

ESTIMATES COMMITTEE (1981-82)

(SEVENTH LOK SABHA)

TWENTY EIGHTH REPORT

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Action Taken by Government on the Recommendations
contained in the Ninth Report of Estimates
Committee (Seventh Lok Sabha) on the
Ministry of Finance—Income tax
Department,

Presented in Lok Sabha on.....

28 APR 1982



LOK SABHA SECRETARIAT
NEW DELHI

April, 1982; Vaisakha, 1904 (Saka)
Price : Rs. 3.00

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(i)

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(1981-82)

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COMPOSITION OF STUDY GROUP 'I' OF ESTIMATES
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(1981-82)

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10. Shri D. P. Yadav

INTRODUCTION

I, the Chairman of the Estimates Committee having been authorised by the Committee to submit the Report on their behalf, present this Twenty-eighth Report on action taken by Government on the recommendations contained in the Ninth Report of the Estimates Committee (Seventh Lok Sabha) on the Ministry of Finance (Department of Revenue)--Income Tax Department.

2. The Ninth Report was presented in the Lok Sabha on 15 April, 1981. Government furnished their replies indicating action taken on the recommendations contained in that Report on 4 February and 31 March 1982. The replies were examined by Study Group I of Estimates Committee (1981-82) at their sitting held on 12 April, 1982. The Report was adopted by the Estimates Committee (1981-82) on 26 April, 1982.

3. The Report has been divided into following chapters :—

- I. Report.
- II. Recommendations that have been accepted by Government.
- III. Recommendations which the Committee do not desire to pursue in view of Government's replies.
- IV. Recommendations in respect of which replies of Government have not been accepted by the Committee.
- V. Recommendations in respect of which final replies of Government are still awaited.

4. An Analysis of action taken by Government on the recommendations contained in the Ninth Report of the Estimates Committee (Seventh Lok Sabha) is given in Appendix II. It would be observed therefrom that out of 78 recommendations made in the Report, 49-Recommendations i.e. about 63 per cent have been accepted by Government and the Committee do not desire to pursue 2 Recommendations i.e. 3 per cent in view of the Government's replies. Replies of Government have not been accepted by the Committee in respect of 5 Recommendations i.e. 6 per cent. Final replies in respect of 22 Recommendations i.e. 28 per cent are still awaited.

NEW DELHI ;

April 26, 1982.

Vaisakha 6, 1904 (Saka)

S. B. P. PATTABHI RAMA RAO,

Chairman,

Estimates Committee.

CHAPTER I

REPORT

1.1 This Report of the Estimates Committee deals with action taken by Government on the recommendations contained in their 9th Report (7th Lok Sabha) on the Ministry of Finance (Deptt. of Revenue)—Income-tax Department, which was presented to Lok Sabha on the 15 April, 1981.

1.2 Action taken notes have been received in respect of 76 out of 78 recommendations contained in the Report.

1.3 The Action taken notes on the recommendations of the Committee have been categorised as follows :—

(i) Recommendations/observations which have been accepted by the Government :

1-A, 2 to 4, 6 to 15, 18, 19 21, 22, 28, 30, 32, 33, 36, 38 to 40, 42, 46, 49 to 58, 61, 62, 63, 67 to 70, 74 to 77. (Total 49 Ch. II).

(ii) Recommendations/observations which the Committee do not desire to pursue in view of Government's replies :

16 and 17. (Total 2 Chapter II).

(iii) Recommendations/observations in respect of which Government's replies have not been accepted by the Committee :

23, 24, 31, 44 and 64. (Total 5 Chapter IV).

(iv) Recommendations/observations in respect of which final replies of Government are still awaited :

1, 5, 20, 25 to 27, 29, 34, 35, 37, 41, 43, 45, 47, 48, 56, 59, 60, 65, 66, 71 to 73. (Total 22 Chapter V).

1.4 The Committee are unhappy to note that the Ministry has not been able to furnish final replies to their recommendations in as many as 22 cases and sent no reply in two cases, even though nearly a year has passed since they presented their Report to Parliament. The Committee would like the Ministry to furnish final replies to all these recommendations expeditiously.

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

Interest on delayed refunds

(Recommendations Sl. Nos. 23-24 Para No. 2.115 and 2.116)

1.6 The Committee had learnt from various quarters that generally speaking, assessees neither got refunds promptly nor received interest on delayed refunds to which they were entitled under the law and they did not complain for fear of reprisals. On making a sample study, the Committee found that, in Bombay and Delhi Charges, no interest was paid under Section 243 during the last 3 years nor during 1978-79 & 1979-80 any disciplinary action which is required to be taken in cases of delay was taken in any case. The Finance Secretary, who was forthright took note of the Committee's apprehension "that, though Section 243 is there on a Statute book, it is virtually a dead letter because no assessee claims, nor does any Income-tax Officer grant the interest on delayed payment. He assured the Committee to take action in the matter. The Committee desired that the Ministry should enquire into the phenomenon of non-payment of the interest under Section 243 and inform them within six months of the facts under all Commissioners charges together with the right.

1.7 The Committee had also found that, during 1978-79, a sum of over Rs. 23 lakhs was paid as interest on delayed refunds under section 244 throughout the country. The Committee urged that a thorough enquiry into cases of delays in settlement of refunds be held with a view to analysing the reasons for delay and taking effective measures to remedy the situation. They also desired to know whether the Departmental instructions requiring disciplinary action being taken in cases of delay were followed in all cases of delay and, if not, why not ?

1.8 In its action taken reply (Feb. 1982) the Ministry has stated :

"Interest under section 243 is payable in two circumstances. Firstly in cases where the income is only from interest on securities and dividends, interest is payable if the refund has not been granted within 3 months from the end of the month in which the claim refund is made. Secondly in all other cases interest is payable if the refund is not granted within 3 months from the end of the month in which the refund is determined.

During the financial year 1979-80, interest u/s 243 has been paid of Rs. 1,04,000/- in 2,888 cases all over India.

Administrative instructions have been issued from time to time to ensure that no delay occurs in issue of refund and wherever there is delay interest must be paid. The I.T.O. has been made personally responsible for ensuring that no delay occurs in issue of refund ; if there is any delay interest must be paid. The supervisory authorities were directed to see this particularly during the course of their normal as well as surprise inspections. Advisory warning to be more careful in future was to be issued in the first instance of such failure followed by a character-roll entry if the officers concerned persist in delayed issue of refunds and in not paying the interest on delayed refunds."

1.9. The Ministry has further stated : "Administrative instructions have been issued time and again to promptly give effect to appellate orders and it is kept under watch also through maintenance of appeal register. In Circular No. 209 dated 11-1-1977, it has been provided that the appellate orders should be given effect with extra-ordinary promptness ensuring that in any case they are given effect to within a month of the date of the order. If there is a lapse in the matter and this lapse is not properly explained, an adverse entry shall be recorded in the CCR of the dealing official. If an official gets three adverse entries any further lapse will entail disciplinary action and levy of suitable penalty."

The Ministry has also informed the Committee that Directorate of Organisation & Management Services have been asked to make a study of few circles of Delhi and on receipt of their Report, further action will be taken to tighten the administrative machinery.

1.11. The Committee had recommended that the Ministry should enquire into the phenomenon of non-payment of interest on delayed refunds under Sec. 243 and inform them within six months of the facts under all Commissioners, charges together with the steps the Ministry purposes to take to set things right. The Committee had also desired to be informed whether the Departmental instructions requiring disciplinary action in cases of delay were followed in all cases of delay and, if not, why not. From the Ministry's reply it is obvious that it has not taken the Committee's recommendations seriously at all. It has neither completed the study though a year has passed nor informed them of the reasons why no disciplinary action was taken in case of delays. All that the Ministry has done is to ask Director, O&M services, to make a study in only "few circles of Delhi". The Committee cannot but depurate the lack of seriousness which the Ministry has displayed in dealing with these recommendations. The Committee would like to reiterate that the phenomenon of non-payment of interest on refunds and delays in making refunds should be studied in all the Commissioners' charges and the outcome of the study together with the steps taken to set matters right communicated to the Committee without delay.

Disposal of appeals by Appellate Authorities

(Recommendation Sl. No. 31—para 3.26)

1.12. In their 9th report, the Committee had noted that an analysis of the pending appeals/revision petitions showed that about 2 years workload was pending with AACs, 15 months work load (revision petitions only) was lying accumulated with CITs and over 1 year's work was pending with Income-tax Appellate Tribunals. For disposing the arrears with AACs, the Central Board had evolved a norm that at the end of the next four years, not more than six months work load should be pending with each AAC. The Committee had felt that this norm should also apply to CITs, CITs (A) and Income Tax Appellate Tribunal and that their Administrative set ups and appellate procedures should be so reorganised that each one of these appellate authorities should be able to reduce the pendency to six months work load at the earliest. This the Committee observed would require constant monitoring and periodical review of achievements, which the Committee hoped the Central Board would do conscientiously.

1.13 In its reply the Ministry has stated that "norms for disposal with regard to pendency with CIT(A) and CITs (for revision petitions) already exist. Under Central Action Plan, for the year, disposal targets for revision petitions are fixed. Compliance to the targets is regularly watched by the Board. Similarly, disposal targets fixed for CIT(A) are reviewed monthly to oversee their performance vis-a-vis the targets fixed. As for the Income-tax Appellate Tribunal, the Board has no administrative control over the same. The observations of the Committee with regard to the Income-tax Appellate Tribunal have been communicated to the Ministry of Law Justice and Company Affairs for necessary action."

1.14 The Committee regret to observe that in this case also the Ministry's reply shows lack of seriousness. It has not taken the trouble of taking any further steps to reorganise the procedures and working of the various appellate authorities with a view to reducing the pendency of appeals to six months work load as recommended by the Committee. The Committee urge the Ministry to view the high level of pendency of appeals and revision petitions seriously and take remedial measures to bring down the pendency to optimum levels.

Checking tax evasion by Professionals

(Recommendation Sl. No. 44—Para 4.37)

1.15 In their report, the Committee had opined that "there was great merit in the suggestion that all new-comers to the profession (newly registered or transferred from elsewhere) should be required to notify their names and addresses to the Income-tax Department when they start private practice. The Department should immediately advise them to maintain accounts of income and savings and other relevant records right from the beginning and explain to them under what conditions they will become liable to pay income-tax. At periodical intervals, the Department should ask them to declare that their annual income does not exceed taxable limit.

1.16 In its reply, the Ministry has stated that "the Central Board of Direct Taxes is of the view that the existing practice of periodically obtaining the list of professionals from such institutions may continue. The rules prescribing the books of accounts and other documents required to be kept by persons carrying on legal, medical, engineering and architectural profession or the professions of accountancy, technical consultancy, interior decoration, authorised representative or film artiste are being framed. Every professional liable to be assessed to tax will be required to submit the return of income *suo moto* under the Income Tax Act and failure to do so may entail not only penalty but also prosecution. The Board, therefore, does not consider it necessary to request these professionals to declare periodically that their annual income does not exceed taxable limits."

1.17 The present practice expecting every professional liable to be assessed to tax, to submit return of income *suo moto* under the Income-tax and face prosecution and penalty in case he fails to do so, has not

fully helped in bringing into tax not all those professionals whose income is beyond exemption limits. It was against this background that the Committee had made this recommendation that the Department should advise new-comers into the professions to maintain the prescribed books of accounts etc. and periodically announce their non-liability to income tax. This is a specific measure to curb tax evasion but the Ministry appears not to have appreciated its significance. The Committee would like to reiterate their earlier suggestion and ask the Ministry to implement it.

Toning up the public Relations set-up in Income-tax Offices
(Recommendation Sl. No. 64 Para 5.39)

1.18 In their 9th Report, the Committee had taken note of the general feeling of dis-satisfaction among assessees with the working of Public Relations set-up in Income-tax Offices who were not fully equipped to render, nor rendered, the required assistance to the tax-payers in filing returns, getting refunds etc. The non-officials had also represented that even the minimum facilities like sitting accommodation, drinking water, etc. were not afforded to the assessees when they visited the Income-tax Offices. Reports of lack of proper behaviour had also reached the Committee. The Ministry had stated that the PROs were qualified ITOs and were expected to keep themselves abreast of the latest changes in the laws rules. The Committee had desired that detailed instructions on the nature and manner of rendering assistance to the assessee should be issued by the Department for the guidance of Public Relations units and supervisory officers advised to conduct periodical inspection of the working of these units to ensure that these instructions were carried out by them. Complaints of improper behaviour or indifference to the assessee problems should be taken serious note of.

1.19 Committee had also suggested that feedback on the reactions of assessees with the working of public relations unit at each place should be collected by the Department with a view to knowing and removing its short-coming and that this should be done on a regular and systematic basis.

1.20 The Ministry has in its action taken reply (March, 1982) furnished a copy of the instructions issued to the Commissioners regarding the procedures to be followed by PROs. The Ministry has however not informed the Committee about the action taken to monitor the reactions of the assessees about the working of Public Relations Units on a regular and systematic basis.

1.21 The Committee reiterate that feedback on the reactions of assessees on the working of public relations unit at each place should be collected by the Department on a regular and systematic basis with a view to knowing and removing its shortcomings.

CHAPTER II

RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation Sl. No. 1-A (Paras 1.21 & 1.22)

“1.21 The Committee note that the net income-tax arrears outstanding as on 31st March of 1978, 1979 and 1980 were Rs. 633.53 crores, Rs. 554.90 crores and Rs. 589.65 crores, respectively. The actual collections fell short of targets by Rs. 77.23 crores in 1977-78, Rs. 191.14 crores in 1978-79 and Rs. 92.79 crores in 1979-80. The cost of collection, however, came down from 1.87 per cent in 1977-78 to 1.85 per cent in 1979-80.

1.22 The Committee cannot help viewing with concern the heavy shortfalls in actual collections vis-a-vis targets during the three years 1977—80. The continuing arrears of nearly Rs. 600 crores despite numerous measures to reduce them are also a matter of serious concern. The fact that nearly Rs. 22 crores had to be written off in 1978-79 and over Rs. 10 crores in 1979-80 is a reflection on the Department's efficiency. These statistics which are indexes of the Department's efficiency. These statistics which are indexes of the Department's performance lead to the conclusion that measures taken by the Department to realise tax dues have not been effective enough and must be intensified. The Committee would urge the Department to maintain relentless pressure on all fronts to show better results in collecting current demands are reducing arrears.”

Reply of the Ministry

In Para 1.22 of their Report, the Estimate Committee have pointed out that there is a heavy shortfall in actual collections viz-a-viz targets during the years 1977 to 1980.

It is submitted that though there are wide variations between the budget estimates and actual collections, the variations between Revised Estimates and actuals are not abnormal as can be seen from the figures given below :—

(In crores of Rs.)

Financial Year	Revised Estimates	Actuals	Variation between the Revised Estimates and Actuals
1977-78	2300.00	2222.79	(-)77.21
1978-79	2475.00	2428.86	(-)46.14
1979-80	2700.00	2732.21	(+)32.21
			1.19

The budget estimates are fixed well in advance of the beginning of the financial year and are based only on collections of the previous year. However, the changed economic conditions as well as the collection trends are taken into account when revised estimates are furnished by the Commissioners' and reviewed by the Board sometime in December-January of the year. Therefore, the revised estimates are more reliable as they are based on current collection trends. The Central Board of Direct Taxes has taken steps to reduce the variation even between revised estimates and the actuals collections for which purpose a cell has been set up in the Directorate of RS&PR. This Cell has now been working for the last two years and already the variation in revised estimates and actuals for 1979-80 has substantially come down as can be seen from the above figures.

3. The Committee has also expressed concern regarding continuing arrears despite numerous measures taken by the Government to reduce the same.

4. In this connection it is submitted that the creation of demand, and collection therefrom is a continuous process and therefore as on a particular date there will always be certain demands outstanding inspite of various steps taken to recover the same. Every year, fresh demand is being created but as on a particular date, there will always be a substantial amount which has not fallen due for collection. There will also be certain demands which are disputed in appeal and till the appeal is disposed of, the demand remain outstanding. Similarly, there are some demands which relate to assessees who are not traceable or who have no assets out of which recovery can be effected or there are demands which are pending for Double Income-tax Relief etc. Thus, on a particular date, there will always be demand which will be outstanding. But this should not mean that sufficient steps are not being taken to collect the outstanding demands. The effect of various steps taken for recovery can best be illustrated from the following figures :

(in crores of Rs.)

Arrears as on 31-3-71	738.77
Financial year ending	Arrears out of those received during 1970-71 and earlier years outstanding
31-3-72	467.76
31-3-73	368.03
31-3-74	290.65
31-3-75	242.47
Total reduction in 4 years	496.30
Percentage of reduction	67.1%

It will be seen from the above statement that out of tax arrear due on 31-3-71 more than 67 per cent were collected/reduced in the next four years and this would show that the efforts are not lacking on the part of the Department for reduction of arrears. Thus, the figures of 600 crores

mentioned in the report of the Estimates Committee, is the balance outstanding as on 31st March of the year after making collection out of arrears as well as out of current demand during a particular year.

5. It is further submitted that the Central Board of Direct Taxes is alive to the problem of income-tax arrears and has taken various steps to reduce|collect the same. Some of the steps taken in recent times are as under :—

- (i) A very high priority has been given for the recovery of tax arrears in the annual Action Plan of the Income-tax Department. For the year 1981-82 the target of reduction of arrears out of tax in arrears has been fixed at 55 per cent.
- (ii) A list of high demand appeals involving tax arrears of Rs. 1 lakhs and above is being prepared by the Central Board of Direct Taxes and sent to the Commissioners of Income-tax (Appeals) who are required to dispose of such appeals on priority basis. The Commissioners of Income-tax are also required to send similar lists to the Appellate Assistant Commissioners. They are also required to keep in touch with Vice Presidents/ Members of the local bench of the ITAT for early fixation of appeals involving high demands.
- (iii) Separate Income-tax Officers are appointed to look after cases where the recovery processes need to be given priority for certain difficulties experienced in those cases and where the assessing ITO cannot devote the time required for recovery in those cases.
- (iv) Arrear Clearance fortnights are being observed every year when the ITOs are required to give their full time attention to adjustment of pre-paid taxes, give appeal effects and carry out rectifications so that the correct demand is determined and collected expeditiously.
- (v) The Board is keeping a close watch on the progress of recovery through a monthly telegraphic report. The Inspection Division of the Central Board of Direct Taxes also makes frequent visits to various Commissioners' charges to verify the progress of recovery work. DI (Recovery) also keeps a watch over cases with arrears of Rs. 10 lacs.

6. It is also observed by the Committee that nearly Rs. 22 crores had been written off in 1978-79 and Rs. 10 crores in 1979-80 which is considered as a reflection on the department's efficiency to reduce|collect the tax arrears.

7. It is submitted that the writing off of tax arrears is in no way a reflection on the efficiency of the department. Arrears are written off only in those cases where the assessee has either no assets or has left India or is untraceable or where the companies have gone into liquidation leaving no assets or when the amounts involved in individual cases are petty and

the labour involved in collecting the same would not be commensurate with the results achieved. Moreover, there is a machinery and a set procedure whereunder the various authorities satisfy themselves that there is no chance of recovery and it is only in the fitness of things that the demand in such cases is written off so that the departmental machinery can attend to cases which can yield results. It is also submitted that the amounts written off in a particular year on an average range between 2 and 3 per cent of the total tax arrears of the year. This can be seen from the following figures :—

Financial year	No. of cases	Amount written off	Tax in arrears	Percentage of amount written off to the tax in arrears
(Amount in crores of Rs.)				
1977-78	94316	13.19	633.53	2.08
1978-79	96641	21.76	554.90	3.92
1979-80	18149	10.55	589.65	1.79

8. The Board however shares the concern of the Committee that the arrears should be reduced expeditiously. The recommendations of the Committee are being brought to the notice of the Commissioners of Income-tax who have been urged to maintain a relentless pressure on all fronts to see that better results are achieved in collection/reduction of tax arrears.

[Ministry of Finance O.M. No. 405/63/80-ITOC (Vol. V) dt. 4-2-82].

Recommendation No. 2 (Para No. 1.23)

"The Committee find that more than 85 per cent of the tax is either deducted at source, or paid automatically in advance on self-assessment by the assessees and only about 15 per cent of the gross collection is left to be collected by the direct efforts of the income tax officers. While the Committee do not wish to wholly deny credit to the Income-tax machinery for the 85 per cent of the collections which come in automatically, they wish to point out that the area requiring the special attention of the I.T. machinery is not so large that they cannot manage it effectively. The Committee would like the Department to remember that their efficiency would be judged more by collections made on their own efforts than by collections flowing in any way from year to year under the salutary effect of the penal provisions of Income tax laws."

Reply of the Ministry

The observations of the Committee have been noted and suitable instructions have been issued to the Commissioners of Income-tax. A copy of Boards letter F. No. 385/42/81-IT(B) dated 23/26-6-81 is annexed. (not printed).

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation No. 3 (Para 2.10)

"At present there are five forms of income-tax returns for different categories of assessees. A number of non-officials have represented to the Committee that the income-tax return forms are cumbersome and complicated and that it is difficult to fill the forms without experts' help. The Ministry have admitted that the forms are 'rather cumbersome and unwieldy'. The Committee are informed by the Ministry that a Returns Committee was set up in August, 1980 and that on the basis of the recommendations made by that committee, certain steps have been taken to simplify and rationalise the return forms. The actual size of the new returns is also expected to be considerably shortened and according to the Ministry 'any person with an average intelligence should be able to fill it without any expert help'. The Committee hope that this expectation is realised. The Committee would like the forms of returns to be periodically reviewed and whatever modifications are required to simplify them, should be made periodically."

Reply of the Ministry

The Recommendation of the Committee is accepted. The forms of returns are being periodically reviewed and every effort is being to simplify them.

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 31-3-82].

Recommendation No. 4 (Para 2.11)

"Since non-official opinion was not invited before finalising the new forms the Committee trust that, as assured during evidence, that Ministry will seek the opinion of non-official organisations on these forms and examine the possibility of simplifying the forms still further in the light of non-official views. In fact this should be a continuous process."

Reply of the Ministry

The recommendation of the Estimates Committee will be kept in view when the next opportunity to revise the forms of return of income arises and drafts of such forms will be notified for eliciting public opinion.

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation No. 6 (Para 2.17)

"The Committee would like that the Income-tax Department should devise ways and means of overcoming the constraints of staff at least for that period arranging temporary staff and space towards the closing dates so as to open adequate number of counters to receive returns and thus enable the assessees to file their returns conveniently without long wait."

Reply of the Ministry

The recommendations of the Committee have been accepted. In accordance with the existing instructions of the Government to the Commissioners of Income-tax, adequate arrangements are being made during the relevant period. However, the Commissioners have been asked to further improve the working in this regard by setting up maximum number of counters for this purpose during that period.

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation No. 7 (Paras 2.38 to 2.41)

"With a view to minimising inconvenience to the assessees and to expediting the disposal of assessment cases, the Income Tax Department had introduced with effect from 1971, a Summary Assessment Scheme under Section 143(1) of the Income-tax Act. Under the Summary Assessment Scheme, an Income-tax Officer is required to finalise the assessment without calling the assessee to his Office. The Income-tax assessments in respect of new-company cases where the returned income in the relevant assessment year is upto one lakh, are now covered by the assessment scheme.

The Committee note that the Department disposed of 82 per cent (29,87,927 cases) of the summary assessment cases during 1977-78, 70 per cent (24,12,165 cases) during 1978-79 and 67 per cent (25,71,997 cases) during 1979-80 and left a backlog of 6.62 lakh cases at the end of March, 1978, 10.16 lakhs at the end of March, 1979, and 12.72 lakhs at the end of March, 1980. Seeing the declining rate of disposal of cases and growing arrears under the Summary Assessment Scheme, the Committee cannot but conclude that the objective of expediting the assessment has not been achieved so far.

The Committee are informed that the Income-tax Department have now taken certain steps like empowering the inspectors to finalise assessments in certain cases and giving powers to ITOs to finalise assessment under this scheme without making adjustments and treating incomplete returns as invalid after a prescribed period of notice. But even then, the Department have started that due to constraints of manpower available, it is not possible to dispose of all the cases falling under the summary assessment scheme during the year itself. The Department have drawn up a plan for disposal of at least 90 per cent of the summary assessment cases by the end of March, 1984 and reduce the pendency of such cases of 10 per cent of the workload by that date. For carrying out this plan the Department would need extra officers for which a study is stated to be under way.

While the Committee welcome the plan drawn up by the Department to the pendency of summary assessment cases to 10

per cent by the end of March, 1984 the Committee feel that the Department should be so geared as to dispose of all the summary assessment cases pertaining to a year during the same year and the Department should start drawing up plans and taking necessary measures to achieve this target at the earliest. Only then can the objective of summary Assessment Scheme be said to have been really fulfilled."

Reply of the Ministry

The recommendation of the Estimates Committee to the effect that all efforts should be made to dispose of all summary assessment cases pertaining to a year during the same year have been noted and the Directorate to Organisation and Management Services, (Income-tax), New Delhi has been asked to keep this in view while finalising the long-term plan.

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation No. 8 (Para 2.42)

The Committee note that it is illegal for an ITO to call an assessee to his office for disposing a summary assessment case. From certain reports reaching the Committee it appeared that even in summary assessment cases, assessees had been called by the ITOs to their office for hearing. The Committee would like the Department to keep an eye of the manner of functioning of ITOs and see that except in sample scrutiny duly selected for the purpose, assessees are not summoned to appear before the ITOs and the latter dispose of such cases on the basis of the returns alone in consonance with the purpose of the scheme."

Reply of the Ministry

Necessary instructions have been issued to all the Commissioners of Income-tax *vide* Board's letter F. No. 201/27/81-ITA. II dated 10th April, 1981 (Instruction No. 1392). A copy of this instruction is enclosed. (not printed).

[Ministry of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation No. 9 (Paras 2.43 and 2.44)

"The Committee note that selective scrutiny of cases falling under summary assessment scheme is done on random sampling basis according to a prescribed formula. The Committee find that there were 99,981 sample scrutiny cases pending with the Department as at the end of July, 1980. The Department had disposed of 9556 cases during the first four months of 1980-81. This obviously was a very slow rate of disposal of sample scrutiny cases and if the disposal proceeds at this rate, it would take the Department nearly three years to dispose of even those cases which were pending at the end of July, 1980. The Chairman, CBDT admitted during evidence that the sample scrutiny cases were not being disposed of expeditiously. The Committee note that the Department have decided that during 1981-82 ITOs should give the highest

priority for the disposal of cases and selected for sample scrutiny including the pending cases and these should be completed during that financial year itself. The Committee feel that this should have been the approach right from the beginning. They would like the Department to ensure that Summary Assessment cases selected for sample scrutiny during a year are disposed of during the same year itself.

In order to keep a watch over the rate of disposal of sample scrutiny cases, the Department is stated to have improved the food-back system. The monthly progress reports which earlier did not show the number of cases selected for sample scrutiny and the number of such cases disposed of, have not been revised to get this information so as to enable the supervisory authorities to keep an eye on the progress of disposals. The Committee would like strict monitoring of the pace of disposal of Sample Scrutiny cases so that any slackening of pace of disposal is detected at the earliest and remedial measures taken promptly to see that the target of disposal of all such cases during the year itself is achieved."

Reply of the Ministry

Necessary instructions have been issued to all the Commissioners of Income-tax *vide* Board's letter F. No. 201/159/80-ITA.II dated the 5th February, 1981 (Instruction No. 1381). A copy of this instruction is enclosed. (not printed)

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation No. 10 (Para 2.45)

"The Committee regret to note that the Department are at present not collecting information about concealment of income detected in course of scrutiny of sample cases falling under the summary assessment scheme. In the absence of this information, it is not possible to judge whether and if so, to what extent, tax evasion is attempted under the summary assessment scheme. The Committee would like that, as assured by the Finance Secretary during evidence, information about concealment of income detected while disposing of sample scrutiny cases should be collected and collected regularly and analysed at the highest level to evaluate the success and loopholes of summary assessment scheme with a view to taking remedial measures in the light of the evaluation."

Reply of the Ministry

With reference to the recommendation of the Estimates Committee, it is submitted that detailed instructions (Instructions No. 1381 dated 5-2-1981) have already been issued to all the Commissioners of Income tax laying down in detail the procedure for selection of sample scrutiny cases and the follow-up action to be taken in regard thereto. These instructions spell out

inter alia, the various checks to be made like; (a) calling of total wealth statement, (b) exercise of jurisdiction by IAC u/s 144A for issue of suitable directions; (c) annual inspection of a few cases by IACs to satisfy themselves whether proper scrutiny has been made; (d) levy of maximum penalty to serve as a deterrent etc.

2. The Proforma of the monthly progress report has also been revised w.e.f. June, 1981 with a view to monitoring the progress regarding sample scrutiny cases.

3. As advised by the Estimates Committee, the Inspection Division of the Central Board of Direct Taxes is being directed to verify during their tours whether the work of sample scrutiny has been properly attended to in the light of the latest instructions. This will facilitate a proper evaluation of the scheme. After this year's inspection is completed and the data received from the Commissioners of Income-tax are analysed, an evaluation will be made in the Board's office and such remedial measures as to plug the loopholes of the scheme to make it a success will be taken. The Committee will also be duly apprised of the results of the exercise by 30-9-82 as all the processes necessary for the analysis in regard to the work during the financial year 1981-82 with reference to the latest instructions can be expected to be completed only by then.

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation No. 11 (Para 2.58)

"The Committee are glad to note that after the Ministry's attention was drawn to the reported tendency of ITOs to call assessees for personal hearing even before scrutinising their returns, the Central Board of Direct Taxes have issued instructions impressing upon the ITOs to avoid indiscriminate and mechanical issue of notices with acquainting themselves in advance as to the nature of their requirements and to specify in the notices and documents required to be produced and to points on which clarification is needed before fixing the case ~~for~~ ^{for} hearing. The Committee feel that if harassment of ~~assesses~~ ^{assessees} has to be avoided, Commissioners of Income-tax should keep a vigilant eye on the ITOs to ensure that these instructions are followed in actual practice and disregard shown by the ITO in this respect is viewed seriously".

Reply of the Ministry

In regard to the recommendation at Serial No. 11 of the Estimates Committee, necessary instructions have already been issued to all Commissioners of Income-tax *vide* Board's letter F. No. 201/25/80-ITA. II dated 18-11-1980 (Instruction No. 1367). A copy of this instruction is enclosed. (not printed)

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation Sl. No. 12 (Para 2.59)

"The Committee feel that it amounts to harassment of the assessees and projects a bad image of the Department if appointments for hearing fixed by ITOs are not honoured and adhered to, no matter what the reasons may be. The committee are glad to note that the Central Board have appreciated the feelings of the assessees and have agreed that it should be possible for the ITOs to inform the assessees in advance over telephone, wherever possible about the last minute cancellation of hearings. The Committee expect that the Central Board will issue suitable instructions to the Commissioners and ITOs asking them to hold the hearings fixed by them on schedule and if due to certain unavoidable circumstances hearing cannot be held on the appointed day, the assessee should be informed in advance either through a letter or over telephone to a responsible person in the assessee's house wherever possible. The information about the cancelled or adjourned hearings should also be displayed in the notice Board outside the Office of the ITO concerned and on the general notice board of the Department for the benefit of the assessees who may happen to come to the Department unaware of the cancellation of the hearing."

Reply of the Ministry

In pursuance of the recommendation at Sl. No. 12 of the Estimates Committee, necessary instructions have been issued to all the Commissioners of Income-tax *vide* Board's letter F. No. 201/28/81-ITA. II dated 15th May, 1981 (Instruction No. 1395). A copy of this instruction is enclosed. (not printed).

[Ministry of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation Sl. No. 13 (Para 2.60)

"The Committee are glad that the Central Board of Direct Taxes have been seen it fit to agreed to amend the format of the assessment order so as to provide that the dates of hearings held in connection with an assessment are indicated in the assessment order. This would have a salutary effect and restrain an ITO from calling an assessee unnecessarily for personal hearing".

Reply of the Ministry

In pursuance of the recommendation at Sl. No. 13 of the Estimates Committee, necessary instructions have been issued to all the Commissioners of Income-tax *vide* Board's Letter F. No. 201/28/81-ITA. II dated 15th May, 1981 (Instruction No. 1395). A copy of this instruction is enclosed. (not printed).

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation Sl. No. 14 (Para 2.66)

"The Committee have been informed that the present system of serving Assessment orders and notices through notice servers caused difficulties to assessee who it is stated would prefer the notices and assessment orders to be sent by registered post. According to the Ministry, the present system is most economical and the service of notices through registered post was likely to create administrative problems and hamper assessment work. The Committee do not see any justification in continuing a system in which the assessee have no faith and which creates difficulties for them. The Committee would like that, as agreed to by Finance Secretary, the system of service of Income-tax notices and orders by registered post should be tried in a judicious and economical manner on experimental basis in selected areas and progressively extended to other areas."

Reply of the Ministry

The replacement of system of service of notices and orders through Notices Servers has been considered in the light of the above recommendations of the Estimates Committee. It has accordingly been decided to make an experimental study of the scheme in actual operation by putting the scheme to work in one Company Circle and in one Scrutiny Ward in each of the four metropolitan cities viz. Bombay, Calcutta, Delhi and Madras as well as in Ahmedabad for a period of six months commencing from April, 1982. This experimental study is designed to ascertain the various benefits/inconveniences resulting to the assessee/Department by the operation of the new system in each of these circles/wards as well as to measure and study the comparative cost of both the systems. Extension of the system to other areas will be considered in the light of the experience gained from the study *ibid*.

[Ministry of Finance OM. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation Sl. No. 15 (Para 2.73)

"The Committee note that the powers of reduction or waiver of penalty in certain cases vested in Commissioners of Income-tax under section 273A are quasi-judicial powers and have to be exercised by them unfettered. It has been represented to the Committee and admitted by the Ministry that cases falling under section 273A referred by the Commissioners to the Central Board of Direct Taxes for "guidance" and the Central Board give advice in these cases. It is seen that 14 such cases were so referred to and dealt with by the Central Board during the years 1975-79. The Ministry have stated that if say Commissioner makes a reference to the Board for advice on a matter or interpretation of law the advice is given by the Board but if a Commissioner makes a reference on a question of fact, the Central Board advise the Commissioners to apply his mind to

the facts and decide the case accordingly. The Central Board have a denied any interference with the powers of the Commissioners under section 273A, which are of quasi-judicial nature."

The Committee regret to say that they cannot accept the explanation or denial of the Central Board. In the Committee's view such a reference to the Central Board for 'guidance in cases falling under section 273A (affects the assessee's ultimate right of appeal to the Board against the Commissioners' decisions) and also compromises the quasi-judicial role of the Commissioners. The Committee would like that instead of shifting the burden to the Central Board the Commissioners should apply their own mind and decide cases under section 273A independently in their quasi-judicial capacity without any 'guidance' or 'advice' from the Board and take the responsibility themselves. The Committee would expect the Central Board to issue clear instructions to all the Commissioners and desist from giving them any guidance or advice in such matters."

Reply of the Ministry

The observations of the Committee are noted. It is submitted that the orders under section 273A of the Income-tax Act are quasi-judicial orders and there is no appeal provided against these orders to the Board. Section 273A(5) is reproduced below :

"Every order made under this section shall be final and shall not be called into question by any court or any other authority."

As already stated before the Hon'ble Committee, the Board has only issued guidelines/clarifications on interpretation of law and has not issued any instructions on facts which may be construed as placing a fetter on the discretion of the Commissioner. It is also submitted that under section 119 of the Income-tax Act, the Board is vested with the power to issue such orders, instructions and directions to other Income-tax authorities as it may deem fit for the proper administration of this Act and under these powers the Board has been issuing various instructions for the sake of uniformity of interpretation of law on matters requiring interpretation under various sections of the Act including Section 273A. It is reiterated that except on matters requiring interpretation of law no instructions or clarifications have been issued by the Board to the Commissioners affecting the discretion of the Commissioner under section 273A.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 18 (Para 2.83)

"The system of permanent Account Number (PAN) was introduced in 1972 and placed on statutory footing in 1976 with a view of enabling speedy location and identification of assessees. PAN is allotted by the Deptt. on receipt of applica-

tions from assessees. It has been represented to the Committee that Permanent Account Numbers are not allotted by the department promptly. As in January, 1981 the Department had allotted PAN to all those who had applied for it by 15 November, 1979 and there could be a backlog of 13 months in the issue of PANs to the applicants. The Central Board admitted during evidence that "this area of work neglected in the past" due to severe shortage of manpower. The Committee would like that Permanent Account Numbers should be allotted to those who apply for them with a specified period say, 6 months, and the pendency beyond this period should be looked into by the Central Board."

Reply of the Ministry

Necessary instructions (No. 1414) dated 23-9-81 have been issued to the field officers, a copy of which is enclosed. (not printed)

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 19 (Para 2.84)

"At present PANs are allotted to these assessees only who apply for them. In the Committee's view it is very necessary that all the assessees, whether they apply or not should have PANs as soon as they are enrolled on the registers of the Department. The Committee would like the Central Board to take necessary steps in this direction."

Reply of the Ministry

Section 139A was inserted by the Taxation Laws Amendment Act, 1975 w.e.f. 1-4-76. Whereas sub-sections (1) and (2) of Section 139A cast a statutory obligation on certain categories of persons who apply to the Income-tax Officer for allotment of Permanent Account Number, sub-section (3) of that section states that the Income-tax Officer may also allot a Permanent Account Number to any other person by whom tax is payable. Instructions already exist which require the field officers to expeditiously issue Permanent Account Numbers. Instructions have again been issued to Commissioners of Income-tax on 23rd February, 1982 a copy of which is enclosed for information. (not printed)

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 31-3-82].

Recommendation Sl. No. 21 (Para 2.94)

"The Committee note that at present payments towards income tax are accepted at Reserve Bank of India, State Bank of India, Treasuries and two or three designated public sector banks. There are about 5,400 such receiving points all over the country and they are increasing every day. The need for authorising more public sector banks to receive tax payment had been felt in non-official circle and brought to Committee's notice. The Department feel that increasing the

number of banks authorised to receive payments would cause certain accounting problems and delays but as admitted by the Finance Secretary, these difficulties are not unsurmountable. The Committee feel that for the convenience of the assessees, the Department should not grudge increasing the number of public sector banks authorised to receive tax payments from three at present to atleast nine in the immediate future".

Reply of the Ministry

There are about 5400 receiving points all over India. These receiving points include branches of all the Public Sector banks. Three to four Public Sector Banks with all their branches have been selected in each State (depending *inter-alia* on their popularity in that State) and authorised to receive direct taxes payments. Since the bulk of taxpayers are located in the eight metropolitan cities of Calcutta, Bombay, Delhi, Madras, Hyderabad, Kanpur, Bangalore and Ahmedabad, there are 1449 branches of Public Sector Banks and Reserve Bank of India to cater to the needs of the taxpayers at these stations. It would, thus, be seen that the number of existing receiving points is not inadequate, and increasing their number is likely to lead to some administrative difficulties. The procedure followed is that each branch of the public sector bank is required to prepare a scroll indicating the details of the payments received. These scrolls (three copies) along with challans are forwarded to the link banks. These link banks, in turn, forward two copies of the scrolls with two copies of challans to RBI. If all the Public Sector Banks (now numbering 20) along with all their branches are followed to receive tax payments, the number of receiving points would increase manifold and this would result in tremendous increase in paper work. This would in turn require each public sector Bankwise account to be maintained in the office of the Commissioner of income-tax which would increase the number of registers to be maintained with consequential requirements of additional man-power. The multiplicity of scrolls (coming from all branches of all PSBs) would require, over a period, increased storage space. This may also result in delays as the area of control would increase.

Even so, in deference to the recommendation of the Committee Government have decided, as a first step, that the number of public sector banks and consequently the receiving points in each metropolitan towns *i.e.* Bombay, Calcutta, Madras, Delhi, Ahmedabad, Bangalore and Hyderabad should be increased in consultation with the CIT concerned. The effects of this extension would be reviewed after some time and on the basis of the review, further extension of the facility would be considered.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 22 (Para 2.97)

"The Committee take note of the understanding reached among the C&AG, Ministry of Finance and the Central Board of Direct Taxes that if an interpretation of Law given by C&AG is not acceptable to the Ministry/Central Board of Direct

Taxes and if the matter is taken to the Law Officers of the Government of India at appropriate level, the ruling given by the Law Officers would be acceptable to all of them".

Reply of the Ministry

The observation of the Estimates Committee has been circulated amongst all the officers and technical section of the Board *vide* this section's note of even number dated 4th June, 1981. This has also been brought to the notice of Audit *vide* our D.O. dated June 4, 1981.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 28 (Para 2.120)

"Accordnig to the present procedure a determined refund can at the request of assessee concerned, be adjusted against an admitted tax liability of the assessee. But the Department are not prepared to allow the assessee to adjust an unpaid but determined refund against a future liability as suggested by some non-officials. They would like the Department to examine the suggestion further to see if it can be accommodated in the scheme of things in any refund form"

Reply of the Ministry

Refunds due are at present adjusted against existing liabilities in accordance with section 245 of the Income-tax Act, 1961 after giving intimation to this effect to the assessee. Refunds can be withheld u/s 241 with the prior approval of Commissioner of Income-tax only if issue of refund can be considered to be prejudicial to revenue. Non-issue of refund due on the ground that it will be adjusted towards future liability may lead to avoidable payment of interest by the Government. Further ascertainment of the quantum of future liability may create problems by opening up cases of dispute. In view of this, it would not appear to be feasible to implement the recommendation of the Hon'ble Committee.

[Ministry of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82].

Recommendation Sl. No. 30 (Para No. 3.24 and 3.25)

"The Committee regret to note that departmental appellate authorities viz. AACs and CITs(A) and CITs., have in no year been able to keep pace with the work load with the result that the number of pending appeals have been increasing from year to year. The Ministry have admitted that targets were somewhat unrealistic but it is stated "somewhat challenging" targets were laid down to stimulate the appellate authorities to dispose of maximum number of cases. While the Committee welcome the Central Board's approach to lay down "challenging targets", it appears they have not succeeded in gearing up the system to enable the appellate

authorities to rise to the occasion anywhere. The Committee would like the Central Board to review the position and devise a more practical approach which should be challenging as well as realistic and create a result oriented system to ensure disposal of appellate work according to planned targets".

Reply of the Ministry

The Central Board of Direct Taxes has reviewed the monthly targets fixed for disposal of appeals by CITs(A) and AACs in the light of the performance in the latest completed financial year 1980-81. The monthly targets from Commissioner (Appeals) in metropolitan and other charges and for those dealing with Central Circle appeals are 60, 70 and 30 respectively. Weightage is given for disposal of appeals involving disputed demand of Rs. 1 lakh or more by CsIT(A) (other than those dealing exclusively with Central appeals) by treating disposal of one appeal to be equivalent to two. Such weightage applies only to appeals against orders of assessment and not those against penalties etc. For financial year 1980-81 chargewise statistics of disposal absolute/weighted is given :

	Disposal		Total	Weighted disposal	Average with reference to weighted disposal
	Non H.D.	H.D.			
Central .	1619	866	2485	2646	441
Metropolitan .	11303	3772	15575	19006	678
Others	14134	2987	17121	20546	685

2. The CsIT dealing with Central appeals have been able to meet the annual targets. Charge in metropolitan towns, namely, Bombay, Calcutta, Madras and Delhi have given weighted disposal of 678 as against annual target of 720 (60×12). For realistic appraisal, however, yearly target per CIT(A) should be worked out on the assumption that each incumbent had 11 months of working; one month on average having been availed of as earned leave. On that basis annual target, more realistic, should be 660 appeals per CIT(A). Actual performance in weighted number meets it. As for other charges also, yearly target on the basis of 11 months working should be 770 appeals. Actual performance in weighted number is 685 and is, therefore, less.

3. A careful appraisal of the performance does not justify any revision of the targets so fixed. The challenging element in the targets admitted by the Board before the Committee will be allowed to continue.

4. As for the performance of the AACs in financial year 1980-81, the following statistics is given :

Financial year	Working strength	Total disposal	Average yearly	Disposal per AAC per month
1975-76	164	245404	1496	125
1976-77	138	230129	1667	139
1977-78	181.5	239336	1322	110
1978-79	120	169559	1412	117
1979-80	105	155312	1480	123
1980-81	108	173563	1607	134

5. It shows that average disposal of 134 appeals per month marks an improvement from such average for the last few years excepting the average in 1976-77. In 1980-81 the sanctioned strength of 115 AACs was increased to 151 in November, 1980. Thereafter distribution of sanctioned strength between metropolitan and other charges was 60 and 91 respectively. The monthly target for AACs are 150 and 165 respectively. Average monthly target per AAC works out to 160 per month. On the basis of 11 months of working average yearly target, which is more realistic, would be 1760 appeals per AAC. The actual disposal of 1607 however falls short of yearly target of 1760. On careful review the targets taken on the basis of 11 months working do not call for any revision.

6. As far the Committee's remarks that the system should be geared up to enable the appellate authorities to rise to the occasion administrative supervision is exercised to review monthly performance. The Director of Inspection (I.T.) makes monthly review of the AACs work and the concerned Commissioners are advised to suitably instruct the A.A.Cs whose performance is not upto the mark.

The Board reviews monthly the work of Commissioners (Appeals), and they are told timley to fulfil the argets, wherever lacking and also to adhere to the priority in disposal of high demand appeals.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 32 (Para 3.27)

"The Central Board have informed the Committee that they scrupulously honour the independence of the Departmental Appellate authorities and that it is not correct to say that these authorities have a bias against assessees. The Committee, however, cannot help taking note of a general feeling of distrust among certain non-official circles in the objectivity and the independence of these authorities. The Committee would advise the Central Board to make every effort to dispel the suspicion of pro-revenue bias among assesees and restore their confidence in the fairness of departmental appellate Procedures."

Reply of the Ministry

The observations of the Committee contained in this para regarding honouring the independence of the first appellate authorities have been noted by the Central Board of Direct Taxes.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 33 (Para 3.28)

"The Committee would like the Central Board to ensure compliance of their very whole-some instructions in this regard to ensure that final decisions are given in fully heard appeal cases by Appellate Officers under transfer orders before they lay down charge."

Reply of the Ministry

The Central Board of Direct Taxes has reiterated the existing instructions which make it necessary for first appellate authorities to pass orders in the cases fully heard by them before handing over charge on receipt of transfer orders. Compliance to these instructions shall be ensured.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 36 (Para Nos. 4.4 & 4.5)

"The Committee wish it were possible to make a reasonable estimate of black money as such as estimate will no doubt enable the Government to formulate more appropriate policies and take more effective administrative measures to curb the generation and use of black money to save the economy from its pernicious role and minimise inflation in the country".

Reply of the Ministry

The recommendation has been noted and the feasibility of such an estimate as well as the most effective instrument therefor will be examined.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 38 (Para No. 4.11)

"The Committee would like the Central Board to review the working of the Central Information Branch and the assessing officers and take measures without any further delay to ensure that all relevant information is regularly and systematically collected and disseminated to assessing officers and made full use of by them. In this arrangement a specific responsibility should be cast on the supervisory officers to make sample checks and take corrective measures. The Committee would like to be apprised of the action taken in the matter."

Reply of the Ministry

Steps have already been taken by the Board for review of the working of the Central Information Branches. At the instance of the Board, Directorate of Organisation and Methods has undertaken a method study of the Central Information Branch attached to the C.I.T., Delhi and submitted their report. After the report is considered by the Board, guidelines are proposed to be issued in the matter of proper staffing of the Central Information Branches as well as improving their effectiveness in the matter of collection, collation and dissemination of information as well as effective utilisation of such information at the time of assessments.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 39 (Para Nos. 4.15 & 4.16)

“The Committee cannot but hold the Department fully responsible for not bringing this ‘Effective tool’ for curbing obstentatious expenditure to the notice of field staff and deplore the Department’s failure to discharge this elementary duty. The Committee would urge that full and judicious use of the powers under Section 133.A be made by field staff and monitored at appropriate level and information collected during surprise checks of lavish expenditure on parties etc. be used at the time of assessment.”

Reply of the Ministry

Necessary instructions have since been issued reiterating the existing instructions as contained in Board’s letter No. 414/35/80-IT(Inv) dated 26th September, 1980. A copy each of the existing instructions as well as instructions now issued are enclosed. (not printed).

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 40 (Para 4.19)

“The Committee regret to note that wholesome provision made for referring certain accounts for compulsory audit by auditors to be nominated by Commissioners, u/s 142(2A) of the Income-tax Act w.e.f. 1st April, 1976 has not been utilised to the extent to which it should have been utilised. During the last 3 years only 16 cases were referred for compulsory audit under this power. The Committee recommended that all preparatory work to give effect to this provision should be completed without any further delay and the power of the compulsory audit used in all cases where it is necessary to do so in the interest of revenue.”

Reply of the Ministry

Instructions have been issued to the Commissioners of Income-tax that they should impress upon their officers to recommend more casts for com-

compulsory audit u/s. 142(2A). A copy of the instruction No. 1415, dated 23-9-1981 is enclosed herewith (not printed).

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 42 (Paras 4.32 to 4.35)

"The Committee would like the Ministry to reconcile the two figures of the self-employed professionals given to them so as to have a clearer picture of the magnitude of self-employed professionals without which it will be difficult for them as well as for the Committee to have any idea about the extent of tax evasion among this class.

The Income-tax Department should obtain lists of professionals from the respective professional bodies like Bar Councils, Regional Institutes of Chartered Accountants, etc. Lists may also be collected by visits to various localities. All such lists should then be compared with the lists of Income-tax payers available with the Department to ascertain whether all of them are paying Income-tax or not. The Department, it is stated, have made some efforts in this direction from time to time. The Committee would, however, like that approach of this nature should become a regular and integral part of the survey operations which are carried out from year to year."

Reply of the Ministry

As regards the first part of the recommendation it is felt that it may not be possible to reconcile the two sets of figures since one set gives the aggregate number of professionals on the registers of some of the Commissioners as on 31-3-1976 and the other set indicates a number of assessments completed in respect of such professionals in the assessment year 77-78. The only conclusion which can be drawn on the basis of these sets is that while the number of professionals existing in the registers of the department are pretty high, a number of assessments completed in respect of them leaves much to be desired. Instructions have been issued to the Commissioners to expedite the pending assessments in respect of such professionals so as to make them upto date as early as possible.

2. As regards the second part of the recommendation, a copy of the Instructions since issued to the Commissioner is enclosed (not printed).

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 46 (Paras 4.30 and 4.40)

"The Committee are surprised to find that even though Section 44-AA of the Income-tax Act, as inserted by the Taxation Laws (Amendment) Act, 1975 provides for compulsory maintenance of accounts by certain categories of professionals and empowers the Board to specify the books of account and other documents that should be maintained by them to enable

the Income-tax Officer to compute their annual income, the Income-tax Department have not exercised this power and have not laid down the nature of books and records that they should maintain. The Department have tried to explain as to why this power has not been exercised so far but the Committee are not satisfied with the explanation.

Now when the Chokshi Committee have also made certain recommendations as to the nature of records which the professionals should maintain, the Committee would like the Central Board not to lose any more time to exercise the powers under Section 44-AA and specify the books of account, etc., which should be maintained by self-employment professionals with suitable provision to guard against hardship to new entrants in the profession."

Reply of the Ministry

1. Notification No. 4324/F. No. 133(102)76-TPL [S.O. 824(E)] issued on 21-11-1981 by the Central Board of Direct Taxes has inserted new Rule 6F in the Income-tax Rules, 1962 prescribing the books of account and other documents to be kept and maintained under Section 44AA(3) of the Income-tax Act, 1961 by certain categories of professionals, e.g. doctors, lawyers, engineers, architects, etc., the particulars to be contained therein, the place at which and the period for which they are to be kept and maintained. It has, also introduced a new Form No. 3C being a form of daily case register to be maintained by medical practitioners.

2. The above provisions have come into force on the date of their publication in the Official Gazette i.e. 21st November, 1981. A copy of the said notification is enclosed for reference. (not printed).

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 49 (Para 4.52)

"Seeing the work-norms how fixed for Survey Inspectors at 15 business premises a day and 5 new constructions in residential areas in big cities and 10 major premises and three new constructions per day in mofussil areas, the Committee cannot but conclude that the Inspectors' output was woefully low in 1979-80 when they surveyed only 2-3 premise per day on an average. The Committee are surprised to note that though the new norms were approved in March, 1980, instructions to this effect were issued by the Department only in January, 1981. The Committee feel that the Survey Operations have tremendous potential in bringing new assessees within the income-tax net. Raising daily output from 2-3 premises in 1979-80 to over 15 in big towns and 10 in mofussil areas in 1981 is a big jump upwards. What is to be seen is whether these new norms are actually observed by the Inspectors in

day-to-day working and how seriously they go about their work. The Committee would like the Department to monitor the performance of Inspectors individually and survey organisation as a whole and ensure that the results expected of them are forthcoming."

Reply of the Ministry

As noted by the Committee in para 4.52 of their report, instructions have been issued to the Commissioners fixing the norms of performance for Inspectors undertaking survey work. These instructions were issued by D.I. (IT) with the prior approval of the Board. In the last para of the instructions the Commissioners were made responsible for monitoring the performance of Inspectors to ensure that the same did not fall below the norms laid down. These instructions have been reiterated in Board's letter F.No. 411/15/81, dated the 27-6-81 in compliance with the recommendation of the Committee. A copy of the Board's letter dated 27-6-82 is enclosed. (not printed).

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 50 (Para 4.53)

"The Committee would like the Department to make a cost benefit study of survey organisation from year to year to have a clear picture of the success of their operations vis-a-vis expenditure incurred on them."

Reply of the Ministry

The Board have carefully considered the recommendations. While it may not be possible to carry out the Cost Benefit Study of all charges from year to year, the Board have decided to have a sample study, in respect of Bombay and Calcutta Charges for the financial year 1980-81, undertaken by Director, O & M Services of the Income-Tax Department.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 51 (Paras 4.67 and 4.68)

"The Committee take note of the procedural steps now taken by the Ministry to maintain statistics which will show the number of successful searches and concealment of income detected and gains to revenue in such searches. They would like that those statistics showing results of searches and seizures should be critically analysed with a view to making these operations more effective and efficient in the light of past experience. These statistics will also help the Department dispel the impression, if it is wrong, that searches are launched indiscriminately."

Reply of the Ministry

In regard to Sl. No. 51 we have already taken appropriate action by prescribing a revised quarterly statement. In addition, the Member (Inv.) has also addressed a letter to the DI (Inv.) separately to collect data regarding important search cases, so that a time bound programme can be launched for early disposal of such cases.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 52 (Para 4.69)

"The Committee note that at present no cost benefit analysis of the activities of Intelligence Wing of the Department is made. The Committee appreciate that the expenditure incurred on the Intelligence Wing should not be compared merely with the value of assets seized or gains to revenue made as a result of searches conducted by the Wing. Their mere existence has no doubt salutary affect of its own. The Committee however feel that still it would be better for the Department to make a cost benefit analysis of the Intelligence Wing's activities to be able to have a better appreciation of the role played by this Wing in detecting and curbing unaccounted assets in concrete terms. This would make these wings more serious and result-oriented in their activities."

Reply of the Ministry

In pursuance to the recommendations of the Committee the Director of O & M Services of the Department has been asked to conduct a cost benefit analysis of the Intelligence Wings.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 53 (Para 4.70 to 4.73)

"Making a case study of searches conducted in Delhi alone the Committee, are, surprised to note that out of the 1118 cases in which searches were conducted during the years 1975-76 to 1979-80 prosecutions have been launched only in 14 cases till December, 1980. In 9 cases the time taken to launch prosecutions was 1 to 2 years, 1 case 2 to 3 years and in 4 cases over 3 years. The Ministry have not explained as to whether in other cases (1004), investigations have not been completed even after a lapse of such a long time or whether evidence of concealment of income has not been found; in either case, the performance of the Department on this front is nothing to write home about. In fact this can give credence to the common impression that searches and seizures are generally on frivolous grounds.

Such unconscienable delay in completing investigations, launching prosecutions and bringing the defaulters to book defeats the

very purpose of searches and seizures and lowers the Department's prestige in public eye. The Committee would like the Ministry to take a serious view of the Income tax Department's incapacity to complete investigations in search cases expeditiously and take concrete action to bring the Prosecution Wing of the Department to a reasonable level of efficiency. The Committee would also like the Department to draw up a time bound programme to liquidate the pending cases and ensure that in future investigations in search cases are completed within a specified time failing which the matter should be examined by the Board for remedial action."

Reply of the Ministry

As recommended by the Committee necessary instructions have been issued to the Director of Inspection (Investigation), New Delhi for drawing up a time bound programme for disposal of pending search and seizure cases within a specified time in consultation with the Commissioners of Income-tax concerned. He has also been requested to review the progress of the disposal of such cases as well as in the cases pending investigation once in every quarter.

As regards the efficient working of the prosecution wing of the Department it is stated that :—

- (i) A new column has been introduced in penalty registers under the heading 'prosecution' for recording prosecution potentiality on completion of penalty proceedings to enable the Department to process the potential cases quickly.
- (ii) It has been decided that a broad based prosecution cell headed by a Director and consisting of an Under Secretary and complimentary staff be set up in the Central Board of Direct Taxes for controlling and streamlining the procedure for processing of prosecution cases expeditiously.
- (iii) Besides, certain posts of A.D.I. (INTELLIGENCE) have also been sanctioned for doing prosecution work exclusively.
- (iv) The organisation is also being strengthened by appointing prosecution counsels on the same pattern as is done by the Central Bureau of Investigation.
- (v) Steps are being taken to impress upon the field officers to make vigorous use of the provision of Section 276C, which provides for launching of prosecution for wilful attempt to evade tax as well as attempt to evade payment of taxes etc., in suitable cases, after the search and seizure operation, without waiting for completion of assessments etc. in such cases.
- (vi) The Direct Taxes Regional Training Institutes are also conducting courses for imparting training in all aspects of 'prosecution work'.

Recommendation Sl. No. 54 (Para 4.78)

"4.78. Under Section 269(C) of the Income tax Act, the competent authority can take cognizance of under-valuation of immovable property at the time of transfer and if the difference between the apparent consideration and fair market value is more than 15 per cent of the apparent consideration, he can initiate proceedings for acquisition of the property. This measure is aimed at curbing generation and circulation of black money. The Committee regret to note that adequate use has not been made of the powers vested in the Department under this section. In the three years 1977-78 to 1979-80 out of acquisition proceedings initiated in 11,461 cases, only in 134 cases the properties actually vested in the Government. This is indeed a poor show. The Department have tried to explain that the long drawn out procedure at the departmental level and the parties right to go in appeal to Appellate Tribunal, High Court and Supreme Court are the factors responsible for the poor results. In the Committee's opinion it is better to take cognizance of cases of under valuation of a higher order and bring major, though fewer defaulters to book in the shortest possible time than to waste time and energy on large number of petty cases without achieving commensurate results. If this is not done, the purpose of having the provisions of the statute book will be defeated and it would not have any deterrent effect as is claimed by the Department. The Committee would like the Government to review the position with a view to making the law more pragmatic and really deterrent."

Reply of the Ministry

With a view to take cognizance of cases of undervaluation of higher order and to bring major cases of acquisition of property to book and with a view to avoiding genuine hardship, fresh guide lines have been issued, with the approval of F.M. to the departmental officers advising them to restrict initiation of proceedings under chapter XXA of IT Act, 1961 only to properties of comparatively larger value or to cases where the value of the property is understated by a substantial amount.

The I.T. Act, 1961 has also since been amended by the I.T. (Amendment) Act, 1981 to bring within the scope of Chapter XXA of the Act.

- (i) transfers of flats owned through the medium of Cooperative Societies and Companies.
- (ii) agreement of sale followed by part performance as visualised in section 53A of the transfer of Property Act, 1981; and
- (iii) Long-term leases (viz. leases for a period of not less than 12 years).

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 55 (Para No. 5.10 and 5.11)

"The Committee feel that shortage of officer and staff should not be held out as a justification for huge arrears or inefficiency of the Department as the department are expected to keep the staff strength abreast of the expending workload. The Committee would like the Department to go into the manpower needs in the light of the studies already made and take conclusive measures early to provide adequate manpower at all levels to keep pace with the work. The Committee hope that in view of the likely reduction in the work of the Income-tax Department under the Budget proposals for 1981-82, the staff needs of the Department will be tailored to suit the new situations."

Reply of the Ministry

The Government have set up a separate office of the Director, Organisation & Management Services (Income-tax) for the specific purpose of conducting studies etc. That office has from time to time conducted studies for determining the requirements of officers and staff for different areas of work in the Department. Some proposals for sanction of additional posts for different items of work mooted on the basis of the work-study reports of the DOMS(IT) are under consideration of the Government.

As regards the Committee's observation about the likely reduction consequent to the amendment introduced to the Finance Act, 1981, on reviewing the position, it has been found that the likely reduction in the manpower attributable to the raising of the exemption limit will be more than offset by the additional manpower required to deal with additional workload likely to be generated by new cases and enlarged scope of sample scrutiny.

[Min. of Finance OM. No. 405/63/80-ITCC(Vol. V) dated 4-2-1982]

Recommendation Sl. No. 56 (Para 5.12)

"The Committee find that no direct study as such for reduction in paper work in the Income-tax Department has been done so far. This is an area in which there is great scope for improvement. A thorough streamlining of the system and procedures can bring about a much higher level of output and efficiency without any significant increase in manpower. The Committee would therefore like a comprehensive study of the organisation and methods to be undertaken with a view to achieving efficiency with economy."

Reply of the Ministry

The Income-tax Department performs a variety of functions in accordance with the provisions of Direct Tax Laws, rules and procedures prescribed by the Central Board of Direct Taxes. There are certain areas of work where both law and procedure have been simplified over the

past few years to reduce paper work. Minimise clerical labour and speed up output. The introduction of Summary Assessment Scheme, adoption of simplified procedures where assessments are completed under this scheme, discontinuance of Advice Notes in respect of refunds below Rs. 1000, modification of the provisions relating to collection of advance tax since 1-6-78, reduction in the number of statistical reports and statements and introduction of sampling procedure in processing of Direct Taxes statistics, could be cited as some of the areas where substantial simplification of the work procedures has already been achieved. There are, however, other areas such as simplification of collection and accounting procedures, rationalisation of the survey procedures, simplification of procedures to ensure prompt settlement of audit objections, simplification of procedures aimed at eliminating the issue of redundant tax recovery certificates etc. where substantial progress could be achieved. These matters need continuous review, and are engaging the constant attention of the Directorate of Organisation and Management Services set up in this Department since 1974 and steady progress is expected over the years.

[Min. of Finance OM. No. 405/63/80-ITCC(Vol V) dated 4-2-1982]

Recommendation Sl. No. 57 (Para 5.17)

"The Department have two cadres of Income-tax Officers—Group 'A' (Class I) Group 'B' (Class II) with provision for 50 per cent of the posts Group 'A' being filled by promotion from among group 'B' officers. The Ministry have admitted that there is a long history of dispute between the direct recruits and promotees to the Indian Income-tax Service (Group 'A'). Certain proposals are now stated to be under consideration to "heal the friction between the two sets of officers". It is unfortunate that the friction between two of the most important segments of officers of the Department has been continuing for a long time and the Department have not been able to do much in the matter. This is sure to have had an adverse effect on the departmental efficiency. The Committee would like the Department to spare an effort to find a solution to this knotty problem at the earliest and bring about cordial relations between the two sets of officers."

Reply of the Ministry

The cause of friction between the direct recruits and promotee officers in the grade of Income-tax Officer related to their seniority. This matter had been the subject of litigation over a long period and the issues were finally settled by the Supreme Court in 1974. While there is no friction after the issues were settled by the Supreme Court, the Federation of Income-tax Gazetted Services Associations which represents promotee officers had been pressing for improving the career prospects of promotee officers. In particular, the Federation have been representing for (i) larger promotions from Group 'B', to Group 'A', (ii) direct promotion to the Senior Scale in Group 'A' and (iii) grant of weightage on promotion. The Government have already taken steps to convert a certain number of Group 'B' posts to Group 'A' and to fill these posts exclusively by appointing senior Group 'B' officers. The other matters

viz. direct promotion from Group 'B' to the Senior Scale in Group 'A' and grant of weightage on promotion are under consideration in consultation with the Department of Personnel and Administrative Reforms.

[F. No. A-35015|68|81-Ad. VI F. No. 405|63|80-ITCC(Vol. V)]

Recommendation Sl. No. 58 (Para 5.18)

"5.18. The Committee are informed that Group 'B' officers have to wait for over 14 years before they can hope to get a chance to be promoted to Group 'A'. Stagnation for such a long time appears to be at the root of frustration among Group 'B' officers. The Committee feel that a system of promotion at an early stage of the careers of Group 'B' officers through a limited departmental competitive examination preferably through UPSC or otherwise will not only be good for the officers but also conducive to efficiency and harmony in the Department. The Committee would like the Department of think in this direction."

Reply of the Ministry

Under the existing rules of recruitment, the posts of ITOs (Group 'A') are filled by promotion and by direct recruitment in the ratio of 1:1. Officers who are considered for promotion from Group 'B' to Group 'A' against 50 per cent of the vacancies reserved for them are promoted on the basis of their record of service. The suggestion of the Committee that a system of promotion through a limited Departmental Competitive Examination through the Union Public Service Commission or otherwise be introduced for promotion of Group 'B' officers to Group 'A' is not likely to be acceptable to the Federation of Income-tax Gazetted services Associations. A similar suggestion to set apart half of the vacancies for promotion quota to be filled by examination was mooted by the Administrative Reforms Commission but did not find favour with the representatives of Group 'B' officers. The Federation are, therefore, not likely to agree to the adoption of this method for promotion to all the vacancies in the promotion quota. It may be mentioned that the Federation has separately suggested that their promotion quota be increased from 50 per cent to 66.2/3 per cent so that a larger number of Group 'B' officers could be promoted to Group 'A'. This proposal is also under consideration in consultation with the Department of Personnel and Administrative Reforms. In the event of any increase in promotion quota being agreed to, the suggestion whether increased quota could be set apart for filling on the basis of Limited Departmental Competitive Examination will be considered.

[Min. of Finance OM. No. 405|63|80-ITCC(Vol V) dated 4-2-1982]

Recommendation Sl. No. 61 (Para 5.29)

"5.29. The Committee would also like the Department to meet the transport needs of the Income-tax Officials and provide adequate number of staff cars to help formations by pooling arrangement or otherwise, to enable them to move about in the performance of their official functions without difficulty. The Department should clearly tell their officials not to use the assessee's cars for official or personal work."

Reply of the Ministry

The position in regard to the requirements of Staff Cars for Departmental use is reviewed from time to time. Augmentation of the existing fleet strength is under consideration. Regarding use of assessee's cars by officials, the existing instructions in this regard have been reiterated. The Heads of Department have been advised to instruct all the officials not to use assessee's cars for official as well as their personal work.

[Min. of Finance OM. No. 405/63/80-ITCC(Vol. V) dt. 4-2-82]

Recommendations Sl. No. 62, 63 (Paras 5.36, 5.37, 5.38)

"There is a general feeling of dissatisfaction among assessees with the working of Public Relation set-up in Income-tax Offices who it is reported, are not fully equipped to render, nor render, the required assistance to the tax payers in filing returns, getting refunds etc. The non-officials have also represented that even the minimum facilities like sitting accommodation, drinking water, etc. are not afforded to the assessees when they visit the Income-tax Offices. Reports of lack of proper behaviour have also reached the Committee. The Ministry have stated that the PROs are qualified ITOs and are expected to keep themselves abreast of the latest changes in the laws/rules. A study Group of the Department has recently studied the functioning of the Public Relations set up and made several recommendations for improving its efficiency. Most of the study group's recommendations have been accepted by the Government and are in various stages for implementation.

The Committee would like that detailed instructions on the nature and manner of rendering assistance to the assessee should be issued by the Department for the guidance of Public Relations units and supervisory officers advised to conduct periodical inspection of the working of these units to ensure that these instructions are carried out by them. Complaints of improper behaviour or indifference to the assessee's problems should be taken serious note of.

The Committee would expect the Department to provide adequate accommodation and seating arrangement and reasonable level of amenities for the assessees in the Public Relations units and the Income-tax offices. These are the basic facilities which every assessee visiting an Income-tax office expects and deserves. The head of the office should be held personally accountable for any lapse on this front. Since the Chairman, Central Board is himself aware of the unpopularity of the Public Relations work among Income-tax Officers, it is incumbent on the Department to see how they can make the Public Relations job more

attractive and rewarding so that efficient officers do not grudge a posting there. It should be recommended that this is probably the first and the most frequently approached point of contact between the assessees and the Department and, as such, really, knowledgeable public-spirited and alert officers should be posted to these units not only to project a good image of the Department but also to assist the assessees in their problems with the various wings of the organisation. Needless to say, sets of latest news, rules, forms etc. should be available in the Public Relations Units and made available to the assessees on demand without hesitation.

Reply of the Ministry

A copy of D.O. letter No. PR 6(2)|RSP|81-82 dated 22-10-81 from Director of Inspection (RS and P) to all Commissioners of Income-tax is enclosed, together with extracts from the Blue print referred to therein. (Appendix I). It will be seen that these deal with most of the recommendations made by the Committee in paragraphs 5.36 to 5.39. Committee's observation regarding postings of the officers to these units has been noted.

[Min. of Finance OM. No. 405|63|80-ITCC (Vol. V) Dated 31-3-82]

Recommendation Sl. No. 67 and 68 (Para 5.61 and 5.62)

5.61. A Grievance Cell was set up in 1979 under the personal supervision of the Chairman, Central Board to deal with complaints from assessees. Similar Grievance Cells had also been set up in 60 Commissioners charges upto December 1980. The Committee would expect similar cells to be set up in the remaining charges early.

5.62. The Department received 2352 complaints during the years 1977-78 to 1979-80 out of which 1331 complaints were disposed of by February 1981. Of the remaining 1021 complaints still under investigation 353 are more than 3 years old, 258 two to three years old and 383 one to two years old. The heavy pendency of complaints is as admitted by the Department, "disconcerting". The Committee cannot over emphasise the importance of expeditious investigation of complaints and prompt follow-up action, failing which the assessees are likely to lose faith in the grievance procedure and the procedure would also lose the deterrent effect it is otherwise expected to have."

Reply of the Ministry

Grievances Cells have been set up in all the Commissioners' Charges.

2. As far as the Grievance Cell functioning in the Central Board of Direct Taxes is concerned, out of 1675 complaints received in this

Cell since its inception till end of February, 1982, 1481 cases have been finally disposed of which yields 88.4 per cent disposal of the complaints and the complaints appraised individually. In several cases, the complaints have thanked the authorities for the personal interest taken and the prompt action taken by the Department in redressing the grievances.

3. Further, in the CBDT, complaints received in the Cell are not only promptly disposed of, but the individual complaints are also informed of the action taken and the manner of redressal of the grievance. No complaint is treated as finally disposed of until such a complete reply goes to the complaints. To ensure that the Commissioners also adopt a similar procedure, each of the Commissioners of Income-tax has been asked to indicate the number of grievances received by him relating to his charge disposed of by him every month in the monthly D.O. letter sent by him to the Chairman, Central Board of Direct Taxes. The receipt of these reports are not only watched are also reviewed and commented upon by the Chairman.

[Min. of Finance OM. No. 405/63/80-ITCC (Vol. V) Dated 31-3-82]

Recommendation Sl. No. 69(Para 5.63)

"Now when the need for setting up an independent machinery for vigilance work has after all been realised, the Committee would expect the Department to reinforce the Directorate of Vigilance with an independent investigation machinery to deal with vigilance work effectively and efficiently at the headquarters as well as field levels at the earliest".

Reply of the Ministry

The position in regard to strengthening of the vigilance machinery in the Department has been reviewed. A proposal for creation of additional posts in the cadres of officers and staff is under consideration of the Government.

[Min. of Finance OM. No. 405/63/80-ITCC(Vol. V) dt. 4-2-82]

Recommendation Sl. No. 71 (Para 5.64)

"It has been brought to the notice of the Committee that in many cases assessee do not make complaints against Departmental authorities for fear of reprisals by the Officers concerned. The Ministry have explained how PROs, Assistant Commissioners and Commissioners make themselves accessible to assessee and redress their complaints. In addition to what is being done at present, the Committee would like the Commissioners of Income-tax to meet assessee and representative bodies individually or in groups without having junior officers in attendance who may be directly involved with the assessment work against whom the assessee may be

having complaints. Unless such exclusive meetings are held in confidence, it is difficult to expect the assessees to open out and bring their complaints to the notice of Commissioners frankly."

Reply of the Ministry

Whenever the Commissioners meet representative bodies in groups, the department officer's are not normally present unless they are invited by the representative bodies themselves. All Commissioners have also set apart specific time each day for meeting any tax payer without any prior appointment.

[Min. of Finance OM. No. 405/63/80-ITCC (Vol. V) Dated 31-3-82]

Recommendation Sl. No. 74 (Para 5.82)

"The Committee are surprised to learn that though a procedure of annual physical verification of files in vogue in the Department, the information about missing files is not received at the centre and the headquarters are not in a position to say how many files are found missing in the annual physical verifications in the various charges. In the Committee's opinion feed back regarding the number of missing files should be available with the headquarters after annual physical verification to enable them to take remedial measures in the matters from time to time."

Reply of the Ministry

Instructions have since been issued to all the Commissioners for furnishing feed back information regarding missing files in the prescribed proforma. This information is due in the Directorate of O.M. Services (Income-tax) on 15th July and 15th October every year. A copy of the instructions is enclosed. (not printed).

Min. of Finance OM No. 405/63/80-ITCC(Vol. V) dt. 4-2-82

Recommendation Sl. No. 75 (Para 5.83)

"5.83. The Committee are also informed that the record space in the Income tax Offices is not adequate. The Committee expect the Department to study the extent of inadequacy of space for records and see what can be done to remedy the situation."

Reply of the Ministry

The study on the space requirements of the Income-tax Department has been taken up in right earnest. The study will inter-alia cover the require-

ments for records (both current and old). The study is aimed at ascertaining :—

- (i) The extent of office accommodation occupied by the field offices for various purposes.
- (ii) Requirements on the basis of existing scales of office accommodation; and
- (iii) The adequacy of the existing scales and need for evolving new scales particularly for special requirements of this Department.

Efforts will be made to complete the study early.

Min. of Finance OM. No. 405|63|80-ITCC(Vol. V) dt. 4-2-82

Recommendation Sl. No. 76 (Para 5.84)

“5.84. The Committee regret to note that even though Permanent Account Number (PAN) system was introduced as far back as 1971, the Department have, even after a lapse of ten years not been able to switch over from the old GIR system to the new PAN system in the matter of keeping records. Continuance of old and new systems side by side cannot but create confusion in day to day reference and the sooner the switch over to PAN system is made, the better it would be for the Department.”

Reply of the Ministry

Necessary instructions No. 1414 dated 23-9-81 have been issued, to the field officers a copy of which is enclosed. (not printed)

[Min. of Finance OM. No. 405|63|80-ITCC(Vol. V) dt. 4-2-82]

Recommendation Sl. No. 77 (Para 5.90 & 5.91)

“The Committee regret to note that the Central Direct Taxes Advisory Committee at the Centre and Regional Direct Taxes Advisory Committee at the headquarters of various Commissioners of Income-tax which were constituted to provide an important forum for mutual exchange of ideas and experiences on tax administration between the assessees and the Department, have not been meeting regularly in the recent past. During the last 4 years (1977-80) the Central Committee met only once.”

“Regional Advisory Committee at six places (Hyderabad, Jaipur, Madras, Patiala, Rohtak and West Bengal) did not meet even once during the last 3 years (1977-79); at three places (Bhubaneswar, Bhopal and Shillong), these met only once during this period, (at Bhubaneswar only one out of seven members was present). From this, the Committee cannot but conclude that the Department and the Commissioners of Income-tax do not have adequate appreciation of the usefulness of this forum and have not taken adequate interest in holding their meetings. The Committee

take note of the measures now contemplated by the Department to activise these Committees and hope that the meeting of the Central and Regional Committees would hereafter be held twice a year to discuss administrative of procedural and policy matters concerning direct taxes and follow up action in the light of their discussions".

Reply of the Ministry

As regards the observation of the Estimates Committee in para 5.90, a meeting of the Central Direct Taxes Advisory Committee was held after its reconstitution on 27th July, 1981. Government would also make every effort to ensure that the Central Direct Taxes Advisory Committee meets regularly twice a year.

As regards recommendation in Para 5.91, the Regional Direct Taxes Advisory Committees are in the process of reconstitution and in some of the charges reconstitution has been finalised. However, since the term of the Committee is for a period of 2 years or till it is reconstituted, whichever is later, the previous Regional Direct Taxes Advisory Committees continue to function at the charges of various Commissioners of Income-tax. Necessary instructions have been issued (Letter F. No. 155(131)81-TPL dated 9th November, 1981) to the Commissioners of Income-tax to hold the meetings of the Committees bi-annually in the months of June and December and it has been impressed upon them that this schedule should be strictly adhered to. A copy of the instruction is enclosed. (not printed)

[Min. of Finance OM. No. 405/63/80-ITCC (Vol. V) Dated 31-3-82]

CHAPTER III

RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF GOVERNMENT'S REPLIES

Recommendation Sl. Nos. 16 & 17 (Paras 2.77 & 2.78)

"The Committee cannot but take note of the representations made by non-officials that valuation certificates obtained by assessee from Registered Valuers are not accepted by the Department though the latter have derived the charge. The Department, when asked to furnish date to enable the Committee to judge for themselves the correct positions, could not do so. The Committee would like the Department to make sample study of the date of valuation certificates in Delhi, Bombay, Calcutta and Madras charges and apprise them of the results within six months.

The Committee feel that the present system of requiring valuation certificates from Registered valuers should be reviewed if the Department find, in the light of the sample study referred to above, that by and large these certificates are not reliable."

Reply of the Ministry

As desired by the Committee, a sample study of the fate of Valuation certificates in Delhi, Bombay, Calcutta and Madras charges has been made. As per the same out of 1152 cases in which certificates were obtained by assessee from Registered Valuers, in 1037 cases the valuation made by Registered valuers were accepted by the assessing Officers. In view of this position, the necessity of reviewing the present system of requiring valuation certificates from Registered valuers does not seem to arise.

[Min. of Finance OM. No. 405|63|80-ITCC(Vol V) dated 4-2-1982]

CHAPTER IV

RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation Sl. No. 23 (Para No. 2.115)

"Reports have reached the Committee from various quarters that generally speaking, assessees neither get refunds promptly nor received interest on delayed refunds to which they are entitled under the law and they do not complain either for fear of reprisals. On making a sample study, the Committee learnt that, in Bombay and Delhi Charges, no interest was paid under Section 243 during the last 3 years nor, during the last 2 years and disciplinary action which is required to be taken in cases of delay was taken in any case. The Committee wish more data are available to enable them to find out whether Bombay and Delhi Charges were so efficient as not to delay refund even in a single case during the last 3 years or that these charges could manage to avoid paying due interest on delayed refunds somehow or other. The Finance Secretary, who was forthright took note of the Committee's apprehension "that, though Section 243 is there on the Statute book, it is virtually a dead letter because no assessee claims, nor does any Income-tax Officer grant the interest on delayed payment." He assured the Committee to take action in the matter. The Committee would like the Ministry to enquire into the phenomenon of non-payments of the interest under all Commissioners charges together with the steps the Ministry propose to take to set things right."

Reply of the Ministry

Interest under section 243 is payable in two circumstances. Firstly in cases where the income is only from interest on securities and dividends, interest is payable if the refund has not been granted within 3 months from the end of the month in which the claim for refund is made. Secondly in all other cases interest is payable if the refund is not granted within 3 months from the end of the month in which the refund is determined.

2. During the financial year 1979-80, interest u/s 243 has been paid of Rs. 1,04,000 in 2,888 cases all over India.

3. Administrative instructions have been issued from time to time to ensure that no delay occurs in issue of refund and wherever there is delay interest must be paid. A copy of instructions No. 653 dated 21-1-74 is enclosed which provides for surprise inspections also in this behalf. A copy of instructions No. 834 dated 15th May, 1975 is also enclosed which specifically says that in a case where the delay has occurred due to unavoidable circumstances or even due to lapse on the part of the department, interest

must be paid and the I.T.O. has been made personally responsible for ensuring that no delay occurs in issue of refund; if there is any delay interest must be paid. The supervisory authorities were directed to see this particularly during the course of their normal as well as surprise inspections. Advisory warning to be more careful in future was to be issued in the first instance of such failure followed by a character-roll entry if the officers concerned persist in delayed issue of refunds and in not paying the interest on delayed refunds.

4. The detailed instructions reiterating the earlier instructions were also issued on 6th April, 1978; a copy of which is enclosed. (not printed)

5. DOMS have been asked to make a study of few circles of Delhi and on receipt of their report, further action will be taken to tighten the administrative machinery.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Comments of the Committee

Please see para 1.11—Chapter I

Recommendation Sl. No. 24 (Para 2.116)

"The Committee find that, during 1978-79, a sum of over Rs. 23 lakhs were paid as interest on delayed refunds under section 244 throughout the country. What further evidence is needed to establish that refund claims have infact been delayed by certain officers causing not heavy loss to the exchequer but also harassment to assessee. The Committee urge that a thorough enquiry into cases of delays in settlement of refunds be held with a view to analysing the reasons for delay and taking effective measures to remedy the situation. They would also like to know whether the Department Instructions requiring disciplinary action being taken in cases of delay were followed in all cases of delay and, if not, why not?"

Reply of the Ministry

The figure of interest paid u/s 244 includes payment of interest u/s 244(1A) as well. Under Section 244(1A) interest is paid on the refund arising as a result of appellate/revisionary orders from the date on which the amount was paid till the date of issue of refund excluding one month from the date of order. Under this section interest is required to be paid statutorily even if there is no delay in issue of refund and therefore it cannot be said that the total interest of Rs. 23 lakhs paid was on account of delay in refund only. Administrative instructions have been issued time and again to promptly give effect to appellate orders and it is kept under watch also through maintenance of appeal register. In Circular No. 209 dated 11-1-77 (copy enclosed), it has been provided that the appellate orders should be given effect with extraordinary promptness ensuring that in any case they are given effect to within a month of the date of the order. Our Instructions dated 6-4-78 regarding initiation of disciplinary action stands modified by Board's letter dated 9th October, 1979 to the effect that if there is a lapse in the matter and this lapse is not properly explained, an adverse entry shall be recorded in the CCR of the dealing official. If an

official gets three adverse entries any further lapse will entail disciplinary action and levy of suitable penalty. A copy of letter dated 9-10-79 is enclosed (not printed). A study is already being conducted in pursuance of the recommendations of the Estimates Committee by the DOMS, New Delhi, in respect of few circles in Delhi and on the basis of the study report further action, as deemed fit, would be taken.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Comments of the Committee

Please see para 1.11—Chapter I.

Recommendation Sl. No. 31 (Para 3.26)

"An analysis of the pending appeals/ revision petitions shows that about 2 years workload is pending with AACs, 15 months work load (revision petitions only) is lying accumulated with CsIT and over 1 year's work is pending with Income-tax Appellate Tribunal. For disposing of arrears with AACs, the Central Board have evolved a norm that at the end of the next four years, not more than six months work load should be pending with each AAC. The Committee feel that this norm should also apply to CsIT, CsIT(A) and Income-tax Appellate Tribunal. Their Administrative sets up and appellate procedures should be so reorganised that each one of these appellate authorities should be able to deduce the pendency to six months work load at the earliest. Needless to say this would require constant monitoring and periodical review of achievements, which the Committee hope the Central Board would do conscientiously."

Reply of the Ministry

The Committee have expressed the desire that the Central Board of Direct Taxes should evolve norms so as to ensure that the pendency with the CsIT(A) and the Income-tax Appellate Tribunal as well as the CsIT (for revision petitions) should be reduced to six months work load at the earliest. In this connection it may be pointed out that norms for disposal with regard to pendency with CsIT(A) and CsIT (for revision petitions) already exist. Under Central Action Plan, for the year, disposal targets for revision petitions are fixed. Compliance to the targets is regularly watched by the Board. Similarly, disposal targets fixed for CsIT(A) are reviewed monthly to oversee their performance vis-a-vis the targets fixed. As for the Income-tax Appellate Tribunal, the Board has no administrative control over the same. The observations of the Committee with regard to the Income-tax Appellate Tribunal have been communicated to the Ministry of Law, Justice and Company Affairs for necessary action.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Comments of the Committee

Please see para 1.14—Chapter I.

Recommendation Sl. No. 44 (Para 4.37)

"The Committee feel that there is great merit in the suggestion that all new-comers to the profession (newly registered or transferred from

elsewhere) should be required to notify their names and addresses to the Income-tax Department should immediately advise them to maintain accounts of income and savings and other relevant records right from the beginning and explain to them under what conditions they will become liable to pay income-tax. At periodical intervals, the Department should ask them to declare that their annual income does not exceed taxable limit."

Reply of the Ministry

Having regard to the fact that all professionals have to get their names registered in the appropriate professional institutions, the Board is of the view that the existing practice of periodically obtaining the list of professionals from such institutions may continue. The rules prescribing the books of account and other documents required to be kept by persons carrying on legal, medical, engineering or architectural profession or the professions of accountancy, technical consultancy, interior decoration, authorised representative or film artiste are being framed. Every professional liable to be assessed to tax will be required to submit the return of income *suo moto* under the Income Tax Act and failure to do so may entail not only penalty but also prosecution. The Board, therefore, does not consider it necessary to request these professionals to declare periodically that their annual income does not exceed taxable limits.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Comments of the Committee

Please see para 1.17—Chapter I

Recommendation Sl. No. 64 (Para 5.39)

"The Committee would suggest that feedback on the reactions of assessees with the working of public relations unit at each place be collected by the Department with a view to knowing and removing shortcomings. This should be done on a regular and systematic basis."

Reply of the Ministry

A copy of D.O. letter No. PR. 6(2)|RSP|81-82 dated 22-10-81 from Director of Inspection (RS&P) to all Commissioners of Income-tax is enclosed, together with extracts from the Blue print (Appendix 1) referred to therein. It will be seen that these deal with most of the recommendations made by the Committee in paragraphs 5.36 to 5.39. Committee's observation regarding postings of the officers to these units has been noted.

[Min. of Finance O.M No 405/63/80-ITCC (Vol. V) dated 31-3-1982]

Comments of the Committee

Please see para 1.21—Chapter I

CHAPTER V

RECOMMENDATIONS IN RESPECT OF WHICH FINAL REPLIES OF GOVERNMENT ARE AWAITED

Recommendation Sl. No. 1 (Para 1.6)

The Committee feel that if their recommendations and conclusions are taken seriously and implemented in letter and spirit, the tax administration would be streamlined, difficulties of assessees would be considerably removed, tax evasion curbed and the tax revenues would go up.

Action taken by Government

No reply has been received from the Min. of Finance.

Recommendation Sl. No. 5 (Para No. 2.14)

"The Committee would like the Ministry to ensure that return forms are easily available in all towns and supplied to all those who ask for them. In order to avoid misuse and wastage the forms may be priced and sold through post offices, banks and other such organisations so as to bring them within the easy reach of assessee in cities or mofussil towns."

Reply of the Ministry

At present return forms are made available to the assessees free of cost at all the Income-tax Offices in the country. The question of pricing of return forms has been considered more than once by the Board and was not found acceptable as apart from being a public relations gesture, it would further also lead to accounting difficulties. Besides this, return forms are also being made available through 63 selected post offices all over the country and the postal authorities charge at present 30 paise per form as handling charges from the assessees. The scheme regarding distribution of return forms through post offices did not receive encouraging response from the assessees as the bulk of the forms remained unlifted from the post offices. Therefore, a review of this scheme is being undertaken.

In pursuance of the recommendations of the Estimates Committee, the feasibility of distribution of returned forms through nationalised banks is being examined, in consultation with the Department of Economic Affairs (Banking Division).

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 20 (Para No. 2.89)

"It has been suggested by non-official organisations, that pass books with permanent account numbers should be supplied to the assessee and all payments of tax dues should be recorded therein. This system, it was stated, would help assessee to overcome the difficulty of getting credit for payment in the event of late receipt of challans from the Banks. The Committee find that a similar suggestion has also been made by Chokshi Committee. According to the Ministry the introduction of ledgered accounting system is necessary for issuing pass books. This system was tried by the Department in a limited way but had failed. In any case, introduction of ledger system would require a large number of staff which the Department could not have in the foreseeable future".

"While the Committee appreciate the difficulties of the Department they feel that the difficulties of the assessee are also real and need a sympathetic consideration. The Committee would suggest that the question of introduction of pass books should be studied by the Department with an open mind in conjunction with the non-departmental experts with a view to finding out whether and if so, in what form the system of pass book could be adopted without adding much to the administrative cost".

Reply of the Ministry

Similar recommendation made by the Chokshi Committee has been referred to the Economic Administration Reforms Committee and further action would be taken on receipt of the recommendations of the Commission.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. Nos. 25 & 26 (Paras 2.117 & 2.118)

"The Committee feel that the root cause of the said state of affairs in refund cases appears to be the lack of a proper information system capable of bringing delays in settlement of refund claims to the notice of supervisory officers periodically as a matter of course. What is needed is a more methodical system of work which may *inter alia*, provide for a separate account of receipt and disposal of refund cases with a built in procedure to enable the senior officers to monitor the progress at regular intervals. The Committee would like the Department to evolve a suitable system in this regard and apprise the Committee.

The system should provide for a distinctive colour or marking for refund claims to prevent the refund claims from getting mixed up with other papers."

Reply of the Ministry

The recommendation is acceptable in principle and the Directorate of Organisation and Management Services, New Delhi has been asked to evolve suitable method for introduction in the beginning of the next financial year.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 27 (Para 2.119)

“Even though instructions are stated to have been issued by the Board that refund orders should accompany the assessment orders or orders giving rise to refunds, from the complaints reaching the Committee, it appears that these instructions too are not being observed by all the Income-tax Officers. Similar complaints have been received about non issue of advice to banks simultaneously with the issue of refund vouchers in cases where bank advice is required to be issued. It is doubtful whether, even in these cases, disciplinary action has been taken against any officer for delays in issue of refund vouchers even though such an action is required to be taken under administrative instructions. The Committee would like that case studies of this aspect of the working of a few charges on a selective basis be also made and system of working made fool proof in the light of the results of the studies to avoid any complaints on this account. The committee would like to be informed of the action taken in the matter.”

Reply of the Ministry

DOMS, New Delhi has been asked to conduct study of a few circles in Delhi for evolving a fool proof system in the light of the result of the study to avoid any complaints on this account. On receipt of the study report further action will be taken.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 29 (Paras 2.128 & 2.129)

“The Committee have gone into matter. They are of the opinion that film artistes and other categories of professionals such as authors, playwrights, musicians, sportsmen (including athletes) who have a relatively short span of professional life need some relief for their lean and old days. The cases of once highly successful film artistes, sportsmen, authors, etc. languishing in old days are too well-known to require recounting here. The Committee feel that the general question of adequacy of existing tax concessions to such professionals having a short professional life and uncertain future, including the gains to revenue and loss to professionals as result of withdrawal of

concessions under Wealth-tax Act in 1974, should be passionately reviewed with a view to rationalising the provision".

Reply of the Ministry

The matter is under examination.

[Min. of Finance O.M No 405/63/80-ITCC (Vol. V) dated 31-3-1982]

Recommendation Sl. No. 34 (Paras 3.29 and 3.31)

"3.29 — 31. In the context of long delays in litigation under direct tax laws, the Chokshi Committee's proposals for establishment of a Central Tax Court with all India jurisdiction is worthy of serious consideration. The establishment of more benches of High Courts would not be able to provide a final solution to the problem in as much as parties cannot be barred from going to Supreme Court in appeal against the High Courts nor can conflicting rulings be avoided.

In the Committee's opinion if time-consuming process of litigation in courts of various levels has to be avoided and Government dues collected without avoidable delay, there is no escape from setting up a Central Tax Court with exclusive jurisdiction and final say in tax matters. The Committee are aware of the constitutional difficulties but these are not insurmountable. The Committee would like the Government to take an early decision in the matter."

Reply of the Ministry

The matter is under examination in consultation with the Ministry of Law.

[Min. of Finance O.M No 405/63/80-ITCC (Vol. V) dated 31-3-1982]

Recommendation No. 35 (Paras 3.38, 3.39)

The Settlement Commission was set up by the Government with effect from 1st April, 1976 to settle certain matters falling under Income-tax Act and Wealth-tax Act in accordance with the procedure prescribed therein. As on 31st March, 1980, 1407 applications were pending with the Commission, out of which 610 were pending for 1-2 years and 282 for 2 to 3 years and 98 for 3 to 5 years. At the present pace of disposal of about 270 cases per year, the Commission is likely to take over 5 years to clear the arrears alone. And if the fresh intake of 430 to 820 applications every year is also taken into account the position would be worse.

The Committee regret to note that even though it was apparently right from the beginning (1976) that the Commission's capacity to dispose of cases was only a fraction of the intake, the Ministry took no tangible action to

strengthen the Commission. The Committee would like that the consideration of various suggestions before the Government like increasing the strength and benches of the Commission and investing Commissioners of Income-tax with powers to settle cases without reference to Commission should be expedited and necessary steps taken without delay to strengthen the system to enable it to cope with the work. The Committee would recommend that in the case of the Settlement Commission also the norm of reducing the pendency to not more than six months work load by the end of the next four years should be adopted and structural and procedural re-organisation of the Commission brought about with this aim in view.

Action taken by the Government

No reply has been received from the Ministry of Finance.

Recommendation Sl. No. 37 (Para 4.10)

During Survey Operation to identify new assessees, the Income-tax Department collect information from a number of sources like the Registrar of Companies, imports and exports offices, luxury hotels, Sales Tax Department, Municipal authorities etc., and pass it on to assessing officers for further action. The Committee find that there is no provision which makes it mandatory for the various authorities to furnish the desired information to the Income-tax Department. The Central Board feel it would be helpful if such a statutory provision is made. Now when the need for a statutory provision in this regard has been accepted, the Committee would expect the Government to initiate action to make a suitable provision in the Income-tax Act as early as possible.

Reply of the Ministry

The Question of amendment of the law is being examined in consultation with the Ministry of Law.

[Min. of Finance O.M No 405/63/80-JTCC (Vol. V) dated 31-3-1982]

Recommendation Sl. No. 41 (Paras 4.23—4.25)

The system of Permanent Account Number was introduced with a view to identifying the assessees and the transactions with which they are associated. Though this provision was introduced as far back as 1972 and gave powers to the Central Board [Section 139A(a) and (b)] to specify the transactions in which PANs will be quoted by assessees, the Committee find that the Central Board have not so far specified the categories of transactions in relation to which PANs have to be quoted by them compulsorily. The Central Board and the Ministry acknowledge the usefulness of compulsory mentioning of PANs in high value transactions but because of certain administrative implications, they are afraid of introducing the new procedure. The matter is stated to be still under the consideration of the Board.

The Committee have gone into the administrative implications apprehended by the Central Board. They are constrained to observe that the Board are unnecessarily magnifying the difficulties out of proportion. It is a wholesome provision which will go a long way in helping the Department to identify persons who enter into high value transactions but are not on the registers of the Income Tax Department. Persons giving wrong PANs will attract the presumption that they have done something wrong and they have something to hide, thus providing sufficient evidence to the Department to proceed further in the matter.

The Committee strongly feel that the Central Board should not vacillate any longer, and invoke the powers vested in them under section 139A(5) & (6) and specify the transactions in which it will be compulsory for the persons to quote their Permanent Account Numbers. Simultaneously, the Board should make adequate administrative arrangements, to collect information about and to make random checking of such transactions with a view to detecting cases of tax evasion. Needless to say, the Board will have to make arrangements for allotment of PANs at short notice to new parties, who may be entering into high value transactions for the first time before being registered as income tax assessees.

Reply of the Ministry

The recommendation of the Committee is under active consideration of the Central Board of Direct Taxes.

[Min. of Finance F. No. 414/75/80-IT (Inv) dated 31-3-1982]

Recommendation No. 43 (Para 4.36)

"In some of the metropolitan cities, the Department have exclusive Income-tax Officers for particular categories of professionals like doctors, lawyers etc. The Committee would suggest that this practice may be extended to all big cities and an I.T.C. dealing with a certain category of professional in a particular area should have the jurisdiction to deal with all these persons, institutions and enterprises which might broadly be connected with that particular category of professionals. For example, all the doctors, private clinics, nursing homes and medical shops in an area should be assessed by the same Income-tax officer."

Reply of the Ministry

The suggestion that the cases of persons, institutions and enterprises which might broadly be connected with a particular category of professionals may be dealt with by the Income-tax officer dealing with that category of professionals, is not considered practically feasible under the

prevailing circumstances. However, the feasibility of extending the scheme of concentrating the cases of professionals with one or more Income-tax Officers to a few more cities is being examined.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 31-3-1982]

Recommendation Sl. No. 45 (Para 4.38)

The Committee also feel that the companies and institutions which employ the services of professionals like doctors, lawyers, etc. should be required to deduct tax from the fees paid to these professionals when the fees payable in any year exceed a certain limit, say Rs. 23,000/-.

Reply of the Ministry

The question of amendment of the law is being examined in consultation with the Ministry of Law.

[Min. of Finance O.M No 405/63/80-ITCC (Vol. V) dated 31-3-1982]

Recommendation Sl. No. 47 (Para 4.41)

Need for prescribing differential rates of income-tax for businessmen, self-employed professionals and salaried class has been expressed before the Committee by officials and non-officials alike. This approach, it was stated, will curb the tendency among professionals and salaried class also having income from other sources to evade tax. The Committee feel that it is not quite rational to place the same level of tax burden on professionals/salaried class with limited incomes and fixed span of active life as that placed on business class. The Committee would recommend a dispassionate examination of this matter.

Reply of the Ministry

The matter is under examination.

[Min. of Finance F. No. 155/134/81-TPL dated 31-3-1982]

Recommendation Sl. No. 48 (Paras 4.43 & 4.44)

The Committee have received a number of other suggestions for checking tax evasion in general of which the following merit an in-depth study :—

- (1) Each acquisition of moveable property of the value of Rs. 5,000 and above should be required to be included in the Income-tax return.
- (2) Whene the sale/purchase of moveable property requires to be registered with public authority as in the case of motor-cars, it should be communicated by the registering authority to the Income-tax Department like the immovable property.

- (3) Each transaction involving payment of a high amount say Rs. two to three thousand should be through cheque.
- (4) Possession of cash currency notes of a value higher than a flexible limit to be specified, say, annual income of a person or so, should be deemed to be an offence except in certain special circumstances.
- (5) Companies and institutions should deduct tax from rent payments exceeding Rs. 10,000 a year.

The Committee would not like these suggestions to be lightly brushed aside just because they at first sight appear to be difficult to implement or are likely to pose some problems in implementation. They would like the Department to study them in depth and see whether and to what extent they can in the present form or in a refined form be implemented with a view to curbing tax evasion."

Reply of the Ministry

The matter is under examination.

[Min. of Finance F. No. 155/134/81-TPL dated 31-3-1982]

Recommendation Sl. No. 56 (Para 5.12)

"The Committee find that no direct study as such for reduction in paperwork in the Income-tax Department has been done so far. This is an area in which there is great scope for improvement. A thorough streamlining of the system and procedures can bring about a much higher level of output and efficiency without any significant increase in manpower. The Committee would therefore like a comprehensive study of the organisation and methods to be undertaken with a view to achieving efficiency with economy."

Reply of the Ministry

The Income-tax Department performs a variety of functions in accordance with the provisions of Direct Tax Laws, rules and procedures prescribed by the Central Board of Direct Taxes. There are certain areas of work where both law and procedure have been simplified over the past few years to reduce paper work, minimise clerical labour and speed up output. The introduction of Summary Assessment Scheme, adoption of simplified procedures where assessments are completed under this scheme, discontinuance of Advice Notes in respect of refunds below Rs. 1000, modification of the provisions relating to collection of advance tax since 1-6-78, reduction in the number of statistical reports and statements and introduction of sampling procedure in processing of Direct Taxes statistics, could cited as some of the areas where substantial simplification of the work procedures has already been achieved. There are, however, other areas such as simplification of collection and accounting procedures, rationalisation of the survey procedures, simplification of procedures to ensure prompt

settlement of audit objections, simplification of procedures aimed at eliminating the issue of redundant tax recovery certificates etc. where substantial progress could be achieved. These matters need continuous review and are engaging the constant attention of the Directorate of Organisation and Management Services set up in this Department since 1974 and steady progress is expected over the years.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 31-3-1982]

Recommendation Sl. No. 59 (Para Nos. 5.25 & 5.26)

"5.25 and 5.26 : Office accommodation is an acute problem faced by Income-tax Department and has come in for adverse comments by assessees who too feel greatly inconvenienced on this account. According to the Chairman, Central Board "lack of space in Income-tax Office is one of the root causes of inefficiency". Accommodation requirement of the Department are stated to be under study of Dte. of O&M. The Committee would like to be informed of the outcome of the study and the action contemplated to provide adequate office accommodation for the Income-tax Offices at various places".

Reply of the Ministry

The study on the space requirements of the Income-tax Department has been taken up in right earnest the study will inter-alia cover the requirements for records (both current and old). The study is aimed at ascertaining :—

- (i) The extent of office accommodation occupied by the field offices for various purposes.
- (ii) Requirements on the basis of existing scales of office accommodation ; and
- (iii) The adequacy of the existing scales and need for evolving new scales particularly for special requirements of this Department.

Efforts are being made to complete the study early.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 60 (Para Nos. 5.27 and 5.28)

"The Committee regret to note that two of the basic needs of staff and officers of Income-tax Department have not been met even upto a reasonable level. The Department have not been able to provide residential accommodation to a large number of staff and officers at many places and the transport facilities provided to them for official work are also admittedly inadequate. It is unfortunate that a budgetary provision of Rs. 10 crores for construction of residential accommodation made from year to year since 1975-76, has remained unutilised all through. The Committee strongly feel that in these matters, it is not wise to expose the staff and officers of a sensitive Department like the Income-tax Department to temptations of accepting favours from outside parties".

The Committee would like that either Government should themselves construct residential accommodation or they should themselves hire private accommodation and allot it to the employees of the Income-tax Department, especially at places where private accommodation is scarce or too costly for the employees to hire at reasonable rent".

Reply of the Ministry

The Government accepts the recommendations of the Committee in principle. However, it may be submitted that paucity of accommodation is an all India phenomena and subject to these and other practical difficulties, the proposal is being processed further with a view to seeing to what extent, the Government can help in easing the situation in providing accommodation to employees of the Income-tax Department.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. Nos. 65 and 66 (Paras 5.45 to 5.48)

"It is unfortunate that a study of the impact of the working of the valuation cell undertaken by a wing of the Income-tax Department itself which must have cost the exchequer a lot of money and time should be discarded as unreliable. Why the corrective was not applied when the study was under way is not clear. The Committee hope that Department would learn a lesson from this for the future.

The Committee would like the Ministry to immediately undertake a detailed and objective study on the impact of the valuation cell to find out whether the cell is cost effective and is producing results commensurate with the expenditure incurred on it. The outcome of the Study may be communicated to the Committee.

Reply of the Ministry

The study report regarding the impact of the Valuation Cell has been received by the Board from the DI (RS&P) and is under examination. Further report may kindly be awaited in this regard.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 71 (Paras 5.78 and 5.79)

"A number of non-officials have represented to the Committee that original documents filed by assessees are often misplaced in the Income-tax Department. The loss of document which could be out of mischief or negligence puts the assessees to a great inconvenience. The Department claim to have streamlined the procedure for receipt and custody of tax returns and fix responsibility in case of loss of any document but this does not provide any consolation to the assessees whose valuable documents are lost in the process. What is required is a radical change in the approach which should eliminate the necessity

for original documents in as many as cases as is possible and accept certified photostat copies in the maximum number of cases.

The Committee are informed that after a study had into the matter, the Department have decided to accept photostat copies of partnership deeds, but in the case of applications for first registration, title deeds of property and dividend warrants, the Department would still like to have original documents and not the photostat copies. The Committee feel that the Department should not in the first instance insist on original title deeds of property, first registration applications and such other documents where photostat copies duly authenticated by Notary Public could serve the purpose. In such cases the Department can always reserve the right to not for original documents for their inspection before passing any orders in the matter. A suitable procedure in respect of each document should be evolved pending on its importance taking adequate safeguards against the misuse of the procedure."

Reply of the Ministry

The recommendations have been examined carefully in consultation with the Directorate of Organisation and Management Service (Income-tax) and the following decision have been taken by the Board :—

- (a) In regard to partnership deeds for the purpose of registration of firms, the law requires the original to be filed. The Board is of the view that the provisions of Section 185 of the Income-tax Act, should be suitably amended to dispense with the filing of the original deed. Where necessary, the Income-tax Officer could always call for it and scrutinise it. Comprehensive amendments to the Income-tax Laws are being currently examined by the Economic Administration Reforms Commission. The recommendations of the Estimates Committee as well as the Board's decision thereon are being forwarded to them.
- (b) In respect of Title Deeds of properties, the Department generally takes them as security against the tax dues, in such cases, obtaining of photostat copies may not serve any purpose, as an assessee can always create an equitable mortgage with the Original Title Deed without informing the Department. There could, therefore, be no escape from keeping the documents in original. Generally documents relating to immovable properties are registered under the Indian Registration Act. The need for a photostat copy may not therefore arise. The proof for having tendered a registered document can be given in the form of a simple receipt, duly signed by the Income-tax Officer and bearing his official seal.
- (c) In regard to Dividend Warrants, the Board tentative view is—
 - (i) if the Commissioner of Income-tax is satisfied that the dividend warrants etc., have been lost in the income-tax office

and that the assessee was in fact in possession of the shares and had received the dividends after deduction of tax in the relevant previous year, he may authorise that credit may be given to Tax Deducted at source on the basis of the details regarding dividends received and tax deducted that may be available on the record in the return.

- (ii) The Commissioner should suitably circulate the names of all such cases so as to put the other Income-tax Officers on guard against any misuse of the lost dividend warrants, etc.
- (iii) Affidavits should be got filed by the assessees affirming the fact of having received the dividend after tax deduction, filing of the tax deduction certificates alongwith the return and that no other claim for credit of tax deduction has been preferred on the basis of the same divided warrant by the deponent before any other Income-tax authority.

Before suitable instructions are issued to the field officers on the above lines as at (c) above, the Board is having the matter further examined in consultation with the appropriate agencies.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dt. 4-2-82]

Recommendation Sl. No. 72 (Para 5.80)

“In respect of those documents which the Department cannot accept in photostat form in any circumstances and such documents should be very few—the Income Tax Officer should be required to sign the photostat copy thereof and give them back to the assessee for his custody and use as a proof of his having submitted the original to the Income-tax Officer.”

Reply of the Ministry

The above question was referred to the Directorate of Organisation and Management Services (Income-tax) for study. They have recommended that this suggestion of the Estimates Committee may be accepted. This is under consideration.

[Min. of Finance O.M. No. 405/63/80-ITCC (Vol. V) dated 4-2-1982]

Recommendation Sl. No. 73 (Para 5.81)

“5.81 A comprehensive study on record management is stated to have been conducted by the Department recently. The Committee feel that there is an imperative need to introduce the most modern methods of record keeping and retrieval in the Department which receive for inspection a region of valuable documents from assessees all over the country and which is locally and morally bound to keep them in safe custody and produce them whenever needed. Instead of tinkering with the problem by taking isolated measures here and there, what is needed is

a systems approach which should make it possible for the department to get at any file instantly from a central place to which it should go back after it is done with. The Committee strongly feel that unless the record system is modernised and made fool proof, the efficiency in the Department would not improve and the malpractice which the assessees are complaining of would not be eradicated.

Reply of the Ministry

Consequent upon the recommendations of the Estimates Committee the Directorate of Organisation and Management Services was directed to make exhaustive study on the subject. They have yet to submit their report. On receipt thereof, further, follow up action will be taken to translate the recommendations in concrete terms.

F. No. 228/23/81-ITA. II

F. No. 405/63/80-ITCC

Dated 4-2-1982.

Comments of the Committee

Please see Para 1.4—Chapter I.

NEW DELHI ;
April 26, 1982
Vaisakha 6, 1904 (Saka)

S. B. P. PATTABHI RAMA RAO,
Chairman,
Estimates Committee.

APPENDIX I

Blue-print for organisation of Public Relations set-up in metropolitan charges and at the headquarters of Commissioners.

It has been observed that there is no uniformity in setting up public relations units with a view to providing tax-payer assistance, distribution of tax literature, sale of tax-payer information series and providing desired help and guidance to tax-payers in need of help. On discussion, Commissioners have generally agreed that the Public Relations Officers should be equipped with the latest tax literature, bulletins and tax information. The room of P.R.O. should be adequately furnished for seating the assessees and helping them in filling up forms and obtaining information at a glance. The suggestions itemwise are as under :—

I. Public Relations Officer—His Room, furniture and situation of his office.

- (i) The room of P.R.O. should be situated in a prominent place easily accessible to the assessees, preferably in the ground floor of the premises. The lighting arrangements should be perfect so as to attract the attention of the visitors in need of help. The words "Public Relations Officer" both in English and Hindi should be displayed in a well-lit glazed neon sign in front of the room of the P.R.O. (preferably in gross-section of the gallery).
- (ii) The words "Tax-payer Assistance" both in English and Hindi should be mounted in arrow pointing in the direction of tax-payer assistance which should be supervised by well informed personnel suited to the job. Tax-payer Assistance Cells should be equipped with utility furniture for helping the assessees in filling up forms and noting information on tax matters.

II. Tax-payers Information Series

- (1) These are comprised of as per annexure 'A', Sufficient numbers of copies have been supplied to each charge separately. This is both for sale on counters of P.R.Os as well for supply to such persons and agencies as Commissioners may authorise for free distribution. The entire series including tax manuals should be displayed in the frame-window squarely affixed in the wall bearing prominently words "for sale, please contact P.R.O.".
- (2) On visit to various charges it was observed that tax-payer information series supplied in large numbers are yet not available for distribution. Queries have been received from institutions and individuals, all of whom have been directed to contact local

P.R.Os. and Assistant Commissioners for purchase of Tax-payer information series and such bulletins as are authorised for sale publicly. Tax payer Information Series should be counted and duly serialised in register to be obtained in the personal custody of P.R.O.

III. Monitoring of advertisements in newspaper and T.V.

Tax literature, tax information and publicity programmes shall continue to be sent to all Commissioners by the Directorate of Inspection (Research, Statistics and Public Relations) as hitherto and suggestions for improvement in supply and dissemination of tax information will be eagerly awaited.

APPENDIX II

(Vide Introduction to Report)

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE 9TH REPORT OF THE ESTIMATES COMMITTEE (SEVENTH LOK SABHA)

I. Total number of recommendations	78
II. Recommendations which have been accepted by Government (<i>Vide</i> recommendations No. 1-A, 2 to 4, 6 to 15, 18, 19, 21, 22, 28, 30, 32, 33, 36, 38 to 40, 42, 46, 49 to 58, 61, 62, 63, 67 to 70, 74 to 77	Number 49 Percentage 63%
III. Recommendations which the Committee do not desire to pursue in view of the Government's replies (<i>Vide</i> recommendations No. 16 and 17	Number 2 Percentage 3%
IV. Recommendations in respect of Government have not been accepted by the Committee. 23, 24, 31, 44 and 64	Number 5 Percentage 6%
V. Recommendations in respect of which final replies of Government are still awaited. (<i>Vide</i> recommendation Nos. 1, 5, 20, 25 to 27, 29, 34, 35, 37, 41, 43, 45, 47, 48, 56, 59, 60, 65, 66, 71 to 73	Number 22 Percentage 28%