

HUNDRED AND EIGHTY-FOURTH REPORT

PUBLIC ACCOUNTS COMMITTEE (1983-84)

(SEVENTH LOK SABHA)

RECEIPTS OF UNION TERRITORY OF DELHI—SALES TAX—FALSIFICATION OF DOCUMENTS BY A DEALER

MINISTRY OF HOME AFFAIRS

[Action Taken on 142nd Report (7th Lok Sabha)]



Presented in Lok Sabha on.

Laid in Rajya Sabha on.....

**LOK SABHA SECRETARIAT
NEW DELHI**

February, 1984/Phalguna, 1905 (Saka)

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~~Jorrigenda to Hundred and Eighty-Fourth Report of
the Public Accounts Committee (Seventh Lok Sabha).~~

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(1983-84)**

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INTRODUCTION

I, the Chairman of Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Eighty-fourth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Hundred and Forty Second Report (Seventh Lok Sabha) on Receipts of Union Territory of Delhi—Sales Tax—Falsification of documents by a dealer.

2. In their 142nd Report, the Committee had *inter-alia*, recommended that the Delhi Sales Tax Act should be amended in such a way that all cases of assessments beyond a particular monetary limit should either be assessed by an officer not below the rank of Assistant Sales Tax Commissioner or assessments made by the Sales Tax Officer should invariably be checked by a senior officer. In this Report, while expressing their dissatisfaction over the delay in initiating action on the recommendation, the Committee have reiterated that immediate steps should be taken by the Government to amend the Delhi Sales Tax Act in such a manner that all assessments of sales turnover above a particular monetary limit should invariably be made by an officer not below the rank of an Assistant Sales Tax Commissioner and a small percentage of other assessments made by the Sales Tax Officers selected at random by the Assistant Sales Tax Commissioner should be checked by him.

3. In this Report, the Committee have further reiterated that immediate action be taken to strengthen and galvanise the Internal Audit Cell of the Sales Tax Department of Delhi Administration. The Committee have also reiterated that early measures should be initiated for rationalisation and simplification of sales tax structure in Delhi so that the Department could pay more attention to large assessees/commodities fetching large amount of revenue and the small traders could be spared from unnecessary harassment.

4. The Committee considered and adopted this Report at their sitting held on 13 February, 1984. Minutes of the sitting form Part II of the Report.

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

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

NEW DELHI ;
February 22, 1984

Phalgun 3, 1905 (Saka)

SUNIL MAITRA
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations/observations of the Committee contained in their Hundred and Forty-Second Report (Seventh Lok Sabha) on paragraph 3.16 of the Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Receipts of Union Territory of Delhi—Sale Tax—Falsification of documents by dealer.

1.2 The 142nd Report of the Committee was presented to Lok Sabha on 26 April, 1983 and contained 17 recommendations/observations. Action Taken Notes have been received in respect of all the recommendations/observations. The Action Taken Notes received from the Government have been broadly categorised as follows :—

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

Sl. Nos. 1 to 7, 9 to 11, 13 to 16.

(ii) *Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government :*

Sl. No. 17.

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

Sl. No. 12.

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

Sl. No. 8

1.3 The Committee desire that final action taken reply in respect of recommendations contained in para 1.73 for which only an interim reply has been given, will be furnished to them, duly vetted by audit, at an early date.

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

*Absence of satisfactory mechanism to check the assessments
(S. No. 5, Para 1.70)*

1.5 Commenting on the absence of any satisfactory mechanism to check the assessments involving revenue amounting to lakhs of rupees made by the Sales Tax Officers, the Committee had in paragraph 1.70 of their 142nd Report (7th Lok Sabha) observed/recommended as follows :—

“The Committee are surprised to learn that according to the existing provisions of the Delhi Sales Tax Laws, the Sales Tax Officer is the authority for assessment of a return irrespective of the amount involved and the only agency to check the assessment in the Department is its Internal Audit Wing. However, because of insufficient staff, the Internal Audit Wing is itself a crippled institution. It is no surprise that such serious mistakes went undetected all these years. This means that even in the case of an assessment involving revenue amounting to lakhs of rupees, if the Sales Tax Officer either by mistake or deliberately in connivance with the trader, makes a patently wrong assessment there is no satisfactory mechanism to check the same. This is, to say the least, a scandalous state of affairs. The Committee feel that the Sales Tax Act should be amended in such a way that all cases of assessment beyond a particular limit should either be assessed by an officer not below the rank of Assistant Sales Tax Commissioner or assessments made by the Sales Tax Officer should invariably be checked by a senior officer.”

1.6 In their Action taken reply, the Ministry of Home Affairs have stated :—

“The Administrative Reforms Department of the Delhi Administration had undertaken a study of the Sales Tax Department and have recommended creation of a number of posts including posts for the Internal Audit Cell. The case for creation of more posts for the Sales Tax Department, including the Internal Audit Cell on an ad hoc basis is being taken up with the Cabinet for relaxation of ban orders. The question of amending the law as suggested in the concluding sentence of the above recommendation, would also be considered.”

1.7 In their earlier Report, the Committee had expressed surprise that according to the existing provisions of the Delhi Sales Tax Act, once an assessment was made by the Sales Tax Officer, there was no satisfactory mechanism to check the same. The only agency to check the assessment in the Department was its Internal Audit Wing but this Wing was itself a crippled institution because of

insufficient staff. The Committee had recommended that Sales Tax Act should be amended in such a way that all cases of assessments beyond a particular monetary limit should either be assessed by an officer not below the rank of Assistant Sales Tax Commissioner or assessments made by the Sales Tax Officer should invariably be checked by a senior officer. The Ministry of Home Affairs in their reply have only stated that the suggestion for amending the law in the light of this recommendation would be considered. The Committee find this reply to be totally unsatisfactory. They observe that even though a period of nearly 8 months has elapsed since the Committee had suggested the amendment of the law to provide necessary checks, Government are yet to consider the matter. This shows that Government have not attended to the matter with the seriousness it deserved. The Committee desire that immediate steps should be taken by the Government to amend the Sales Tax Act in such a manner that all assessments of sales turnover above a particular monetary limit should be made by an officer not below the rank of an Assistant Sales Tax Commissioner. A small percentage of other assessments made by Sales Tax Officers selected at random by the Assistant Sales Tax Commissioners should also be checked by him. Action taken in this regard should be intimated to the Committee.

Malpractices in Sales Tax assessments in Delhi (S. No. 12, Para 1.77)

1.8 On learning that nine more cases involving forgery had been detected by the Department, the Committee in Paragraph 1.77 of their 142nd Report (Seventh Lok Sabha) had observed :—

“The Committee were informed that the Department had since detected 9 more cases involving forgery and that criminal cases were pending against 64 dealers in various courts. They were also informed that in 38 cases, FIRs had been lodged with the Police and investigations were pending. However, from a perusal of these cases, the Committee are surprised to find that out of the 9 cases involving forgery, only in one case a penalty of Rs. 100/-was imposed and in other cases only the tax was reassessed by the Sales Tax Department. The Committee cannot but reach the conclusion that there is total absence of seriousness, if not active collusion on the part of the Sales Tax Department in curbing the growing malpractices like forgery in furnishing sales tax returns. No wonder the Department is considered by the common man as a hotbed of corruption. The Committee desire that all such cases of malpractices should be dealt with expeditiously and firmly by the Department and maximum penalty permitted by law imposed so as to curb such malpractices. The responsibility of the concerned officers in the Sales Tax Department should also be determined to find out if there was any collusion on their part. The Committee would like to be informed within six months of the progress made in all these cases.”

1.9 In their Action taken note dated 25 November, 1983, the ministry of Home Affairs have stated :

' In pursuance of the above directive , the Enforcement Branch of the Sales Tax Department has started review of all the above cases to check whether the penalty imposed-in each case has been adequate. The Sales Tax Department has also started systematic checking to detect other similar cases involving forgery and depratment of Government revenues. As a result of this, so far 25 more cases involving forging in challans for depositing tax with the banks have been uneathed and the process to detect more such cases is continuing. So far as the 25 cases are concerned, reports have been lodged with the Deputy Commissioner, Police (Crime and Railways) on 1.6.83 and the cases are being investigated by the police.

The Sales Tax Department has also been directed to fix responsibility to find out if there is any collusion on the part of any officials in such cases . The Administration has been directed to send a report in the matter by 31st December, 1983.'

1.10 While examining a case of evasion of sales tax by a dealer in Delhi by indulging in falsification of documents, the Committee had in their earlier Report observed that the Sales Tax Department had since detected nine more cases involving forgery and that criminal cases were pending against 64 dealers in various courts. They had also observed that in 38 cases FIRs were lodged with the Police and investigations were pending. The Committee had drawn attention to the fact that out of the nine cases involving forgery, only in one case penalty was imposed and in other cases, the department had only re-assessed the tax liability. The Committee had recommended that all such cases of malpractices should be dealt with expeditiously and firmly and the maximum penalty permitted by law be imposed and the responsibility of the concerned officials for collusion determined. The Committee had also desired to be informed of the progress made in all such cases within a period of six months. The Ministry of Home Affairs have in their action taken note stated that in pursuance of the recommendation of the Committee, Sales Tax Department, Delhi Administration has started reviewing all the cases to check whether the penalty imposed in each case was adequate. As a result of further scrutiny made by the department, 25 more cases of forgeries have been unearthed and reports have been lodged with the police. The Ministry have further stated that the Delhi Administration have been directed to furnish a report in the matter by 31 December, 1983. The Committee regret to point out that the Ministry in their action taken note have given no indication of the progress of the 64 cases which were earlier stated to be pending in courts as also of the 38 cases where FIRs were filed and investigations were pending. They expect the Department to pursue these cases vigorously in order to curb effectively the growing trend of malpractices. The Committee would like to be informed of

the progress made in all the cases as well as the action taken against the colluding officials.

*Strengthening of the Internal Audit Cell in Sales Tax Department
(Sl. No. 14. Paragraph 1, 79)*

1.11 Emphasising the need for strengthening the internal Audit Cell of the Sales Tax Department of Delhi Administration both in qualitative and quantitative terms, the Committee in Para 1.79 of their 142nd Report (7th Lok-Sabha) had observed as follows:-

‘From the statistical date showing the performance of the Internal Audit Cell furnished by the Ministry of Home Affairs at the instance of the Committee, it is seen that the Cell has been able to scrutinise only 2.5% of the total number of sales tax assessments completed during the year 1981-82. The percentage of assessments scrutinised by the Cell during the earlier years from 1977-78 to 1980-81 was 5.4%, 4.46%, 0.8% and 1.49% in the respective years. These figures amply illustrate the dismal performance of the internal Audit Cell over the years. The Ministry of Home affairs have not been able to give any plausible explatation for this excepting the plea of inadequate staffing. The Committee regret that the importance of Internal Audit in a department dealing with revenue amounting to about Rs. 190 crores every year has not been realised. The Committee need hardly emphasise the imperative need for strengthening and galvanising the system of Internal Audit so as to make it an effective control through which the Department can not only keep proper watch over the standerd of performance of its officers but also bring about substantial improvement in the Sales Tax administration in Delhi. The Committee strongly recommend that the Ministry of Home Affairs should take immediate measures to strengthen the Internal Audit Cell of the Sales Tax Department of Delhi Administration both in qualitative and quantitative terms.”

1.12 In their Action Taken Note dated 25 November, 1983, the Ministry of Home Affairs have stated :—

“According to the Delhi Administration, performance of Internal Audit Cell during the years 1978-79 to 1980-81 declined because of the following reasons :—

- (a) Paucity of staff in the Internal Audit Cell.
- (b) Fall in the percentage of the assessment orders scuritised was also attributatble to the increase in the number of registered dealers over the years without any corresponding increase in the staff deployed for internal audit.

- (c) The performance in the year 1979-80 was exceptionally low mainly because the staff was diverted for the duties in connection with the general elections, unprecedented floods and setting up of temporary jails.

The Administrative Reforms Department of the Delhi Administration had undertaken a study of the Sales Tax Department and have recommended creation of a number of posts including posts for the Internal Audit Cell. The case for creation of more posts for the Sales Tax Department including the Internal Audit Cell on an ad hoc basis is being taken up with the Cabinet for relaxation of ban order.”

1.13 In their earlier Report the Committee had pointed out that the Internal Audit Cell had been able to scrutinise only 2.5% of the total number of sales tax assessments completed during the year 1981-82. The percentage of assessments scrutinised during 1980-81 was 1.49% and during 1979-80 it was as low as 0.8%. The Committee had expressed their dismay at the fact that importance of internal Audit in a Department dealing with revenue amounting to about Rs. 190 crores every year was not realised. The Committee had strongly recommended that the Ministry of Home Affairs should take immediate measures to strengthen the Internal Audit Cell of the Sales Tax Department of Delhi Administration both in qualitative and quantitative terms. In their reply, the Ministry have stated that the Administrative Reforms Department of the Delhi Administration had undertaken a study of the Sales Tax Department and have recommended creation of a number of posts including posts for the Internal Audit Cell and the case for creation of more posts is being taken up with the Cabinet for relaxation of ban orders. The Committee are not happy with the slow pace of strengthening the Internal Audit cell. They would like to emphasise that keeping in view the huge amount of revenue involved and the exceptionally poor coverage by the Internal Audit so far, the matter should be dealt with utmost urgency and immediate action taken to strengthen and galvanise the Internal Audit Cell.

*Administration and Rationalisation of Sales Tax in Delhi
(S. Nos. 15 and 16-Paragraph 1.80 and 1.81)*

1.14 Commenting on the sales tax structure in Delhi, the Committee in paragraphs 1.80 and 1.81 of their 142nd Report (Seventh Lok Sabha) had observed :—

“The Committee find that no steps have so far been taken for simplification and rationalisation of Sales Tax in Delhi. The Committee were surprised to learn that there are certain items on which only nominal revenue e. g. less than Rs. 5 lakh is being realised. The Committee feel that there is an urgent need for simplification and rationalisation of sales tax structure in Delhi so that the Department may pay more attention to large assessee/commodities

fetching large amount of revenue and the small traders may be spared from unnecessary harassment.

In this connection, the Committee note that the Delhi Administration has asked the National Institute of Public Finance to undertake a study of the Sales Tax Department for rationalisation of tax structure and also to make suggestions on the framework of the administration, organisational reinforcement and strengthening of the departmental machinery. The Committee would like to be informed of the recommendations made by the Institute and the action taken thereon."

1.15 During evidence, the Committee were informed that by March, 1983, an interim report was expected from the National Institute of Public Finance and Policy (Para 1.62 of the Report).

1.16 In their action taken note dated 25 November, 1983, the Ministry of Home Affairs have stated :

"Consequent upon the decision taken in the conference of the Chief Ministers, the Ministry of Law had requested the Law Commission to prepare a model Sales Tax Law for uniform adoption by all the States. One of the points for consideration by the Law Commission is the uniformity in the Sales Tax Laws and procedures in all the States. The point regarding rationalisation and simplification of sales tax law relevant to the para will also be covered by the model sales tax law.

The National Institute of Public Finance & Policy has also been entrusted to undertake a study of the Sales Tax Department and one of terms of references is to examine the implementation of sales tax with particular reference to assessment.

The Study of the National Institute of Public Finance and Policy has not yet been completed. As soon as the same is secured, a copy thereof will be supplied to the Lok Sabha Secretariat."

1.17 In their earlier Report, the Committee had pointed out that there was an urgent need for simplification and rationalisation of sales tax structure in Delhi so that the department could pay more attention to large assessees/commodities fetching large amount of revenue and the small traders could be spared from unnecessary harassment. In this connection they had noted that the Delhi Administration had entrusted the National Institute of Public Finance and Policy to undertake a study of the Sales Tax Department. The Committee were informed that an interim report of the study was expected by March, 1983. The Ministry of Home Affairs have in their action taken note stated that the issue of rationalisation and simplification of sales tax law will be covered by the proposed model Sales

Tax Law to be drafted by the Law Commission for uniform adoption by all the States, as was decided at the Conference of the Chief Ministers. Further, the National Institute of Public Finance and Policy is also to examine the implementation of sales tax with particular reference to assessment. The Committee are not satisfied with the above reply. As the finalisation of the proposed model Sales Tax Law as also the report of the National Institute of Public Finance and Policy are bound to take more time, the Committee feel that the Ministry of Home Affairs should initiate their own measures for early rationalisation and simplification of sales tax structure in Delhi. They would like to be informed of the conclusive action taken by the Delhi Administration/Ministry of Home Affairs in this direction.

CHAPTER II

RECOMMENDATIONS OR OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

According to the Bengal Finance (Sales Tax) Act, 1941 as applicable to Delhi upto 20th October, 1975, the Delhi Sales Tax Act, 1975 which came into force from 21st October, 1975 and the Rules made under the Acts, sale of goods made by a registered dealer to another registered dealer are to be allowed as a deduction from the turnover of selling dealer on his furnishing along with his return, a complete list of such sales duly supported by a declaration obtained from the purchasing dealer. However, if the Commissioner or any person appointed under the Act, is satisfied that a dealer has concealed the particulars of the sales or has furnished inaccurate particulars of his sales, he may direct that the dealer should pay by way of penalty, a sum not exceeding two and half times the amount of tax, which would have been avoided.

[S. No. 1 Appendix 1 Para 1.66 of 142nd Report of P. A. C. (Seventh Lok Sabha]

Action Taken

It is a statement of fact. However, as regards the provision for imposition of penalty in case a dealer has concealed or furnished inaccurate particulars of his sales, administrative instructions have been issued by the Commissioner, Sales Tax *vide* circular No. 25 of 82-83 dated 11.12.82 that the penalty imposed by the assessing authorities in such cases should be commensurate with the gravity of the offences. These instructions are being further reiterated so that the aforesaid provision of law regarding penalty is used in such a manner so as to ensure a deterrent effect on the wilful tax evaders.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi dated 25 November, 1983.]

Recommendation

A dealer in Ward 11 (M/s. A. Duggal & Co.) was allowed deductions from turnover to the extent of Rs. 32.38 lakhs on account of sales made to registered dealers in the assessment made by the Sales Tax Department from

the year 1975-76. Similar deductions to the tune of Rs. 13.82 lakhs and Rs. 6.29 lakhs were allowed for the years 1976-77 and 1977-78 respectively. During the course of scrutiny of the assessments by Audit it was found that the dealer had claimed the deductions by resorting to falsification of the documents. The *modus operandi* adopted by the dealer was interpolations of the figures, thereby increasing the amounts of bills entered in the list of sales, altering the amount of bills in the prescribed declarations received from the purchasing dealers and inflating the totals in the list of sales and also while carrying over totals from one page to another.

[S. No. 2 Appendix 1 Para 1.67 of 142nd Report of P. A. C. (Seventh Lok Sabha.)]

Action Taken

On receipt of audit memo from the Revenue Audit, the assessing authority *sue-noto* revised the assessment of the dealer M/s A. Duggal & Co. for the years 1975-76, 76-77, 77-78 and created additional demand for Rs. 2,02, 730, Rs. 17, 198 and Rs. 48, 705 for these years respectively. In addition a penalty of Rs. 20,000, Rs. 25,000 and Rs. 19,000 was also imposed against the dealer for the evasion of tax for the years in question. Action has also been taken for levy of interest against the dealer on the additional demand payable from the date it was due to the date of payment. As F. I. R. was also lodged by the Sales Tax Department with the Police against the dealer for falsification of documents.

According to the Police Authorities, the investigations are still in progress and the Police have examined 80 firms whose ST-1 forms are alleged to have been interpolated. Their records and those of M/s. A. Duggal & Co. have also been seized. Bills issued to several firms by M/s. A. Duggal & Co. are being collected for the purpose of comparison with the original bills which is considered essential by the police to prove the offence of cheating against M/s. A. Duggal & Co. M/s. A. Duggal & Co. has filed a writ petition No. CM/5751/82 in this regard and the Hon'ble High Court has ordered that 'Actual criminal case would not proceed till the disposal of the writ petition but the police are permitted to collect the necessary information from the dealers in this case.' The matter is still pending in the High Court and no date has been fixed for hearing. The police authorities have also stated that for the purpose of comparison of questioned writing, specimen hand writing of the accused are to be obtained which would be possible only after the writ petition has been decided. Rest of the investigation is nearing completion and suitable directions have been issued to finalise the investigations at an early date.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi dated 25 November, 1983.]

Recommendation

The irregularities in the assessment for 1975-76 were pointed out by Audit in November, 1980. While admitting the audit objection, the Department raised an additional demand of Rs. 2.27 lakhs on the evaded turnover of Rs. 32.38 lakhs and also imposed a penalty of Rs. 20,000. As per the provisions of the Delhi Sales Tax Act, the assessments can be revised by Sale Tax Officer or by the Assistant Commissioner *suo motu* on coming to know that a fraud has been committed by the dealer. Though the Department had ample Powers to reopen the assessment it took no action to check the returns of the dealer for the subsequent years until Audit again pointed out in June 1981 that the dealer had indulged in similar malpractices in respect of the assessments for 1976-77 and 1977-78 as well. Thereafter, the Department raised additional demands of Rs. 1.07 lakh and Rs. 0.49 lakh on the evaded turnovers of Rs. 13.82 lakhs and Rs. 6.29 lakhs and also imposed penalties of Rs. 25,000 and Rs. 19,000 in respect of the years 1976-77 and 1977-78.

[S. No. 3 Appendix 1 Para 1.68 of 142nd Report of P. A. C. (Seventh Lok Sabha)]

Action Taken

On receipt of the first information regarding mistake in the assessment order for 1975-76 in November, 1980 the re-assessment proceedings against the dealer were initiated and finalised in January, 1981. The inspection for the subsequent years, i. e. 1976-77 and 1977-78 were, however, started by Audit on 1st of April, 1981 and in compliance thereof, the files of the dealer for the years 1976-77 and 1977-78 were furnished to Audit immediately.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi dated 25 November, 1983.]

Recommendation

The facts stated above clearly illustrate the deplorable state of affairs in the working of the Sales Tax Department of Delhi Administration. It is really surprising that although the malpractice indulged in by the dealer viz, interpolations of figures, alteration in the amount of bills, inflating the totals of the sales and also inflating the totals of sales while carrying over from one page to another were such that the same could easily be detected, yet the assessing officer failed to do so. These came to light only when Audit scrutinised the relevant records. What is still more serious is that the trader continued to indulge in these malpractices for several years without being detected. From these facts, the Committee cannot but reach the conclusion that these malpractices could not have been possible without the collusion of the concerned officers of the Sales Tax Department. The Committee consider that this case supports the strong feeling among the public that unscrupulous traders in collusion with dis-

honest officers of the Sales Tax Department are depriving the public exchequer of heavy amounts of revenue by adopting all sorts of fraudulent practices. The Home Secretary was indeed candid enough to admit in evidence that this was a "bad case" and "may be a tip of the iceberg." He was also forthright in admitting that "the totality of the administration has to be galvanised." The Committee would therefore like government to enquire into all aspects of this case and award stern and exemplary punishment to the concerned officer(s) so that the same may serve as a lesson to others.

[S. No. 4 Appendix 1 Para 1.69 of 142nd Report of P. A. C. (Seventh Lok Sabha)]

Action Taken

The Administration has placed S/Shri M. L. Vijay and Prahlad Sharma, Sales Tax Officers under suspension pending disciplinary proceedings against them. Explanations of these officers have been called for and replies furnished by them are being scrutinised. The Administration would enquire into all aspects of this case and take stern action against defaulters and also evolve appropriate remedial measures to stop such malpractices.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi Dated 25 November, 1983]

Recommendation

The Committee are surprised to learn that according to the existing provisions of the Delhi Sales Tax laws, the Sales Tax Officer is the authority for assessment of a return irrespective of the amount involved and the only agency to check the assessment in the Department is its Internal Audit Wing. However, because of insufficient staff, the Internal Audit Wing is itself a crippled institution. It is no surprise that such serious mistakes went undetected all these years. This means that even in the case of an assessment involving revenue amounting to lakhs of rupees, if the Sales Tax Officer either by mistake or deliberately in connivance with the trader, makes a patently wrong assessment, there is no satisfactory mechanism to check the same. This is, to say the least, a scandalous state of affairs. The Committee feel that the Sales Tax Act should be amended in such a way that all cases of assessment beyond a particular monetary limit should either be assessed by an officer not below the rank of Assistant Sales Tax Commissioner or assessments made by the Sales Tax Officer should invariably be checked by a senior officer.

[S. No. 5 Appendix 1 Para 1.70 of 142nd Report of P.A.C. (Seventh Lok Sabha)]

Action Taken

The Administrative Reforms Department of the Delhi Administration had undertaken a study of the Sales Tax Department and have recommended crea-

tion of a number of posts including posts for the Internal Audit Cell. The case for creation of more posts for the Sales Tax Department, including the Internal Audit Cell on an ad hoc basis is being taken up with the Cabinet for relaxation of ban orders. The question of amending the law as suggested in the concluding sentence of the above recommendation, would also be considered.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi dated 25 November, 1983]

Recommendation

The Committee find that under the present provisions of the Delhi Sales Tax Act, dealers committing irregularities are liable to be levied by way of penalty a sum not exceeding 2½ times the amount of tax avoided. However, in the present case, the department levied penalties of Rs. 20,000, Rs. 25,000 and Rs. 19,000 only for the years 1975-76, 1976-77 and 1977-78 against the respective tax liabilities of Rs. 2.37 lakhs, Rs. 1.07 lakhs and Rs. 0.48 lakhs ignoring the fact the party indulged in malpractices amounting to fraud and that it was a fit case for launching prosecution. The fact that the department imposed a meagre penalty of Rs. 64,000 only against the maximum leviable penalty of Rs. 9.82 lakhs on the evaded tax of Rs. 3.93 lakhs for all the 3 years only reinforces the Committee's apprehension of collusion on the part of departmental officials with the party. The Chief Secretary, Delhi Administration was candid enough to admit in evidence that the penalty imposed in this case was very insufficient.

[S. No. 6 Appendix 1 Para 1.71 of 142nd Report of P.A.C. (Seventh Lok Sabha)]

Action Taken

The explanation of the Officer concerned in regard to the levy of penalty not commensurate with the offence committed by the dealer has been called for. His reply to the explanations is being processed. In the meantime, pending departmental enquiry against him, the assessing authority has been placed under suspension by the Administration.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi Dated 25 November, 1983.]

Recommendation

Later, in a note furnished after evidence, the Ministry of Home Affairs have stated that the Assistant Commissioner revised the penalty to Rs. 3.35 lakhs for the year 1975-76, Rs. 2.65 lakhs for 1976-77 and Rs. 1.20 lakhs for 1977-78, on finding that these penalties were not adequate and that the Sales Tax Officer had not taken into account the gravity of the offence. Thus, the total penalty of Rs. 64,000 initially imposed has now been revised to Rs. 7.20 lakhs.

Obviously this revision has been effected as a result of the Committee's decision to take up the para for examination. The Committee are constrained to observe that this is symptomatic of the manner in which the power to levy penalty is being exercised by the Sales Tax authorities at various levels.

[S. N. 7 Appendix 1 Para 1.72 of 142nd Report of P.A.C. (Seventh Lok Sabha)]

Action Taken

Instructions in regard to the levy of penalty commensurate with the offence committed by the dealer have been issued to all Assessing Authorities vide No. F. 28(2)82-PPR/15405/654 dated 11.12.1982 (Circular No. 25 of 82-83 Copy enclosed Annexure). The said instructions are being reiterated in order to ensure that the assessing authorities in such cases do not impose penalty disproportionately in comparison with the amount of tax evaded and that the existing provision of penalty is used in such a manner as to have deterrent effect on the wilful tax evaders.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi Dated 25 November, 1983]

ANNEXURE

Confidential

**Office of the Commissioner Sales Tax : 'L' Block :
Vikas Bhavan : N. Delhi-110002**

Circular No. 25 of 1982-83

To

**All Assessing Authorities.
Sales Tax, Delhi.**

Subject :— *Imposition of Penalties.*

It has been observed in a number of cases that where dealers have evaded tax to the tune of thousands of rupees, the assessing authorities have imposed only nominal penalties. It is also seen that in most cases the penalty orders do not indicate the gravity of the nature of offence/irregularities committed, and there is no indication of the reasons as to why the assessing authorities have chosen to impose only small amounts of penalties.

On the other hand it is observed that in some cases where there is a nominal delay in filling returns and where the amounts involved are small, the assessing authorities have imposed heavy penalties.

In such cases it cannot be said that the assessing authorities have acted in a judicious manner. While it is necessary that the assessing authorities give

an opportunity to the dealer before imposing the penalties, to explain his case it is also necessary that the assessing authorities keep the interest of revenue in mind and the penalty orders should give detailed reasons, and normally where the dealer has committed major irregularities for avoiding tax, the penalty imposed should be commensurate with the gravity of the offence and the amount of tax avoided. As the assessing authorities are aware, the law provides for imposition of penalties upto two and half times of the tax avoided. In case the assessing authorities decide to impose less penalties even where the offences are of serious nature, they should indicate the reasons for imposing less penalties.

(T. T. JOSEPH)

Commissioner Sales Tax : Delhi

No. F 28(2) 82-PPR/15405/654

Dated : 11.12.1982

Copy forwarded for information and necessary action to :

1. All Asstt. Commissioners, Sales Tax.
2. P. As to C.S.T./Addl. C.S.T. and Dy. C.S.T.
3. All assessing authorities including those in Enforcement Branch and Central Circles.
4. All STOs and ASTOs in Head Office.
5. Asstt. Legal Advisers (I & II), Sales Tax.
6. Asstt. Director (S), Sales Tax.
7. Programmer, EDP Cell, Sales Tax.
8. Central Record. Room (2 copies).
9. Guard File, PPR Branch (5 copies).
10. Administrative Officer, Sales Tax.
11. Accounts Officer, Sales Tax.
12. I/O Library, Sales Tax.

(KULDIP SINGH)

Asstt. Commissioner (H. Q.)
Sales Tax : N. Delhi.

Recommendation

The Committee note that the falsification of documents committed by the dealer also amounted to a criminal offence under the Indian Penal code. They are unhappy to note that although the audit objections were raised as far back as November, 1980 and June, 1981 respectively. FIR was lodged with the Delhi Police as late as on 1 July, 1982. This again shows that the belated action was taken by the Delhi Administration only after Audit Report came up before the Committee. The Committee cannot but deprecate the casual manner in which such serious cases involving grave offences are dealt with by the Delhi Administration.

[S. No. 9 Appendix 1 Para 1.74 of 142nd Report of P. A. C. (Seventh Lok Sabha]

Action Taken

The explanation of the officer concerned in regard to the delay in lodging FIR has already been called for. His reply to the explanation is being examined. The officer has since been placed under suspension, pending departmental proceedings against him for his acts of omission and commission in aforesaid case.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi Dated 25 November, 1983]

Recommendation

The Chief Secretary Delhi Administration admitted in evidence that there had been delay in initiating the criminal proceedings. It was contended that there was an initial doubt whether prosecution can be launched under Section 50 of the Delhi Sales Tax Act, 1975 which provides that "no prosecution for an offence shall be instituted in respect of the same facts for which a penalty has been imposed". The representative of the Ministry of Law, however, deposed before the Committee that the provision of section of Section 50 of the Delhi Sales Tax Act, 1975 would apply only to prosecution for an offence under the Delhi Sales Tax Act and not for an offence under the Indian Penal Code. It is also pertinent in this connection to recall the departmental reaction to an earlier audit objection contained in para 3.09 of C & AG's Report for the year 1979-80 wherein penal action was taken both under the Indian Penal Code as also under the Delhi Sales Tax Act, 1975. Therefore, the argument advanced by the department for the delay in initiating criminal proceedings is not at all sustainable. The Committee recommend that suitable instructions should be issued to officers in the Sales Tax Department to take timely action in such cases so to act as a deterrent to unscrupulous dealers.

[S. No. 10 Appendix 1 Para 1.75 of 142nd Report of P.A.C. (Seventh Lok Sabha]

Action Taken

Suitable instructions in this behalf have since been issued vide circular No. F. 3 (1)/83—V & E/CST/10654/303, dated 4.6.83. (Copy enclosed Annexure).—

Sd/-
 (R. M. Vats)
 Secretary (Finance)
 Delhi Administration
 Sd/-
 (R. V. Pillai)
 Joint Secretary
 Ministry of Home Affairs

[Ministry of Home Affairs O. M. No. U. 16016/1/83—Delhi Dated 25 November, 1983.]

ANNEXURE

OFFICE OF THE COMMISSIONER OF SALES TAX : L BLOCK
 I. P. ESTATE : NEW DELHI-110002.
 (ENFORCEMENT BRANCH)

CIRCULAR

To

All STOs/Ward in-charge,
 Sales Tax Department,
 New Delhi.

Instances have come to notice where unnecessary delays have taken place even after a decision has been taken to file the FIR against an unscrupulous dealer because of one reason or the other mainly due to non-availability/supply of relevant record by the concerned Ward. Such delays have to a great extent defeated the very purpose of taking deterrent action against unscrupulous dealers.

2. All the officers of the Department should ensure that once a decision has been taken at the appropriate level to, launch criminal proceedings against a dealer, all actions culminating in launching of the FIR should be completed within a period of one month and thereafter a compliance report be submitted to AC (E).

3. It is further clarified that the FIR shall be lodged by officer Incharge of the Ward in consultation with the Sales Tax officer (Prosecution) in the Special Investigation Branch of Sales Tax Department.

4. Any delay in the filing of the FIR's would be viewed adversely.

Sd/-
 (S. R. Sharma)
 Commissioner : Sales Tax

No. F 3 (1)/83/V & P/CST/10059/303

Dated 4.6.1983

Recommendation

The Committee were informed that the dealer in the case under examination has filed a writ petition in the Delhi High Court against the *suo moto* revision as also against the criminal proceedings and that the High Court has stayed further proceedings. The Home Secretary assured the Committee in evidence that he had directed the Delhi Administration to take suitable action to get the case expedited in the High Court. The Committee would like to be informed of the progress of the case as also of the final outcome.

[S. No. 11 Appendix 1 Para 1.76 of 142nd Report of P.A.C. (Seventh Lok Sabha)]

Action Taken

The latest position of writs filed by M/S A. Duggal & Co. is as follows :—

1. Civil Writ Petition No. 381 of 1982

The dealer had challenged the prosecution lodged against him under the provision of I.P.C. Hon'ble Court has granted interim stay on a petition by the Government Counsel. The court has allowed the investigating agency to collect the required evidence in the meanwhile. Final orders on the Writ Petition are yet to be passed.

2. Civil Writ Petition No. 3952 of 1982 & Civil Writ 15 of 1983.

The dealer has challenged the *suo-moto* revision of penalty made by the Assistant Commissioner. Counter affidavits have been filed. The writs were admitted on 19.8.83 and the date for hearing has been fixed for 5th December, 1983.

3. Civil Writ Petition No. 261 of 1983.

The cancellation of Registration Certificate by the Assessing Authority has been challenged. The Hon'ble Court has quashed the orders cancelling the Registration Certificate but has allowed the Assessing Authority proceed fresh by issuing another notice after observing the principle of natural justice. The Assessing Authority accordingly issued a fresh notice for cancellation. The dealer during the course of hearing objected to the jurisdiction of the Officer to issue the

notice and the matter is presently with Commissioner, Sales Tax for a decision on his objection. On 28.10.83, the dealer has filed a writ in the High Court on the same matter.

(Ministry of Home Affairs O.M. No. U. 16016/1/83—Delhi Dated 25 November, 1983).

Recommendation

The Committee find that presently supervision and control are exercised over the Sales Tax Department of Delhi Administration through two channels viz., the Internal Audit Cell and the Vigilance and Enforcement Branch. The Committee view with concern that neither of these two departmental organs was able to detect the irregularities indulged in by the dealer in the case under examination. What is all the more intriguing is that in Ward 11 where the present case was detected no assessments were scrutinised by the Internal Audit Cell at all in any of the years 1975-76, 1976-77 and 1977-78. This is clearly indicative of the fact that the present criteria of selection of wards for scrutiny of assessments by the Internal Audit Cell are totally inadequate and defective.

[S. No. 13 Appendix 1 Para 1.78 of 142nd Report of P. A. C. (Seventh Lok Sabha)]

Action Taken

According to the Delhi Administration, there was no specific criteria prescribed for selection of wards to be audited. However, instructions have now been issued by the Delhi Administration to the Commissioner, Sales Tax to ensure that all wards are regularly scrutinised by the Internal Audit Cell.

The Administrative Reforms Department of the Delhi Administration had undertaken a study of the Sales Tax Department and have recommended creation of a number of posts including posts for the Internal Audit Cell. The case for creation of more posts for the Sales Tax Department including Internal Audit Cell on *ad hoc* basis is being taken up with the Cabinet for relaxation of ban orders.

(Ministry of Home Affairs O. M. No. U. 16016/1/83—Delhi Dated 25 November, 1983)

Recommendation

From the statistical data showing the performance of the Internal Audit Cell furnished by the Ministry of Home Affairs at the instance of the Committee. it is seen that the Cell has been able to scrutinise only 2.5% of the total number of sales tax assessments completed during the year 1981-82. The percentage

of assessments scrutinised by the Cell during the earlier years from 1977-78 to 1980-81 was 5.4%, 4.46%, 0.8% and 1.49% in the respective years. These figures amply illustrate the dismal performance of the Internal Audit Cell over the years. The Ministry of Home Affairs have not been able to give any plausible explanation for this excepting the plea of inadequate staffing. The Committee regret that the importance of Internal Audit in a department dealing with revenue amounting to about Rs. 190 crores every year has not been realised. The Committee need hardly emphasise the imperative need for strengthening and galvanising the system of internal audit so as to make it an effective control through which the Department can not only keep proper watch over the standard of performance of its officers but also bring about substantial improvement in the Sales Tax administration in Delhi. The Committee strongly recommend that the Ministry of Home Affairs should take immediate measures to strengthen the Internal Audit Cell of the Sales Tax Department of Delhi Administration both in qualitative and quantitative terms.

[S. No. 14 Appendix 1 Para 1.79 of 142nd Report of P.A.C. (Seventh Lok Sabha)]

Action Taken

According to the Delhi Administration, performance of Internal Audit Cell during the years 1978-79 to 1980-81 declined because of the following reasons :—

- (a) Paucity of staff in the Internal Audit Cell.
- (b) Fall in the percentage of the assessment orders scrutinised was also attributable to the increase in the number of registered dealers over the years without any corresponding increase in the staff deployed for internal audit.
- (c) the performance in the year 1979-80 was exceptionally low mainly because the staff was diverted for the duties in connection with the general elections, unprecedented floods and setting up of temporary jails.

The Administrative Reforms Department of the Delhi Administration had undertaken a study of the Sales Tax Department and have recommended creation of a number of posts including posts for the Internal Audit Cell. The case for creation of more posts for the Sales Tax Department including the Internal Audit Cell on an *ad hoc* basis is being taken up with the Cabinet for relaxation of ban orders

(Ministry of Home Affairs O.M.No. U, 16016/1/83-Delhi Dated 25 Nov. 1983.)

Recommendation

The Committee find that no steps have so far been taken for simplification and rationalisation of Sales Tax in Delhi. The Committee were surprised to learn that there are certain items on which only nominal revenue e.g. less than Rs. 5 lakhs is being realised. The Committee feel that there is an urgent need for simplification and rationalisation of sales tax structure in Delhi so that the Department may pay more attention to large assessees/commodities fetching amount of revenue and the small traders may be spared from unnecessary harassment.

[S. No.15 Appendix 1 Para 1.80 of 142nd Report of P.A.C (Seventh Lok Sabha)]

Action Taken

Consequent upon the decision taken in the conference of the Chief Ministers, the Ministry of Law had requested the Law Commission to prepare a model Sales Tax Law for uniform adoption by all the States. One of the points for consideration by the Law Commission is the uniformity in the Sales Tax Laws and procedures in all the States. The point regarding rationalisation and simplification of sales tax law relevant to the para will also be covered by the model sales tax law.

The National Institute of Public Finance & Policy has also been entrusted to undertake a study of the Sales Tax Department and one of the terms of references is to examine the implementation of sales tax with particular reference to assessment. The terms of reference is attached. (Annexure)

(Ministry of Home Affairs O.M. No. U. 16016/1/83—Delhi dated 25 November, 1983.)

ANNEXURE

TERMS OF REFERENCE FOR INDEPTH STUDY ON THE STRUCTURE AND ASSESSMENT OF SALES TAX BY THE NATIONAL INSTITUTE OF PUBLIC FINANCE AND POLICY

1. To examine and make recommendations regarding the structure of Sales Tax in Delhi, with particular reference to the distribution of items between first point and last point levy of tax and the considerations which should govern the selection of items for levy at the first point.

2. To examine and make recommendations regarding the factors which should be taken into account in determining the rate structure of sales tax in Delhi.
3. To make recommendations regarding the implementation of sales tax law with particular reference to assessments and introduction a viable system of summary assessment as envisaged in section 23 (1) of the Delhi Sales Tax Act.
4. To make recommendations regarding yardsticks for staffing the Department taking into account reasonable cost of collection and desirable norms of work of assessing and other authorities including internal audit, recovery and other authorities.
5. To examine the structure of trade in Delhi and undertake commodity flow surveys in regard to a few selected commodities.
6. To make recommendations regarding enforcement Branch of the Sales Tax Department, its desirable strength, methods and procedures of operation and optimum selection of enforcement activities.
7. To make recommendations regarding the system of collecting and of compiling statistical data with particular reference to the collection of commodity wise and other information of use in the formulation of policy and to the devising of methods of assessing the performance of the Sales Tax Department in different areas.
8. To make recommendations on any other matter which in view of the institute may have a significant bearing on the effective administration of Sales Tax in Delhi.

Recommendation

In this connection, the Committee note that the Delhi Administration has asked the National Institute of Public Finance to undertake a study of the Sales Tax Department for rationalisation of tax structure and also to make suggestions on the framework of the administration, organisational reinforcement and strengthening of the departmental machinery. The Committee would like to be informed of the recommendations made by the Institute and the action taken thereon.

[S.No. 16, Appendix 1, Para 1.81 of 142nd Report of P.A.C. (Seventh Lok Sabha)]

Action Taken

They study of the National Institute of Public Finance and Policy has not yet been completed. As soon as the same is secured, a copy thereof will be supplied to the Lok Sabha Secretariat. The terms & Reference to the Institute are attached. (Annexure)

[Ministry of Home Affairs O.M. No. U. 16016/1/83-Delhi Dated 25 Nov. 1983.]

ANNEXURE

TERMS OF REFERENCE FOR INDEPTH STUDY ON THE STRUCTURE AND ASSESSMENT OF SALES TAX BY THE NATIONAL INSTITUTE OF PUBLIC FINANCE AND POLICY.

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4. To make recommendations regarding yardsticks for staffing the Department taking into account reasonable cost of collection and desirable norms of work of assessing and other authorities including internal audit, recovery and other authorities.
5. To examine the structure of trade in Delhi and undertake commodity flow surveys in regard to a few selected commodities.
6. To make recommendations regarding enforcement Branch of the Sales Tax Department, its desirable strength, methods and procedures of operation and optimum selection of enforcement activities.
7. To make recommendations regarding the system of collecting and of compiling statistical data with particular reference to the collection of commodity wise and other information of use in the formulation of policy and to the devising of methods of assessing the performance of the Sales Tax Department in different areas.
8. To make recommendations on any other matter which in view of the institute may have a significant bearing on the institute may have a significant bearing on the effective administration of Sales Tax in Delhi.

CHAPTER III

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

Recommendation

The examination of the present Audit Paragraph has brought to light several areas of inadequacies in the working of the Sales Tax Department of Delhi Administration. The Committee recommend that the Ministry of Home Affairs should immediately look into the working of the Sales Tax Department of Delhi Administration including its Internal Audit Cell keeping in view the points raised by the Committee in the foregoing paragraphs, identify the shortcomings and take effective measures to improve its functioning. They would urge that question of streamlining the Sales Tax administration in Delhi should receive top most priority so as to provide the necessary lead to other States/Union Territories.

[S. No. 17, Appendix 1, Para 1.82 of 142nd Report of P. A. C. (Seventh Lok Sabha)]

Action Taken

The Administrative Reforms Department of the Delhi Administration had undertaken a study of the Sales Tax Department and have recommended creation of a number of posts including posts for the Internal Audit Cell. The case for creation of more posts for the Sales Tax Department including the Internal Audit Cell on an ad hoc basis is being taken up with the Cabinet for relaxation of ban orders.

[Ministry of Home Affairs O.M.No.U. 16016/1/83-Delhi Dated 25 November, 1983.]

CHAPTER IV

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

Recommendation

The Committee were informed that the Department had since detected 9 more cases involving forgery and that criminal cases were pending against 64 dealers in various courts. They were also informed that in 38 cases FIRs had been lodged with the Police and investigations were pending. However, from a perusal of these cases, the Committee are surprised to find that out of the 9 cases involving forgery, only in one case a penalty of Rs. 100/-was imposed and in other cases only the tax was reassessed by the Sales Tax Department. The Committee cannot but reach the conclusion that there is total absence of seriousness if not active collusion on the part of the Sales Tax Department in curbing the growing malpractices like forgery in furnishing sales tax returns. No wonder the Department is considered by the common man as a hotbed of corruption. The Committee desire that all such cases of malpractices should be dealt with expeditiously and firmly by the Department and maximum penalty permitted by law imposed so as to curb such malpractices. The responsibility of the concerned officers in the Sales Tax Department should also be determined to find out if there was any collusion on their part. The Committee would like to be informed within six months of the progress made in all these cases.

[S. No. 12 Appendix 1 Para 1.77 of 142nd Report of P. A. C. (Seventh Lok Sabha)]

Action Taken

In pursuance of the above directive, the Enforcement Branch of the Sales Tax Department has started review of all the above cases to check whether the penalty imposed in each case has been adequate. The Sales Tax Department has also started systematic checking to detect other similar cases involving

forgery and defraudment of Government revenues. As a result of this, so far 25 more cases involving forging in challans for depositing tax with the banks has been unearthed and the process to detect more such cases is continuing. So far as the 25 cases are concerned, reports have been lodged with the Deputy Commissioner, Police (Crime and Railways) on 1.6.83 and the cases are being investigated by the Police.

The Sales Tax Dapartment has also been directed to fix responsibility to to find out if there is any collusion on the part of any officials in such cases. The Administration has been directed to send a report in the matter by 31st December, 1983.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi Dated 25 November, 1983]

CHAPTER V

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

Recommendation

In this context, the Committee note that presently the Sales Tax Law in Delhi does not stipulate levy of minimum penalty. The Committee fail to understand why such a provision has not been included in the Delhi Sales Tax Act when such a provision exists in the Sales Tax Acts of several other neighbouring States. The Committee recommend that a provision should be incorporated in the Delhi Sales Tax Act prescribing a minimum penalty in order to check misuse of the discretionary powers by the assessing officers.

[S. No. 8 Appendix 1 Para 1.73 of 142nd Report of P.A.C. (Seventh Lok Sabha)]

Action Taken

The matter is under consideration with the Delhi Administration and it will be submitted to Government of India for making necessary amendments to the Delhi Sales Tax Act, 1975 when finalised.

[Ministry of Home Affairs O. M. No. U. 16016/1/83-Delhi Dated 25 November, 1983]

NEW DELHI ;

22 February, 1984
3 Phalgun, 1905 (S)

SUNIL MAITRA,

*Chairman,
Public Accounts Committee.*

PART II

MINUTES OF THE 60TH SITTING OF PUBLIC ACCOUNTS COMMITTEE HELD ON 13 FEBRUARY, 1984

The Public Accounts Committee sat from 1500 hrs. to 1730 hrs. in Committee Room 'D', Parliament House Annex, New Delhi.

PRESENT

Shri Bhiku Ram Jain—*in the Chair*

2. Smt. Vidyavati Chaturvedi
3. Shri G. L. Dogra
4. Shri Satyanarayan Jatiya
5. Shri Mahavir Prasad
6. Shri Jamilur Rahman
7. Dr. Sankata Prasad
8. Dr. Harekrushna Mallick
9. Shri Nirmal Chatterjee
10. Shri Kalyan Roy

SECRETARIAT

1. Shri H. S. Kohli—*Chief Financial Committee Officer.*
2. Shri K. K. Sharma—*Senior Financial Committee Officer.*
3. Shri Krishnapal Singh—*Senior Financial Committee Officer.*

REPRESENTATIVES OF THE OFFICE OF THE C&AG OF INDIA

1. Shri N. Sivasubramanian—*Director of Receipt Audit*
2. Shri R. Balasubramanian—*Joint Director (C&CX)*
3. Shri S. K. Gupta—*Joint Director (DT)*
4. Shri S. R. Sapra—*Joint Director (SR)*

2. In the absence of the Chairman, Shri Bhiku Ram Jain was chosen to act as Chairman of the sitting under Rule 258(2) of the Rules of the Procedure and Conduct of Business in Lok Sabha.

3. The Committee considered and adopted the following subject to the amendments/modifications as indicated in Annexures* I to V :

1.	*	*	*
2.	Action Taken Report on 142nd Report (7th Lok Sabha)—Receipts of Union Territory of Delhi—Sales Tax—Falsification of documents by a dealer.		
3.	*	*	*
4.	*	*	*
5.	*	*	*
4.	The Committee also approved some minor modifications/amendments arising out of factual verification of the draft Reports by Audit.		
5.	The Committee also authorised the Chairman to finalise the report and present the same to the House.		

The Committee then adjourned.

ANNEXURE II

(vide Part II)

Amendments/Modifications made by the Public Accounts Committee at their Sitting held on 13 February, 1984 (AN) in the Draft Report on Action Taken on 142th Report of the Committee (Seventh Lok Sabha) Relating to receipts of Union Territory of Delhi—Sales Tax—Falsification of Documents by a dealer.

Page	Para	Lines	Amendments/Modifications
5.	1.7	1-7	<p><i>Substitute “cases of.....</i></p> <p><i>Committee”</i></p> <p><i>by “assessments of sales turnover above a particular monetary limit should be made by an officer not below the rank of an Assistant Sales Tax Commissioner. A small percentage of other assessments made by Sales Tax Officers selected at random by the Assistant Sales Tax Commissioners should also be checked by him. Action taken in this regard should be intimated to the Committee”.</i></p>

* Annexures I, III, IV, and V not printed.

APPENDIX

Conclusions/Recommendations

S. No.	Para	Ministry/ No.	Department Concerned	Conclusions/Recommendations
1	2	3		4
1	1.3	Ministry of Home Affairs		The Committee desire that final action taken reply in respect of recommendation contained in para 1.73 for which only an interim reply has been given, will be furnished to them, duly vetted by audit, at an early date.
2.	1.7	do		In their earlier Report, the Committee had expressed surprise that according to the existing provisions of the Delhi Sales Tax Act, once an assessment was made by the Sales Tax Officer, there was no satisfactory mechanism to check the same. The only agency to check the assessment in the Department was its Internal Audit Wing but this Wing was itself a crippled institution because of insufficient staff. The Committee had recommended that Sales Tax Act should be amended in such a way that all cases of assessments beyond a particular monetary limit should either be assessed by an officer not below the rank of Assistant Sales Tax Commissioner or assessments made by the Sales Tax Officer should invariably be checked by a senior officer. The Ministry of Home Affairs in their reply have only stated that the suggestion for amending the law in the light of this recommendation would be considered. The Committee find this reply to be totally unsatisfactory. They observe that even though a period of nearly 8 months has elapsed since the Committee had suggested the amendment of the law to provide

necessary checks, Government are yet to consider the matter. This shows that Government have not attended to the matter with the seriousness it deserved. The Committee desire that immediate steps should be taken by the Government to amend the Sales Tax Act in such a manner that all assessments of sales turnover above a particular monetary limit should be made by an officer not below the rank of an Assistant Sales Tax Commissioner. A small percentage of other assessments made by Sales Tax Officers selected at random by the Assistant Sales Tax Commissioner should also be checked by him. Action taken in this regard should be intimated to the Committee.

3 1.10 —do—

While examining a case of evasion of sales tax by a dealer in Delhi by indulging in falsification of documents, the Committee had in their earlier Report observed that the Sales Tax Department had since detected nine more cases involving forgery and that criminal cases were pending against 64 dealers in various courts. They had also observed that in 38 cases FIRs were lodged with the Police and investigations were pending. The Committee had drawn attention to the fact that out of the nine cases involving forgery, only in one case penalty was imposed and in other cases, the department had only re-assessed the tax liability. The Committee had recommended that all such cases of malpractices should be dealt with expeditiously and firmly and the maximum penalty permitted by law be imposed and their responsibility of the concerned officials for collusion determined. The Committee had also desired to be informed of the progress made in all such cases within a period of six months. The Ministry of Home Affairs have in their action taken not stated that [in pursuance of the recommendation of the Committee, Sales Tax Department, Delhi Administration has started reviewing all the cases to check whether the penalty imposed in each case was adequate. As a result of further scrutiny made by the department 25, more cases of forgeries have been unearthed and reports have been lodged with the police. The Ministry have further stated that the Delhi Administration have been directed [to furnish a report in the matter by 31

December, 1983. The Committee regret to point out that the Ministry in their action taken note have given no indication of the progress of the 64 cases which were earlier stated to be pending in courts as also of the 38 cases where FIRs were filed and investigations were pending. They expect the Department to pursue these cases Vigorously in order to curb effectively the growing trend of malpractices. The Committee would like to be informed of the progress made in all the cases as well as the action taken against the colluding officials.

1.13 In their earlier Report, the Committee had pointed out that the Internal Audit Cell had been able to scrutinise only 2.5% of the total number of sales tax assessments completed during the year 1981-82. The percentage of assessments scrutinised during 1980-81 was 1.49% and during 1979-80 it was as low as 0.8%. The Committee had expressed their dismay at the fact that importance of internal audit in a Department dealing with revenue amounting to about Rs. 190 crores every year was not realised. The Committee had strongly recommended that the Ministry of Home Affairs should take immediate measures to strengthen the Internal Audit Cell of the Sales Tax Department of Delhi Administration both in qualitative and quantitative terms. In their reply the Ministry have stated that the Administrative Reforms Department of the Delhi Administration had undertaken a study of the Sales Tax Department and have recommended creation of a number of posts including posts for the Internal Audit Cell and the case for creation of more posts is being taken up with the Cabinet for relaxation of ban orders. The Committee are not happy with the slow pace of strengthening the Internal audit cell. They would like to emphasise that keeping in view the huge amount of revenue involved and the exceptionally poor coverage by the Internal Audit so far, the matter should be dealt with utmost urgency and immediate action taken to strengthen and galvanise the Internal Audit Cell.

5 1.17 —do— In their earlier Report, the Committee had pointed out that there was an urgent need for simplification and rati-

onalisation of Sales Taxstructure in Delhi so that the department could pay more attention to large assessees/ commodities fetching large amount of revenue and the small traders could be spared from unnecessary harassment. In this connection they had noted that the Delhi Administration had entrusted the National Institute of Public Finance and Policy to undertake a study of the Sales Tax Department. The Committee were informed that an interim report of the study was expected by March, 1983. The Ministry of Home Affairs have in their action taken note stated that the issue of rationalisation and simplification of sales tax law will be covered by the proposed model Sales Tax Law to be drafted by the Law Commission for uniform adoption by all the States, as was decided at the Conference of the Chief Ministers. Further, the National Institute of Public Finance and Policy is also to examine the implementation of sales tax with particular reference to assessment. The Committee are not satisfied with the above reply. As the finalisation of the proposed model Sales Tax Law as also the report of the National Institute of Public F'nance and policy are bound to take more time, the Committee feel that the Ministry of Home Affairs should initiate their own measures for early rationalisation and simplification of sales tax structure in Delhi. They would like to be informed of the conclusive action taken by the Delhi Ad.nistration/Ministry of Home Affairs in this direction.
