

175

# WORKING OF A FILM CIRCLE

MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

HUNDRED AND SEVENTY-FIFTH  
REPORT



FOR SALES SECRETARIES  
NEW DELHI

**HUNDRED AND SEVENTY-FIFTH  
REPORT**

**PUBLIC ACCOUNTS COMMITTEE  
(1989-90)**

**(EIGHTH LOK SABHA)**

**WORKING OF A FILM CIRCLE**

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

**[Action Taken on 71st Report of Public Accounts Committee  
(8th Lok Sabha)]**



*Presented in Lok Sabha on 8.8.1989*

*Laid in Rajya Sabha on 8.8.1989*

**LOK SABHA SECRETARIAT  
NEW DELHI**

*August, 1989/Sravana, 1911 (Saka)*

**P.A.C. No. 1273**

---

*Price : Rs. 10.00*

© 1989 LOK SABHA SECRETARIAT

**PUBLISHED UNDER RULE 382 OF THE RULES OF PROCEDURE AND CONDUCT  
OF BUSINESS IN LOK SABHA (SIXTH EDITION) AND PRINTED BY THE  
MANAGER, GOVERNMENT OF INDIA PRESS,  
MINTO ROAD, NEW DELHI**

CORRECTIONS TO 175TH REPORT OF PAC  
(8TH LOK SABHA)

<u>Page</u>	<u>Para</u>	<u>Line(s)</u>	<u>For</u>	<u>Read</u>
3	1.8	14	of production	cost of production
5	1.15	7-8	depend	depended
13	5	15	which	where
22	2	7	PIC	PAC
34	-	11 (from top)	endinn	ending
-do-	-	3 (from bottom)	financers	financiers
35	-	4	etxended	extended
-do-	-	15	is no need	is need
-do-	-	17	to be taken	be taken
36	-	3 (from bottom)	986-87	1986-87

## C O N T E N T S

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE . . . . .	(iii)
INTRODUCTION . . . . .	(v)
CHAPTER I            Report . . . . .	1
CHAPTER II           Recommendations and Observations which have been accepted by Government . . . . .	8
CHAPTER III          Recommendations and Observations which the Committee do not desire to pursue in the light of the replies received from Government . . . . .	21
CHAPTER IV          Recommendations and Observations replies to which have not been accepted by the Committee and which require reiteration . . . . .	43
CHAPTER V           Recommendations and Observations in respect of which Government have furnis- hed interim replies . . . . .	46

### PART II

Minutes of sittings of Public Accounts Com-  
mittee held on:

22 September, 1988 and 1 August, 1989	47
---------------------------------------	----

### APPENDICES

I Statement showing classification of the action taken notes furnished by the Government . . . . .	52
II Conclusions and Recommendations . . . . .	53

THE COMMITTEE ON PUBLIC ACCOUNTS (1989-90)

CHAIRMAN

Shri P. Kolandaivelu

MEMBERS

*Lok Sabha*

2. Shri Abdul Hannan Ansari
3. Shri Chhitubhai Gamit
4. Shri M. Y. Ghorpade
5. Shri Mohd. Ayub Khan
6. Shri Y. S. Mahajan
- \*7. Shri M. Mahalingam
- \*8. Shri Vijay N. Patil
- \*9. Dr. G. S. Rajhans
10. Shri Pratap Bhanu Sharma
11. Maj. Gen. R. S. Sparrow
12. Shrimati Usha Rani Tomar
13. Dr. Chandra Shekhar Tripathi
14. Shri Vir Sen
15. Shri Yogeshwar Prasad Yogesh

*Rajya Sabha*

16. Shri Rameshwar Thakur
17. Shri Jagesh Desai

---

\*Elected w.e.f. 3-8-89 vice Sarvashri Bh. Vijay kumar Raju, S. Jaipal Reddy and Saifu-  
Uddin Chowdhury resigned from the Committee.

(iv)

18. Shri Surender Singh
19. Shri P. N. Sukul
20. Vacant\*\*
21. Vacant£
22. Vacant£

SECRETARIAT

1. Shri G. L. Batra—*Joint Secretary*
2. Shri K. K. Sharma—*Director*
3. Shri A. Subramanian—*Senior Financial Committee*
4. Shri N. M. Jain—*Under Secretary*

---

\*\* Due to resignation by Shri Parvathaveni Upendra from the Committee w.e.f. 12-5-89.

Due to resignation by Shri Jaswant Singh and Virendra Verma from the Committee w.e.f. 15-5-89.

## INTRODUCTION

1. The Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this 175th Report on action taken by Government on the recommendations of the Committee contained in their Seventy-first Report (8th Lok Sabha) on working of a Film Circle.

2. In the Report, the Committee have stressed the need for devising some foolproof system of maintaining records in respect of films abandoned midway so that no undue advantage was taken by the film producers the cine artistes through inflation of cost of production of such films or concealment of the income received from such films. The Committee have also noted that the absence of norms for verifying the reasonableness of the expenses on production of a film, had led to concealment of huge income. According to the Ministry during the last two years, 947 assesseees in various film circles disclosed concealed income to the extent of Rs. 96.49 crore under amnesty scheme. The Committee have desired the Ministry to undertake a study to evolve certain norms for the assessing officers to find out the reasonableness of the expenditure incurred by the film producers.

3. The Committee examined the action taken notes at their sitting held on 22 September, 1988. The Committee considered and adopted this Report at their sitting held on 1st August, 1989. Minutes of the sittings form Part II of the Report.

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

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

NEW DELHI;  
7 August, 1989  

---

16 Shavana, 1911 (Saka)

P. KOLANDAIVELU  
Chairman,  
Public Accounts Committee.



## CHAPTER I

### REPORT

This Report of the Committee deals with action taken by Government on the Committee's Observations/Recommendations contained in their 71st Report (8th Lok Sabha) on Working of a Film Circle.

1.2 The Committee's report contained 19 Observations/Recommendations. Action Taken Notes have been furnished by Government in respect of all the recommendations. These have been broadly divided into four categories as shown in Appendix I.

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

*Lack of source of information on incomplete/abandoned films*

(Sl. No. 8, Para 106)

1.4. While commenting on the income from incomplete/abandoned films, the Committee made the following observations/recommendations:

"The Committee are amazed to find that there is no machinery or source with the Department through which one could get details in respect of abandoned/incomplete films. The Ministry of Information and Broadcasting who are responsible for the administration of the Cinematograph Act, are also not maintaining any such record. In reply to a question, the Ministry of Finance (Department of Revenue) have stated:

'None of the Film artistes (named in the Audit Para) have been able to furnish information regarding the films featuring them which have been abandoned. In view of this, details of remuneration receivable/received in respect of such incomplete/abandoned films are not available on record.'

Apparently, this goes to indicate that the remuneration received by the cine artistes, in all probability, escaped assessments. Lack of information with the Department leaves sufficient scope for manipulation of cost of production or

inflation of expenditure by the Film Producers with impunity. It is, therefore, desirable for the Ministry of Finance (Department of Revenue) to examine all the aspects of the matter in depth and evolve some methodology, in consultation with the Ministry of Information and Broadcasting and the State Government concerned, so as to ensure that income from the incomplete|abandoned films do not go unassessed and untaxed for lack of information."

1.5 In their action taken notes, the Ministry of Finance (Department of Revenue) have stated as follows:

"The information regarding incomplete and abandoned films is not available with the Ministry of Information and Broadcasting or the State Governments since they have information only in respect of completed films which have been released. As desired by the PAC, the Ministry of Information and Broadcasting has been requested to examine if it is possible for them at any stage to secure information regarding unreleased films from the producers. In the ordinary course the assessing officers are expected to obtain details of all the films in which an important film actor has acted during a particular year. This list of films is used to verify if the payments for all such films had been shown by him or her or not.

Regarding second point made by the Committee that lack of information about the abandoned or incomplete films leaves sufficient scope for manipulation of cost of production or inflation of expenses by film producers, it may be pointed out that deduction in respect of the expenditure on production of feature film which is abandoned is not admissible under Rule 9A of the Income-tax Rules and hence no useful purpose will be served by inflation of the cost of production of an abandoned film."

1.6 During evidence, on an enquiry from the Committee, the Revenue Secretary stated:

"When the producer starts a film and leaves it half-way through, the entire expenditure will be written off as capital loss. The expenditure cannot be amortised. He loses money. The question is whether the payments made to the artistes in the case of abandoned films are taxed or not. Such incomes are shown by the assessee himself."

1.7 On suggestion made by the Committee that by going through films magazines, the Department could know the films that were produced and the films that were abandoned, the witness stated, "We do get film magazines, and we know these details from them."

1.8 The Committee apprehend that in the absence of any systematic/proper records relating to incomplete/abandoned films it may not be possible for the assessing officer to get exact details in respect of income received or income concealed by the cine artiste while assessing his/her tax liabilities. The Committee also do not agree with the view taken by the Department of Revenue that since the expenditure on abandoned films was not admissible under Rule 9A of the Income Tax Rules, no useful purpose would be served by inflation of the cost of production. In this connection, the Committee would like to point out that the producers who suffer losses due to abandoning of the film mid-way, may avail of the benefit of reducing their tax liability by getting their losses set off against their income. This benefit is sufficient inducement to the producers to inflate of production of their incomplete films. The Committee, therefore, desire the Department of Revenue to pursue the matter vigorously with the Ministry of Information and Broadcasting to devise a foolproof system of maintaining records as regards the incomplete/abandoned films so that no undue advantage is taken by the film producers/cine artistes.

*Norms to judge reasonableness of cost of film*  
(Sl. No. 9, Para 107)

1.9 Finding wide variation in the cost of production of certain films, the Committee had doubts as to the correctness of the returns filed by film producers in the absence of any norms in respect thereof. The Committee had observed in Para 107 of their report as follows:

"There are no norms or guidelines prescribed for the assessing staff to see whether the cost of a film shown by the Film Producer was reasonable or not. There was wide variation in the cost of production of films 'Sholay' (Rs. 3.03 crores), 'Kala Pathar' (Rs. 1.28 crores) and 'Doosra Admi' (Rs. 60.21 lakhs). The Ministry have expressed their inability to fix any norms to judge the reasonableness of the cost of film because of variable factors like the number of artistes, their remuneration, nature of sets, number of

prints etc., on which the cost depends. Obviously, assessing officers have no means of verifying the correctness of expenditure on production of films and have to rely on the expenditure shown in the film producer's records. For instance, there is a vast difference between the cost of prints of the film 'Sholay' (Rs. 59.20 lakhs) on the one hand and of the film 'Kala Pathar' (Rs. 1.42 lakhs) and 'Doosra Aadmi' (Rs. 4.32 lakhs) on the other, which requires very close scrutiny and investigation. The Committee feel that as there are no norms to judge the reasonableness of the cost of films, the details of expenditure indicated by the producers should be critically scrutinised by the assessing officers."

1.10 In their action taken notes, the Ministry of Finance (Department of Revenue) have stated:

"The observations of the Committee have been forwarded to Directors General (Inv.), Delhi and Bombay, Chief Commissioner (Admn.), Madras and Calcutta, who have circulated them among all the concerned assessing officers for their guidance. However, it may be pointed out that the Departmental Publication 'Investigation of Accounts' which is meant for the guidance of assessing officers, deals with the techniques of tax evasion followed by film producers and suggest ways to counter them. The reasonableness of the cost of the film has to be seen separately for each film depending upon various factors like the reputation on the artistes, the number of artistes employed, the nature of sets used and number of prints made etc. The Department is following the practice of critically examining the claim of these expenses."

1.11 During the course of evidence of the representatives of the Department of Revenue on the subject, the Committee expressed the view that the Department should not rely on what the film producer said and that the Department should make an investigation to find out where the money had come from etc. The Chairman, CBDT informed *inter-alia*:

"Even in the producer's case it is not that we accept every thing that he says. We try to get evidence. We have many cases in Bombay where we found that a part of the expenditure is bogus. Ultimately the assessment will have to be made in individual cases. Then we investigate those cases to know the genuineness of

the finances brought in and if we are able to establish that the finances are not genuine then we make a case. Similarly, the bogus expenditure by the producer is also looked into."

1.12 To a further enquiry, he added "The law says that the assessee is free to claim whatever expenditure he incurs."

1.13 Asked why norms could not be laid down in respect of expenditure incurred in connection with making of a film when there were norms for expenditure for staying in a hotel, the Revenue Secretary replied "We will take it as a special exercise."

1.14 Subsequently, the Department of Revenue furnished the following figures about the number of assessees in the film circles including film financiers, film producers and film stars who availed themselves of the Amnesty Scheme during the last 2 years:

	Number	Amount disclosed (Rs. in crores)
Bombay film circle	88	60.14
other film circles	859	36.35
Total :	947	96.49

1.15 Observing that the assessing officers had no means of verifying the correctness of the expenditure on production of films other than to rely on what the film producer had shown in his return, the Committee, in their original report, stressed the need for evolving certain norms to counter or to weigh the claims of the film producers. In their action taken note, the Department of Revenue have informed that the reasonableness of the cost of the film depend on various factors like reputation of the artistes, the number of artistes employed, the nature of the sets used, the number of prints etc. and the Deptt. was following the practice of critically examining the claims for these expenses. The Committee note in this regard that during the last two years, 947 assessees in the various film circles made disclosures under amnesty scheme, of their concealed income to the extent of Rs. 96.49 crores of which Film Circle at Bombay alone accounted for Rs. 60.14 crores disclosed by 88 assessee. This clearly repudiates the claim of the Department of being very vigilant and is sufficient evidence of the extent of manipulations being indulged into in the film industry. The Committee would urge the Department to shed complacency so far as scrutiny of the returns filed by the assessees in the film industry is concerned. The Committee, however, hope that the Department of Revenue, as promised by the Revenue Secretary during evidence, would undertake a study to evolve certain norms for the assessing officers to find out

the reasonableness of the expenditure incurred by the film producers in the course of film production and report the results of their study to the Committee within a period of 6 months.

*Strengthening of Intelligence Wing of Income-tax Department*

(Sl. Nos. 14 and 15 Paras, 112 and 113)

1.16. Keeping in view the well known fact that cine artistes, film producers and other connected with film industry spend lavishly on their living, travels, entertainment and enter into benami transactions to hide their income and assets as also the applications filed with the Settlement Commission by film personalities disclosing additional income|wealth for the purpose of income tax and wealth tax assessments, the Committee in their earlier report laid stress on the need for strengthening the intelligence wing of the Department to collect necessary information on extravagant spendings and under-hand practices resorted to by the film personalities.

1.17. From the action taken note furnished by the Ministry of Finance (Department of Revenue), the Committee note that the investigation machinery of the Department has been strengthened by creation of additional posts of Ds. G. (Inv.), Ds. I. (Inv.), DDs. I (Inv.) Ads. I (Inv.) and subordinate staff.

**The Committee hope that the strengthening of the investigating machinery would result in detection of substantial tax-evasion cases in film industry and the Committee would like to be apprised of the extent of results achieved in this regard.**

*Functioning of Settlement Commission*

(Sl. No. 17, Para 115)

1.18 In their earlier report, the Committee were critical of the functioning of the Settlement Commission where large number of cases were pending disposal for long and in certain cases for over 5 years. In their action taken note, the Ministry of Finance (Deptt. of Revenue) have informed that 'the observation of the Public Accounts Committee have been communicated to the Settlement Commission which is an independent body for settlement of income tax and wealth tax cases.'

**1.19 The Committee regret to say that the Ministry of Finance have merely passed on their recommendation/observation to the Settlement Commission without spelling out the steps taken by that Commission to ensure expeditious disposal of settlement cases. The**

**Settlement Commission, though an independent body, functions under the administrative control of the Ministry of Finance and it is the responsibility of the Ministry to see that the Settlement Commission functions effectively and efficiently. The Committee desire to be apprised of the specific action taken by the Settlement Commission on their observation.**

## **CHAPTER II**

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

#### **Recommendation**

With a view to achieving greater coordination and effective handling, the assessments of film personalities were centralised in special circles created at Calcutta, Bombay, Madras, Bangalore and Hyderabad. The film circles at Calcutta and Bombay have been functioning from 1963 and 1964 respectively and those at Madras, Bangalore and Hyderabad from 1982. The Public Accounts Committee in their 91st Report (7th Lok Sabha) had recommended a critical evaluation of the usefulness and effectiveness of these circles and had reiterated in their 177th Report (7th Lok Sabha) that the Ministry should indicate the precise action taken on their recommendation. The Committee are surprised to learn that apart from the routine annual inspection, the Ministry have not undertaken any review of the working of the film circles so far to judge their efficiency and to see whether the objectives behind the creation of these circles have been achieved, though more than 2 decades have passed since their creation in the metropolitan cities of Calcutta and Bombay. The Committee once again stress the urgent need to undertake the review of the film circles to evaluate their effectiveness to achieve better coordination and to tackle the evils of unaccounted money.

[S. No. 1 (Para No. 99) of 71st Report of PAC (8th Lok Sabha)]

#### **Action taken by the Ministry**

The Directorate of Organisation and Management Services (Income-tax) was authorised by the Ministry to undertake the review of the film circles to evaluate their effectiveness. The Directorate has completed the review and furnished its report.

(Apporved by the Additional Secretary to the Govt. of India)

[F. No. 241|2|87-A&PAC-I]



### Recommendation

During the evidence, the Committee were informed that the total revenue from all the circles was approximately Rs. 15 crores per annum. According to the Report of the C&AG of India for 1984-85 on Direct Taxes, the total revenue from direct taxes were nearly Rs. 4800 crores. The total collection of the film circles constitutes nearly 0.31 per cent of the total revenue from direct taxes during 1984-85. The Committee are not at all satisfied with the meagre revenue from the film industry whose turn over in India is fairly high.

[S. No. 2 (Para No. 100) of the 71st Report of PAC (1986-87)  
(Eighth Lok Sabha).]

### Action taken by Government

The observations of the Public Accounts Committee have been noted.

(Approved by the Additional Secretary to the Govt. of India)  
[F. No. 241/2/87-A&PAC-I. and F. No. 228/7/87-ITA-II]

### Recommendation

Under Section 285-B introduced by the Taxation Laws Amendment Act, 1975 with effect from 1-4-1976, every person carrying on production of cinematograph film is required to furnish a statement in Form No. 52-A giving particulars of all payments of over Rs. 5000/- in aggregate made by him or due to him for each financial year or part of it till completion of production, within 30 days from the end of the financial year or within 30 days from the date of completion of production, whichever is earlier. The objective of this provision is to keep a check on inflation of expenditure by film producers. The Central Board of Direct Taxes issued instructions in August, 1976 directing all the Commissioners of Income-tax to give widest publicity to the aforesaid provisions and to alert the officers working in the film circles about the legislation. The Committee are dismayed to find that out of 3161 statutory statements required to be furnished by the film producers during the five years from 1979 to 1984, only 261 statements were actually received in the Department. The default in the filing of statutory statements was as high as 92 per cent. Penal action was taken only in 66 cases imposing a penalty of Rs. 1.47 lakhs. Apparently no action was taken against the defaulting film producers in as many as 2834 cases for failure to file

the estimates. This clearly shows that the legislation was merely on the Statute book without being properly implemented. Mere incorporation of the provision in the statute book is of no use unless and until it is enforced earnestly and objectively. The admission by the Commissioner of Income-tax, Tamil Nadu, Madras that in the absence of source register the correct number of statements actually received could not be given and that the suitable instructions had been issued to the concerned Inspecting Assistant Commissioner's to maintain a register and record of cases of producers in order to initiate the proceedings is clearly indicative of the slackness on the part of Income-tax Department in implementing the provisions of law. The Committee need hardly point out that the entrustment of responsibility to a set of officials must be specific so that they can be held responsible and accountable if a particular provision of law is not properly implemented.

[S. No. 5 (Para 103) of 71st Report of PAC (1986-87)  
(8th Lok Sabha)]

#### **Action taken by Government**

The observations of the Committee have been noted. The Inspecting Assistant Commissioners in the course of the mandatory inspection of assessment work, the internal audit in the course of their scrutiny and the recently set up Inspection Division of the Board are required to bring out such procedural lapses to the notice of the Commissioners of Income-tax so that appropriate action against errant officials could be taken.

(Approved by the Additional Secretary to the Govt. of India)  
[F. No. 241|2|87-A&PAC-I. and F. No. 411|11|87-IT (Inv.)]

#### **Recommendation**

The Audit Para has reported a case of a film 'Kala Pathar' in which the cost of production of the film as returned was 1.28 crores but the total payments of over Rs. 5000 made during the financial years 1979-80 to 1981-82 were only Rs. 18.29 lakhs. The percentage of the payments exceeding Rs. 5000 in the aggregate to the total cost works out to 15. The Ministry of Finance have stated that the provisions of Section 285B have been construed in a very restrictive manner by some film producers to cover only employees or others engaged to render professional service. The Study Group has also observed that the scope of the section as it existed might not cover most of the payments made by the producers, and has

recommended the deletion of words 'as employees or otherwise' appearing at the end of that section. The Ministry of Finance have, however, held the view that the provisions are quite clear and the interpretation thereof made in certain quarters was totally incorrect. The Ministry have, accordingly, issued clarificatory instructions to the Commissioners of Income-tax to enforce these provisions strictly. The Committee, however, agree with the views of the Study Group and feel that the existing provisions, as worded, are not free from doubt and may lead to litigation. The Committee, therefore, recommend that the intention behind the legislation should be made clear and unambiguous through suitable amendments.

[S. No. (Para No. 105) of 71st Report of PAC (1987-87)  
(7th Lok Sabha)]

#### **Action Taken Note**

After the recommendation was made by the Study Group the Central Board of Direct Taxes has issued an Instruction No. 1727 dated 22nd August, 1986 prescribing the details which should be filed with the assessing authority in Form No. 52A in accordance with the provisions of section 285B of the Income-tax Act (Annexure) the above instructions issued together with the enhancement of quantum of penalty under section 272A in case of failure to comply with section 285B appears to be adequate deterrance for the present and will achieve the objective behind the suggestion made by the PAC.

However, suggestions regarding making amendments\* to the existing provisions of law are under consideration of the Ministry.

Approved by the Additional Secretary to the Government of India.  
[F. No. 241|2|87-A&PAC-I and 154|22|87-TPL]

---

\*Since made vide the Finance Bill, 1989 (No. 11 of 1989).

**ANNEXURE**

**INSTRUCTION NO. 1727**

**F. No. 298|3|85-IT (Inv. III)**

**Government of India**

**Ministry of Finance**

**Department of Revenue**

**Central Board of Direct Taxes**

New Delhi. the 22nd August, 1986.

**To**

All Chief Commissioners of Income-tax|

All Commissioners of Income-tax.

**Sir/Madam,**

**SUBJECT:—***Provision of section 285B and 272A (2) of the Income-tax Act, 1961—Strict enforcement of.*

Section 285B of the Income-tax Act, 1961 provides that any person carrying on the production of a cinematograph film during the whole or any part of any financial year shall in respect of the period during which such production is carried out by him in such financial year, prepare and deliver to the Income-tax Officer, *within thirty days from the end of such financial Year* or within thirty days from the date of the completion of the production of the film, whichever is earlier a statement in the prescribed form containing particulars of all payments of over five thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production as employee or otherwise. This statement should be filed in the form 52A.

2. A person who without reasonable cause or excuse, fails to furnish in due time the statement mentioned in section 285B becomes liable for imposition of a penalty under section 272A (2) of the Income-tax Act, 1961. The quantum of penalty may extend to Rs. 10/- (Rs. ten only) for every day during which the failure continues.

3. The audit has found that in 1982-83 in most of the cases the aforesaid statement had not been filed by the film producers or was filed late and in most of the cases no penal action under section 272A(2) was taken against them.

4. The Board have by their letter F. No. 229|09|85-IT (Inv. III) dated the 22nd May, 1985 desired that the provisions of section 272A(2) of the Income-tax Act, 1961 should be strictly enforced. These instructions are again reiterated for strict compliance.

5. It has come to the notice of the Board that perhaps some film producers have construed the provisions of section 285B in a very restrictive manner with the result that in some statements furnished in form No. 52A only payments made to employees or other engaged to render professional service were shown. This interpretation is totally erroneous as under section 285B, a statement in form No. 52A is to be furnished in respect of all payments of over five thousand rupees in the aggregate made by the film producer or due from him to each such person as is engaged by him in film production as employee or otherwise and not merely in respect of employees or others engaged to rendered professional services. The assessing Officer should keep this aspect in view while examining the accuracy and correctness of the information furnished in form No. 52A by film producers. Effective checks should invariably be made in cases which the payments shown in form 52A form a small percentage of the total cost of the production of a film.

6. The information regarding furnishing of a statutory statement in form No. 52A by film producers in respect of period (a) 1.4.1985 to 31.3.1986 and (b) 1.4.1986 to 30.6.1986 may kindly be furnished to the Board in the enclosed proforma by the 12th September, 1986. Information in respect of the period 1.7.1986 to 30.9.1986 should be furnished by the 15th October, 86.

7. All such cases where form No. 52A should have been filed by the film producers and has not been filed should be reviewed with a view to imposing penalties under section 272A(2). Feasibility of launching prosecution under section 277 of the Income-tax Act, 1961 should be examined in all cases where it is found that the statement given in the form No. 52A was false.

Yours faithfully,

Sd/- D. P. Pante.

Secretary,

Central Board of Direct Taxes.

## P R O F O R M A

**Information Regarding Statements in form No. 52A (Section 285B of the Income Tax Act, 1961).**

1. Period . . . . . \*1-4-1985 to 31-3-1986  
1-4-1986 to 30-6-1986  
1-7-1986 to 30-9-1986  

\*Strike out whichever is not applicable
2. CIT Charge
3. No. of cases in which statement in form No. 52A was required to be furnished during the period under consideration.
- 4.(a) No. of cases out of (3) above in which statement in form No. 52A was actually furnished during the period under consideration.
- 4.(b) No. of cases not forming part of (3) above but in which form No. 52A was actually furnished during the period under consideration.
5. No. of cases out of (3) above, in which form No. 52A was not furnished during the period under consideration.
- 6.(a) No. of cases out of 4 (a) above in which form No. 52A was not furnished within the time allowed in section 285B.
- 6.(b) No. of cases out of 4 (a) above in which form No. 52A was not furnished within the time allowed in section 285B.
7. No. of cases out of (3) above in which penalty under section 272A (2) of the Income-tax Act, 1961 is attracted.
8. Total No. of cases out of (7) above in which penalties under section 272A (2) were imposed and total amount of penalties imposed.
9. Total No. of cases in which prosecution has been launched.
10. Comments of the CIT on the performance in his charge with reference to the enforcement of the provisions of section 285B, section 277 and 272A (2) of the Income-tax Act, 1961 as reflected in the figures mentioned above along with the reasons for lapses/shortcomings if any and the steps taken on proposed to be taken for strict enforcement of these provisions.

**Note:—**Wherever a reference has been made to sections 272A (2) in this proforma the information has to be furnished only in respect of the default in relation to the filing of form No 52A.

### Recommendation

It is a common knowledge that cine artistes, film producers and other connected with the Film Industry spend lavishly on their living, travels, entertainments and also enter into benami transactions to hide their income and assets. The Committee trust that the Ministry will devise ways and means by strengthening their intelligence wing, for collection of information on the extravagant spendings and underhand practices resorted to by the persons suspected to be tax evaders in the film industry.

The Committee also find that the film personalities having undisclosed income come before the Settlement Commission, with the object of pre-empting raids on their premises. To quote a few cases, a film artiste filed applications for settlement on 8th July, 1983 and 24 September, 1984 in respect of assessment years 1978-79 to 1983-84 offering aggregate amounts of Rs. 21.30 lakhs and Rs. 69.05 lakhs in Income-tax and Wealth-tax assessments respectively. Similarly, another film artiste offered an additional amount of Rs. 20 lakhs in respect of five assessment years 1970-71, 1971-72, 1978-79, 1979-80 and 1980-81. A third film personality offered an aggregate amount of Rs. 25 lakhs in respect of the assessment years 1976-77, 1977-78 and 1978-79. The Committee are of the view that if the intelligence wing of the Department is sufficiently strengthened it will have salutary effect of preventing tax evasion in the film industry.

[S. Nos. 14 and 15 (Para 112 and 113) of 71st Report of PAC  
(1986-87) (8th Lok Sabha)]

### Action Taken by Government

The Department has recently strengthened the investigation machinery by creation of additional posts of DsG (Inv.), DsI (nv.), DDsI (Inv.), ADsI (Inv.) and subordinate staff. These steps in the direction of strengthening the machinery by providing adequate manpower and fiscal resources will go a long way in combating tax evasion as a whole and prevention of tax evasion in the film industry in particular.

(Approved by the Additional Secretary to the Govt. of India.)  
[F. No. 241/2/81-A&PAC-I. and F. No. 411/11/87-IT (Inv)]

### Recommendation

Under Section 142(2A) of the Income-tax Act, 1961 an ITO may, with the prior approval of the Commissioner of Income-tax, direct an assessee to get his accounts audited by an accountant to be nominated by the Commissioner of Income-tax. The Committee in their 177th Report (7th Lok Sabha) had desired that the powers of compulsory audit of accounts conferred under section 142(2A) *ibid* be made use of in all cases where necessary. It is a matter of regret that upto the end of March, 1985, only one case of film producer in Bombay was referred for compulsory audit. The Committee find from the information furnished by the Ministry of Finance that while the audit was in progress in the said case, the assessee filed revised return declaring additional income of Rs. 9 lakhs. The Committee are of definite view that aforementioned provisions, if invoked from time to time in the cases of established film producers and artistes, would go a long way in unearthing unaccounted income.

[S. No. 16 (Para No. 114) of 71st Report of PAC (1986-87) (8th Lok Sabha)]

### Action Taken by Government

The observations of the Public Accounts Committee have been noted. The Board have, by their Instruction No. 1770 dated 19th August, 1987 again impressed upon the officers the need to refer for special audit under section 142(2A) more cases of film artistes and producers. A copy of the Instruction is enclosed. (Annexure).

[F. No. 241/2/87--A&PAC-I. and F. No. 228/8/87-ITA. II]



ANNEXURE

INSTRUCTION NO. 1770.

F. No. 228/8/87-ITA-II  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

New Delhi, the 19th August, 1987

To

The Chief Commissioner (Admn.) &  
Commissioner of Income-tax

SUBJECT:—*Audit of accounts under section 142(2A)—Observation of  
71st Report of Public Accounts Committee (1986-87).*

Sir,

Reference is invited to the Board's instruction No. 1415 dated 27-9-1981 by which the Board impressed upon the officers to refer more and more cases for special audit under section 142(2A) of the Income-tax Act which required intensive investigation. It further reiterated the need for investigative audit U/s 142(2A) particularly in the cases of film artists and other such persons who are obliged to keep and maintain accounts and other documents in the manner provided in section 44A of the Act. The Public Accounts Committee in its 71st Report (1986-87) desired that the powers of compulsory audit of accounts conferred under section 142(2A) *ibid* be made use of in all cases where necessary. The Committee noted with regret that upto the end of March, 1985 only one case of film producer in Bombay was referred for compulsory Audit. The Committee are of definite view that the aforementioned provisions, if invoked from time to time in the cases of established film producers and artists, would go a long way in unearthing unaccounted income.

2. The Board wish to once again impress upon all the assessing officers to refer more cases of established film producers and artists requiring audit, having regard to the nature and complexity of the accounts of the assessee and in the interest of revenue.

3. The contents of this instruction may be brought to the notice of all the officers working under you.

4. Hindi version will follow shortly.

Yours faithfully,

Sd/- Y. K. BATRA

Under Secretary to the Govt. of India

Copy forwarded to:—

1. P. S. to Chairman, Member (Inv.), Member (L), Member (R&A), Member (S&T), Member (IT) and Member (WT&J).
2. All officers and Technical Section in the Board of CBDT.
3. Director of Inspection (Inv.)/ITA (Audit)/Vigilance|Intelligence/RS&P|Recover/Special Investigation and Survey.
4. Deputy Director of Inspection (PP&PR), New Delhi.
5. Assistant Director of Inspection (Bulletin), New Delhi.
6. Comptroller and Auditor General of India, New Delhi.
7. Joint Secretary and Legal Adviser, Ministry of Law, Shastri Bhawan, New Delhi.
8. Director of O&M Services (IT) Aiwan-e-Galib, Mata Sundri Lane New Delhi.
9. Director, National Academy Investigation.
10. Director General, Special Investigation.
11. Regional Institute of Training Bombay, Calcutta/Lucknow and Bangalore.

Sd/- Y. K. BATRA,

Under Secretary,

Central Board of Direct Taxes.

### Recommendation

The Committee find that the Settlement Commission is hard pressed with the workload of settlement cases pending with it. As on 31 March, 1985, 2365 cases were pending with the Commission and out of these 461 cases were pending for more than five years. This does not indicate healthy state of affairs so far as the working of the Commission is concerned. There should not be any reason for a settlement petition to remain pending for such a long time. While there may be certain complicated cases which need thorough examination, yet five years period is too long to justify any such examination.

[S. No. 17 (Para 115) of 71st Report of PAC (1986-87) (8th Lok Sabha)]

### Action Taken by the Ministry

The observations of the Public Accounts Committee have been communicated to the Settlement Commission, which is an independent body for settlement of Income-tax and Wealth-tax cases.

(Approved by the Additional Secretary to the Govt. of India).

[F. No. 241/2/87-A&PAC-I. and F. No. 299/63/87-IT (Inv. III)]

### Recommendation

At present, the Settlement Commission is functioning with a Chairman and two Members. Considering the number of cases pending before the Settlement Commission the Committee are of the view that more benches should be constituted for expeditious disposal of pending cases.

S. No. 18 (Para 116) of 71st Report of PAC (1986-87) (8th Lok Sabha)]

### Action Taken by the Ministry

The amendments introduced in Chapter XIXA of the Income-tax Act, 1961 empowers the Government to constitute additional benches of the Settlement Commission. A Bench of the Settlement Commission has been constituted in Bombay. The question of creation of benches in Calcutta and Madras is under consideration.

(Approved by the Additional Secretary to the Govt. of India)

[F. No. 241/2/87-A&PAC-I. and F. No. 299/63/87-IT (Inv. III)]

### **Recommendation**

The Committee are not satisfied with the prosecution of cases filed in Courts relating to default in payment of income tax. A review as to why there is delay in prosecution and as to why a number of cases result in acquittals is, therefore, called for.

[S. No. 19 (Para 117) of 71st Report (1986-87) (8th Lok Sabha)]

### **Action Taken by Government**

The prosecutions mentioned in the para relate to the offences under section 276C(2) of the Income-tax Act. The prosecutions under this section are comparatively less but the total number of prosecutions launched under various sections of the Act have increased substantially over the years. There is delay in disposal of prosecution cases because there are no courts exclusively for economic offences except in a few states. Central Board of Direct Taxes has taken up the matter of setting up of special courts with the State Governments. One of the main reasons for the high figure of acquittals is that even where the cases are compounded, the cases are being shown as acquittals by the courts for statistical purposes. Another factor responsible for the low rate of success of the Department in the courts was that the burden of proving mens rea or guilty mind was on the Department and at times it was difficult to discharge this burden. The law has been amended with effect from 10-9-1986 creating presumption of culpable mental state in certain circumstances, to overcome this difficulty.

(Approved by the Addl. Secretary to the Govt. of India).

[F. No. 241/2/87-A&PAC-I, and F. No. 411/1187-IT (Inv.)]

### CHAPTER III

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

### Recommendation

The method of working out the amount of amortisation i.e. gradual writing off of expenses to be allowed in respect of the cost of production of feature film in the hands of the film producers is given in Rule 9A and that in respect of the cost of distribution rights acquired by the distributors is detailed in Rule 9B of the Income-tax Rules, 1962. With a view to curbing the growing tendency of funnelling of large amounts of unaccounted money into the star studded films and to ensuring that the interests of revenue were adequately protected, the Committee had in paragraph 1.68 of their 91st Report (7th Lok Sabha) recommended a review of Rule 9A and 9B by a Study Group consisting among others, of experts in taxation, accountancy and audit and eminent non-officials having intimate knowledge of operation of film industry. Obviously the Committee intended to keep the study independent of official thinking. But contrary to the wishes of the Committee the Ministry entrusted the matter to a study group consisting of departmental officials only. The argument of the Ministry that the association of non-officials was fraught with administrative difficulties relating to payment of fees etc. is not at all tenable. That apart, the Ministry did not even inform the Committee before appointing the Study Group of the reasons why they deviated from the recommendation. In Paragraph 1.12 of their 177th Report (7th Lok Sabha), the Committee had further recommended *inter alia* that the Study Group must be directed to consult the experts in accounting, audit, besides non-officials having intimate knowledge of film industry, before finalising the report. The Committee however, do not find any evidence of the Study Group having consulted any experts as desired. The Committee cannot but regret the apathetic attitude of the Ministry to their recommendations and would recommend that responsibility for this lapse should be fixed.

[S. No. 3 (Para 101) of 71st Report of PAC (1986-87)  
(8th Lok Sabha)]

## Action Taken by Government

The recommendations of the PAC contained in para 1.68 of their 91st Report regarding constitution of a Study Group to review the scheme of amortisation laid down in Rules 9A & 9B of the Income-tax Rules were carefully considered by the Ministry. Taking into account the administrative difficulties and also in order to minimise delay in carrying out the review, it was decided with the approval of Minister of Finance, that the study may be entrusted to senior officials of the Department.

2. The PAC were informed of the above decision by O.M. F. No. 241|5|82-A&PAC-II dated 16.7.1983. The Study Group completed the review by 31.3.1984. It was only subsequently, that is, in April, 1984, that the Ministry received the 177th Report of the PAC (1983-84) containing the recommendation that the matter regarding induction of non-officials in the Study Group may be reconsidered. The PIC also observed in para 1.12 of the said Report that in case the Study Group had already gone ahead with their work and it was not possible to induct the non-officials at that stage, the Group may be directed to consult experts in accountancy and audit, in addition to non-officials having intimate knowledge of the operations of the film industry before finalising their report.

3. It may be pointed out that the Report dated 31.3.84 has been prepared by the Study Group after taking into consideration the submissions made by the trade organisations, producers, distributors and tax consultants associated with the film industry. The list of such persons and organisations who tendered evidence before the Group has been annexed to the Report. (A copy of the said Annexure IV is enclosed). This shows that a number of experts in accountancy and Audit, besides non-officials having knowledge of the film industry, were consulted before the report was finalised.

(Approved by the Finance Minister)

F. No. 241|2|87-A&PAC-I and F. No. 228|30|87-ITA.II)

**ANNEXURE-IV**

*Representatives of the Hyderabad & Andhra Pradesh Film Chamber of Commerce, film producers, Distributors & tax practioners who met the study group for review of amortisation rules— rule 9A & 9B of I.T. rules*

---

At Hyderabad on 6-2-1984

---

**Sr. No. Name & Designation**

---

1. **Shri T. G. Krishnamurty, Secretary of Andhra Pradesh Film Chamber of Commerce.**
  2. **Shri E. V. V. R. Prasad, A. P. Film Chamber of Commerce.**
  3. **Shri M. S. Reddy, President, Telugu Producers Council.**
  4. **Shri K. Naggreddy, Producer President, Producer's Section Council.**
  5. **Shri T. Chettiar,  
Sec. A. P. Film Chamber of Commerce.**
  6. **Shri S. S. R. Koteswara Rao, Partner, Brahmayya & Co.  
Chartered Accountants,  
Hyderabad.**
  7. **Shri D. Satharamail, Partner, C. As. Hyderabad.**
  8. **Shri P. S. Prasad, President  
The Hyderabad State Film Chamber of Commerce, Secunderabad.**
-

*Representatives of the Film Federation of India and other trade bodies, Film producers & Distributors and tax practitioners who met the study group on review of amortisation rules—rule 9A & 9B of I.T. rules*

At Bombay on 22-2-1984 & 23-2-1984

Sr. No.	Name of the Persons Present	Name of the Bodies Represented
1.	Shri D. Ramanujan	President, F. F. I.
2.	Shri Gulshan Rai	President, I. M. P. D. A.
3.	Shri Ram Bohra	I. M. P. P. A.
4.	Shri B.R. Chopra	A. I. F. R. C.
5.	Shri L.K. Chhabra	I. M. P. D. A.
6.	Shri Santosh S. Jain	C. C. C. A.
7.	Shri N.M. Sippy	Member, I. M. P. D. A.
8.	Shri N.B. Kamat	Member, I. M. P. D. A. Ex-Committee
9.	Shri Ramanand Sagar	Ex-Member, A. I. F. P. C.
10.	Shri Shanti Sagar	A. I. F. P. C.

23-2-1984

Shri Sarpotdar V.N. . . . . Marathi Chitrapat Mahamandal  
Bombay.  
Non-theatrical FEDAG,  
Ahmedabad.

23-2-1984

Shri H. S. Khurana, Advocate  
Shri Shakti Samanta  
Shri Narayan Varma, Chartered Accountant  
Shri Ramanand Sagar

23-2-1984 Persons Present

Shri H. D. Pathak, C. A.  
Shri B. R. Rao, C. A.  
Shri D. M. Harish, Advocate  
Shri S. A. Mukadam, C. A.



*Office bearers of the E.I.M.P.A. and other eminent persons connected with Film Industry of Bengal who met the study group on review of the amortisation rules—rule 9A & 9B of the I.T. rules, 1962.*

At Calcutta on 17-2-1984

Sr. No.	Name	Designation
1.	Shri P.K. Bose	Producer
2.	Shri Narayan Das Damani	Distributor
3.	Shri Shyam Narayan Daga	Distributor
4.	Shri Pranab Bose	Producer/Distributor
5.	Shri A.C. Bhattachariya	Chairman, Dist. Sec.
6.	Shri P. Sankar	President, EIMPA
7.	Shri L C. Banimal	Member-Dist.
8.	Shri Salil Sen	Chairman, Producer Sec.
9.	Shri A.K. Chakraborty	President, Accountants' Library
10.	Shri R. Roy Chowdhry	Secretary, Accountants' Library.
11.	Shri H.P. Mukherjee.	Advocate, I. T. Calcutta.
12.	Shri G.S. Dey	Consultant, I. T.

*Representatives of the Kerala Film Chamber of Commerce, Film producers, Distributors, tax practioners and others who met the study group for review of amortisation rules— rule 9A & 9B of the I.T. rules.*

At Cochin on 11-12-1984

Sr.No.	Name	of the person
1	2	3
1.	Shri S. Kumar	President, Kerala Film Chamber of Commerce.
2.	Shri P. Gangadharan	Vice-President, K. F. C. C.

1	2
3	Shri C. Hariharan . . . Vice-President, K. F. C. C.
4	Shri M.C. Chacko . . . General Secretary, K. F. C. C.
5	Shri D. Himmath Singh . . . Joint Secretary, I. F. C. C.
6	Shri S. Pavamani . . . Sheeba Films, M. G. Road, Cochin 35.
7	Shri Jose Punnoose, . . . Auditor, Navodaya Movieton, Kakkanda.
8	Shri P.R.S. Pillai . . . Chairman, National Film Development Corporation, Trivandrum.
9	Shri K.A. Chandrasekhara Menon C.A., Alwaye.
10	Shri R. Venkateswaran . . . C. A. Calicut.

*Representatives of the Karnataka Film Chamber of Commerce, Film producers and tax practitioners who met the study group for review of the amortisation Rules—rule 9A and 9B and of I.T. Rules.*

At Bangalore on 9-2-1984

Sr. No.	Name	Designation/Occupation
1	Shri B.C.S. Narayan . . .	President, K. E. C. C.
2	Shri T. Rama . . .	Hon. Secretary (K. F. C. C.)
3	Shri N.J. Mani . . .	Manager, Film Chamber of Commerce.
4	Shri K.C.N. Gowda . . .	Distributor.
5	Shri Ravilal L. Jhah . . .	Distributor.
6	Shri K.R. Prabhu . . .	Distributor.
7	Shri D. Devraj . . .	Chartered Accountant.
8	Shri T. Chandrasekhar . . .	Income-tax Practitioner.
9	Shri V. Ananthanarayanan . . .	I.T.P.

*Representatives of the South India Film Chamber of Commerce, Tamil Nadu Film Distributors Association, Film producers, Distributors, and Chartered Accountants who met the study group on review of amortisation Rules—rule 9A and 9B of I.T. Rules.*

At Madras on 8-2-1984

- 
- |    |                                   |   |
|----|-----------------------------------|---|
| 1  | Shri A.R. Raju . . . . .          | Kannada Producer, Distributors & Exhibitor, President, S.I. Film Chamber of commerce. |
| 2  | Shri D.V.S. Raju . . . . .        | Telugu Producer & Ex-Chairman. NFDC.  |
| 3  | Shri D. Ramanujam . . . . .       | President, Film Federation of India.  |
| 4  | Shri M. Balasubramaniam . . . . . | Tamil Producer.   |
| 5  | Shri K. Chaterjee . . . . .       | Telugu Producer & Hony. Secretary, S. I. Film Chamber of Commerce.                    |
| 6  | Shri L. Suresh . . . . .          | Distributor & Gen. Secretary, Tamil Nadu Distributors Council.                        |
| 7  | Shri Bipin Shah . . . . .         | Distributor, Tamil & Hindi Films and Films of other languages.                        |
| 8  | Shri K.P. Kottarakara . . . . .   | Malayalam Producer.   |
| 9  | Shri R. Ramamurthy . . . . .      | Tamil Producer & Secretary, Film Producers Guild of South India.                      |
| 10 | Shri N. Nagasubramaniam . . . . . | Treasurer, Film Producers Guild of South India.                                       |
| 11 | Shri A. Ramesh . . . . .          | Director, Prasad Colour Film Laboratory.  |
| 12 | Shri N.C. Soni . . . . .          | Vice-President, S. I. Film Chamber of Commerce, and Distributor.                      |
| 13 | Shri R. Lakshman . . . . .        | Kannada Producer, Secretary, Karnataka Film Chamber of Commerce.                      |
-

1	2	3
<b>Auditors:</b>		
1	Shri Nandagopal . . . . .	M/s. Brahmiah & Co.
2	Shri N.C. Sundararajan . . . . .	M/s. Rajagopal & Co.
3	Shri G.N. Gopalaratnam . . . . .	M/s. Rajagopal & Co.
4	Shri Kapasi . . . . .	M/s. Kapasi & Co.
5	Shri R. Venkataraman . . . . .	M/s. Sundaram & Srinivasan

### Recommendation

Since the Ministry of Finance have already considered and taken decision on the recommendations made by the Study Group, the Committee would like to be apprised of the precise action taken on each recommendation of that Study Group.

[Sl. No. 4 (Para No. 102) of 71st Report of PAC (1986-87)  
7th Lok Sabha]

### Action Taken by Government

Recommendations of the Study Group as well as action taken on each of the recommendations is as follows:—

Recommendations	Action taken
(1) — The rules of amortisation should be changed so as to prescribe that in respect of both regional and non-regional films, full amortisation of the cost should be allowed if the picture is released atleast 190 days before the end of the accounting year and in case the picture is released at any time within 180 days before the end of the accounting year, amortisation should be allowed upto the actual realisation during the period for which the film was exploited during the year and the balance cost be allowed to be amortised in the next following year.	Amendment of rules 9A and 9B has already been carried out by the Income-tax (2nd Amendment) Rules, 1986 notified as S. O. No. 147 (E) dated 31st March 1986. A copy of this notification is enclosed (Annexure)
(2) Rule 9B should be suitably amended and more particularly the definition of "cost of acquisition" so as to incl-	

Recommendation	Action Taken
ude sub-distributors also alongwith the distributors.	
(3) The provisions of section 285B and section 272A should be more strictly enforced. Suitable instruction may be issued accordingly.	Instruction to this effect has already been issued vide F. No. 298/3/85 IT (Inv. III) (Instruction No. 1727) dated 27-8-1986.
(4) There should be a provision compelling the producers to file an extract of cost of production before the film is allowed to be taken up before the Board certifications.	This matter was to be processed in consultation with the Ministry of Information and Broadcasting, Ministry of Information and Broadcasting referred the matter to the Ministry of Law and on their opinion did not agree to make a provision in the cinematograph (certification) Rules, 1983. The matter is now being processed in this Ministry.
(5) Certain specified registers and documents were required to be maintained by film producers.	Recommendation accepted in principle. Action in this direction has already been initiated.
(6) Compulsory registration of agreements/contracts, etc.	This recommendation was not accepted by the Ministry.

(Approved by the Additional Secretary to the Govt. of India)

(F. No. 241/2/87-A&PAC-I. and (F.No. 154/22/87-TPL.)

**ANNEXURE**

**MINISTRY OF FINANCE**

**(DEPARTMENT OF REVENUE)**

**CENTRAL BOARD OF DIRECT TAXES**

*New Delhi, the 31st March, 1986*

**NOTIFICATION**

**INCOME-TAX**

S. O. 147(E)—In exercise of the powers conferred by Section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the income-tax Rules, 1962, namely:—

1. (1) These rules may be called the Income-tax (Second Amendment) Rules, 1986.

(2) They shall, come into force on the 2nd day of April, 1986.

2. In the Income-tax Rules, 1962:—

(1) in rule 9A,—

(a) for sub-rule (1), the following sub-rule shall be substituted namely:—

(1) In computing the profits and gains of the business of production of feature films carried on by a person (the person carrying on such business hereafter in this rule referred to as film producer), the deduction in respect of the cost of production of a feature film certified for release by the Board of Film Censors in a previous year shall be allowed in accordance with the provisions of sub-rule (2) to sub-rule (4).

Explanation: In this rule,—

(i) "Board of Film Censors" means the Board of Film Censors constituted under the Cinematograph Act, 1952 (37 of 1952);

(ii) "Cost of production" in relation to a feature film, means the expenditure incurred on the production of the film, not being—

(a) the expenditure incurred for the preparation of the positive prints of the film; and

(b) the expenditure incurred in connection with the advertisement of the film after it is certified for release by the Board of Film Censors";

(b) in sub-rule (2),—

(i) the words "regional language" shall be omitted;

(ii) for the words "ninety days", the words "one hundred and eighty days" shall be substituted;

(c) in sub-rule (3),—

(i) the words "regional language" shall be omitted;

(ii) for the words "ninety days", the words "one hundred and eighty days" shall be substituted;

(d) in sub-rule (4), the words "regional language" shall be omitted;

(e) sub-rule (5), (6) and (7) shall be omitted and sub-rules (8) (9), (10) and (11) shall be renumbered as sub-rules (5), (6), (7) and (8), respectively;

(f) in sub-rule (5) as so renumbered, in clause (a), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

"(iii) has himself exhibited the feature film on a commercial basis in some areas and has sold the rights of exhibition of the feature film in respect of all or some of the remaining areas",

(g) in sub-rule (6) as so renumbered, clause (a) shall be omitted and clauses (b) and (c) shall be re-lettered as clauses (a) and (b), respectively;

(h) for sub-rule (8) as so renumbered, the following sub-rule shall be substituted, namely:—

"(8) Nothing contained in this rule shall apply in relation to any assessment year commencing before the 1st day of April, 1987".;

(i) the Table and Explanation 1 and Explanation 2 occurring thereunder shall be omitted;

(2) in rule 9B,—

(a) in sub-rule (1), in the Explanation, for the portion beginning with the words “by the film distributor” and ending with the words “with such film producer”, the following shall be substituted, namely:—

“by the film distributor to the film producer or to another distributor under an agreement entered into by the film distributor with such film producer or such other distributor, as the case may be”;

(b) in sub-rule (2), for the words “ninety days” the words “one hundred and eighty days” shall be substituted;

(c) in sub-rule (3), for the words “ninety days” the words “one hundred and eighty days” shall be substituted;

(d) in sub-rule (6), after clause (ii), the following clause shall be inserted, namely:—

“(iii) distributor shall include a sub-distributor”.

(e) for sub-rule (7), the following sub-rule shall be substituted, namely:—

“(7) Nothing contained in this rule shall apply in relation to any assessment year commencing before the 1st day of April, 1987.”

(No. 6635|F. No. 154|5|85-TPL)

P. K. APPACHOO, Jt. Secretary.

#### **Recommendation**

Section 272A of the Income Tax Act, 1961 provides that if a person fails to furnish the requisite statement under Section 285B, he shall be liable to pay by way of penalty a sum which may extend to ten rupees for every day during which the failure continues. The Study Group set up by the Ministry of Finance found that penalty totally inadequate to act as deterrent and recommended that the



penalty for default should be increased to Rs. 100 per day of default. The Committee are of the view that even the penalty suggested by the Study Group will not serve the interests of revenue and will not act as sufficient deterrent. The Committee suggest the imposition of a progressive rate of penalty to act as effective deterrent. The Committee hope that the Ministry would give serious thought to the matter and consider suitable amendment of the existing provisions of law with due promptitude.

[S. No. 6 (Para No. 104) of 71st Report of PAC (1986-87)  
(7th Lok Sabha)]

#### **Action taken by Government**

The Direct Tax Laws (Amendment) Act, 1987 has amended the provisions of section 272A with effect from 1.4.1989, as a result of which for the default in furnishing the details under section 285B, the minimum penalty for every day of default has been prescribed at Rs. 100 which may extend to Rs. 200 per day. This flexibility can help the assessing authority to levy a higher penalty in a case where the delay or default in furnishing the details of expenses relate to higher amounts. This will fulfil the objective sought to be achieved by the recommendation made by the PAC.

However, suggestions regarding amendment of the existing provisions of law to provide for a progressive rate of penalty, is under consideration of the Ministry.

(Approved by the Additional Secretary to the Government of India.)

[F. No. 241/2/87-A&PAC-I and 154/22/87-TPL]

#### **Further Action Taken by the Ministry**

The Direct Tax Laws (Amendment) Act, 1987, has amended section 272A of the Income-tax Act with effect from the 1st day of April, 1989. As per the amended provision, if, a person fails to furnish in due time a statement under section 285B, he shall be liable to pay by way of penalty a sum which shall not be less than Rs. 100/- but which may extend to Rs. 200/- for every day during which such failure or default continues. The provision of maximum and minimum penalty provides flexibility which can enable the Assessing Officers to levy a higher penalty in a case where the delay or default is more serious or where the details of expenses required to be furnished under section 285B relate to higher amounts. The amendment carried out by the Direct Tax Laws (Amendment) Act, 1987, therefore, fulfils the objective sought to be achieved by the recommendation made by the Public Accounts Committee

in the aforesaid para. No further amendment is, therefore, considered necessary.

(This issues with the approval of Finance Minister.)

(F. No. 241|2|87-A&PAC-I and F. No. 154|22|87-TPL)

### **Recommendation**

According to the information furnished by the Ministry of Finance, the number of feature films certified for exhibition in the Bombay Region during the financial years 1981-1982, 1982-83 and 1983-84 was 195, 201 and 205 respectively. The number of film financiers feeding the industry which was at one time i.e. during the year endinn March, 1982, 105, however, dropped down to incredibly low figures of 14, 14 and 29 during years ending March of 1983, 1984 and 1985 respectively. The Committee feel that the sudden drop in the number of film financiers and the sources from where the producers arranged their finances in the later years, should be thoroughly investigated and their findings made known to them.

[S. No. 10 (Para 108) of 71st Report of PAC (86-87)  
(8th Lok Sabha).]

### **Action Taken by Government**

After the physical verification was carried out in the film circle, Bombay, it was found that as on 31.3.1986 there were 97 film financiers. This is the figure only in respect of the film circle, Bombay, and there may be some other assesseees engaged in similar business in other circles of Bombay and elsewhere. It may also be pointed out that there may be no absolute categorisation of film personnel as film-financiers. It is well known in the film world that every year new lenders embark on film producing ventures on the basis of finances that they have garnered from other legitimate and illegitimate business. In any case while making any assessment including that of film producers, one of the important enquiries made is regarding the source of finances in each case. Wherever a new source of loan on fresh loan from an old source is noticed, assessee is put to a strict proof regarding not only the genuineness of the loan and the lender but even his creditworthiness. Since financial inputs are examined on a case to case basis by the ITO, it is not possible for the Ministry to conduct any study into the alleged decline in the number of financiers.

(Approved by the Addl. Secretary to the Govt. of India).

[F. No. 241|2|87-A&PAC. I and F. No. 411|11|87. IT (Inv.)]

### **Recommendation**

The Committee note that 7225 income-tax assessments were pending completion at the end of March, 1985 in all the film circles. According to the Ministry of Finance (Department of Revenue) the Summary Assessment Scheme has been extended in cases involving returned income upto Rs. 1 lakh. This measure will no doubt reduce the pendency of income-tax assessments. But considering the sizeable investment in the film industry and the considerable scope for manipulation of cost of production leading to generation of unaccounted money, the Committee apprehend that extension of this scheme to this Industry would not serve the interests of revenue. It would, rather, help unscrupulous assesseees who would very easily, in the absence of detailed scrutiny by the Department, get away by returning their income within the prescribed limit. This will defeat the very purpose for which film circles were created. The Committee feel that there is no need to review the criteria for Summary Assessment Scheme in such cases and recommend that some positive measures to be taken to ensure that there is no under-statement of income. The Committee also consider it imperative that returns filed by those connected with the film industry are critically analysed to obviate the possibility of under-statement of income.

[S. No. 11 (Para 109) of 71st Report of PAC (1986-87)  
(8th Lok Sabha)]

### **Action Taken by Government**

The Summary Assessment Scheme has been revised from time to time in order to make more effective use of the administrative machinery and to enable the Department to concentrate on the detection of tax evasion cases. With the raising of the monetary limits of cases covered under this Scheme, the emphasis has shifted from routine examination of a very large number of cases to a thorough scrutiny of a sample of cases. The monetary limit in cases other than company and trust cases was raised to returned income/loss upto Rs. 1 lakh in 1985.

2. Cases in the film circles as well as other such circles relating to particular professions and business were covered under the Summary Assessment Scheme as these Circles are not Central Circles, Special Investigation Circles or Special Circles. The scope of the Summary Assessment Scheme has been further extended in May,

1987 and the monetary limit of Rs. 1 lakh in cases other than company and trust cases has been raised to Rs. 2 lakhs. Only Central Circles have been kept outside the purview of the Summary Assessment Scheme. At the same time in order to guard against the possible misuse of the scheme the concept of selective scrutiny of suspected assessments has been introduced. This would help to recapture the revenue lost through acceptance of returns where the taxable income has been blatantly understated. As per the existing instructions, apart from the cases selected for scrutiny by random sampling method, each IAC is to inspect the cases completed under the Summary Assessment Scheme during the preceding year and select 100 assessments for scrutiny. While doing such selected scrutiny, the preceding assessments other than those covered by the Amnesty Scheme are also to be scrutinised with a view to finding out whether any action for recoupment of escaped revenue is necessary. These selected scrutiny assessments are to be completed under the close guidance of the IAC.

3. Each Deputy Director of Investigation is also to select 500 pending assessments for scrutiny on the basis of tax evasion potential from amongst the new cases discovered as a result of survey in his zone in the financial year 1986-87.

4. The Department has taken these steps in order to ensure that while huge pendency is reduced and voluntary compliance encouraged by the Summary Assessment Scheme, adequate safeguards are there to prevent abuse of this Scheme. A copy of the latest instructions conveyed at Annexure II of Action Plan 986-87 is enclosed.

(Approved by the Additional Secretary to the Govt. of India.)

[F. No. 241/2/87-A&PAC. I. and F. No. 228/9/87-ITA-II]

## ANNEXURE II

### OPERATIONAL INSTRUCTIONS

#### *A. Summary Assessments*

The following types of cases shall be disposed of under the Summary Assessment Scheme:—

- (a) Company cases with a returned income/loss upto Rs. 50,000.
- (b) Trust cases and cases of Charitable Institutions having income upto Rs. 1 lakh before applying the provisions of Section 11, provided the corpus of the trust does not exceed Rs. 5 lakhs.
- (c) All other cases having returned income/loss upto Rs. 2 lakhs.

2. The Summary Assessment Scheme shall not apply to following cases:

- (a) Search and Seizure cases.
- (b) Cases assigned to IACs (Asstt.) and ITOs (Central Circle).
- (c) Cases to be assessed or re-assessed u/s 147.

But for the above exceptions, the Summary Assessment Scheme shall apply to all cases assessed in all wards and circles.

3. The Summary Assessment Scheme as modified in para 1 above shall apply to all assessments including the pending assessments, brought forward on 1-4-1987.

4. Every ITO deployed on summary assessment work shall dispose of atleast 5,000 assessments in the year. This is in addition to the sample and selective scrutiny assessments or assessments initiated u/s 147 falling within his jurisdiction.

5. An assessment completed under the Summary Assessment Scheme shall not be disturbed u/s 143(2) (b) unless of course the case is covered by selective scrutiny.

6. Summary Assessment Scheme shall apply to a case after all the relevant search and seizure assessments have been completed. The cases may, however, continue in the Search/Seizure Circles so that the same ITO is able to dispose of post assessment functions related to the search and seizure assessments.

#### *B. Sample Scrutiny Assessments*

1.2 per cent of the cases completed under the Summary Assessments Scheme in the year 1986-87 shall be selected for sample scrutiny. The method of selection is set out in Annexure.

2. While doing sample scrutiny the proceeding assessments *except those covered by the Amnesty Scheme* should also be scrutinised with a view to finding out whether any action in recoupment of escaped revenue is necessary u/s 143(2) (b), 154 or 263. Such action should be taken immediately after escapement is detected.

#### *C. Selective Scrutiny of Old Cases*

Each IAC would inspect the cases completed under the Summary Assessment Scheme in 1986-87 and select 100 suspect assessments for scrutiny. This selection shall be made on a basis of information as regards tax evasion and scope for detection of concealment. As far as possible the 100 cases selected by the IAC should be evenly spread out amongst the summary ITOs in the range. The proceedings in such cases should be initiated u/s 143(2) (b) or Sec. 147 as the case may be.

It may be clarified that *no assessment covered by the Amnesty Scheme* shall be picked up for such selective scrutiny.

2. On selection of the said 100 suspect assessments, the IAC shall forward the list of such cases to the CIT for information. After despatching the list, the IAC shall not make any changes in the list. These lists should be sent to the CIT by 30th June, 1987 at the latest and display on the notice board.

3. While doing such selective scrutiny, the proceedings assessments *other than those covered by the Amnesty Scheme* should also be scrutinised with a view to finding out whether any action for recoupment of escaped revenue is necessary u/s 143(?) (b), 147, 154 and 263.

4. These selective scrutiny assessments would be completed under the close guidance of the IAC. It is expected that the IAC would scrutinise each case and issue appropriate guidelines under section 144A of the Act. He would watch the progress of the case and ensure the quality of the assessment.

#### D. *Selective Scrutiny of New cases*

Each one of the Deputy Directors of Investigation would select 500 pending assessments for scrutiny on the basis of their tax evasion potential from amongst new cases discovered as a result of survey in his zone in the financial year 1986-87.

It may be clarified that no assessment covered by the Amnesty Scheme shall be picked up for such selective scrutiny.

2. After having made such selection, the Deputy Director would forward the list of the selected cases to the concerned CIT(s) who would thereupon issue necessary instructions to the IAGs/ITOs for scrutinising the case. The list should also be displayed on the notice board.

3. The DDIs would select the cases and send the list to the CIT by 30-6-1987 at the latest.

#### E. *Search and Seizure cases*

Search and Seizure assessments should be assigned to selected officers having no other work.

2. An officer should not be assigned cases relating to more than 10 searches. For this purpose a "Search" means a group of related cases which was the subject matter of a single operation covering one or more than one premises.

3. Every ITO incharge of Search and Seizure cases is expected to dispose of 50 assessments in the year.

#### F. *Scrutiny Cases*

The jurisdiction of the ITO shall be confined to cases other than search cases having income above the monetary limits prescribed for summary assessments.

2. The jurisdiction of the ITO would also include concerned cases of partners and Directors etc.

3. Every assessing officer must dispose of at least 200 assessments. This figure of 200 assessments does not include connected cases of partners and Directors etc. The work norm for IAS (Asstt) shall continue to be 35 main assessments.

### **Recommendation**

Audit para has pointed out certain difficulties faced by the Audit in reconciling the payments made by the film producers to various artistes with the receipts shown in the return of the artistes. The reconciliation was found impracticable due to the reasons like different accounting years of producers and artistes, different systems of accounting followed by the film producers and the artistes, and non-furnishing of artiste-wise and picture-wise details about the amount of remuneration or fees payable as per agreement etc.

[S. No. 12 (Para 110) of 71st Report of PAC  
(1986-87) (8th Lok Sabha)]

### **Action Taken by Government**

The observations of the Public Accounts Committee are pre-factory in nature and have been noted. The main recommendations are given in Para 111 which is being processed separately by the Legislation Branch of Central Board of Direct Taxes.

(Approved by the Additional Secretary to the Govt of India).

[F. No. 241/2/287-A&PAC-I and F. No. 228/29/87-ITA-II.]

### **Recommendation**

The Ministry of Finance have a proposal under their consideration for introducing a uniform accounting year for all the assessees. This would no doubt help the assessing officers of the Department in cross checking the income returned by assessees. However, the Committee feel that the introduction of uniform accounting year would not be enough in cases where the assessees particularly in areas like film industry, follow different accounting systems namely, cash system (i.e. transactions on actual basis) and mercantile system (i.e. transactions on accrual basis) for maintaining their accounts. In order to facilitate accurate cross-verification of various payments and receipts of different assessees and to reduce the scope of tax evasion to the minimum, it is but imperative that all the assessees adopt the same accounting system in addition to following the same accounting year. The Committee hope that the Ministry would give due consideration to this aspect of the matter and



take suitable steps to amend the law in consultation with the Ministry of Law. In case it is not found practicable or feasible to introduce uniform accounting system, the assesseees should be required to submit proforma accounts in the specified system of accounting for purposes of income tax assessments.

[S. No. 13 (Para No. 111) of 71st report of PAC  
(1986-87) (7th Lok Sabha)]

#### **Action Taken by Government**

The Direct Tax Laws (Amendment) Act, 1987 has amended section 3 of the Income-tax Act with effect from 1-4-1989 relevant for assessment year 1989-90 providing for a uniform accounting year from 1st April and ending on 31st March of the financial year for each assessee. The recommendations of the PAC with regard to prescribing uniform system of accounting for all the assesseees is under consideration of the Ministry.

(Approved by the Additional Secretary to the Govt. of India)

[F. No. 154/22/87-TPL and F. No. 241 2-87-A&PAC-I]

#### **Further Action Taken by the Ministry**

In this para. the Committee had stated that the introduction of uniform accounting year would not be enough in so far as the film industry was concerned as they followed different accounting systems, namely, cash system and mercantile systems for maintaining their accounts. The Committee recommended that in order to facilitate accurate cross verification of various payments and receipts adopt the same accounting system in addition to following the same accounting year.

The matter was taken up with the Ministry of Law who have opined that in order to pass the test permissible classification, two conditions must be fulfilled namely,—

- (i) that the classification must be founded on an intelligible differentis which distinguishes the persons or things that are grouped together from others left out of the group.  
and
- (ii) that the differentis must have rational relation to the object sought to be achieved by the statute in question.

According to the Ministry of Law, while the first test laid down was satisfied in the case of persons engaged in the film industry there is no material to establish the rationale of this classification. What is said about fixing the definite accounting system for film industry is equally true with respect to others. "Thus, it will be difficult to justify in this case that there is a rational relation to the object sought to be achieved by the proposed provision. We, therefore, feel that such a provision would be discriminatory in nature". In view of the opinion of the Ministry of Law, the recommendation of the Public Accounts Committee has not been found to be acceptable.

(Approved by the Finance Minister)

[F. No. 241/2/87-E&PAC-I. and F. No. 154/22/87-TPL.]

## CHAPTER IV

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

#### Recommendation

The Committee are amazed to find that there is no machinery or source with the Department through which one could get details in respect of abandoned/incomplete films. The Ministry of Information and Broadcasting who are responsible for the administration of the Cinematograph Act are also not maintaining any such record. In reply to a question, the Ministry of Finance (Department of Revenue) have stated:

"None of the film artistes (named in the Audit Para) has been able to furnish information regarding the films featuring them which have been abandoned. In view of this, details of remuneration receivable/received, in respect of such incomplete/abandoned films are not available on record."

Apparently, this goes to indicate that the remuneration received by the cine artistes in all probability, escaped assessments. Lack of information with the Department leaves a sufficient scope for manipulation of cost of production or inflation of expenditure by the Film Producers with impunity. It is, therefore, desirable for the Ministry of Finance (Department of Revenue) to examine all the aspects of the matter in depth and evolve some methodology, in consultation with the Ministry of Information and Broadcasting and the State Government concerned, so as to ensure that income from the incomplete/abandoned films do not go unassessed and untaxed for lack of information.

[S. No. (Para No. 106) of 71st Report of PAC (1986-87)  
(8th Lok Sabha)]

#### Action Taken by Government

The information regarding incomplete and abandoned films is not available with the Ministry of Information and Broadcasting or

the State Governments since they have information only in respect of completed films which have been released. As desired by the PAC the Ministry of Information and Broadcasting has been requested to examine if it is possible for them at any stage to secure information regarding unreleased films from the producers. In the ordinary course the assessing officers are expected to obtain details of all the films in which an important film actor has acted during a particular year. This list of films is used to verify if the payments for all such films had been shown by him or her or not.

Regarding second point made by the Committee that lack of information about the abandoned or incomplete films leaves sufficient scope for manipulation of cost of production or inflation of expenses by film producers, it may be pointed out that deduction in respect of the expenditure on production of feature film which is abandoned is not admissible under Rule 9A of the Income-tax Rules and hence no useful purpose will be served by inflation or the cost of production of an abandoned film.

(Approved by the Addl. Secretary to the Government of India.)

[F. No. 241/2/87-A&PAC-I. and F. No. 411/1 87-Inv. 1]

#### Recommendation

There are no norms or guidelines prescribed for the assessing staff to see whether the cost of a film shown by the Film Producers was reasonable or not. There was wide variation in the cost of production of films 'Sholay' (Rs. 3.03 crores), 'Kala Pathar' (Rs. 1.28 crores) and 'Doosra Aadmi' (Rs. 60.21 lakhs). The Ministry have expressed their inability to fix any norms to judge the reasonableness of the cost of film because of variable factors like the number of artistes, their remuneration, nature of sets, number of prints etc. on which the cost depends. Obviously, assessing officers have no means of verifying the correctness of expenditure on production of films and have to rely on the expenditure shown in the film producer's records. For instance, there is a vast difference between the cost of prints of the film 'Sholay' (Rs. 59.20 lakhs) on the one hand and of the films 'Kala Pathar' (Rs. 1.42 lakhs) and 'Doorsa Aadmi' (Rs. 4.32 lakhs) on the other, which requires very close scrutiny and investigation. The Committee feel that as there are no norms to judge the reasonableness of the cost of films, the

details of expenditure indicated by the producers should be critically scrutinised by the assessing officers.

[S. No. 9 (Para No. 107) of the 71st Report of Public Accounts Committee (1986-87) (8th Lok Sabha).]

#### Action Taken by Government

The observations of the Committee have been forwarded to Directors General (Inv.) Delhi and Bombay, Chief Commissioner (Admn.), Bombay, Calcutta and Madras and Directors of Inspection (Inv.), Madras and Calcutta, who have circulated them among all the concerned assessing officers for their guidance. However, it may be pointed out that the Departmental Publication 'Investigation of Accounts', which is meant for the guidance of assessing officers, deals with the techniques of tax evasion followed by film producers and suggests ways to counter them. The reasonableness of the cost of the film has to be seen separately for each film depending upon various factors like the reputation of the artists, the number of artists employed, the nature of sets used and number of prints made etc. The Department is following the practice of critically examining the claim of these expenses.

(Approved by the Addl. Secretary to the Govt. of India).

[F. No. 241/287-A&PAC-I. and F. No. 411/87-IT (Inv. I)]

**CHAPTER V**

**RECOMMENDATIONS AND OBSERVATIONS IN RESPECT OF  
WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES**

NIL

NEW DELHI;  
7 August, 1989  

---

16 Sravana, 1911 (Saka)

P. KOLANDAIVELU,  
Chairman,  
Public Accounts Committee.

## PART II

### MINUTES OF 5TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 22 SEPTEMBER, 1988

The Committee sat from 1100 hrs. to 1400 hrs.

#### PRESENT

Shri Amal Datta—*Chairman*

#### MEMBERS

2. Shri Abdul Hannan Ansari
3. Shri Chhitubhai Gamit
4. Shri M. Y. Ghorpade
5. Shri Dinesh Goswami
6. Shri Mohd. Ayub Khan
7. Shri S. Jaipal Reddy
8. Maj. Gen. R. S. Sparrow
9. Smt. Usha Rani Tomar
10. Dr. Chandra Shekhar Tripathi
11. Shri Vir Sen
12. Shri Yogeshwar Prasad Yogesh
13. Shri M. S. Gurupadaswamy
14. Smt. Manorama Pandey
15. Shri T. Chandrasekhar Reddy
16. Shri Surender Singh

#### LOK SABHA SECRETARIAT

1. Shri G. L. Batra—*Joint Secretary*
2. Shri B. D. Duggal—*Director (PAC)*
3. Shri S. M. Mehta—*Senior Financial Committee Officer*

#### REPRESENTATIVES OF AUDIT

1. Shri C. P. Mittal, Deputy C&AG
2. Shri M. M. Mathur, Director of Receipt Audit-I
3. Shri K. Krishnan, Joint Director (D.T.)

## WITNESSES

*Ministry of Finance (Department of Revenue)*

1. Shri N. K. Sen Gupta, OSD (Rev.)
2. Shri G. N. Gupta, Chairman, Central Board of Direct Taxes
3. Shri T. N. Pandey, Member (IT)
4. Shri O. P. Bhardwaj, Member (S&T)
5. Shri C. S. Pandey, Member (R&A)
6. Shri A. V. Swaminathan, Member (WT&J)

The Committee took evidence of the representatives of the Ministry of Finance (Department of Revenue) on action taken by Government on recommendations contained in 71st Report of the Public Accounts Committee (8th Lok Sabha) regarding Work of a Film Circle.

While replying to queries on the income from the incomplete/abandoned films, the Revenue Secretary stated:

“When the producer starts a film and leaves it half-way through, the entire expenditure will be written off as capital loss. The expenditure cannot be amortised. He loses money. The question is whether the payments made to the artistes in the case of abandoned films are taxed or not. Such incomes are shown by the assessee himself.”

On a suggestion made by the Committee that by going through film magazines, the Department could know the films that were produced and the films that were abandoned, the witness stated, “We do get film magazines, and we know these details from them.”

During the course of discussion on the question of laying down certain norms for assessing the correctness of the expenditure incurred on the production of a film, the Committee expressed the view that the Department should not rely on what the film producer had shown in his return and that the Department should make an investigation to find out where the money had come from etc. The Chairman, CBDT informed *inter-alia*:

“Even in the producer’s case it is not that we accept every thing that he says. We try to get evidence. We have many cases in Bombay where we found that a part of the expenditure is bogus....Ultimately the assessment will



have to be made in individual cases. Then we investigate those cases to know the genuineness of the finances brought in and if we are able to establish that the finances are not genuine then we make a case. Similarly, the bogus expenditure by the producer is also looked into."

To a further enquiry, he added "The law says that the assessee is free to claim whatever expenditure he incurs."

Asked why norms could not be laid down in respect of expenditure incurred in connection with making of a film when there were norms for expenditure for staying in a hotel, the Revenue Secretary replied "We will take it as a special exercise."

*After some more discussion, the Committee adjourned.*

**MINUTES OF THE 6TH SITTING OF THE PUBLIC ACCOUNTS  
COMMITTEE HELD ON 1-8-1960**

The Committee sat from 1500 hrs. to 1600 hrs.

**PRESENT**

Shri P. Kolandaivelu—*Chairman*

**MEMBERS**

2. Shri Abdul Hanman Ansari
3. Shri M. Y. Ghorpade
4. Shri Y. S. Mahajan
5. Maj. Gen. R. S. Sparrow
6. Shrimati Usha Rani Tomar
7. Dr. Chandra Shekhar Tripathi
8. Shri Vir Sen
9. Shri Rameshwar Thakur
10. Shri Surender Singh

**SECRETARIAT**

1. Shri G. L. Batra—*Joint Secretary*
2. Shri K. K. Sharma—*Director*
3. Shri A. Subramanian—*Senior Financial Committee Officer*

**REPRESENTATIVES OF AUDIT**

1. Shri R. Parameswar—*Addl. Dy. CAG*
2. Shri S. B. Krishnan—*Director (Reports)*
3. Shri S. Satyamoorthy—*Director of Audit, CW&M-I*
4. Shri T. Sethumadhvan—*Director of Receipt Audit-I*
5. Shri K. Krishnan—*Joint Director (DT)*
6. Shri K. Jayaraman—*Jt. Director (Rlys)*

The Committee considered and adopted the following Draft Action  
Taken Reports:

(i) \*\* \*\* \*\*

(ii) \*\* \*\* \*\*

(iii) On the recommendations contained in 71st Report of PAC  
(8th Lok Sabha) regarding Working of a Film Circle.

(iv) \*\* \*\* \*\*

2. The Committee authorised the Chairman to finalise the Draft Report in the light of verbal and consequential changes arising out of factual verification by audit and present the same to the House.

*The Committee then adjourned.*

## APPENDIX I

(Vide Para No. 1.2)

*Statement showing classification of the action taken notes furnished  
by the Government*

- I. Recommendations and observations which have been accepted/  
noted by Government;  
Sl. Nos. 1, 2, 5, 7 and 14—19.
- II. Recommendations and observations which the Committee do  
not desire to pursue in view of the replies received from Gov-  
ernment;  
Sl. Nos. 3, 4, 6 and 10—13.
- III. Recommendations and observations replies to which have not  
been accepted by the Committee and which require reiteration;  
Sl. Nos. 8 and 9.
- IV. Recommendations and observations in respect of which Govern-  
ment have furnished interim replies.

NIL

## APPENDIX II

### Conclusions/Recommendations of the Committee

Sl. No.	Para No.	Conclusions/Recommendations
(1)	(2)	(3)
1	1.8	The Committee apprehend that in the absence of any systematic/proper records relating to incomplete/abandoned films it may not be possible for the assessing officer to get exact details in respect of income received or income concealed by the cine artiste while assessing his/her tax liabilities. The Committee also do not agree with the view taken by the Department of Revenue that since the expenditure on abandoned films was not admissible under Rule 9A of the Income Tax Rules, no useful purpose would be served by inflation of the cost of production. In this connection, the Committee would like to point out that the producers who suffer losses due to abandoning of the film mid-way, may avail of the benefit of reducing their tax liability by getting their losses set off against their income. This benefit is sufficient inducement to the producers to inflate cost of production of their incomplete films. The Committee, therefore, desire the Department of Revenue to pursue the matter vigorously with the Ministry of Information and Broadcasting to devise a fool-proof system of maintaining records as regards the incomplete/abandoned films so that no undue advantage is taken by the film producers/cine artistes.
2	1.15	Observing that the assessing officers had no means of verifying the correctness of the expenditure on production of films other than to

(1)

(2)

(3)

rely on what the film producer had shown in his return, the Committee, in their original report, stressed the need for evolving certain norms to counter or to weigh the claims of the film producers. In their action taken note, the Department of Revenue have informed that the reasonableness of the cost of the film depended on various factors like reputation of the artists, the number of artists employed, the nature of the sets used, the number of prints etc. and the Deptt. was following the practice of critically examining the claims for these expenses. The Committee note in this regard that during the last two years, 947 assesseees in the various film circles made disclosures under amnesty scheme, of their concealed income to the extent of Rs. 96.49 crores of which Film Circle at Bombay alone accounted for Rs. 60.14 crores disclosed by 88 assesseees. This clearly repudiates the claim of the Department of being very vigilant and is sufficient evidence of the extent of manipulations being indulged into in the film industry. The Committee would urge the Department to shed complacency so far as scrutiny of the returns filed by the assesseees in the film industry is concerned. The Committee, however, hope that the Department of Revenue, as promised by the Revenue Secretary during evidence, would undertake a study to evolve certain norms for the assessing officers to find out the reasonableness of the expenditure incurred by the film producers in the course of film production and report the results of their study to the Committee within a period of 6 months.

3

1.17

..... The Committee hope that the strengthening of the machinery would result in detection of substantial tax-evasion cases in film industry and the Committee would like to be surprised of the extent of results achieved in this regard.

---

(1)	(2)	(3)
4	1.19	<p>The Committee regret to say that the Ministry of Finance have merely passed on their recommendation/observation to the Settlement Commission without spelling out the steps taken by that Commission to ensure expeditious disposal of settlement cases. The Settlement Commission, though an independent body, functions under the administrative control of the Ministry of Finance and it is the responsibility of the Ministry to see that the Settlement Commission functions effectively and efficiently. The Committee desire to be apprised of the specific action taken by the Settlement Commission on their observations.</p>

---

