—

(*i*) Individuals	13,83,648
(*ii*) Hindu Undivided Families	1,27,811
(*iii*) Firms	2,27,030
(*iv*) Companies	28,094
(*v*) Other Associations of persons	17,932
TOTAL	17,84,515

1.286. The number of assessments completed out of the arrear assessments and out of the current assessments during the past five years are given below :—

Financial year	No. of assessments for disposal	Number of assessments completed			Number of assessments pending at the end of the year
		Out of current	Out of arrears	Total	
(1)	(2)	(3)	(4)	(5)	(6)
1960-61 . .	18,26,012	7,32,248	4,74,647	12,06,895 (66·1 %)	6,19,117
1961-62 . .	20,21,330	8,06,265	5,02,658	13,08,923 (64·8 %)	7,12,407
1962-63 . .	22,18,376	7,96,815	5,12,902	13,09,717 (59·4 %)	9,08,659
1963-64 . .	27,09,107	9,22,670	5,60,031	14,82,701 (54·7 %)	12,26,406
1964-65 . .	36,26,144	11,54,834	6,86,795	18,41,629 (50·8 %)	17,84,515

(Figures in brackets in column 5 represent percentage of cases disposed of to total number of assessments for disposal).

1.287. Arrears continue to increase both in absolute terms and in percentage.

1.288. During evidence, the Committee, referring to the Audit para and the recommendation contained in their 46th Report (1965-66), asked if it was not possible to devise a measure by which the Return Forms and assessment procedures were simplified in the cases of 'Salary' assessees and assessees with small income. The witness replied that some simplification had already been made. He stated that they have told the Income-tax Officers that they might accept the returns where taxable income had

been returned and where it was not less than 20 per cent of the earlier assessed income. The Board had given them complete freedom so that they need not even scrutinise the accounts in those cases. He added that in the case of salaried income cases, many of the cases had been disposed of with the use of IBM computer. In Bombay City, in 1965-66 the number of salary assessment cases for completion was 2,43,400, out of which 2,25,166 had been disposed of.

1.289. It was stated further that the simplification of return forms (which at present consisted of about 12 pages) and procedure was under examination by a committee which had been formed recently. The witness assured the Committee that the suggestions made by the Public Accounts Committee would be considered and everything possible would be done to expedite the disposal of cases.

1.290. In regard to the increase in the workload of I.T.Os the Chairman of the Board stated that during the last two or three years about ten lakhs assessees had been added to the rolls. He added that in 1963-64 the number of assessments completed was 14,83,000, in 1964-65—18,41,000, 1965-66—23,89,000. The increase in disposal was due to the adoption of new methods. Average disposal of an officer, was stated to have gone up from 1113 in 1963-64 to 1543 cases in 1965-66, whereas in 1957-58 average disposal was 845 and in 1965-66 it was 1543. The witness disclosed that for bigger income cases also it had been decided to do away with the routine type of unnecessary work.

1.291. In reply to a question, the Committee were informed that the total number of assessees was about 26 lakhs out of which 19 lakhs were salaried, and small income assessees.

1.292. To reduce the arrears, it was stated that 300 additional posts of officers, which were sanctioned in April, 1964 had been filled up and 200 more posts were sanctioned in September, 1965 which were in the process of being filled up.

1.293. **The Committee are glad to note that the Board has initiated measures to cut down the accumulation of the arrears of assessment. They were given to understand that out of about 26 lakhs assessees about 19 lakhs were salaried and small income assessees. The Committee feel that if the present form of income tax return for the salaried people, which consist of about 12 pages, is simplified and reduced to a form of one or two pages, it would expedite the submission of the returns of the assessees and also their assessment. It would also incidentally mean considerable saving of stationery. The Committee would like to watch the progress of the clearance of the arrears of assessments through future audit reports.**

The Committee also suggest that the question of tax reduction on a percentage basis in such cases to simplify the whole procedure may be ex[illegible]

Pendency of Super Profits Tax and Sur Tax Assessments—Para 57(b)

1.294. The figures relating to the disposal of the Super Profits Tax assessments and Sur Tax Assessments as on 1st April, 1965 are as under:—

	Super Profits tax	Sur-tax
(1) Number of cases for disposal during 1964-65	2243	1247
(2) No. of cases disposed of provisionally .	68	426
(3) No. of cases disposed of finally . .	767	221
(4) Amount of demand raised on provisional assessments	Rs. 76·35 (lakhs)	12·20 (crores)
(5) Amount collected on provisional assessments	Rs. 56·38 (lakhs)	11·46 (crores)
(6) Amount of demand raised on final assessments	Rs. 256·08 (lakhs)	3·46 (crores)
(7) Amount of demand collected out of (6) .	Rs. 194·49 (lakhs)	3·08 (crores)
(8) Number of cases pending as on 31-3-1965	1476	1026

1.295. At the time of evidence the Committee were informed that out of 1026 Sur Tax cases pending on 1st April, 1965, 166 cases had been disposed of till 30th June, 1966, whereas the number of super profit tax assessments disposed of during the 15 months ending 30th June, 1966 was 485. The witness added that special steps had been taken for expediting the disposal of cases.

1.296. **The Committee hope that special steps taken for the expeditious disposal of cases would reveal satisfactory results and that the number of cases of surcharge and super profits tax pending dipposal would be brought down. They would like to watch the results through future Audit Reports.**

*Para 57(c) Pendency of Excess Profits Tax and Business Profits Tax assessments**

1.297. The number of assessments disposed of during 1964-65 and of those pending on 31st March 1965 under the excess Profits Tax Act, 1940

*The figure in this paragraph are as furnished by the Ministry.

and Business Profits Tax Act, 1947 are indicated below :—

	E.P.T.	B.P.T.
(1) Total number of cases pending for disposal by way of final assessment as on 1-4-64 .	116	26
(2) Total No. of cases of (1) in which provisional assessments had been completed . .	awaited	awaited
(3) No. of cases in which re-assessment proceedings if any started during 1964-65 (Excess Profits Tax Act) (*i.e.*, number of cases added during the year) . . .	22	Nil
(4) Total number out of (1) and (3) disposed of during the year	21	6
(5) Total number pending as on 31st March, 1965	117	20
(6) The amount of tax (approximately) involved in (5)	awaited	awaited

1.298. As the Excess Profits Tax Act, 1940 and Business Profits Tax Act, 1947 have ceased to be in force in the years 1947 and 1950 respectively the need for completion of these pending assessments is obvious. Although the Excess Profits Tax Act does not prescribe a time-limit for completion of assessments, it is obviously unfair both to Government and to the assesses that assessments should remain uncompleted for about 20 years.

1.299. Stating the latest position the witness, during evidence, gave the following figures of pending cases:—

No. of cases pending	Reasons for pendency
46 . .	On account of settlement on investigation.
33 . .	Non-cooperation of assessees.
6 . .	Appeals pending with Appellate Asstt. Commissioner.
1 . .	Records with Police.
4 . .	Corresponding income tax assessment pending.
4 . .	Pending for court proceedings.
2 . .	Application for fixing standard profits under section 63.
7 . .	Disclosure made by assessee which resulted in inquiries and which are in progress.
4 . .	Under assessment.

1.300. In view of the fact that the E.P.T. cases of 1947-48 were pending in the year 1966-67, the Committee asked, during evidence, if that was satisfactory state of affairs. The witness stated that it was not satisfactory state of affairs and added that a special report from the Commissioners had been called for in regard to the cases pending relating to the year 1947-48, which on receipt would be looked into and special instructions, where necessary, would be issued. It was also stated that it was being contemplated to fix a target date for the disposal of EPT cases.

1.301. The Committee pointed out that of 110 cases, 62 cases related to UP charge and enquired about the special steps taken by the Commissioner of Income Tax to dispose them of. The witness stated that the Commissioner had examined the pendency in each of the cases individually and had reported to the Board. The Commissioner had given individual instructions in all these cases and the Board would follow it up.

1.302. **The Committee regret to note that the Excess Profit Tax cases of 1947-48 were still pending in year 1966-67. The Committee take a serious view of this abnormal delay in the settlement of these cases. The Committee also desire that a target date should be fixed for the disposal of E.P.T. cases. They would also like to watch the progress of settlement of these cases through future Audit Reports.**

Refunds, para* 58, *page* 74.

1.303. The number of refund applications outstanding as on 31st March, 1965 is 7,225 involving an amount of Rs. 88.80 lakhs. The figure for the corresponding period ending 31st March, 1964 was 7195 involving an amount Rs. 32·51 lakhs. The break-up of the refund applications with reference to the period of pendency is as follows:—

	No. of Cases	Amount involved (in thousands of Rs.)
(*i*) Refunds outstanding for less than a year as on 31st March, 1965.	6629	7562
(*ii*) Refunds outstanding between 1 and 2 years as on 31st March, 1965.	483	731
(*iii*) Refunds outstanding for 2 years and more as on 31st March, 1965.	113	587
(*iv*) Interest paid to assessees for delayed Refunds	4	4

1.304. Under Section 243(1) of the Income-Tax Act, 1961, the Central Government have to pay interest at 6 per cent per annum on all refund claims outstanding for more than six months.

*The figures this paragraph are as furnished by the Ministry.

1.305. Asked to state the latest position of refunds the representative of the Central Board of Direct Taxes stated that out of 110 pending cases as on 31s March, 1965 (outstanding for 2 years or more) pertaining to the period 1955-56 to 1962-63, refunds had been made in 66 cases. The remaining 44 cases would be cleared after proper investigation which took a little time. The Committee pointed out that these claims were outstanding for more than six months and desired to know whether any interest was paid under Secion 243(1) of the Income Tax Act. The witness stated as an example that if an application was made in January, 1966 and the income consisted solely of interest on securities or dividends and if refund was not granted before 30th June, 1966, the Department was liable to pay interest. But the Deptt. was not liable to pay interest if besides securities or dividends, there was also income from property salary or business. The Committee pointed out that there was a provision in the Act that interest could be refused if the delay could be attributed to the assessee but if the Department took a long time to make assessment it would not be correct to refuse payment of interest and desired that the Deptt. should check up in all the 66 cases which had been disposed of whether interest was due to be paid to them. The witness agreed to check up the matter and furnish a note stating the amount of refund paid for the 66 cases disposed of by the Department and whether any interest had to be paid and if so, the amount paid on that account.

The note has been furnished and is at Appendix VI.

1.306. In reply to a question, the Committee were informed that as on 31st March, 1966 the position of refund applications was as under :—

	No.	Value
		(Rs.)
For less than a year	5251	77,42,000
Between 1 to 2 years	379	13,21,000
2 years and more	101	3,40,000

1.307. Explaining the causes of delay the witness stated that the refund circles were not properly staffed. The expenditure department after a study, however, had agreed to give more staff for those circles. The witness agreed that there was avoidable delay in giving refunds and stated that they had taken action to remove the delays.

1.308. The Committee hope that the Ministry will be able to [illegible] the arrears of the pending cases of refund more expeditiously in view of the fact that the refund circles are going to be staffed [illegible]y. They hardly need to emphasise that the disposal of such cases should be tackled with a sense of urgency as any delay in their disposal might involve a liability on the Government to pay interest on refund claims under Section 243(1) of the Income tax Act, 1961.

II

OTHER REVENUE RECEIPTS

MINISTRY OF HOME AFFAIRS

Sales Tax Receipts of Delhi Administration

Delay in finalisation of assessment leading to loss of revenue—Para 62—*Page* 77.

2.1. (i) During 1956, assessments amounting to Rs. 4,785 and Rs. 1·02 lakhs and relating to 1952-53 and 1953-54 respectively in the case of a certain dealer were set aside by the appellate authority for being re-framed on certain grounds. No action, however, was taken in this direction till December, 1965 when, in reply to the audit objection raised in August, 1965, the Department stated that action to make reassessment in these cases was being taken. The Ministry stated in January, 1966 that there had been gross delay in finalising the re-assessments and that steps were being taken to finalise them early. The assessments for the years 1954-55 and 1955-56 could not be made within the prescribed period of 4 years also and these have now become time barred.

2.2. (ii) Another dealer was granted registration certificate on 6th April, 1962 (actually delivered in January, 1964) though he had applied for it on 23rd May, 1960. It was decided, however, to determine the tax liability at a later date. But this was not taken up till Audit pointed it out in August, 1965 ; the tax liability was fixed with effect from 23rd May, 1960 on 30th September, 1965. This delay in fixing the tax liability led to the assessment for 1960-61 becoming barred by time.

2.3. In regard to the assessments for the years 1954-55 and 1955-56 mentioned in case (i) and in case (ii), the assessees deposited the tax in advance on the basis of the returns filed by them. The Department has held that as tax recoverable according to the returns filed has already been credited to Government, no loss of revenue is involved in these cases. This contention does not appear to be correct as unless the assessments are actually made, it cannot be said whether the amounts of tax deposited in advance were the amounts actually recoverable under the Act from the assessees. This position has been accepted by the Ministry (January 1966).

2.4. The witness (chief Commissioner, Delhi) admitted that there had been serious laxity in making assessments in a number of cases as mentioned by Audit. He added that proceedings against the officers concerned had been initiated.

2.5. The Committee asked if the assessments for 1952-53 and 1953-54 had since been reframed, and if so, what was the amount of the additional demand and whether that had been realised. The witness (Chief Commissioner, Delhi) stated that from 4th May, 1956 to 6th April, 1958, there was a legal bar to taxing hire purchase transactions because of the Punjab High Court judgment. The bar was removed in April, 1958 with the judgment of the Supreme Court. But by that time the witness added, the proceedings in relation to 1952-53 and 1953-54 had become time-barred. The witness further disclosed that there was a difference of opinion between the officers regarding their jurisdiction to make assessment with the result that files moved from place to place and the action to be taken was lost sight of. He added that the explanation of officers concerned had been asked for in that regard. He further stated that the Department, on the basis of a Patna High Court ruling, held the view that there was no time-limit for completion of the assessments, but later the Supreme Court ruled that there was a time limit even for those assessments.

2.6. When asked how the Punjab High Court judgment prevented them from making a protective assessment, as that was not the final court, the witness stated that there was no provision in the Sales Tax Act to make a protective assessment. He added that in this case a regular assessment had to be made, but when the Punjab High Court judgment was known, assessments could not be made as that would have meant inviting contempt of court proceedings. The Legal Adviser too advised that there was no chance of success if an appeal was filed in the Supreme Court, as the Punjab High Court judgment was based on an earlier decision of the Supreme Court.

2.7. The Committee then asked why this fact was not brought to the notice of Audit. The witness replied that when Audit commented in 1965, it was thought that the assessment could be completed. The Committee, thereupon, enquired about the reasons for not complecting the assessment upto 1965. The witness replied that it must be due to an oversight. The Committee also drew pointed attention to the fact that arrears outstanding against the party were not mentioned in the communication sent by them even as late as 1966. The witness admitted that "it must have been due to oversight at that time". He further added that "We have now ordered that physical varification of all files should be undertaken and a blue list prepared of all pending assessment proceedings. Apart from that, certain registers have been prescribed for recording all

out standing proceedings and the sales-tax officer is supposed to personally prepare these things and make sure and issue a certificate to the Commissioner that no proceedings are pending of any particular dealer."

2.8. The Committee referred to para 62 (ii) and asked why it had taken two years to grant a registration certificate and another two years to deliver it, after it was granted. The witness (Sales Tax Commissioner) stated that the application for registration certificate was filed by the dealer in a wrong ward and that remained pending for some months. It was only when the application was sent to the proper ward that the registration order was passed and the certificate issued. He admitted that there had been considerable delay due to lack of proper co-ordination and for that lapse explanation of two officers concerned had been called for.

2.9. The witness, in reply to a further query, stated that the party had been assessed for tax from 1961-62 and for that year it had paid Rs. 4,000 total tax.

2.10. **The Committee are not convinced by the explanation given for the delay in making a proper assessment of the firms in time, with the result that assessments for 1952-53 to 1955-56 in the case of one firm and for 1960-61 in the case of another firm became time-barred. They are also unhappy that, due to lack of proper co-ordination and administrative control, the jurisdiction of various officers for assessment purposes was not precisely determined, leading to delay and the avoidable movement of files from one office to another, without any conclusive action being taken. They are also distressed to note that it took the Government nearly two years to dispose of an application for registration certificate and another two years to deliver it.**

2.11. **The Committee would like Government to examine thoroughly the procedure and administrative instructions to make sure that the applications for registration are disposed of expeditiously and that there is no delay in the delivery of the certificate of registration. The Committee would also like Government to lay down precisely the charge and responsibilities of various officers for making assessments so as to avoid confusion. The Committee would like Government to devise a proper system to ensure that assessments are made in time and that a strict watch is kept on the realisation of Government dues so that they do not become time-barred.**

Non-recovery of Sales Tax and ultimate write off—Para 63, *pages* 78-79.

2.12. A sum of Rs. 5·88 lakhs representing sales tax recoverable from a certain dealer for the period from 16th January, 1953 to 5th March, 1956 was written off by Government in November, 1964 due to the fact that the dealer was reported (on 14th October, 1955) by the Collector, Delhi as untraceable either at his shop or at his residential address.

2.13. The dealer filed an appeal against the assessments of tax amounting to Rs. 1·42 lakhs from 16th January, 1953 to 31st March, 1954. On 23rd January, 1956, the date fixed for hearing of the appeal, he sought an adjournment of the case through his counsel on medical grounds but this request was rejected by the appellate authority on the 31st January, 1956. The assessment already made was also confirmed by the appellate authority *ex-parte*. Sales returns for the months of May to August, 1955 duly signed by the dealer were also filed with the Department on the 17th November, 1955. The Department also noticed in February, 1956 that he was doing business in an another locality of Delhi. The circumstances under which his whereabouts were not ascertained by the Department directly from him or through his Counsel or otherwise to enforce the above recovery of tax are not known.

2.14. The tax amounting to Rs. 4.46 lakhs (assessed *ex-parte*) for the subsequent two years *viz.*, 1954-55 and 1955-56 also remained unrecovered. This was reported to the Collector after 2-3 years of the completion of the assessments.

2.15. It has also been noticed that, while reporting the case to the Collector, Delhi, for making recovery of the outstanding amounts, incomplete address of the dealer was furnished to him inasmuch as the address given did not indicate the exact location of the shop and only the street in which the shop was located was intimated.

2.16. According to the departmental inquiry reports of October, 1953, February, 1954 and February, 1956, the dealer had been shifting his business premises from time to time without informing the Department, as required under Section 16 of the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi. He also furnished certain evidence supporting the deductions claimed by him for having sold certain goods outside Delhi but the same, on verification made in July, 1954, were found to be inadmissible because the transport companies through which the goods were stated to have been sent were not in existence. However, no steps were taken by the Department to proceed against him in terms of Section 22 of the Act. Incidentally, it may be mentioned that according to the inquiry report of October, 1953, the dealer had a very bad reputation and he was reported to be defrauding the Government on a very large scale. He finally appeared in person before the Department in January, 1955.

2.17. The Department stated in January, 1966 that the assessments in question might have been far less if the dealer had attended the hearings and produced proof in support of the deductions claimed by him on account of goods sent to places outside Delhi, etc., instead of allowing the assessments to be made, *ex-parte*. The basis of this contention is not

clear as the evidence produced by the dealer was found to be incorrect on verification conducted by the Department and he, on being requested on several occasions, refused to produce any other evidence in support.

2.18. It was stated during evidence before the Committee that the Collector was informed on 14th October, 1955 that the dealer was not traceable. The Collector, being not satisfied, directed that confidential enquiries in regard to the whereabouts of the dealer should be made After those enquiries it was reported again on 27th January, 1956 that the dealer was not traceable.

2.19. Asked when the party was not traceable, how on 23rd January, 1956 he appeared in a court, the witness replied that the dealer was represented by a Counsel and the Counsel was under no obligation to disclose the whereabouts of the party concerned.

2.20. In reply to another query, the witness stated that the Sales Tax was imposed in Delhi in 1951 and at that time a number of bogus dealers registered themselves, including the party in question. The party, could not be driven out of trade because there was no provision in the Act for that However, the witness added a demand against the party, was raised to make him surrender the registration certificate. Asked if there was no other alternative, the witness replied in the negative.

2.21. The witness further stated that the Act had been amended. A provision had now been made that dealers' registration certificate could be cancelled by the Commissioner if he found that the dealer was not carrying on his business properly. There was also a provision for imposing a security before a registration certificate was granted to the dealer. All this action was taken after they came to know that there were some bogus dealers who had been registered earlier. The Committee drew attention of the witness to the report dated 13th October, 1953 of the Sales Tax Inspector wherein he had stated that the dealer had a very bad reputation and was reported to be defrauding the Department on a large scale and enquired why he was allowed to carry on the malpractice. The witness stated that there was a basic lacuna in the Act as they could not cancel registration certificate.

2.22. The Home Secretary expressed the view that such a party should not have been left untraced. He added; "We will try to put all our resources and see that his identity is established."

2.23. The Committee note that, according to the Departmental inquiry reports of October, 1953, February, 1954, and February, 1956, the dealer had been shifting his business premises from time to time without informing the Department as required under Section 16 of the Bengal Finance

(Sales Tax) Act, 1941, as [illegible] to the Union Territory of Delhi. They feel that this fact should have made the Department vigilant.

2.24. The Committee also cannot escape the conclusion that the case had been dealt with in a most casual manner and no serious effort was made to trace the dealer. They hope that every effort would now be made to trace the dealer, as was promised by the Home Secretary in evidence so as to recover the Government dues.

Shortfall in Survey work—Para 65, *page* 80.

2.25. In a ward, a survey of dealers (both registered or otherwise) is required to be conducted annually in such a way that all the shops are surveyed at least once a year. Against 20136 registered dealers as on 1st April, 1964 only 16,176 cases were surveyed during 1964-65. Failure to survey the remaining 3,960 cases is reported (January, 1966) to be due to shortage of staff. The number of new cases surveyed during the same year is not known.

2.26. The number of registered dealers under the Local Act and the Central Act during the last four years is indicated in the table below :—

Under Local Act	No. of Registered Dealers
Year	
As on 1st April, 1963	17,616
1964	18,370
1965	21,940
1966	24,230
Under Central Act	
As on 1st April, 1963	13,350
1964	14,423
1965	17,575
1966	19,556

2.27. The Committee enquired about the cases of unregistered dealers which were surveyed during the years 1962-63 to 1965-66.

2.28. The witness stated that the information would be gathered but out of the dealers surveyed in the years 1962-63, 1963-64, 1964-65, and 1965-66 dealers numbering 998, 659, 567 and 654 appeared *prima facie* to be registered. Some of these cases were still pending. With the additional staff, that has already been sanctioned and the staff that was

likely to be sanctioned very shortly, the witness hoped, that the work of survey would be completed in a couple of years time.

2.29. The Committee would like to be apprised of the progress made in the completion of the survey work.

2.30. They understand from Audit that, under the Departmental rules, an Assistant Sales Tax Officer is required to verify at least 20 per cent of the Survey reports made by the Sales Tax Inspector. Similarly a Sales Tax Officer is expected to check at least 10 per cent of such reports furnished by the Inspectors and Assistant Sales Tax Officers. The Committee would like to be informed whether the procedure laid down under the departmental rules is being actually followed by the Sales Tax Department.

Arrears of assessment, Para 66—Page 80

2.31 It was noticed in audit that 84092 cases were outstanding on 1st April, 1965 with the Sales Tax Office pending assessment.. The approximate tax involved in these cases could not be ascertained. These outstanding cases related to the years indicated below:—

2.32 The number of assessment completed and pendency thereof during the past three years is given below:—

Financial year		No. of assessments for disposal	No. of assessments completed	Percentage of the cases disposed of		No. of assessments pending.
1962-63	Local	32,507	15,747	48·44	47·43	16,760
	Central	24,515	11,247	45·87%		13,268
1963-64	Local	38,273	16,634	43·46%	42·32	21,639
	Central	29,208	11,923	40·82%		17,285
1964-65	Local	44,226	19,918	45%	34·50	24,308
	Central	33,831	14,042	41·5%		19,789

Year wise break up of arrears

Position as on 1-4-65.	Year	Local	Central	Total
84,092	1961-62	2,855	2,382	5,237
	1962-63	21,453	17,407	38,860
	1963-64			
	1964-65	22,357	17,638	39,995
		Total		84,092

(Figures in brackets in column 3 represent percentage of cases disposed of to the total number of assessments for disposal)

2.32 Asked about the disposal of pending cases of assessment, the Chief Commissioner, Delhi, stated that efforts were being made to complete the work in one or two years' time. With that end in view additional staff had also been sanctioned temporarily for a period of one year.

2.33 The Committee regret to note that as many as 84,092 cases were outstanding on 1st April, 1965 with the Sales-tax Office pending assessments. Some of these relate to the year 1961-62.

2.34 The Committee cannot too strongly stress the need for taking urgent action to clear the arrears of assessment relating to earlier years, so that the realisation of Government dues do not become time-barred. They would like to watch the progress made in this regard through the subsequent Audit Reports.

III

GENERAL

3.1. The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts, 1966. They expect that the Department will none-the-less take note of the discussions in the Committee and take such action as is found necessary.

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

NEW DELHI;
July 22, 1967.
Asadha 31, 1889 (*Saka*).

APPENDIX I

(Ref. of para 1.21 of this Report)

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

Para 32 of the Audit Report (Civil) on Revenue Receipts, 1966.

A statement may be furnished showing the break-up of the total under-assessment of Rs. 1773 lakhs pointed out in Audit Reports of the years 1962 to 1966 giving details as on 1st December 1966 of the under-assessment pointed out by Audit, amount not accepted by Department amount barred by time, demands raised, recoveries made and amount under recovery (Reasons may be given for variation in the amounts accepted and demands raised).

Reply of the Ministry

The break-up of the total under-assessment of Rs. 1173 lakhs is as under:—

(Figures in lakhs of Rs.)

(i) Amount involved in cases where the audit objection has been accepted by the Department.	788
(ii) Amount involved in cases where the audit objection has not been accepted by the Department . . .	856
(iii) Amount involved in cases where the admissibility or otherwise of the audit objection is still to be decided.	106
(iv) Amount involved where rectification is barred by limitation of time. (This may be either in Category (i) or (ii)	23
	1773

2. The position of rectification and collection in the cases where the audi objection has been accepted by the Department is as under:—

	Rs. lakhs
(a) Amount involved where the audit objection has been accepted	788
(b) Demands raised as a result of the rectification.	718
(c) Difference between (a) and (b)	70
(d) Amount collected out of (b)	487

3. Reasons for 2(c) are:—

(i) Assessment records having been held up with the appellate authorities.

(ii) Proposed rectificatory action being challenged in courts of law.

(iii) Actionin partners cases help up for completion of assessments of the firms cases.

(iv) In certain cases the actual demand raised was less than that pointed out by the Accountant General.

(G. S. SRIVASTAVA)
Joint Secretary to the Government of India.

F. No. 83 94/66-IT (B)

APPENDIX II

(Ref. para. V.F) of this Report)

Para 34(e) of Audit Report (Civil) on Revenue Receipts, 1966—adoption of incorrect rates of tax in the assessments "resident but not ordinarily resident" assessees in Delhi charge.

In the course of the discussion on the above paragraph before the Public Accounts Committee on 14th December 1966, the P.A.C. desired to have a note giving the circumstances in which the Inspecting Assistant Commissioner of Income-tax did not check the assessments in question and also when the I.A.C. had last inspected this circle. The following note is accordingly submitted to the P.A.C.

2. The audit objection in these was that, instead of charging income-tax at the maximum rate and super tax at 19 per cent, the Income-tax Officer had levied tax in these cases at the rates applicable to their total world income although they had not filed the necessary option as required under Section 113 of the Income-tax Act, 1961. The important change made in the Income-tax Act, 1961, in regard to the rates of tax applicable to "resident but not ordinarily resident" persons was overlooked by the Income-tax Officer.

3. All the 96 cases referred to in para 34(e) of the Audit Report had been dealt with by the same Income-tax Officer (Income-tax Officer, Foreign Section, New Delhi). There was no inspection by the I.A.C. of the Income-tax Office, Foreign Section in the years under reference (1963-64 and 1964-65). The I.A.C., who was in charge of the Foreign Section, during the year 1963-64 (when inspection in respect of the assessments made in the section 1962-63 should normally have been conducted) had 28 circles under him and it was not possible for him to inspect the work of all the circles. He inspected work of 12 important circles dealing with business cases. Similarly during 1964-65 (when inspection in respect of the assessments made during 1963-64 had to be conducted) the I.A.C. in charge of the Foreign Section completed inspections of 8 circles but these did not include the Foreign Section.

4. The Foreign Section was last inspected by the I.A.C. in 1955. Thereafter, there was no inspection of that Section by I.A.C. From the point of view of inspection the Foreign Section was not considered very important since the bulk of the revenue of this section was derived by book

between two Departments of the Government of India, *viz.*, the Department of Economic Affairs and the Department of Revenue of the Ministry of Finance. This was because the Foreigners assessed in the Foreign Section were mostly those employed in the various projects of the Govt. of India and in their cases the tax liability was being met by the Government of India.

APPENDIX III

(Ref. para 1.86 of this Report)

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

Para 37(b) of Audit Report (Civil) on Revenue Receipts, 1966— Failure to compute income from business properly.

In the course of the discussion on the above paragraph before the Public Accounts Committee on 14th December 1966, the Chairman of the Public Accounts Committee desired that full facts relating to the case should be ascertained and a Note given to the Public Accounts Committee.

The following Notes sets out the facts and the present position:

2. Audit have pointed out in this case that a sum of Rs. 4,12,273/- was debited to the purchases account of the assessment year 1960-61 although the amount pertained to purchases in the preceding year. The Income-tax Officer had made a note of this fact in the assessment order also, but while computing the taxable income from the net loss returned by the assessee, for this assessment year, he did not disallow this wrong debit. Thus, the taxable income was under-assessed by Rs. 4,12,273/- resulting in an under-charge of tax of Rs. 3,54,554/-.

3. After receipt of the audit objection, the assessment for 1960-61 was rectified under section 154 of the Income-tax Act, 1961, on 16th August 1965 and an additional demand of Rs. 3,54,554/- raised. The tax is being recovered in monthly instalments of Rs. 15,000/- as it was claimed by the firm that actually no tax was payable if the assessment for 1959-60 was also rectified for which the assessee had already applied.

4. The facts of the case have been further examined. For the assessment year 1960-61, for its import and export-business the assessee had shown a Gross Profit of Rs. 3,66,056 on sales of Rs. 3,28,17,298. As this Gross Profit had been arrived at after deleting Rs. 4,12,273/- for purchase of 1001 Electric Motors made in the preceding year and debitable in that year, the Income-tax Officer added back this sum to arrive at the correct Gross Profit shown by the books. He thus arrived at a figure of Rs. 7,78,329/- which he considered inadequate. He completed the Gross Profit at Rs. 49,50,000 by applying a rate of 15 per cent on estimated sales of Rs. 3,30,000. He should have deducted Rs. 3,66,056 Profit shown from the estimated profit of Rs. 49,50,000 and added back a sum

of Rs. 45,83,944, but instead of deducting Rs. 3,66,056 he deducted the sum of Rs. 7,78,329/- mentioned above, and added back a sum of Rs. 4,12,273 will be treated as purchases of the preceding year and the As mentioned above, this mistake has since been rectified.

The Income-tax Officer was under the impression that the sum of Rs. 4,12,273 will be treated as purchases of the preceeding year and the assessment of that year would be revised by reducing the total income of that year. It was on this basis that he said, while there had been loss of revenue in 1960-61, there had been a compensating gain in 1959-60. It has now been found that the profit of 1959-60 had also been estimated ignoring the figures of purchases and sales shown by the assessee and there was no gain to revenue in that year, due to the failure of the assessee to debit the purchases of Rs. 4,12,273/- in that year. The gain to revenue was by estimating the profit for the year and the estimate would cover all defects in the accounts.

The assessments for both 1959-60 and 1960-61 have been set aside by the Appellate Commissioner on different grounds and fresh assessments are expected to be made shortly.

As mentioned above, the under-assessment arose due to the mistake of the Income-tax Officer in deducting Rs. 7,78,329/- instead of Rs. 3,66,056 from the estimated Gross Profit of Rs. 49,50,000/-. The Income-tax Officer has explained that it was due to pressure of work, as he took over charge of the circle in January, 1965 and there were 20 time-barring assessments, including the present one, which had to be completed by 31st March 1965. There was no *mala fide* on the part of the Income-tax Officer. He has been warned to be careful.

(Duly vetted by Audit *vide* D.O. No. 1489-Rev. A/21-67, dated 17th April 1967.

G. S. SRIVASTAVA,

Joint Secretary, to the Govt. of India.

MF(DR) F. No. 36/15/65-IT(AI), dated 24-4-67.

APPENDIX IV

(Ref. para. 1.207 of this Report.)

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

Para 47:

A note may be furnished stating the amount recovered out of the demands amounting to Rs. 74 lakhs raised as a result of special review.

Reply of the Ministry

The final figures furnished by the Commissioners of Income-tax now show that the actual demand raised as a result of review comes to Rs. 93.61 lakhs as against Rs. 74 lakhs reported to the Public Accounts Committee at the meeting. Out of the above demand a sum of Rs. 39.95 lakhs has been recovered so far.

(Vetted by Audit *vide* Shri V. Gauri Shankar's D.O. No. 929-Rev. Audit/172-65 IV, dated 10th March, 1967).

(G. S. SRIVASTAVA),

Joint Secretary to the Government of India.

F. No. 83|33|66-IT (B)

APPENDIX V

(Ref. para 1.268 of this Report)

MINISTRY OF FINANCE

(Department of Revenue & Insurance)

Para 56: Arrears of Tax demands:

(a) The number of cases comprised in the total arrears of Rs. 341·70 crores may be furnished in the following form.

Arrear demand	No. of cases	Total arrears
Upto Rs. 1 lakh		
Over Rs. 1 lakh upto Rs 5 lakhs		
Over Rs. 5 lakhs upto Rs. 10 lakhs		
Over Rs. 10 lakhs upto Rs. 25 lakhs		
Over Rs. 25 lakhs.		

(b) Out of the arrears of Rs. 341·70 crores what is the effective arrears

(c) Details of amounts due from the following categories moy be furnished:

(i) Due from companies under liquidation

(ii) Due from persons who have left India.

(iii) Covered by Certificates issued to Tax Recovery Officers of State Governments.

(d) Year-wise and charge-wise break up of the arrears of Rs. 341·70 crores.

(e) The amount which is proposed to be written off out of these arrears for the reasons given in para 55 of Audit Report, 1966 on Revenue Receipts.

Reply of the Ministry

Arrear demand	No. of cases	Total arrears (In crores of Rupees)
1. Upto Rs. 1 lakh.	6,43,020	135·84
2. Over Rs. 1 lakh and upto Rs. 5 lakhs.	2,712	56·67
3. Over Rs. 5 lakhs and upto Rs. 10 lakhs.	402	28·11
4. Over Rs. 10 lakhs and upto Rs. 25 lakhs.	259	39·14
5. Over Rs. 25 lakhs	110	62·96
Total:	6,46,503	322·72

(b) Out of the gross arrears of Rs. 322·72 crores the effective arrears work out to Rs. 184·85 crores *vide* Annexure II.

(c) (i) Amount due from companies under liquidation Rs. 6·77 crores

(ii) Amount due from persons who have left India Rs. 7·43 crores

(iii) Amount covered by certificates to Tax Recovery Officers . . . . . Rs. 166·89 crores

(d) A statement showing the year-wise and charge-wise break-up of the arrears of Rs. 322·72 crores is enclosed (Annexure I)

(e) The amount estimated to be irrecoverable out of the gross arrears of Rs. 322·72 crores is Rs. 48·15 crores and the break-up of the same is given below:—

(i) Due from persons who have left India leaving no assets.	7·43
(ii) From companies under liquidation.	6·10
(iii) From others	34·62
Total	48·15

Sd/-.
(G. S. SRIVASTAVA)
Joint Secretary to the Government of India.

F.No. 83/50/66-I.T. (B) (Approved by Joint Secretary)

ANNEXURE I

Table showing chargewise figures of I.T. Arrears outstanding As on 31-3-65.

(Figures in Lakhs of Rs.)

Commissioners' Charge	Arrears of 1954-55 and earlier years	Arrears of 1955-56 to 1962-63	Arrears of 1963-64	Arrears of 1964-65	Total
Andhra	53	228	140	369	790
Assam	23	98	85	154	360
Bihar & Orissa	61	315	187	710	1273
Bombay City I, II & III	1236	2638	944	2240	7057
Bombay Central	59	634	163	424	1280
Poona	78	168	81	321	648
Delhi	363	533	171	585	1652
Delhi Central	2	111	107	256	476
Rajasthan	25	134	48	152	359
Gujarat	11	169	131	493	804
Kerala	46	136	57	244	483
Madhya Pradesh	31	572	217	782	1602
Madras	177	274	218	722	1391
Mysore	24	115	68	155	362
Punjab	62	128	109	414	713
Uttar Pradesh	358	470	284	548	1660
West Bengal I, II & III	1966	3133	1055	3404	9558
Calcutta (Central)	282	524	316	681	1804
TOTAL:	4857	10380	4381	12654	32272

ANNEXURE II

Statement showing the working of the effective arrears as on 31-3-65.

		(Figures in Crores of Rs.)
Gross demand outstanding		322·72
Deduct amount not fallen due		70·45
Balance		252·27
Less deductions expected on account of—		
(i) Double Income-tax relief	2·74	
(ii) Appellate Relief	13·44	
(iii) Protective assessments	3·09	
		19·27
		233·00
Less irrecoverable demand—		
(a) From persons who have left India	7·43	
(b) From companies under liquidation	6·10	
(c) From cases pending before Collectors	34·62	
		48·15
Balance being recoverable demand or effective arrears.		184·85

APPENDIX VI

(Ref. para. 1.60 of this Report)

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

Para 58 of the Audit Report (Civil) on Revenue Receipts, 1966.

A note may be furnished stating the amount of refund paid in 66 cases disposed of by the Department and whether any interest had to be paid and, if so, the amount paid on that account.

Reply of the Ministry

The required information is as under :—

Amount of refund paid :	Rs. 60,251
Amount of interest on delayed refunds paid :	Nil

The legal position regarding payment of interest is that, under section 243(1), interest is payable on refund claims outstanding for more than 6 months, where the total income of the assessee consists solely of interest on securities and dividends. In other cases, interest is payable after three months from the date of the determination of the total income under the Act. In computing the period of 3 months or six months, the period of delay attributable to the assessee is excluded.

R. N. MUTTOO,

Joint Secretary to the Government of India.

F. No. 83/64/65-IT(B).

APPENDIX VII

Summary of main Conclusions Recommendations

Sl. No.	Para No. of Report	Ministry Department Concerned	Conclusion Recommendation
1	2	3	4
1	1.22	Ministry of Finance ——— Department of Revenue & Insurance	The Committee note that out of a total under-assessment of tax amounting to Rs. 1.773 lakhs reported in the Audit Reports for the years 1962 to 1966, the Department has accepted objections involving under-assessment of Rs. 788 lakhs and further the admissibility or otherwise of the audit objections involving a sum of Rs. 106 lakhs was still to be decided. The Committee also note that out of a sum of Rs. 788 lakhs for which the Audit objections have been accepted, the demands have been raised for Rs. 718 lakhs and a sum of Rs. 487 lakhs has been collected as on 1st December, 1966.
	1.23	-Do-	The Committee desire that the Department should take effective measures to recover the remaining amount, *viz.*, Rs. 301 lakhs, for which audit objections have been accepted. They also desire that the question of admissibility or otherwise of the audit objection involving a sum of Rs. 106 lakhs should also be decided early. Efforts should also be made to avoid such cases getting time-barred.

1.24	-Do-	The Committee are far from happy to note that out of a total under assessment of tax amounting to Rs. 1,773 lakhs reported in the Audit Reports for the years, 1962 to 1966, only a sum of Rs. 487 lakhs have been recovered as on 1st December, 1966. Steps taken by the Board in the direction of liquidating the arrears of under assessment of tax do not seem to have produced any substantial results.
1.25	-Do-	The Committee note that the number of cases that were reviewed by Audit during the years 1961-62, 1962-63 and 1963-64 (upto August, 1964) were 42,243, 84,485 and 1,63,104 respectively and the number of cases in which mistakes were noticed were 8,604, 13,534 and 16,000 odd respectively. The percentage which had come down from 20 per cent to 10 per cent had gone upto 13 per cent in 1965-66. The under-assessment of tax has increased to Rs. 865 lakhs in 1966 as against Rs. 121 lakhs in 1962.
1.26	-Do-	The Committee note that the following steps have been taken to improve the position regarding the mistakes found in assessments:—

(i) Commissioners have been asked to maintain a register in regard to the various objections pointed out by Audit and stages at which rectifications have been made;

(ii) It is now proposed to take stronger action against erring officers;

(iii) The Number of Internal Audit parties have been strengthened thereby reducing the work load of the parties.

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			(iv) The Scope of Internal Audit has been made more comprehensive;
			(v) Commissioners have been asked to put more income tax officers in company circles so that the work load is reduced;
			(vi) Refresher courses and training courses have been introduced for officers and staff.
	1.27	Ministry of Finance Department of Revenue and Insurance	The Committee hope that the results of these steps will be reflected in the future Audit Reports.
2	1.33	-Do-	The Committee regret that, due to the incorrect application of the provisions of the law, there was an under-assessment of tax in respect of 6 cases. These cases disclose lack of care in applying the provision of the Act, on the part of the Income Tax Officer who has been warned by Commissioner of Income-Tax.
	1.34	-Do-	Another disturbing aspect in this case is that the explanation of the I.T.O. concerned was called for by the Commissioner on 13th October, 1966 after a lapse of about 2 years from the date of the receipt of Audit objection. The Committee are surprised to be informed that there was a delay on the part of the Commissioner to the extent of a year in calling for the explanation after the audit objection was accepted in October, 1965, and that there was no promptness in a number of cases.

	1.35	-Do-	The Committee suggest that necessary instructions laying down a time-limit within which the explanation should be called for and disposed of should be issued immediately. It should also be ensured that these instructions are actually followed by the authorities concerned.
3	1.40	-Do-	The Committee regret to note that the mistake which occurred in this case was a purely arithmetical and clerical mistake "due to negligence and carelessness". Had the Assessing Officer been a little more careful, the mistake could have been avoided.
	1.41	-Do-	They note that the explanation of the officer concerned in the Internal Audit had been called for in September, 1966. The delay in calling for the explanation after the mistake had come to the notice of the authorities indicates laxity on the part of the Department. The Committee hope that with the steps proposed to be taken by the Board such inordinate delays would be avoided.
	1.42	-Do-	The Committee would like the Board to carefully investigate into this case so as to satisfy themselves that there were no *mala fides* involved.
	1.46	-Do-	The mistake that occurred in this case cannot be justified even on the ground of heavy work load. The Committee would like the Board to satisfy itself, after investigation, whether the mistake was *bona fide* or deliberate.
	1.47	-Do-	The Committee hope that in future action would be initiated at the time of receipt of Audit objection itself by the Board as agreed to by the

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			Chairman, Central Board of Direct Taxes simultaneously for rectification and pursuing disciplinary aspect of the case to avoid delay.
5	1.54	Ministry of Finance Department of Revenue and Insurance	The Committee regret to note the careless and negligent manner in which the assessment of a case in a high income group had been made. They suggest that special steps should be taken to avoid such costly mistakes in cases relating to high income groups. The Committee also suggest that as agreed to by the Chairman, Central Board of Direct Taxes, such cases should be gone into to find out whether there was any collusion between the assessees and any of the officials of the department.
6	1.62	-Do-	The Committee regret to note that the Income Tax Officer overlooked a very important change made in the Income Tax Act, 1961 in regard to the rates of tax applicable to "resident but not ordinarily resident" persons in as many as 96 cases. If this omission had not been reported by Audit there would have been a heavy loss of revenue.
	1.63	-Do-	The Committee are further surprised to learn that the Foreign Section was last inspected by Inspecting Asstt. Commissioner, in 1955 and only 12 and 8 circles were inspected by him during 1963-64 and 1964-65 respectively which did not include the Foreign Section.
	1.64	-Do-	The Committee desire that instructions should be issued to the Commissioners to chalk out a programme for inspection of all the Circles at

			regular intervals. They also suggest that the changes brought out in the law from time to time and the implications thereof should be brought to the notice of all the officers concerned immediately.
7	1.66	-Do-	The Committee hope that the Board would take adequate steps to ensure that such big mistakes involving heavy financial loss to the exchequer are not overlooked by Internal Audit.
8	1.69	-Do-	The Committee feel that the mistake had occurred in this case due to failure on the part of the I.T.O. to exercise proper vigilance because the computation in this case did not involve any complication. The Committee would like to be informed whether the amount has since been realised. They hope that such instances would not recur.
9	1.75	-Do-	From the facts placed before them, it is difficult for the Committee to rule out the possibility of deliberate under-assessment on the part of the ITO to favour the assessee. The Central Board of Direct Taxes have themselves raised the question of *mala fides* and asked the Commissioner to see whether the explanation offered by the ITO, was satisfactory. The Committee suggest that a thorough investigation should be conducted in this case by the Board and the result of the findings and the action taken against the officials found responsible communicated to them.
	1.76	-Do-	The Committee find from the statement showing action taken against delinquent officers mentioned in cases in Chapter-IV of the Audit Report that out of 53 cases no action has been considered necessary in 4 cases

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			which are of a controversial nature; in one case the explanation of the officer has been accepted, and in all the remaining 48 cases action has been taken to issue a warning to the officers concerned. In the opinion of the Committee, apart from the disciplinary action taken or proposed to be taken in these cases, a greater degree of vigilance, inspection and supervision of assessment cases is urgently called for with a view to preventing as far as possible, and early detection of costly mistakes.
10	1.81	Ministry of Finance Department of Revenue & Insurance	The Committee regret to note that the Assessing Officer did not carry out the basis of function of scrutinising the previous assessments to find out whether the opening stock of a registered firm was the same as the closing stock of the preceding year. Failure to exercise proper scrutiny of the accounts statements filed by the assessee alongwith the Income tax return resulted in an under-assessment of tax amounting to Rs. 1,84,126 in the case of 6 partners of the firm.
	1.82	-Do-	The Committee are not happy to note the dilatory manner in which the audit objection in this case was dealt with. They hope that, as assured by the Chairman, Central Board of Direct Taxes the audit paras would be dealt with more promptly and at a higher level in future.
11	1.87	-Do-	The Committee find that the ITO failed to compute the income properly although the discrepancies were noticed in the accounts. The Committee find from the note furnished by the Ministry that "there was

			no *mala fide* on the part of the Income Tax Officer" and that he has been warned to be careful. The Committee hope that such cases will not recur.
12	1.91	-Do-	The Committee regret to find in this case yet another instance of delay. Since delay in rectification and revision of assessments may affect the collection of public revenues, the Committee need hardly emphasize the urgent necessity of curtailing delays in such cases.
13	1.97	-Do-	The Committee desire that suitable instructions should be issued urging upon the Income Tax Officers to follow the procedure correctly, so as to fulfil the requirements of law.
14	1.102	-Do-	The Committee regret that in the first case though the mistake occurred in four assessments for the years 1961-62 to 1964-65, it was not noticed at any stage. In view of the fact that the mistake had occurred in four assessments, the committee desire that suitable instructions be issued clearly bringing out the provision of the Act.
15	1.108	-Do-	The Committee regret to note that in as many as 11 cases there were under-assessments of tax for the assessment years 1956-57 and 1958-59 to 1964-65 amounting to Rs. 8·93 lakhs. They note however, that in 9 cases assessments have been rectified and in one case a demand has yet to be raised and collected. The under-assessment of tax amounting to Rs. 9,338 in another case has become time barred.
	1.109	-Do-	The Committee have been informed in a note by the Ministry that "Orders have been issued that a specials review should be conducted in all

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			the other charges with a view to check the correctness of the calculations of development rebate and depreciation allowance. The result of the review will be communicated to the Committee as early as possible."	
	1.115	Ministry of Finance Department of Revenue & Insurance	The Committee would like to be informed of the result of the review and the action taken thereon.	
16	1.114	-Do-	The Committee suggest that a chart showing the depreciation allowed from year to year should be maintained in respect of all such assets to avoid similar mistakes in future.	
17	1.117	-Do-	The Committee regret to note that, in spite of the fact that the attention of the Ministry was drawn to the same type of irregularity on a previous occasion, a similar irregularity was noticed during test check of assessments of five companies involving under-assessment to tax of Rs. 3·38 lakhs. The Committee suggest that immediate steps should be taken to review all the cases in the different charges so that mistakes if any could be found and action by way of rectification taken before the claims become time barred. The Committee further desire that it should be investigated whether or not in this case the mistake was *mala fide*.	
	1.118	-Do-	The Committee hope that, with the strengthening of the Internal Audit and the enlargement of its scope, such mistakes would be avoided.	

18	1.124	-Do-	The Committee regret to note that the omission reported in this case clearly discloses the failure on the part of the I.T.O. to exercise elementary scrutiny to see whether the assessee had furnished the necessary particulars. The I.T.O. should have carefully scrutinised the particulars, specially when a large sum of Rs. 2,70,535 was admitted as a development rebate.
	1.125	-Do-	The Committee are glad to be assured that a more serious view would be taken of such lapses and individual mistakes and that cases would be looked at from the point of view of vigilance also. The Committee suggest that the dossier of the Income tax Officer should be maintained in greater detail, indicating various details of cases of wrong assessment and its subsequent rectification. This, in the opinion of the Committee, would help in toning up the administration.
	1.126	-Do-	The Committee also suggest that, having regard to the large number of assessments, each Inspecting Assistant Commissioner should check a certain number of cases of each Income-tax Officer under his circle at regular intervals.
19	1.137	-Do-	The Committee suggest that the feasibility of imposing a restriction that the development rebate should not be transferred to or merged in the general reserve may be examined.
	1.138	-Do-	The Committee may be apprised of the final outcome of the case.
20	1.142	-Do-	The Committee regret that the mistake that occurred in this case was due to the application of the provision of the Income Tax Act, 1961,

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			whereas the assessment was completed under the provision of the Income Tax Act, 1922. They hope that such mistakes will not recur in future.
21	1.148	Ministry of Finance (Department of Revenue & Insurance)	The Committee are unable to understand how a mistake could occur in this case when the order of the High Court in a similar case under the charge of a different Commissioner was specially brought to the notice of the I.T.O. The I.T.O. had before him all the relevant facts about the nature of the business and the partners of the firms who were refused registration in another circle.
	1.149	-Do-	The Committee suggest that the Board should immediately go into the case from the point of view of vigilance and intimate to the Committee the findings and the action taken thereon.
22	1.153	-Do-	The Committee are unhappy to note that even though the assessments were completed by different Income-tax officers, the same kind of mistakes was committed in all the cases. As the under-assessment of tax is considerable due to this kind of mistake, the Committee suggest a review of all cases falling under the 'tax holiday' scheme, so that the mistakes could be rectified before the cases became time barred.
23	1.154	Ministry of Finance (Department of Revenue & Insurance) All Ministries	The Committee regret that the Board did not have complete information about the fifth case even though they received the audit para about two years ago. They expect the representatives of the Ministries and Departments to be fully prepared with facts and figures when appearing before the Committee.

24	1.160	Ministry of Finance Department of Revenue & Insurance	The Committee understand that in this case the objection was first raised by Audit in October, 1963, and this was communicated to the Ministry in November, 1965. The Committee are far from happy to note that the Ministry have sent the reply to Audit only on the 5th December, 1966, accepting substantially the Audit objection. They are unable to accept the plea of detailed examination of balance sheets etc. as a valid reason for such a long delay. The Committee suggest that the reasons for the inordinate delay in dealing with the Audit objection should be looked into and suitable steps taken to avoid such delays.
	1.161	-Do-	The Committee would like to be informed of the final outcome of the case.
25	1.166	-Do-	The Committee feel that, if the Board had taken prompt action on the Audit objection, loss of revenue amounting to Rs. 56,704 could have been avoided. In these circumstances, the Committee need hardly emphasise the necessity of prompt action by the Board on objections pointed out by the Audit. The Committee also suggest that a review should be conducted, in respect of cases involving large amounts of dividend income, under the charge of all the Commissioners, in order to ensure prompt and timely action in regard to the rectification of errors.
26	1.172	-Do-	The Committee may be informed of the action taken on the explanation of the I.T.O. and the amount of tax recovered.

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	1.177	Ministry of Finance Department of Revenue & Insurance	The Committee understand from Audit that though the assessment was completed in December, 1963, the case was not checked in Internal Audit till the mistake was pointed out in January, 1965. The Committee suggest that in respect of cases relating to companies, particularly falling under higher income groups, the Board should take steps to get the assessments checked in Internal Audit within a reasonable time after the assessments are completed.
28	1.184	-Do-	The statement has been furnished to the Committee. The Committee note that, out of a large number of cases included in the statement, there are 23 cases of companies where arrears of income-tax outstanding on 1st April, 1966, was Rs. 25 lakhs or more in each case. The arrears of income-tax outstanding against these companies amounted to Rs. 13.96 crores (Approx.), out of which appeals have been preferred by the companies concerned to AAC/CIT Tribunal in respect of Rs. 7·25 crores (approx.) of income-tax, while they have gone up in appeals to courts in respect of income-tax arrears amounting to Rs. 1.12 crores (approx). The Committee need hardly stress that every effort should be made by Government to speed up the recovery of arrears from these big companies, specially in respect of amount of Rs. 5·59 crores which is not under appeal. The Committee would like to watch the progress made by Government in recovering these amounts through future Audit Reports.
	1.185	-Do-	In this case the Committee are of the opinion that the Board and the

			Income-tax Officers were not aware of the correct legal position. If Audit had not pointed out this mistake, the mistake would have gone unnoticed.
	1.186	-Do-	In regard to the amount of Rs. 1·19 crores, the Committee find from the note that in some cases collection of the demand has been stayed till the disposal of the appeal, and in some cases time has been allowed for the payment of tax.
	1.187	-Do-	The Committee would watch the progress of collection of the demand through subsequent Audit Reports.
29	1.190	-Do-	The Committee understand from Audit that for watching the raising of a demand, and payment in instalments of advance tax, a register of demand and collection under Section 18A is prescribed. The detailed procedure for maintenance of the register and the adjustment to be made on completion of regular assessments are laid down in para 16 of Chapter XIV (a) of office Manual, Vol. II, Section II. On completion of regular assessment payment under Section 18A as per this register will have to be taken to the Demand and Collection Register and a note to that effect should be made in the remark column of the 18A Demand and Collection Register. While making a demand for the payment of the balance of the tax from the gross demand, the advance tax paid and adjusted as shown in the Demand and Collection Register should be deducted.
	1.191	-Do-	It is apparent that the correct procedure was not followed by the Income Tax Officer, resulting in a costly error.

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	1.192	Ministry of Finance Department of Revenue & Insurance	The Committee desire that suitable instructions bringing out the provision of the law in regard to the maintenance of the register etc. and its compliance may be issued.
	1.193	-Do-	They may be informed of the action taken against the I.T.O involved in this case.
30	1.197	-Do-	The Committee understand that a refund of Rs. 16,246 was made in July 1963 and the mistake in this case was pointed out by the Audit in September, 1964. According to the instructions of the Board all refund orders in excess of Rs. 500 should be checked by the Inspecting Assistant Commissioner.
	1.198	-Do-	The Committee suggest that it may be verified whether the refund orders were checked by the Inspecting Assistant Commissioner.
31	1.201	-Do-	The Committee suggest that the Board should investigate into the lapse and ascertain the circumstances which led to the double payment. Suitable instructions pointing out the correct procedure in regard to such cases should be issued immediately.
	1.202	-Do-	The Committee also desire to be informed whether the Inspecting Assistant Commissioner who is responsible for checking refund orders in excess of Rs. 500 had looked into this case.

32	1.208	-Do-	From the note, it is seen that, a total amount of Rs. 39.95 lakhs have been recovered out of demands raised amounting to Rs. 93.61 lakhs.
	1.209	-Do-	It appears to the Committee that the omission to levy interest is widespread, which indicates that the steps taken by the Board have not been very effective. The Committee desire that steps should be taken to rectify the cases before they become time barred.
33	1.212	-Do-	The Committee regret to note that due to failure to give effect properly to the orders of the Appellate Tribunal, there was an under assessment of tax amounting to Rs. 27,537.
	1.213	-Do-	The Committee desire that suitable instructions should be issued indicating the action to be taken on the orders of the Appellate Tribunal. They also desire to be informed of the action taken against the ITO and Internal Audit.
34	1.216	-Do-	The Committee understand from Audit that the Audit objection was raised in November, 1961 and till 31st March, 1964, the Department had not taken any action on that audit objection. The Board should investigate the circumstances in which no action was taken on the audit objection for over two years. The failure to take timely action resulted in a loss of revenue amounting to Rs. 20,316. The Committee are distressed to note that due attention was not paid to this Audit objection. The Committee expect the Department to set an example for others to follow. They hope that the Department will take necessary action to avoid the recurrence of such a lapse.

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35	1.223	Ministry of Finance ——————— Department of Revenue and Insurance	The Committee feel that both under-assessments and over-assessments are not in accordance with the provisions of the law and should be guarded against. They hope that the C.B.D.T. would issue suitable instructions to the Income-tax Officers to adopt a correct assessment year so as to bring the whole position in accordance with the provisions of the Income-tax Act. Action to rectify the assessment within the provision of the Act should also be taken.
36	1.230	-Do-	The Committee regret to note that, due to a lapse in the office of the Commissioner of Income-tax concerned, timely action could not be taken for rectification of the assessment at the appeal stage and that no instructions were issued to the Income-tax Officer for asking the Appellate Commissioner to enhance the assessment in this case. It is all the more surprising that incorrect information was supplied to the Board in December, 1965, by the Commissioner of Income-tax and on the basis of the same information, the Board informed Audit that necessary action had been taken to request the Appellate Commissioner before whom the appeal was pending against the assessment, for a suitable enhancement of the assessment. The Committee take a serious view of this lapse on the part of the Commissioner of Income-tax as this has resulted in a loss of revenue to the extent of Rs. 1,20,396. They understand that the Commissioner concerned in this case had retired long ago. The part that this mistake did not come to the notice of the department during its normal course is to

			say the least, most unsatisfactory. They desire that suitable measures should be devised to avoid repetition of such cases.
	1.231	-Do-	As the transferring of surplus loom-hours by one mill to another is not a new thing, the Committee feel that the Board of Direct Taxes should have examined in detail, if necessary, in consultation with the Ministry of Law, whether the purchase price of such looms was to be treated as capital expenditure or revenue expenditure. In the light of an authoritative decision by the Supreme Court that the sale price of loom-hours in the hands of seller is a capital receipt, the question whether in the case of the buyer, it should be treated as capital expenditure needs to be carefully examined. The Committee find from the note furnished by the Ministry that a departmental appeal was filed in another case before the Appellate Tribunal and the same was still pending. The Committee would like to be informed of the result of the appeal and also the action taken by the Department to ensure that the practice followed is in conformity with the law.
37	1.236	-Do-	The Committee hope that the improvements made in the procedure as indicated by the representative of the Central Board of Direct Taxes, would help to clear the outstanding cases relating to tax-returns and would also facilitate their regular and timely receipt in future. The Committee would also like the authorities to keep a watch on the working of the system and take quick remedial measure if the improvements do not come up to the expectation. The Committee also desire that delays in remittance or non-remittance of tax revenues deducted at source should be viewed seriously.

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38	1.241	Ministry of Finance (Department of Revenue and Insurance) / Ministry of External Affairs	The Committee are disturbed to note that out of 74 foreign Missions in India, 70 missions have either not sent annual returns or have not deducted the tax at source. What surprises the Committee most is that the authorities did not look into this matter for nearly 12 years after 1947 and, when they did move in the matter in 1959, they have not been able to arrive at a conclusion even after considering it for more than seven years. The Committee cannot but take a serious view of the Government's apathy in the matter.
	1.242	-Do-	The Committee would like the authorities to examine the practice followed in other countries in this matter and take suitable measures. In the meantime, they would desire the Ministry of External Affairs to pursue the matter at the diplomatic level and request foreign Missions to co-operate with the Indian authorities in this matter. The Committee also desire that after ascertaining the names of the Indian employees in foreign Missions, notices should be issued to them to file the return voluntarily, failing which action should be taken under the provisions of the I.T. Act.
39	1.251	Ministry of Finance (Department of Revenue and Insurance)	It is surprising to note that the same item, *viz.*, optical bleaching agent was treated as Dye Stuff by the Income-tax authorities, whereas the Central Excise Authorities treated it otherwise; with the result that the assessee got exemption both from the Income tax (Super tax on dividends) and the Central Excise Duty. The Committee understand from Audit that in the Finance Act, 1966 a new tarrif item has been introduced "synthetic

			organic products of a kind used as organic luminophores products of the kind known as Optical Bleaching Agents, substantive to the Fibre." The Committee feel that with a little more co-ordination between the Board of Central Excise and Custom and the Board of Direct Taxes, this case of the same product being treated differently by the two Boards could have been avoided. They hope that such cases would not recur.
40	1.257	Do-	The Committee hope that, keeping in view the recent judgement of the Supreme Court that the ownership could not vest in the hire purchaser, the Central Board of Direct Taxes would review their instructions and would take an early decision whether or not the law itself required any amendment.
	1.258	-Do-	The Committee also hope that the provisions of I.T. Act relating to the development rebate and depreciation would be examined with a view to simplifying it.
41	1 263	-Do-	The Committee regret to note that in as many as 39 cases of companies, an amount of about Rs. 8 lakhs could not be collected as the assessee companies went into liquidation. The Committee desire that the Board of Direct Taxes should devise suitable measures to get income tax returns from the companies in time so as to avoid the repetition of such cases.
42	1.274	-Do-	The Committee regret to note that the gross arrears of income tax have been increasing progressively over the last 3 years. On 31st March, 1963, the amount outstanding was Rs. 270.43 crores; on 31st March, 1964

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			this figure rose to Rs. 282.37 crores. As on 31st March, 1965 the amount of arrears outstanding was Rs. 322·72 crores. Similarly, the amount of the affective arrears has gone up from Rs. 161·41 crores as on 31st March, 1964 to Rs. 184·85 crores as on 31st March, 1965. Keeping in view, this rising trend in the arrears of collection of revenue, the Committee would like to impress upon the Board of Direct Taxes the necessity of special steps to expedite the collection of these arrears. The delay in the collection of arrears, the Committee feel, would make it more difficult for the Board to realise them.
	1.275	Ministry of Finance (Department of Revenue and Insurance)	The Committee learnt from Audit that the Central Board of Direct Taxes instructed Income-tax Commissioners in August last to form special recovery units in multiward circles to reduce arrears of tax and for maximising collections. The Committee hope that the Board will keep a proper watch over the working of these units and ensure that the arrears of collections are liquidated as early as possible.
43	1.281	-Do-	The Committee feel that the present number of appeals pending with the Appellate Asstt. Commissionery is very large. The fact that there were 1,20,736 appeals pending with Appellate Asstt. Commissioners as on 30th June, 1965 as against 84,736 as on 30th June, 1964 does not speak well about the adequacy of appellate machinery. The Committee hope that with the recent arrangements made for the disposal of appeals, their number would be reduced; they, however, feel that the new procedure

			prescribed needs to be watched carefully. They would like the Board to review the progress of disposal quarterly and if expected progress is not visible other augmenting corrective measures should be taken soon.
	1.282	-Do-	In regard to revision petitions pending with the Commissioners of Income tax, the Committee find that on 30th June, 1965 their number was 4760. The number of cases in which tax was stayed was 252 on 30th June, 1964 and 623 on 30th June, 1965. The Committee would like the Board to look into reasons for this abrupt rise in the number of cases in which tax was stayed.
44	1.293	-Do-	The Committee are glad to note that the Board has initiated measures to cut down the accummulation of the arrears of assessment. They were given to understand that out of about 26 lakhs assessees about 19 lakhs were salaried and small income assessees. The Committee feel that if the present form of income tax return for the salaried people, which consist of about 12 pages, is simplified and reduced to a form of one or two pages, it would expedite the submission of the returns of the assessees and also their assessment. It would also incidentally mean considerable saving of stationery. The Committee would like to watch the progress of the clearance of the arrears of assessments through future audit reports. The Committee also suggest that the question of tax reduction on a percentage basis in such cases to simplify the whole procedure may be examined.
45	1.296	-Do-	The Committee hope that special steps taken for the expeditious disposal of cases would reveal satisfactory results and that the number of cases of surcharge and super profits tax pending disposal would be brought down. They would like to watch the results through future Audit Reports.

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46	1.302	Ministry of finance Department of Revenue & Insurance	The Committee regret to note that the Excess Profit Tax cases of 1947-48 were still pending in the year 1966-67. The Committee take a serious view of this abnormal delay in the settlement of these cases. The Committee also desire that a target date should be fixed for the disposal of E.P.T. cases. They would also like to watch the progress of settlement of these cases through future Audit Reports.
47	1.308	-Do-	The Committee hope that Ministry will be able to liquidate the arrears of the pending cases of refund more expeditiously in view of the fact that the refund circles are going to be staffed adequately. They hardly need to emphasise that the disposal of such cases should be tackled with a sense of urgency as any delay in their disposal would involve a liability on the Government to pay interest at 6 per cent per annum on refund claims outstanding for more than six months.
48	2.10	Home Affairs Delhi Administration	The Committee are not convinced by the explanation given for the delay in making a proper assessment of the firms in time, with the result that assessments for 1952-53 to 1955-56 in the case of one firm and for 1960-61 in the case or another firm became time-barred. They are also unhappy that, due to lack of proper co-ordination and administrative control the jurisdiction of various officers for assessment purposes was not precisel determined, leading to delay and the avoidable movement of files from on office to another, without any conclusive action being taken. They are als distressed to note that it took the Government nearly two years to dispose

			of an application for registration certificate and another two years to deliver it.
	2.11	-Do-	The Committee would like Government to examine thoroughly the procedure and administrative instructions to make sure that the applications for registration are disposed of expeditiously and that there is no delay in the delivery of the certificate of registration. The Committee would also like Government to lay down precisely the charge and responsibilities of various officers for making assessments so as to avoid confusion. The Committee would like Government to devise a proper system to ensure that assessments are made in time and that a strict watch is kept on the realisation of Government dues so that they do not become time-barred.
49	2.23	-Do-	The Committee note that, according to the Departmental inquiry reports of October, 1953, February, 1954, and February, 1956, the dealer had been shifting his business premises from time to time without informing the Department as required under Section 16 of the Bengal Finance (Sales Tax) Act, 1941, as extended to the Union Territory of Delhi. They feel that this fact should have made the Department vigilant.
	2.24	-Do-	The Committee also cannot escape the conclusion that the case had been dealt with in a most casual manner and no serious effort was made to trace the dealer. They hope that every effort would now be made to trace the dealer, as was promised by the Home Secretary in evidence so to recover the Government dues.

1		2	3	4
50	2.29	Ministry of Home Affairs ————— Delhi Administration	The Committee would like to be apprised of the progress made in the completion of the survey work.	
	2.30	Do.	They understand from Audit that, under the Departmental rules, an Assistant Sales Tax Officer is required to verify at least 20 per cent of the Survey reports made by the Sales Tax Inspector. Similarly a Sales Tax Officer is expected to check at least 10 per cent of such reports furnished by the Inspectors and Assistant Sales Tax Officers. The Committee would like to be informed whether the procedure laid down under the departmental rules is being actually followed by the Sales Tax Department.	
51	2.33	Do.	The Committee regret to note that as many as 84,092 cases were outstanding on 1st April, 1965 with the Sales-tax Office pending assessments. Some of these cases relate to the year 1961-62.	
	2.34	Do.	The Committee cannot too strongly stress the need for taking urgent action to clear the arrears of assessment relating to earlier years, so that the realisation of Government dues do not become time-barred. They would like to watch the progress made in this regard through the subsequent Audit Reports.	

52	3.1	Ministry of Finance Department of Revenue & Insurance	The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue receipts, 1966. They except that the Department will nonetheless take note of the discussions in the Committee and take such action as is found necessary.

GMGIPND—LS—1 1420 (Air) LS 23-8-67—850.

Sl. No.	Name of Agent	Agency No.
18.	W. Newman & Company Ltd., 3, Old Court House Street, Calcutta.	44
19.	Firma K. L. Mukhopadhyay, 6/1A, Banchharam Akrur Lane, Calcutta-12.	81
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20.	Jain Book Agency, Connaught Place, New Delhi.	1
21.	Sat Nara n & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3
22.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9
23.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11
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25.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20
26.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23
27.	Bahree Brothers, 188, Lajpatrai Market, Delhi-6.	27
28.	Jayana Book Depot, Chapparwala Kuan, Karol Bagh, New Delhi.	66
29.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi.-1.	68
30.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
31.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.	85
32.	Hind Book House, 82, Janpath, New Delhi.	95
33.	Book well, 4, Sant Narankari Colony, Kingsway Camp, Delhi-9.	96
	MANIPUR	
34.	Shri N. Chaob Singh, News Agent, Ramlal Paul High School Annexe, Imphal.	77
	AGENTS IN FOREIGN COUNTRIES	
35.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON, W.C. -2.	

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