

41

**STANDING COMMITTEE ON FINANCE
(2016-17)**

SIXTEENTH LOK SABHA

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

*[Action taken by the Government on the recommendations contained in Thirtieth Report of the
Standing Committee on Finance on ‘Demands for Grants (2016-17)']*

FORTY-FIRST REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2016 / Agrahayana, 1938 (Saka)

FORTY-FIRST REPORT

**STANDING COMMITTEE ON FINANCE
(2016-2017)**

(SIXTEENTH LOK SABHA)

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

*[Action taken by the Government on the recommendations contained in Thirtieth Report of the
Standing Committee on Finance on ‘Demands for Grants (2016-17)']*

Presented to Lok Sabha on 07December, 2016

Laid in Rajya Sabha on 07December, 2016



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2016 / Agrahayana, 1938 (Saka)

CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE.....	
INTRODUCTION	
CHAPTER I Report	
CHAPTER II Recommendations/Observations which have been accepted by the Government	
CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies	
CHAPTER IV Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee	
CHAPTER V Recommendations/Observations in respect of which final reply of the Government is still awaited	

ANNEXURE

Minutes of the Sitting of the Committee held on 30 November, 2016

APPENDIX

Analysis of Action Taken by the Government on the
Recommendations Contained in the Thirtieth Report (Sixteenth
Lok Sabha) of the Standing Committee on Finance on
'Demands for Grants (2016-17)

COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2016-17

Dr. M. Veerappa Moily - Chairperson

MEMBERS

LOK SABHA

2. Shri T.G. Venkatesh Babu
3. Shri Gopalakrishnan Chinnaraj
4. Shri Nishikant Dubey
5. Shri P.C. Gaddigoudar
6. Prof. Sanwar Lal Jat
7. Shri Chandrakant B. Khaire
8. Shri Bhartruhari Mahtab
9. Shri Prem Das Rai
10. Shri Rayapati Sambasiva Rao
11. Shri Gajendra Singh Sekhawat
12. Shri Gopal Chinayya Shetty
13. Shri Anil Shirole
14. Dr. Kiritbhai Solanki
15. Dr. Kirit Somaiya
16. Shri Dinesh Trivedi
17. Shri Shivkumar Udasi

RAJYA SABHA

18. Shri Naresh Gujral
19. Shri A. Navaneethakrishnan
20. Dr. Mahendra Prasad
21. Shri T.K. Rangarajan
22. Shri Ajay Sancheti
23. Shri Digvijaya Singh

SECRETARIAT

- | | | | |
|----|------------------------------|---|---------------------|
| 1. | Smt. Abha Singh Yaduvanshi | - | Joint Secretary |
| 2. | Shri P.C. Tripathy | - | Director |
| 3. | Shri Ramkumar Suryanarayanan | - | Additional Director |
| 4. | Shri Vivek Pandey | - | Committee Assistant |
-

INTRODUCTION

I, the Chairperson of the Standing Committee on Finance, having been authorized by the Committee, present this Forty-First Report on action taken by Government on the Observations / Recommendations contained in the Thirtieth Report of the Committee (Sixteenth Lok Sabha) on “Demands for Grants (2016-17)” of the Ministry of Finance (Department of Revenue).

2. The Thirtieth Report was presented to Lok Sabha / laid on the table of Rajya Sabha on 28 April, 2016. The Action Taken Notes on the Recommendations were received from the Government *vide* their communication dated 28 October, 2016.

3. The Committee considered and adopted this Report at their sitting held on 30 November, 2016.

4. An analysis of the action taken by the Government on the recommendations contained in the Thirtieth Report of the Committee is given in the Appendix.

5. For facility of reference, the observations / recommendations of the Committee have been printed in bold in the body of the Report.

NEW DELHI

01 December, 2016

10 Agrahayana, 1938 (Saka)

DR. M. VEERAPPA MOILY,

**Chairperson,
Standing Committee on Finance.**

CHAPTER – I

REPORT

This Report of the Standing Committee on Finance deals with action taken by Government on the recommendations/observations contained in their 30th Report (Sixteenth Lok Sabha) on Demands for Grants (2016-17) of the Ministry of Finance (Department of Revenue) which was presented to Lok Sabha / Laid in Rajya Sabha on 28 April, 2016.

2. The Action Taken Notes have been received from the Government in respect of all the 10 recommendations contained in the Report. The Government have noted and accepted in principle almost all the recommendations of the Committee. These have been analyzed and categorized as follows:

- (i) Recommendations/Observations that have been accepted by the Government:

Recommendation Nos. 1,2,3,4,5,6,7,8,9 &10

(Total 10)
(Chapter- II)

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

Recommendation No. NIL

(Total - NIL)
(Chapter- III)

- (iii) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee:

Recommendation No. NIL

(Total - NIL)
(Chapter -IV)

- (iv) Recommendations/Observations in respect of which final replies by the Government are still awaited:

Recommendation No. NIL

(Total - NIL)
(Chapter- V)

3. The Committee desire that the replies to the observations/recommendations contained in Chapter-I may be furnished to them expeditiously.

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

Recommendation (No. 3)

Revenue Foregone

5. The Committee were constrained to note that though in last Union Budget, there were proposals to minimize the quantum of revenue foregone and they had sought for the road map as to how the Government would do it, no such road map was brought to the notice of this Committee. Though the Committee accepted the fact that incentives were surely needed to motivate and propagate the economic activities yet they were of the opinion that foregoing revenue to the tune of Rs. 6.11 lakh crore whereas Government's gross tax collection in last fiscal was provisionally estimated at Rs. 14.6 lakh crore, needed to strengthen the economic development by substantial increase in job creation and other opportunities. Moreover, the Committee desired to know whether such exemptions or incentives were in coherence with the overall intention policy of the Government. The Committee, therefore, reiterated their earlier recommendation for comprehensive road map for a review of revenue foregone with a case by case 'impact assessment study', that would have facilitated in making it more effective, targeted and in coherence with the underlying policy of the Government.

6. The Ministry in their action taken reply have stated as follows :

CBDT

"The revenue foregone is on account of various tax incentives provided under the Income-tax Act, 1961. These have been provided to promote exports; balanced regional development; creation of infrastructure facilities; employment; rural development; scientific research and development; cooperative sector and to encourage savings by individuals and donations for charity etc.

Though the revenue impact has been quantified in terms of tax expenditure, it does not imply that this quantum of revenue has been waived by the Government. Rather, these should be seen as targeted expenditure for the promotion of certain sectors. In some cases, the

economic and social activities which are incentivized by such indirect subsidy by way of tax expenditure may not have actually been undertaken or may have been much lower in scale in the absence of such incentives.

Further, Finance Minister in his Budget Speech for 2015-16 announced intention of Government to phase out various exemptions and deductions under the Act along with phased reduction of corporate tax rates. Accordingly, the detailed phase out plan of various tax incentives has been laid out by Finance Act, 2016.

Also, Finance Act, 2016 has provided that in the case of domestic companies having total turnover or gross receipts not exceeding Rs.5 crore in the financial year 2014-15, the income-tax shall be charged @ 29%. Besides, the domestic companies incorporated on or after 1st March, 2016 and engaged in manufacture and production of articles and things and research in relation to, or distribution of, such article or thing, may, at their option, pay tax @25% if they do not claim any accelerated depreciation, investment allowance, profit linked deductions and investment linked deductions."

CBEC

- "Customs and Central Excise duties are indirect taxes, where the incidence of tax is on the importer or manufacturer respectively but the burden of the tax is on the final consumer. The indirect tax structure seeks to harmonize revenue considerations with the interest of consumers, farmers, and industry etc. to achieve the policy objectives of the government.
- Revenue forgone, thus, generally reduces the burden on the ultimate consumer and generally does not benefit the importer or the manufacturer. The revenue impact of tax incentives under the Central Tax System is published as part of the Receipt Budget documents.
- Estimated revenue impact of tax incentives for F.Y. 2015-16 in respect of Central Excise Duty is Rs.2,24,940 Crore and in respect of Customs Duty is Rs.2,57,549 Crore. Total estimated revenue impact of tax incentives in respect of customs and excise duties is Rs. 4,82,489 Crore, showing an increase of Rs. 46,733 Crore over F.Y.2014-15.
- However, this high revenue impact is in many cases on account of a higher Tariff rate of duty, prescribed with intention to have a tariff cushion and use the same judiciously if the need so arises. Some such situations on Customs Duty side are:
 - (i) Diamonds, Gold
 - (ii) Mineral fuels and mineral oils
 - (iii) Edible oils
 - (iv) Pulses, edible vegetables, roots and tubers
 - (v) Iron and steel

- (vi) Fertilizers
- (vii) Aircrafts
- (viii) Ships, vessels, boats
- (ix) Articles of iron and steel
- (x) Preferential rates under various Free Trade Agreements

Collectively, above cases account for revenue impact of tax incentives of about Rs.1,96,462 Crore.

➤ Similarly, on the Central Excise side high revenue impact, in the following cases, is largely on account of higher Tariff rate:

- (i) Mineral fuels and mineral oils
- (ii) Motor vehicles
- (iii) Cement
- (iv) Sugar
- (v) Fertilisers

Collectively, above cases account for revenue impact of tax incentives of about Rs.1,14,837 Crore.

➤ Further, the review of the duty exemption is an ongoing process. In this context:

- (i) In Budget 2011-12, with a view to prepare for transition towards the GST regime, central excise duty exemption was withdrawn on 130 items which are essentially consumer items and are presently chargeable to VAT.
- (ii) In Budget 2012-13, the effective rate of excise duty on non-petroleum products of 10% was increased to 12%, concessional rate of excise duty of 5% was increased to 6% and the lower rate of 1% was increased to 2% (except precious metals, jewellery, coal and fertilizers).
- (iii) In Budget 2014-15 and Budget 2015-16, excise duty exemptions have been withdrawn on Polyester Staple Fiber /Polyester Filament Yarn manufactured from plastic waste or scrap or plastic waste including waste polyethylene terephthalate (PET) bottles, condensed milk put up in unit containers and peanut butter.
- (iv) The concessional rate of excise duty on petrol and diesel (both branded and unbranded) has been increased in a phased manner since November 2014.
- (v) The concessional rate of customs duty on edible oils (both crude and refined) has been increased.
- (vi) In post-Budget 2015-16, excise duty exemption to defence PSUs and Ordnance Factory Board was withdrawn w.e.f. 01.06.2015. Also, CVD and SAD exemption on imports of certain cases of defence supplies was withdrawn w.e.f. 01.06.2015.

- (vii) In this Budget, excise duty exemption on branded readymade garments and made up articles of textiles of retail sale price of Rs.1000 and above and jewellery (except silver jewellery, other than those studded with diamond, emerald, ruby or sapphire) has been withdrawn.
- (viii) The BCD, CVD and SAD exemption on direct imports of specified defence supplies by Government of India or State Governments has been withdrawn with effect from 01.04.2016 in continuation of the present policy of moving towards subjection of defence supplies to normal customs and excise duties in order to provide a level playing field to domestic industry.

As regards the recommendation regarding a comprehensive roadmap for a review of revenue foregone with a case by case 'impact assessment' study, this office will write to the concerned line ministries for the 'impact assessment' study."

7. The Committee would like to point out that if the Revenue Department has to be fair to the honest tax payers, they should figure out a way to eliminate or at least minimise exemptions faster. This can only be done with the help of an exemption-wise 'impact assessment', as recommended by the Committee. They find that the Ministry's approach towards impact assessment study is rather lax and casual. The Committee would thus re-iterate for a prompt case-by-case impact assessment study of each exemption / incentive for a more focussed approach to tax collection. The Committee believe that unless there are more effective attempts to eliminate tax exemptions, our country will struggle to widen its tax base. The Committee desire that the Ministry should apprise of the concrete steps taken towards this end within a period of three months from presentation of this Report.

Recommendation (No. 4)

Tax-GDP Ratio and Widening of Tax Base

8. In light of the Tax-GDP ratio for 2016-17 (BE) which is 10.85 percent, the Committee noted that India's overall tax to GDP ratio was quite less than that of comparable countries. But what was really noticeable was that tax buoyancy for the fiscal year 2014-15 was 0.6 percent for both direct and indirect taxes. This did not augured well for the tax capacity. It basically suggested that we were

not able to capture the growth of the economy properly for purposes of tax collection; it also reflected deficiency in the functioning of tax administration.

Further, the Committee observed with dismay the fact mentioned in the Economic Survey for 2015-16 that nearly 85 percent of the economy remained outside the tax net which was against the general impression that the unaccounted income lies anywhere from 30 to 40 percent. This fact needed to be understood in the context of "missing taxpayer" which the survey pointed out, would have contributed about Rs. 31,500 crore in tax revenue. The Committee opined that these missing taxpayers were the ones who were engaged in small businesses. The Committee observed that this was due to lack of cohesiveness in taxation policy and therefore, they called for overhaul of administrative governance of taxation policy. Therefore, the Committee suggested for proper and relevant mechanism / steps by the Ministry to substantially improve the score on this board by bringing the missing tax payers into the tax net and harnessing their tax potential.

Further, the Committee pointed out that rationality and equitability in taxation rates/structure/classification should be maintained. For instance, excise duty structure proposed on goods such as plastic materials should be kept uniform, so that tax disputes can be avoided.

9. In their action taken reply, the Ministry have stated as under :

CBDT

"As regards the '*missing taxpayers*', a study was conducted by the National Institute of Public Finance and Policy (NIPFP) on "*Development of an analytical model for widening of Taxpayer's base*". The NIPFP study concluded that the taxpayer gap in the individual category could be about 18% for 2011-12 if one third of the households have two earners. It also found that the missing taxpayers are concentrated in lower income slabs, i.e. below Rs 4 Lakh for individuals. The results also indicated that sharp increase in threshold limits had considerably eroded the tax base in terms of numbers of taxpayers.

The study estimated 4.9 Crore taxpayers in individual category for 2011-12, which is nearly **4.27%** of population. The actual number of individual taxpayers in 2011-12 was 4.09 Crore.

The estimated taxpayer gap of about 81 Lakhs is likely to have reduced further as evidenced by growth in number of taxpayers over the years. For the Assessment Year 2014-15, the total number of taxpayers of income tax is 5.45 Crore which works out to nearly **4.36 %** of the total population of about 125 Crore.

Further, under a special drive for widening of tax base, the Income Tax Department has added **67.18 Lakh new taxpayers** during the Financial Year 2015-16.

A large section of the population of India is actually not liable to pay income-tax due to the reasons that the agricultural income is exempt, the basic exemption threshold is quite high, a number of other exemptions and deductions are available under the law, and a relatively small size of the workforce is actually engaged in economic activities.

However, within these constraints, the Income Tax Department has adopted the following strategy to expand the tax-base:-

- (i) The Income Tax Department has implemented the Non - Filer Monitoring System (NMS) which analyses and assimilates all in-house information as well as transactional data received from third-parties, including Annual Information Return (AIR), Tax Deduction at source (TDS) and Tax collection at Source (TCS) statements, Central Information Bureau (CIB) data etc. to identify such persons/entities who have undertaken high value financial transactions but have not filed return. About 1.36 Crore non-filers with potential tax liability have been identified under NMS and more than 52 Lakh returns have been filed by the target segment.
- (ii) The Government has also taken several other steps for broadening of tax base in India. The mechanisms for collection and verification of financial information have been broadened and strengthened. These include collection of data in form of Annual Information Return (AIR) in respect of additional types of high-value transactions, and collection of information on high-value expenditure from commercial establishments by Central Information Branch (CIB) of the Income Tax Department.
- (iii) Besides, various legislative measures have been taken to increase the tax base as under:
 - A.** Expansion of scope of tax deducted at source (TDS) and tax collected at source (TCS) by bringing more and more taxable transactions within the ambit of TDS/TCS, including:-
 - a)** TCS at the rate of 1 % on sale of minerals being Coal, Lignite, and Iron ore for trading purpose.

- b) TCS at the rate of 1 % on sale in cash of bullion in excess of Rs 2 Lakhs and jewellery in excess of Rs 5 Lakhs.
 - c) TDS at the rate of 1 % on payment for acquisition of immovable property (other than rural agricultural land) having value of Rs 50 lakhs or more.
 - d) Finance Act, 2016 expanded the scope of TCS and provided for TCS at the rate of 1% on sale of motor vehicle of the value exceeding ten lakh rupees and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source) exceeding two lakh rupees.
- B.** Finance Act, 2016 expanded the scope of presumptive taxation for small businesses and provided for new presumptive taxation regime for professionals to bring small tax payers within the tax fold by reducing the compliance burden of maintenance of books of accounts in case of small business and professionals covered in the presumptive taxation regime thereby widening the tax base also.
- C.** The Finance Act, 2016 has provided for chargeability of income exceeding Rs ten lakhs by way of dividends @10% in the hands of shareholders being individuals/HUFs/firms.
- D.** Quoting of Permanent Account Number (PAN) has been made mandatory for all transactions above Rs 2 Lakh and for specified transactions in respect of property, shares, bonds, insurance, foreign travel, demat account etc."

CBEC

1. "The tax collection during a financial year is a function of economic growth and tax policy initiatives. India's central indirect tax-GDP ratio for F.Y 2015-16 is estimated at 5.2% as against 4.3% in F.Y 2014-15. GDP includes the economic activities of unorganized/ informal sectors falling under manufacturing and service categories. Non-taxation of agricultural and allied sectors, relatively higher threshold for small scale industries and fiscal concessions in the form of exemptions for socio-economic reasons are mainly attributable as reasons for present tax-GDP ratio in India.
2. After a long span, the indirect tax collection has shown a turnaround in the FY 2015-16. The collections in FY 2015-16 have been very buoyant and represented a growth of about 30.6% over the corresponding period in FY 2014-15. This is mainly attributed to the measures taken for additional resource mobilization in the Budget, 2015-16. The robust collections in indirect taxes seem to suggest a healthy growth in the underlying tax base and economic activities in FY 2015-16.
3. A numbers of steps have been taken to increase the tax-GDP ratio, like, widening the tax base by comprehensive taxation of all services (introduction of Negative List approach to taxation of services w.e.f 1st July 2012) and reduction of exemptions in Central Excise,

Customs and Service Tax wherever possible. The Negative List has been further pruned in successive budgets and exemptions have been rationalized. Similarly on the Central Excise side exemptions are reviewed continuously and where feasible these have been rationalized.

4. Besides, other measures taken to improve the compliance levels are mandatory e-filing and e-payment of taxes, high interest rates for delayed payment, extensive use of third party sources such as State VAT department, Income Tax etc. for compliance verification, taxpayer education and media campaign.
5. The broad approach towards levy of customs /central excise duties on goods and service tax on services since the last few Budgets has been to move towards a comprehensive taxation of all goods and services by reviewing and withdrawing tax exemptions, broadening the tax base."

"Measures taken by the Government in the Budget, 2016-17 to augment the indirect tax –GDP ratio are given below:

Customs & Central Excise:

- Clean Energy Cess [being renamed as Clean Environment Cess] levied on coal, lignite and peat has been increased from Rs.200 per tonne to Rs.400 per tonne.
- An Infrastructure Cess @ 1%, 2.5% and 4% has been imposed on certain specified motor vehicles.
- Excise duty on Aerated waters, lemonade and other waters, containing added sugar or other sweetening matter or flavoured has been increased from 18% to 21%.
- Additional Excise Duty on cigarettes has been increased on non-filter and filter cigarettes of various lengths so that the aggregate of duties of excise on such cigarettes increases by about 10%.
- Specific rates of Excise duty on Cigar and cheroots, Cigarillos, Cigarettes of tobacco substitutes, Cigarillos of tobacco substitutes and other forms of tobacco substitutes has been increased by about 10%.
- Excise duty on Gutkha, chewing tobacco (including filter khaini) and jarda scented tobacco has been increased from 70% to 81%, Excise duty on unmanufactured tobacco has been increased from 55% to 64%. Further, excise duty on pan masala has been increased from 16% to 19%. Accordingly, duty payable per machine per month for each of these tobacco products has been also been revised upwards.

- Excise duty on Aviation turbine fuel [ATF], other than for supply to aircraft under the Regional Connectivity Scheme, has been increased from 8% to 14%.
- Excise duty of 2% (without CENVAT credit) and 12.5% (with CENVAT credit) has been imposed on branded readymade garments and made up articles of textiles of retail sale price of Rs.1000 or more. Also, tariff value of these goods has been increased from 30% of the retail sale price to 60% of the retail sale price.
- Excise duty of 1% (without CENVAT credit) and 12.5% (with CENVAT credit) has been imposed on Articles of Jewellery [excluding silver jewellery, other than studded with diamonds/other precious stones].
- Basic Customs Duty on Cashew nuts in shell has been increased from Nil to 5%.

Service Tax

- An enabling provision has been incorporated in the Finance Bill, 2016 to empower the Central Government to impose a Krishi Kalyan Cess on any or all the taxable services at a rate of 0.5% on the value of such taxable services. The proposed levy will come into force with effect from 1st June 2016.
- The Negative List entry covering 'service of transportation of passengers, with or without accompanied belongings, by a stage carriage' has been omitted [section 66D (o) (i)]. Consequently, service tax would be leviable on transportation of passengers, with or without accompanied belongings, by air-conditioned stage carriage.
- Finance Act, 1994 was amended vide Finance Act, 2015 so as to make any service (and not only support services) provided by Government or local authority to business entities taxable from a date to be notified later. 1st April, 2016 has been notified as the date, from which any service provided by Government or local authority to business entities shall be taxable.
- Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof has been proposed to be declared as a service under the Finance Act 1994.
- Exemption has been withdrawn in respect of the following services,-
 - (i) Services provided by a senior advocate to another advocate or to a law firm;
 - (ii) Services provided by a person represented on an arbitral tribunal to an arbitral tribunal.

- (iii) Exemption to the services of transport of passengers, by ropeway, cable car or aerial tramway has been withdrawn.
- (iv) Exemption to the services of construction, erection etc., of monorail or metro has been withdrawn, in respect of contracts entered into on or after 1st March 2016.

Abatement on shifting of used household goods by a Goods Transport Agency has been rationalized at the rate of 60%."

10. The Committee acknowledge the measures undertaken by the Ministry in adding 67.18 lakh new direct taxpayers during the FY 2015-16, and the significant growth of 30.6% in indirect taxes. However, the Committee believe that the Revenue Department still has a long way to go for widening the tax base to reach the desirable level of tax collection and a reasonable tax-GDP ratio. As long as the base remains narrow in relation to its potential, tax rates will have to be kept higher than needed to meet the threshold level of expenditure. In this regard, the Committee would suggest that the Revenue Department should enrich as well as rely more upon their technical database to widen the tax base, which should correspond to the tax potential. Necessary enforcement measures should be carried out accordingly in a fair manner.

Recommendation (No. 8)

Cases with One Crore plus Agricultural Income

11. The Committee had taken note of the sudden surge in the number of cases with Rs. one crore plus agricultural income. The Committee were not satisfied by the adhoc manner in which the Department has been handling such an important issue. Such a lapse or overlooking would ultimately lead to creation of 'domestic tax haven' in our economy whereby unaccounted or black money may be stashed / hidden under the head / guise of agricultural income. They recommended for stringent action on part of the Ministry to check this trend forthwith. The Committee, therefore, desired that the latest update on this subject along with judicial outcome, if any, may be furnished to the Committee within a month of the presentation of this Report.

12. In their action taken reply, the Ministry have stated as under :

" The Income Tax Department (ITD) collects information pertaining to agricultural income of the taxpayers, inter alia, through their Income Tax Returns, and the same along with the information collected from various other sources and the information available in the database of the ITD is taken into consideration in the analysis on various risk parameters for appropriate action under direct taxes law. Appropriate action against tax evasion/black money, including in the guise of agricultural income, is an on-going process. Such action under direct tax laws includes searches, surveys, enquiries, scrutiny assessments, assessment of income, levy of taxes, penalties, etc. and filing of prosecution complaints before criminal courts, wherever applicable. Agricultural income is not subject to Income-tax under the Income-tax Act, 1961 and it is used for rate purposes only.

In order to verify the genuineness of the Agricultural Income reported by the tax payers for the period AY 2007-08 to AY 2015-16, a total of 2517 unique PAN-AY cases were subjected to verification by the field authorities (a total of 2746 cases where agricultural income above Rs 1 Cr was reported by the taxpayers in Schedule EI or Part B-TI of the Income Tax Returns for AYs 2007-08 to AY 2015-16 was initially identified which included revised returns filed in a few cases). Verification in 838 cases is complete and is ongoing in the remaining cases. Based on the replies received from the field authorities it has been found that the figures of agriculture income as per the ITRs vis-a-vis the figures reported by the Assessing officers can be broadly classified in to the following:

- a. **Data entry error:** Data entry errors have been largely committed while punching data related to agricultural income in the system. In case of paper returns, Assessing officers/Data Entry operators have made mistakes while punching data mentioned in the return in to the system. It has been reported by the assessing officers that in a few cases even assesseees have committed data entry errors while filing the income tax return.
- b. **Misclassification of Income:** In a few cases, the tax payer has wrongly claimed certain income as agriculture income and claimed exemption. While in some cases such incomes are exempt under the IT Act 1961 (e.g.: Dividend income, Share of profit from partnership firm etc), in some cases they are not. Therefore, such claims have been disallowed and reclassified by the assessing officers as Business income/Income from other sources/Capital Gains. It has been reported by the assessing officers that income from sale of agricultural land has been shown as agricultural income in quite a few cases where exemption u/s 10(37) is claimed by the assesseees. However, as per Explanation 1 of subsection 1A of Section 2, Agriculture Income does not include revenue from

transfer of any agricultural Land (such income has been excluded while computing the actual agricultural income which is mentioned below).

- c. **Non-genuine income shown as Agriculture income:** In a few cases, the assessing officer has reported that the genuineness of the Agriculture income couldn't be verified completely during the assessment proceedings for want of relevant documentary evidences. Therefore, adhoc disallowance has been made in the assessment proceedings to disallow certain portion of agricultural income and treat the same as income from other sources.
- d. **No variation in the agriculture income reported:** In a few case it was seen that there was no variation in the agriculture income reported by the tax payer in the return of income and the income confirmed by the assessing officer.

Summary of the analysis made is as under (based on reports from field authorities received till 24.05.2016):

- a. There are a total of **324** cases where data entry error/ changes in agriculture income/misclassification of income have been reported by the assessing officers.
- b. Out of 838 cases the corrected agriculture income after verification and confirmation by the assessing officers totals up to **Rs 1,394.95 Cr** as against the agriculture income of **Rs 4,31,617.39 Cr** entered by the assessing officers/tax payers in the return of Income in the 838 cases.

In view of the above, it is noticed that huge agriculture incomes in the ITRs are on account of mostly data entry error. Wherever the discrepancy has been noticed by the assessing officer, corrective measures like rectification order under 154 is being passed. Further, in several cases assessing officers have reported that reopening of assessment is under consideration or have already been reopened by issuing notice u/s 148.

As regards the PIL filed before Hon'ble Patna High Court, the Department has filed the revised position of the claims of agricultural income made in the income-tax returns. However, the petitioner has filed a rejoinder before the High Court on which comments of the Department have been sought by the Hon'ble Court. The matter has been re-fixed for 26.8.2016."

13. The Committee find it alarming that 'data entry error' is one of the foremost reasons behind significant and ever-growing cases of one crore plus agricultural income, as reported by the assessing officers. It reflects poorly upon the functioning of the Department that such data entry errors occur involving huge amounts of income. The Committee desire that the Ministry should enquire into all such cases concerning reporting and

assessment of 'agricultural income' and fix responsibility in the matter. The Committee further desire that the factual position in this matter be furnished to the Committee within a period of three months from the presentation of this Report.

Further, the Committee would also like to issue a caveat to the Ministry that in the light of recent demonetization and subsequent tax amendments undertaken by the Government, strict vigil should be kept and stern measures be taken to prevent agricultural income from becoming an escape route for unaccounted money holders.

CHAPTER-II
RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN
ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 1)

Under-utilisation of Allocated Funds

The Committee note with deep concern the persistent under utilization of allocated funds in respect of Demand No. 37, 38 & 39 of the Ministry of Finance (Department of Revenue) during the last three years. The amount surrendered during the last three years in respect of Demands No. 37 ranges from Rs. 366.17 crores to Rs. 7611.91 crores, in respect of Demand No. 38 from Rs. 238.88 crores to Rs. 912.16 crores and in respect of Demand No. 39, from Rs. 111.06 crores to Rs. 696.17 crores. The Committee disapproves of the routine reply by the Ministry that the large amount was surrendered in absence of any decision regarding providing CST Compensation to the States and also due to non-finalization/ non-clearance of some proposals of purchase/ construction of Rajaswa Bhawan/ other office buildings/ equipments etc. Such a practice only indicates the lack of proper ideation on part of the Ministry in respect of utilization of allocated funds. The Committee, therefore, recommend that the Ministry should henceforth, pursue for realistic budgetary formulation, followed by optimum utilization of allocated funds through effective management and micro monitoring. Moreover, the Committee desire that an all pervasive mechanism for fixing accountability be developed so that the budgetary exercise meets its logical end otherwise, such a mutual co-existence of over-estimation and under-utilization would certainly jeopardize our budgetary process.

Reply of the Government

Revenue Headquarters:

Underutilization of allocated funds of CST compensation during the last three year i.e. FY 2013-14, 2014-15 and 2015-16:

a) In so far as FY 2013-14 is concerned, it is submitted that pending introduction of GST, the Finance Ministry in principle agreed for payment of 100% CST compensation for 2010-11, 75% CST compensation for 2011-12 and 50% CST compensation for 2012-13 to all the States/ UTs to be worked out as per CST guidelines dated 22.08.2008 as per recommendation of EC made in its meeting held in Bhubaneswar on 29.01.2013. Accordingly, provisions of Rs. 9300 crore made in BE 2013-14, however due to no decision of Government for payment of CST compensation to States in the said year, the said budget provision was reduced to Rs. 1940.51 crore during RE stage 2013-14 for payment of balance CST compensation to Haryana and Uttar Pradesh for period 2007-08 to 2009-10. This has been factually treated as surrender of large amount of Rs.7369.49 crore in FY 2013-14 by the Standing Committee on Finance.

b) In respect of utilization of funds in FY 2014-15 it is submitted that pending Government decision on payment of CST compensation for year 2010-11, 2011-12 and 2012-13 as per EC recommendation mentioned above, a provision of Rs. 10758.43 crore was made at RE stage in the FY 2014-15 based on provisional CST compensation claims received from States/ UTs. However, the CST claim of 19 States/UTs were finally calculated in concurrence with Internal Finance Unit of Department of Revenue for year 2010-11 in January 2015 and thereafter Union Cabinet on 17.03.2015 decided for payment of 100% CST compensation for 2010-11, 75% CST compensation for 2011-12 and 50% CST compensation for 2012-13 to all the States/ UTs as per aforesaid recommendation of EC. Accordingly, CST compensation amount of Rs. 10724.08 crore was finally calculated in concurrence with Internal Finance Unit of Department of Revenue and released to the States/UTs March 2015. Therefore, the excess amount of Rs. 34.35 crore provisionally estimated towards CST compensation claims of the States/UTs had to be surrendered in FY 2014-15.

c) In regard to utilization allocated funds in FY 2015-16, it is submitted that estimated provisions of Rs. 16315.25 crore was made based on preliminary calculation of CST compensation claims of States for 2011-12 in FY 2015-16, which was finally worked out to the tune of Rs. 16315.25 crore in concurrence of IFU and the same was released to the States/UTs towards CST compensation in FY 2015-16 as per Cabinet decision dated 17.03.2015. Therefore, the provision made for CST compensation in FY 2015-16 has been fully utilised by Department of Revenue.

d) It is further submitted that it will be ensured to make actual budgetary provision and to utilize the allocated fund in FY 2016-17 towards payment of CST compensation to avoid surrender of funds in future.

IFU

As explained to the Committee, surrender of funds under all the three grants of the Department of Revenue was for various reasons beyond the control of any authority. While non-payment of CST compensation was due to non-agreement between the Empowered Committee of State Finance Ministers and the Central government on various issues, the savings under the remaining two grants were due to non-completion of the procedural formalities. The Department has taken note of the observations/ concerns of the Committee and assure to take all possible steps in this direction to ensure that funds allocated in the Budget are fully utilised. Budgetary authorities for all the grants have been advised to prepare estimates after a careful and in-depth analysis and ensure that funds allocated are utilised fully. In this regard the Budgetary authorities have been given both broad and detailed instructions which include providing funds only when the specific project is likely to be approved by the competent authority, realistic projection of funds to ensure that the project neither suffers from lack of funds nor it is over budgeted and tightening the monitoring mechanism to ensure regular watch over flow of expenditure. In case, there is likelihood of any savings, the corrective action should be taken to surrender the savings well in advance as required under General Financial Rules.

CBDT

The observations/ recommendations of the Hon'ble Standing Committee have been communicated to all the Budget Controlling Authorities (BCAs) and Directorate of Income Tax (Infrastructure) which is the nodal agency for Capital Projects. All concerned have been requested to:-

- a. Pursue realistic budgetary formulation
- b. Resort to optimum utilization of allocated funds through effective management and micro monitoring.
- c. Develop all pervasive mechanism for fixing accountability so that the budgetary exercise meets its logical end.

Further, the Department is also proactively monitoring the process of budget formulation and utilization by sensitizing the field formations i.e. BCAs/ HoDs/ DDOs at various stations across India, impressing thereupon the need for realistic budget formulation and utilization of allocated fund in timely manner so as to avoid lapse and surrender of funds.

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

Recommendation (Sl. No. 2)

Direct & Indirect Taxes: Targets and Collections

The Committee are constrained to note that as far as total revenue collection is concerned, our economy is witnessing only incremental growth instead of any substantial increase in figures. This becomes more visible in view of the fact that except in the last fiscal, all of the BE figures have been corrected on the lower side at RE stage. Moreover, the Committee opines that the recent increase in indirect taxes would indirectly result in inflation. In light of the above-stated situation, the Committee recommend that the Ministry should usher next generation tax reforms in our economy by ideating a fresh about our tax policy/regime which only would lead to transformational revenue generation figures in place of current dull situation and incremental figures of revenue both in direct taxes or indirect taxes. The Committee also suggest that a concrete road map as well as suitable administrative measures be prepared and kept ready for smooth rollout of GST.

Reply of the Government

CBDT

Finance Act, 2016 has provided such measures which would fall in the category of next generation tax reforms. Few of such measures are as under:

- (a) In order to encourage indigenous research & development activities and to make India a global R&D hub, the Government has decided to put in place a concessional taxation regime for income from patents. The aim of the concessional taxation regime is to provide an additional incentive for companies to retain and commercialise existing patents and to develop innovative patented products. This will encourage companies to locate the high-value jobs associated with the development, manufacture and exploitation of patents in India.
- (b) With a view to providing an impetus to start-ups and facilitate their growth in the initial phase of their business. Finance Act, 2016 provides a deduction of one hundred per cent of the profits and gains derived by an eligible start-up from a business involving innovation development, deployment or commercialization of new products, processes or services driven by technology or intellectual property. The benefit of hundred per cent deduction of the profits derived from such business shall be available to an eligible start-up which is set up before 01.04.2019.

CBEC:

Budget Estimate(BE), Revised Estimate(RE) and Actual collections (provisional) of indirect tax during F.Y 2015-16 were Rs. 6,47,919 crore, Rs. 7,03,642 crore and Rs. 7,09,785 crore respectively.

The indirect tax revenue collection in a particular financial year depends upon various factors such as growth in nominal GDP (Gross Domestic Product), tax policy in a particular fiscal, demand of goods (petroleum and non-petroleum) and services in the domestic market, growth in volume of dutiable imports, rate of exchange w.r.t leading international currencies, international prices of imported goods and mix of commodities imported, outgo on account of indirect tax refund/rebate & drawback, and additional resource mobilization (if, any) through budgetary changes and administrative measures etc.

The final outcome of above mentioned economic factors for the whole year are not known in advance, therefore the actual collection may vary with regard to the indirect tax BE/RE set before the commencement of the financial year.

Revenue Headquarters:

Roadmap for the implementation of GST:

1. The Department is committed to the introduction of Goods and Services Tax (GST) with effect from 1st April, 2017. The Constitution (One Hundred and First Amendment) Act, 2016, has been brought into effect.

2. The roadmap for the implementation of GST is as follows:

a. Enactment of enabling legislation in the Centre and States:

- i. The GST Council has been constituted. As per the provisions of article 279A of the Constitution, the GST Council shall make recommendations to the Union and States on important GST related matters such as the taxes, cesses and surcharges to be subsumed in the GST, exemption lists, model GST laws, principles of levy, apportionment of GST levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply, threshold limits, rates including floor rates with bands of GST, any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster, and special provisions relating to certain States.
- ii. The GST Council has held three meetings as on 20th October, 2016, and matters such as exemption thresholds, compensation payable to States, rate structures, etc. have been discussed in the Council.
- iii. For the levy of Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST) and Integrated Goods and Services Tax (IGST), a set of three laws would need to be enacted on the recommendations of the GST Council. CGST and IGST laws would need to be enacted by the Parliament, and the SGST law would have to be enacted by each of the State Legislatures. The first

draft of the Model GST laws has been put in public domain for obtaining comments and feedback from stakeholders. A committee of officers from the Central and State Governments is currently working on the finalization of the model GST laws based on the wide consultations held with the stakeholders. The draft Model GST laws shall then be placed before the GST Council for consideration. It is expected that these laws shall be passed by the Parliament and State Legislatures in the Winter Session of 2016.

- b. **IT Preparedness:** Central and State Governments have jointly registered Goods and Services Tax Network (GSTN) as a not-for-profit, non-Government Company to provide shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders for implementation of GST. GSTN was incorporated in March 2013. GSTN is working on creating a GST portal and related ICT infrastructure together with an interface with State IT systems. To support the States, GSTN will prepare the necessary software for front-end modules which would include Registration and Returns. GSTN would also prepare back-end processing modules like assessment, audit, etc. for the States that might need assistance. In case the States want to develop their own software for the back-end modules, they shall be free to do so as well. Development of IT infrastructure and services is expected to complete by March, 2016.
- c. **Change Management:** To ensure a smooth transition to the GST regime, rigorous consultations, workshops and training session for the industry and traders, staff, and all other stake holders involved, have also begun. A concerted training program has been launched for 60,000 officials and staff of Central and State Tax authorities, which is likely to be completed by December 2016.

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

Recommendation (Sl. No. 3)

Revenue Foregone

The Committee are constrained to note that though in last Union Budget, there were proposals to minimize the quantum of revenue foregone and they had sought for the road map as to how the Government would do it, no such road map has been brought to the notice of this Committee. Though the Committee accept the fact that incentives are surely needed to motivate

and propagate the economic activities yet they are of the opinion that foregoing revenue to the tune of Rs. 6.11 lakh crore whereas Government's gross tax collection in last fiscal is provisionally estimated at Rs. 14.6 lakh crore, needs to strengthen the economic development by substantial increase in job creation and other opportunities. Moreover, the Committee desire to know whether such exemptions or incentives are in coherence with the overall intention policy of the Government. The Committee, therefore, reiterate their earlier recommendation for comprehensive road map for a review of revenue foregone with a case by case 'impact assessment study', that would facilitate in making it more effective, targeted and in coherence with the underlying policy of the Government.

Reply of the Government

CBDT

The revenue foregone is on account of various tax incentives provided under the Income-tax Act, 1961. These have been provided to promote exports; balanced regional development; creation of infrastructure facilities; employment; rural development; scientific research and development; cooperative sector and to encourage savings by individuals and donations for charity etc.

Though the revenue impact has been quantified in terms of tax expenditure, it does not imply that this quantum of revenue has been waived by the Government. Rather, these should be seen as targeted expenditure for the promotion of certain sectors. In some cases, the economic and social activities which are incentivized by such indirect subsidy by way of tax expenditure may not have actually been undertaken or may have been much lower in scale in the absence of such incentives.

Further, Finance Minister in his Budget Speech for 2015-16 announced intention of Government to phase out various exemptions and deductions under the Act along with phased reduction of corporate tax rates. Accordingly, the detailed phase out plan of various tax incentives has been laid out by Finance Act, 2016.

Also, Finance Act, 2016 has provided that in the case of domestic companies having total turnover or gross receipts not exceeding Rs.5 crore in the financial year 2014-15, the income-tax shall be charged @ 29%. Besides, the domestic companies incorporated on or after 1st March, 2016 and engaged in manufacture and production of articles and things and research in relation to, or distribution of, such article or thing, may, at their option, pay tax @25% if they do not claim any accelerated depreciation, investment allowance, profit linked deductions and investment linked deductions.

CBEC

- Customs and Central Excise duties are indirect taxes, where the incidence of tax is on the importer or manufacturer respectively but the burden of the

tax is on the final consumer. The indirect tax structure seeks to harmonize revenue considerations with the interest of consumers, farmers, and industry etc. to achieve the policy objectives of the government.

- Revenue forgone, thus, generally reduces the burden on the ultimate consumer and generally does not benefit the importer or the manufacturer. The revenue impact of tax incentives under the Central Tax System is published as part of the Receipt Budget documents.
- Estimated revenue impact of tax incentives for F.Y. 2015-16 in respect of Central Excise Duty is Rs.2,24,940 Crore and in respect of Customs Duty is Rs.2,57,549 Crore. Total estimated revenue impact of tax incentives in respect of customs and excise duties is Rs. 4,82,489 Crore, showing an increase of Rs. 46,733 Crore over F.Y.2014-15.
- However, this high revenue impact is in many cases on account of a higher Tariff rate of duty, prescribed with intention to have a tariff cushion and use the same judiciously if the need so arises. Some such situations on Customs Duty side are:
 - (xi) Diamonds, Gold
 - (xii) Mineral fuels and mineral oils
 - (xiii) Edible oils
 - (xiv) Pulses, edible vegetables, roots and tubers
 - (xv) Iron and steel
 - (xvi) Fertilizers
 - (xvii) Aircrafts
 - (xviii) Ships, vessels, boats
 - (xix) Articles of iron and steel
 - (xx) Preferential rates under various Free Trade Agreements

Collectively, above cases account for revenue impact of tax incentives of about Rs.1,96,462 Crore.

- Similarly, on the Central Excise side high revenue impact, in the following cases, is largely on account of higher Tariff rate:
 - (vi) Mineral fuels and mineral oils
 - (vii) Motor vehicles
 - (viii) Cement
 - (ix) Sugar
 - (x) Fertilisers

Collectively, above cases account for revenue impact of tax incentives of about Rs.1,14,837 Crore.

- Further, the review of the duty exemption is an ongoing process. In this context:
 - (ix) In Budget 2011-12, with a view to prepare for transition towards the GST regime, central excise duty exemption was withdrawn on 130

items which are essentially consumer items and are presently chargeable to VAT.

- (x) In Budget 2012-13, the effective rate of excise duty on non-petroleum products of 10% was increased to 12%, concessional rate of excise duty of 5% was increased to 6% and the lower rate of 1% was increased to 2% (except precious metals, jewellery, coal and fertilizers).
 - (xi) In Budget 2014-15 and Budget 2015-16, excise duty exemptions have been withdrawn on Polyester Staple Fiber /Polyester Filament Yarn manufactured from plastic waste or scrap or plastic waste including waste polyethylene terephthalate (PET) bottles, condensed milk put up in unit containers and peanut butter.
 - (xii) The concessional rate of excise duty on petrol and diesel (both branded and unbranded) has been increased in a phased manner since November 2014.
 - (xiii) The concessional rate of customs duty on edible oils (both crude and refined) has been increased.
 - (xiv) In post-Budget 2015-16, excise duty exemption to defence PSUs and Ordnance Factory Board was withdrawn w.e.f. 01.06.2015. Also, CVD and SAD exemption on imports of certain cases of defence supplies was withdrawn w.e.f. 01.06.2015.
 - (xv) In this Budget, excise duty exemption on branded readymade garments and made up articles of textiles of retail sale price of Rs.1000 and above and jewellery (except silver jewellery, other than those studded with diamond, emerald, ruby or sapphire) has been withdrawn.
 - (xvi) The BCD, CVD and SAD exemption on direct imports of specified defence supplies by Government of India or State Governments has been withdrawn with effect from 01.04.2016 in continuation of the present policy of moving towards subjection of defence supplies to normal customs and excise duties in order to provide a level playing field to domestic industry.
- As regards the recommendation regarding a comprehensive roadmap for a review of revenue foregone with a case by case 'impact assessment' study, this office will write to the concerned line ministries for the 'impact assessment' study.

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

Recommendation (Sl. No. 4)

Tax-GDP Ratio and Widening of Tax Base

In light of the Tax-GDP ratio for 2016-17 (BE) which is 10.85 percent, the Committee note that India's overall tax to GDP ratio is quite less than that of comparable countries. But what is really noticeable is that tax buoyancy for the fiscal year 2014-15 is 0.6 percent for both direct and indirect taxes. This does not augur well for the tax capacity. It basically suggests that we are not able to capture the growth of the economy properly for purposes of tax collection; it also reflects deficiency in the functioning of tax administration.

Further, the Committee observe with dismay the fact mentioned in the Economic Survey for 2015-16 that nearly 85 percent of the economy remains outside the tax net which is against the general impression that the unaccounted income lies anywhere from 30 to 40 percent. This fact needs to be understood in the context of *"missing taxpayer"* which the survey points out, would have contributed about Rs. 31,500 crore in tax revenue. The Committee opine that these missing taxpayers are the ones who are engaged in small businesses. The Committee observe that this is due to lack of cohesiveness in taxation policy and therefore, they call for overhaul of administrative governance of taxation policy. Therefore, the Committee suggest for proper and relevant mechanism / steps by the Ministry to substantially improve the score on this board by bringing the missing tax payers into the tax net and harness their tax potential.

Further, the Committee would like to point out that rationality and equitability in taxation rates/structure/classification should be maintained. For instance, excise duty structure proposed on goods such as plastic materials should be kept uniform, so that tax disputes can be avoided.

Reply of the Government

CBDT

As regards the *'missing taxpayers'*, a study was conducted by the National Institute of Public Finance and Policy (NIPFP) on *"Development of an analytical model for widening of Taxpayer's base"*. The NIPFP study concluded that the taxpayer gap in the individual category could be about 18% for 2011-12 if one third of the households have two earners. It also found that the missing taxpayers are concentrated in lower income slabs, i.e. below Rs 4 Lakh for individuals. The results also indicated that sharp increase in threshold limits had considerably eroded the tax base in terms of numbers of taxpayers.

The study estimated 4.9 Crore taxpayers in individual category for 2011-12, which is nearly 4.27% of population. The actual number of individual taxpayers in 2011-12 was 4.09 Crore.

The estimated taxpayer gap of about 81 Lakhs is likely to have reduced further as evidenced by growth in number of taxpayers over the years. For the Assessment Year 2014-15, the total number of taxpayers of income tax is 5.45 Crore which works out to nearly 4.36 % of the total population of about 125 Crore.

Further, under a special drive for widening of tax base, the Income Tax Department has added 67.18 Lakh new taxpayers during the Financial Year 2015-16.

A large section of the population of India is actually not liable to pay income-tax due to the reasons that the agricultural income is exempt, the basic exemption threshold is quite high, a number of other exemptions and deductions are available under the law, and a relatively small size of the workforce is actually engaged in economic activities.

However, within these constraints, the Income Tax Department has adopted the following strategy to expand the tax-base:-

- (i) The Income Tax Department has implemented the Non - Filer Monitoring System (NMS) which analyses and assimilates all in-house information as well as transactional data received from third-parties, including Annual Information Return (AIR), Tax Deduction at source (TDS) and Tax collection at Source (TCS) statements, Central Information Bureau (CIB) data etc. to identify such persons/entities who have undertaken high value financial transactions but have not filed return. About 1.36 Crore non-filers with potential tax liability have been identified under NMS and more than 52 Lakh returns have been filed by the target segment.
- (ii) The Government has also taken several other steps for broadening of tax base in India. The mechanisms for collection and verification of financial information have been broadened and strengthened. These include collection of data in form of Annual Information Return (AIR) in respect of additional types of high-value transactions, and collection of information on high-value expenditure from commercial establishments by Central Information Branch (CIB) of the Income Tax Department.
- (iii) Besides, various legislative measures have been taken to increase the tax base as under:

E. Expansion of scope of tax deducted at source (TDS) and tax collected at source (TCS) by bringing more and more taxable transactions within the ambit of TDS/TCS, including:-

- (a) TCS at the rate of 1 % on sale of minerals being Coal, Lignite, and Iron ore for trading purpose.
 - (b) TCS at the rate of 1 % on sale in cash of bullion in excess of Rs 2 Lakhs and jewellery in excess of Rs 5 Lakhs.
 - (c) TDS at the rate of 1 % on payment for acquisition of immovable property (other than rural agricultural land) having value of Rs 50 lakhs or more.
 - (d) Finance Act, 2016 expanded the scope of TCS and provided for TCS at the rate of 1% on sale of motor vehicle of the value exceeding ten lakh rupees and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source) exceeding two lakh rupees.
- F. Finance Act, 2016 expanded the scope of presumptive taxation for small businesses and provided for new presumptive taxation regime for professionals to bring small tax payers within the tax fold by reducing the compliance burden of maintenance of books of accounts in case of small business and professionals covered in the presumptive taxation regime thereby widening the tax base also.
- G. The Finance Act, 2016 has provided for chargeability of income exceeding Rs ten lakhs by way of dividends @10% in the hands of shareholders being individuals/HUFs/firms.
- H. Quoting of Permanent Account Number (PAN) has been made mandatory for all transactions above Rs 2 Lakh and for specified transactions in respect of property, shares, bonds, insurance, foreign travel, demat account etc.

CBEC

6. The tax collection during a financial year is a function of economic growth and tax policy initiatives. India's central indirect tax-GDP ratio for F.Y 2015-16 is estimated at 5.2% as against 4.3% in F.Y 2014-15. GDP includes the economic activities of unorganized/ informal sectors falling under manufacturing and service categories. Non-taxation of agricultural and allied sectors, relatively higher threshold for small scale industries and fiscal concessions in the form of exemptions for socio-economic reasons are mainly attributable as reasons for present tax-GDP ratio in India.
7. After a long span, the indirect tax collection has shown a turnaround in the FY 2015-16. The collections in FY 2015-16 have been very buoyant and represented a growth of about 30.6% over the corresponding period in FY 2014-15. This is mainly attributed to the measures taken for additional resource mobilization in the Budget, 2015-16. The robust collections in indirect taxes seem to suggest a healthy growth in the underlying tax base and economic activities in FY 2015-16.
8. A numbers of steps have been taken to increase the tax-GDP ratio, like, widening the tax base by comprehensive taxation of all services (introduction

of Negative List approach to taxation of services w.e.f 1st July 2012) and reduction of exemptions in Central Excise, Customs and Service Tax wherever possible. The Negative List has been further pruned in successive budgets and exemptions have been rationalized. Similarly on the Central Excise side exemptions are reviewed continuously and where feasible these have been rationalized.

9. Besides, other measures taken to improve the compliance levels are mandatory e-filing and e-payment of taxes, high interest rates for delayed payment, extensive use of third party sources such as State VAT department, Income Tax etc. for compliance verification, taxpayer education and media campaign.
10. The broad approach towards levy of customs /central excise duties on goods and service tax on services since the last few Budgets has been to move towards a comprehensive taxation of all goods and services by reviewing and withdrawing tax exemptions, broadening the tax base.

Measures taken by the Government in the Budget, 2016-17 to augment the indirect tax –GDP ratio are given below:

Customs & Central Excise:

- Clean Energy Cess [being renamed as Clean Environment Cess] levied on coal, lignite and peat has been increased from Rs.200 per tonne to Rs.400 per tonne.
- An Infrastructure Cess @ 1%, 2.5% and 4% has been imposed on certain specified motor vehicles.
- Excise duty on Aerated waters, lemonade and other waters, containing added sugar or other sweetening matter or flavoured has been increased from 18% to 21%.
- Additional Excise Duty on cigarettes has been increased on non-filter and filter cigarettes of various lengths so that the aggregate of duties of excise on such cigarettes increases by about 10%.
- Specific rates of Excise duty on Cigar and cheroots, Cigarillos, Cigarettes of tobacco substitutes, Cigarillos of tobacco substitutes and other forms of tobacco substitutes has been increased by about 10%.
- Excise duty on Gutkha, chewing tobacco (including filter khaini) and jarda scented tobacco has been increased from 70% to 81%, Excise duty on unmanufactured tobacco has been increased from 55% to 64%. Further, excise duty on pan masala has been increased from 16% to 19%. Accordingly, duty payable per machine per month for each of these tobacco products has been also been revised upwards.

- Excise duty on Aviation turbine fuel [ATF], other than for supply to aircraft under the Regional Connectivity Scheme, has been increased from 8% to 14%.
- Excise duty of 2% (without CENVAT credit) and 12.5% (with CENVAT credit) has been imposed on branded readymade garments and made up articles of textiles of retail sale price of Rs.1000 or more. Also, tariff value of these goods has been increased from 30% of the retail sale price to 60% of the retail sale price.
- Excise duty of 1% (without CENVAT credit) and 12.5% (with CENVAT credit) has been imposed on Articles of Jewellery [excluding silver jewellery, other than studded with diamonds/other precious stones].
- Basic Customs Duty on Cashew nuts in shell has been increased from Nil to 5%.

Service Tax

- An enabling provision has been incorporated in the Finance Bill, 2016 to empower the Central Government to impose a Krishi Kalyan Cess on any or all the taxable services at a rate of 0.5% on the value of such taxable services. The proposed levy will come into force with effect from 1st June 2016.
- The Negative List entry covering 'service of transportation of passengers, with or without accompanied belongings, by a stage carriage' has been omitted [section 66D (o) (i)]. Consequently, service tax would be leviable on transportation of passengers, with or without accompanied belongings, by air-conditioned stage carriage.
- Finance Act, 1994 was amended vide Finance Act, 2015 so as to make any service (and not only support services) provided by Government or local authority to business entities taxable from a date to be notified later. 1st April, 2016 has been notified as the date, from which any service provided by Government or local authority to business entities shall be taxable.
- Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof has been proposed to be declared as a service under the Finance Act 1994.
- Exemption has been withdrawn in respect of the following services,-
 - (v) Services provided by a senior advocate to another advocate or to a law firm;

- (vi) Services provided by a person represented on an arbitral tribunal to an arbitral tribunal.
- (vii) Exemption to the services of transport of passengers, by ropeway, cable car or aerial tramway has been withdrawn.
- (viii) Exemption to the services of construction, erection etc., of monorail or metro has been withdrawn, in respect of contracts entered into on or after 1st March 2016.

Abatement on shifting of used household goods by a Goods Transport Agency has been rationalized at the rate of 60%.

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

Recommendation (Sl. No. 5)

Presumptive Tax

In light of fact mentioned in the Economic Survey, 2015-16 that around 85% of Indian economy is out of the tax net, the Committee observes this as an alarming situation. The Committee feel that if our economy has to be more prosperous and equitable / rational in tax collection, presumptive taxation may prove to be prime mover in this field. The Committee appreciate the Government's Presumptive taxation proposals made in Union Budget 2016-17 viz. Presumptive taxation for professionals (whose gross receipts do not exceed Rs. 50 lakh) and presumptive taxation of business of Rs. 2 crore. The Committee view that an iterative planning and execution of presumptive taxation regime will surely prove to be a great revenue fetching exercise / mode as the biggest chunk of our working population lies in unorganised sector (along with small businesses) and non-TDS category of assesses, and are usually reluctant to come into tax net due to fear of compliance burden of maintenance of account books, which will also contribute to ease of doing business, and broaden the tax base.

Reply of the Government

The recommendation of the Committee is more in the nature of appreciation and does not specify any actionable point.

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

Recommendation (Sl. No. 6)

Implementation of recommendations of following Committees / SIT / Commissions:

- (i) Tax Administration Reforms Commission (TARC) headed by Dr. Parthasarathi Shome;**
- (ii) R.V. Easwar Committee for simplification of the provisions of the Income Tax Act; and**
- (iii) SIT headed by Justice M.B. Shah on Black Money.**

The Committee note that the Government has taken various steps in pursuance of the recommendations of these panels. However, the Committee are constrained to observe that the Government are relying upon only half-hearted implementation of the recommendations of these panels. This will only fetch limited and insufficient results. The Shome panel called for time-bound refunds, avoiding retrospective amendments to tax law, and streamlining the tax administration because simple tax laws will also help cut down litigation, reduce arrears and improve tax collection. The Ministry needs to execute these suggestions seriously and promptly. The Committee appreciate the Government's decision to set up the Tax Policy Research Unit (TPRU) along with Tax Policy Council (TPC). Though a delayed action, it will be of significant help in near future. However, the Committee doubt whether these developments will finally culminate in the merger of the CBDT and CBEC and abolition of the post of Revenue Secretary, as suggested by TARC.

Justice R V Easwar Committee's recommendations, although dealing with simpler issues such as Income Computation and Disclosure Standards (ICDS), Section A, Tax Deducted at Source (TDS) credits, assessment procedures, refund of taxes, etc., if implemented in letter and spirit, would bridge the communication and trust gap between the tax authorities and taxpayers, and would enable the objective of ease of doing business in India.

The Committee observe that a lot needs to be done by the Ministry regarding unearthing of black money. The Committee are not satisfied by the incomplete response of the Ministry regarding quantum of unaccounted money brought back from abroad. The Committee recommend the Ministry to give utmost priority to the implementation of Justice Shah's panel so that black money stashed abroad may be brought to our hand in time. Moreover, with a view to preventing and curbing generation of unaccounted money in the first place, the Committee are of the view that a combination of policy, legislative and concrete enforcement measures need to be adopted and implemented on priority basis.

Reply of the Government

- (A) Implementation of recommendations of Tax Administration Reforms Commission (TARC) headed by Dr. Parthasarathi Shome:**

A detailed statement containing accepted and implemented recommendations of TARC is enclosed as Annexure - I.

Revenue Headquarters:

The TARC has given 11 recommendations related to Structure and Governance under Chapter-III. Out of these 2 recommendations (g&h) for setting up of Tax Council and Tax Policy and analysis unit are accepted and implemented by constituting Tax Policy Council and Tax Policy Research Unit vide order dated 02.02.2016. Tax Policy Council is headed by Minister of Finance and Tax Policy Research Unit is head by Revenue Secretary. The Government does not accepted other 9 recommendations.

The recommendation with respect to abolition of the post of Revenue Secretary is not accepted. Revenue Secretary is performing the functions relating to coordination between both the boards, other Ministries and various States. He also looks after administrative matters related to Tribunals, Settlement Commissions, of Enforcement Directorate, FIU, CEIB etc. Moreover after constitution of TPRU and GST Council the role of Revenue Secretary has further expanded. In GST regime consultations/ coordination with States on policy issues are required.

This recommendation with respect to merger of CBEC and CBDT is also not accepted. While there is indeed a case for greater coordination, which can be argued would lead to “convergence”, in certain key areas like ICT and thus improve compliance verification, the argument that convergence at the level of Boards and a move towards unified management structure would result in better tax governance is doubtful. There are two strong themes in the recommendations of TARC with regard to Structure and Governance – Convergence and Functional specialization. On the one hand convergence fosters integration, amalgamation and cohesion, and on the other hand functional specialization fosters separation, demerger and disintegration. In this context, while exclusive focus on Customer (tax payer) may support convergence, the independent requirements pertaining to administering of separate statutes for direct and indirect tax domains, certainly supports functional specialization and continued separation, without leading to any compromise on customer focus. With a cadre strength of 84875 in CBEC and 78544 in CBDT, a unified management structure in the form of a Common Board may actually further complicate the functioning of the tax organization and adversely affect its performance. Very few tax administrations in the world have such a large pool of officers, with multiple decades of experience in the taxation domain. Therefore the solutions (i.e. unified management structure) recommended and successful elsewhere in the world may not be directly applicable in our case. Further, TARC has not taken cognizance of

the implementation of GST, which is likely to have a significant impact on the structure and functioning of CBEC, as it needs to work in close conjunction with all the States. In the GST regime, there is greater amount of convergence that is required with indirect tax administration of States than with the direct tax administration of the Centre.

CBDT

With respect to the recommendations of the Tax Administration Reforms Commission (TARC) headed by Dr. Parthasarathi Shome (hereinafter referred to as the “Shome Committee”), it may be noted that as many as 77 recommendations of the TARC including recommendations relating to avoiding retrospective amendment to tax law, alternative methods of dispute resolution, reduction in litigations, and improvement of key-internal processes of the Income Tax Department for improved taxpayer services have already been implemented by the Government.

With regard to recommendation of Shome Committee to issue time bound refunds it is stated that vide Finance Act, 2016 the provision of section 244A of the Act has been amended to provide for additional interest of three percent, where a refund arising out of an appeal effect is delayed beyond the time prescribed under sub-section (5) of section 153.

Further, regarding recommendation of Shome Committee related to retrospective amendments to tax law, the stand of the Government in respect of retrospective decisions relating to taxation is contained in the Speech of the Finance Minister during the presentation of Budget for the year 2014. The speech reads as under:

“10. The sovereign right of the Government to undertake retrospective legislation is unquestionable. However, this power has to be exercised with extreme caution and judiciousness keeping in mind the impact of each such measure on the economy and the overall investment climate. This Government will not ordinarily bring about any change retrospectively which creates a fresh liability.”

This has been reiterated by the Finance Minister during the Budget Speech, 2015 as under:

“..... I reiterate what I had said in the last Budget that ordinarily retrospective tax provisions adversely impact the stability of the taxation regime and resort to such provisions shall be avoided.....”

CBEC

The various recommendations of the Tax Administration Reform Commission (TARC) have been considered by the Government. The

Government has accepted and implemented a number of recommendations such as creation of the Directorate General of Tax Payers Services in Central Board of Excise & Customs, constitution of a High Level Committee for regular stakeholder consultation, implementation of quality management systems for high standard public services popularly called as SEVOTTAM (At present, 53 Commissionerates have been certified as 'Sevottam' compliant and BIS 1515:700 certificate has been issued by the Bureau of Indian Standard (BIS)), IT Based Service Delivery Mechanism by way of Automation of Central Excise and Service Tax (ACES), Indian Custom EDI System (ICES), (CAAP), Risk Management System (RMS), development e-learning modules and e-books by National Academy of Customs, Excise and Narcotics etc.

Automation of payments of refunds and clarificatory circulars are issued to facilitate time bound payment of refunds. A Circular No. 1013/1/2016-CX dated 12.01.2016 were issued for implementation of e payments of refunds / rebate. Another Circular No. 187/6/2015-ST dated 10.11.2015 lays down a scheme for speedy dispersal of pending refund claims of exporters of services under Rule 5 of the CENVAT Credit Rule, 2004.

Retrospective amendments are avoided and made only to iron out the deficiencies in the law. It is also ensured that no additional liabilities are created by the retrospective amendments.

Various steps have been taken to reduce appeals and help in de-clogging of indirect tax matters in the courts and other appellate for and expedite settlement of disputes. These steps are:-

1. By the Finance Act, 2016, Indirect Tax Dispute Resolution Scheme, 2016 has been operationalized, whereby opportunity has been given to the taxpayers for settlement of their appeals pending before the Commissioner (Appeals) on payment of Duty/ Tax demanded along with the interest and 25% of the penalty imposed
2. The threshold limit for filing the appeals by the Department before CESTAT and High Court to Rs 15 lakhs and Rs 10 lakhs from Rs 10 lakhs and Rs 5 lakhs respectively.
3. All cases pending before the CESTAT and High Court, below the revised threshold limits subject to the caveats prescribed are being withdrawn.
4. Eleven additional benches of CESTAT have been proposed to be created in the Budget 2016. The additional benches earlier approved have been operationalized.
5. Pre Show Cause Notice consultation has been made mandatory, in case other than preventive and anti evasion and involving revenue of more than Rs 50 lakhs.
6. Chief Commissioners/ Principal Commissioners are advised to examine all the legality and fairness adjudication orders and advise/ counsel the adjudicating authorities.
7. All the cases where the matters are covered by the decision of the Supreme Court have been listed for final disposal by the field formations.

8. Training workshops have been organized for training the officers in handling Litigation and Appellate matters, in more professional manner.
9. Details of all the orders of CESTAT and High Court accepted by the Board or field formations are made available on the CBEC website

Several steps have also been taken improve tax administration, simplify procedures, rationalize tariff, use of IT to improve transparency. These steps include:

1. Granting concessional 5% Basic Customs Duty for 'cold chain including pre-cooling unit, pack houses, sorting and grading lines and ripening chambers', reducing BCD on refrigerated containers from 10% to 5% and excise duty from 12.5% to 6%.
2. With effect from 01.03.2016, Service Tax on services in respect of the following has been exempted -
 - i. construction services under Housing For All (HFA) (Urban) Mission/Pradhan Mantri Awas Yojana (PMAY);
 - ii. construction projects under "Affordable housing in partnership" component of PMAY, subject to carpet area of dwelling units of such projects not exceeding 60 square metres;
 - iii. low cost houses up to a carpet area of 60 square metres per house in a housing project under any housing scheme of the State Government.
 - iv. Services provided by life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority (PFRDA) has been exempted, with effect from 01.04.2016.
 - v. Services provided by Employees' Provident Fund Organization (EPFO) to employees, has been exempted, with effect from 01.04.2016.
 - vi. Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination
 - vii. Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM), Integrated Programme in Management and Fellowship Programme in Management (FPM)
 - viii. Exemption limit on services provided by a performing artist in certain folk or classical art forms of music, dance or theatre, being enhanced to Rs.1.5 lakh per event
3. A number of tariff/duty changes have been proposed so as to incentivize domestic value addition and 'Make in India'.
4. 13 cesses levied by other Ministries/Departments and administered by the Department of Revenue, where the revenue collection from each of them is less than Rs. 50 crore in a year being abolished.
5. Interest rates on delayed payment of duty/tax across all indirect taxes being rationalized at 15%, except in case of service tax collected but not deposited to the exchequer, in which case the rate of interest will be 24% from the date on which the service tax payment became due. For assesses with taxable value during preceding year/years covered by the

notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of service tax will be 12%.

6. Cenvat Credit rules amended to improve credit flows and reduce litigation Key highlights are-
 - a. Rule relating to apportionment of credit between exempted and non-exempted goods and services simplified.
 - b. Input services credit flow from Input Services distributor to outsourced manufacturer allowed.
 - c. Maintenance of common warehouse for distribution of inputs and credit allowed.
 - d. Small capital goods below a minimum value to be treated as inputs.
 - e. Credit of inputs such as tools, capital goods such as water pumping station, wagons allowed.
7. Number of returns filed by large manufacturers reduced, from 27 to 13. ER-4, ER-5, ER-6 and ER-7 discontinued. One annual return prescribed for large manufacturers besides monthly return which would continue.
8. The facility for revision of return, hitherto available to a service tax assesses only, has been extended to manufacturers also.
9. The monetary limit for launching prosecution being increased to Rs. 2 crore of service tax evasion and the power to arrest being restricted only to situations where the tax payer has collected the tax but not deposited it to the exchequer above a certain threshold of Rs. 2 crore.
10. Customs Act being amended to provide for deferred payment of customs duties for certain class of importers and exporters. In consultations with Ministry of Shipping, the facility of direct port delivery has been extended to more importers.
11. The duty free import allowance for bona fide gifts imported by post or air or by courier service has been increased from Rs. 10,000 to Rs. 20,000.
12. Withdrawal of prosecution cases involving duty less than rupees five lakh and pending for more than fifteen years.
13. Warehousing provisions simplified so as to move from physical control to record based control in most of cases.
14. Provision of deferred payment of duty incorporated in Customs Act.
15. Simplified Baggage Rules, 2016 have been notified for facilitating inbound and outbound passengers.
16. Single Window Interface for Facilitating Trade (SWIFT) of Indian Customs has been launched by CBEC on 1st April, 2016, in partnership with six major Participating Government Agencies (PGAs). SWIFT enables importers to file, on CBEC's e commerce portal (<https://www.icegate.gov.in>), a single electronic declaration which replaces nine separate forms earlier required by Customs and the PGAs.
17. Through its IT platforms, CBEC has reduced physical interface between the taxpayers and tax administration and raised transparency by enabling e filing of declarations and manifests, e filing of returns, e payment of duties, e payment of duty drawback, use of digital signatures and facility for tracking of status of documents.
18. Helplines that can be accessed through email or toll free numbers have been made available, compliance requirements are uploaded and

updated and online duty calculators provided for the convenience of the taxpayers

The Director General of Inspection is renamed as Director General of Performance Management for Comprehensive Performance Management (DGPM) and monitors the recovery of Indirect Tax arrears. The arrears of outstanding taxes collected during the last three years are as under:-

(Amount in Rs. Crore)

Major Head	2016-17 (Provisional up to June)	2015-16	2014-15	2013-14
Central Excise	428	1,690	1,616	1,413
Customs	152	825	951	1,044
Service Tax	551	1,565	901	1,232
Total	1,131	4,080	3,468	3,689

The total collection of duty has shown consistent improvement over the last three years on all the major heads. Viz. Customs, Central Excise and Service Tax.

(Amount in Rs. Crore)

Sl. No.	Major Head	2016-17 (Upto July)*	2015-16	2014-15	2013-14
I	Customs				
	Budget Estimate(BE)	230000	208336	201819	187308
	Revised Estimate(RE)		209500	188713	175056
	Actual Collection	71767*	210338*	188016	172085
II	Union Excise				
	Budget Estimate(BE)	318670	229809	207110	197554
	Revised Estimate(RE)		284142	185480	179537
	Actual Collection	123273*	287149*	188787	170197
III	Service Tax				
	Budget Estimate(BE)	231000	209774	215973	180141
	Revised Estimate(RE)		210000	168132	164927
	Actual Collection	76679*	211396*	167969	154778
IV	Indirect Tax(Total)				
	Budget Estimate(BE)	779670	347919	624902	565003
	Revised Estimate(RE)		703642	542325	519520
	Actual Collection	271719*	708883*	544772	497060

- (B) Implementation of recommendations of R.V. Easwar Committee for simplification of the provisions of the Income Tax Act;

CBDT

Based on the recommendations of Easwar Committee following measures have been taken:

- I. Section 273A, 273AA or 220(2A) of the Income tax Act (hereinafter referred to as the Act), have been amended to provide time limit of twelve months for disposing off an application made under said sections. The amended provisions also provides for giving an opportunity of being heard to the assessee.
- II. Section 244A of the Act has been amended to provide that an assessee shall be eligible to interest on refund of self –assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted.
- III. The provisions of section 281B have been amended to provide for revocation of provisional attachment of any property made under said section in a case where an assessee furnishes a bank guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue.
- IV. Section 234C of the Act has been amended to provide that interest under the said section shall not be chargeable in case of an assessee having income under the head “Profits and gains of business or profession “ for the first time, subject to conditions specified therein.
- V. Provisions of section 254(2) of the Act, have been amended to provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within six month from the end of the month in which the order was passed.
- VI. Provisions of section 255(3) of the Act have been amended to provide that a single member bench of ITAT may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees.

- (C) Status of implementation of recommendations made by SIT in it's Report as Under.

Revenue Headquarters:

1. Making quoting of PAN compulsory for purchases over Rs. One lakh : The SIT had recommended that to curb the creation of fake/bogus bills, declaring of PAN number be made mandatory for all sales, where payment is in cash or through bank, above a value of Rs. One lakh.

Status : Implemented. Vide CBDT notification no. S.O. 3545(E) dated 30th December, 2015, Rule 114B, 114C, 114D and 114E of IT Rules have been amended and quoting of PAN number has been made mandatory for all purchase of any goods and service above Rs. Two lakh. For certain specific transactions like payment of hotel bill, payment for foreign travel , payment to Mutual fund etc. this limit is Rs, fifty thousand.

2. Making tax crimes a predicate offence under Prevention of Money laundering Act: The SIT had recommended to make “tax crimes” as a predicate offence. To prevent any hardship to salaried or small tax payer, a high threshold of say, more than Rs.50 lakh of tax evasion could be considered as being a predicate offence.

Status : Partly implemented. Prevention of Money Laundering Act(PMLA), 2002 has been amended to include offence of tax evasion under Undisclosed Foreign Income and Assets (Imposition of Tax) Act, 2015 this Act, as a scheduled offence under PMLA. This provision would enable the enforcement agencies to attach and confiscate unaccounted assets held abroad and and take action against offenders under PMLA. The offences thus relate to only undisclosed “foreign income” and does not relate to tax evasion within the country.

3. Amendment of FEMA to provide for confiscation of domestic assets in case funds are transferred abroad in violation of RBI guidelines :

Status : Implemented. Through Finance Act, 2015, necessary amendments have been made Foreign Exchange Management Act(FEMA) by amending inserting Section 37 incorporating special provisions relating to assets held outside India in contravention of section 4. The Foreign Exchange Management Act, 1999 (FEMA) has been amended to the effect that if any foreign exchange, foreign security or any immovable property situated outside India is held in contravention of the provisions of this Act, then action may be taken for seizure and eventual confiscation of assets of equivalent value situated in India. These contraventions have also been made liable for levy of penalty and persecution with punishment of imprisonment upto five years.

Through Finance Act, 2015, the definition of ‘proceeds of crime’ under PMLA has also been amended to enable attachment and confiscation of equivalent asset in India where the asset located abroad .

4. Trade based Money Laundering: The SIT had directed the DRI to conduct a study of such mismatch in declarations with some of India’s major trading partners.

As directed by SIT, a study was carried out by DRI for the mismatch of

export and import with respect to Russia, China and UAE. SIT has further asked DRI to take action with respect to cases of misinvoicing found in these studies.

The SIT had also asked DRI to check the veracity of Reports of Global Financial Integrity(GFI) report “Global Illicit Financial Flows Report : 2015” which had estimated Illicit Financial flows going out of India at \$ 510 billion for the period 2004-2013 suggesting that an average of \$51 billion has been illicitly taken out of the country each year during this period.

Status : An interim report has been received from DRI wherein it has been stated that the amount of trade mismatch is much lower than what has been stated in the GFI report, primarily due to the fact that Switzerland did not report its gold exports to IMF till quite recently and this was the main reason contributing to Trade data mismatch calculated by GFI. The report is under examination of SIT.

5. Misuse of exemption on Long Term Capital gains tax for money laundering:

SEBI had suspended around 145 scrips from trading at the stock exchange between December 2014 and September 2015. Out of these 30 of the scrips were involved in misuse of provisions of Long Term Capital gains to the tune of more than Rs. 13000 crores. The SIT had recommended that SEBI completes the investigations expeditiously and prosecution be launched under Section 12A and Section 24 of the SEBI Act, SEBI so that further action could be taken under Prevention of Money laundering Act by Enforcement Directorate.

Status: SEBI has informed that as on 30th September, 2016, SEBI has completed investigation in respect to 39 scrips. The remaining scrips are under various stages of investigation. SEBI has been asked by SIT to complete investigation expeditiously and take action under section 12A and 24 of SEBI Act.

6. Misuse of Participatory notes for money laundering (Third Report):

The SIT has made the following recommendations are made in this regard :

(i) SEBI may obtain details of “beneficial owners” of P note holders. The information of “beneficial owner” with SEBI should be in form of individual whose KYC information is known to SEBI. In no case should the KYC information end with name of a company. In case a company is the holder of P notes/ODIs, SEBI should have information of its promoters/directors who exercise effective control over the company.

(ii) P notes are transferable in nature. SEBI should examine this aspect and ensure this provision is not misused for layering of transactions intended to make it impossible to track the “true beneficial owner”.

Status : Partly implemented. SEBI has issued a circular dated 10th June, 2016 strengthening provisions relating to Know Your Client (KYC) norms for ODI subscribers, transferability of ODIs, reporting of suspicious transactions, periodic review of systems and modified Offshore Derivative Instruments(ODI) reporting format.

SEBI has provided a list of KYC details of 52 entities having outstanding value of ODI of \$ 100 million or more. The matter is under examination of SIT.

7. Shell Companies and beneficial ownership:

SIT had asked the Ministry of Corporate Affairs (MCA) to provide data on persons who held directorship in more than twenty Companies in violation of Companies Act. MCA provided details of 2670 persons holding directorship in more than 20 Companies in violation of Section 165 of the Companies Act, 2013 Section 275 of the erstwhile Companies Act, 1956. The total number of Companies involved was 77,696.

SIT has directed Ministry of Corporate affairs to take action in the above cases which are in violation of Companies Act.

Status : Partly implemented. Ministry of Corporate affairs has informed that prosecutions have been launched against 457 persons involving 14323 Companies so far.

8. Misuse of provisions of remittances for Illicit Financial Flows : SIT had recommended that RBI to take following steps in this regard :

- (i) RBI should put a system in place so that all advance remittances for imports are correlated with Bill of Entry irrespective of value of imports
- (ii) Correlate all advance remittances outstanding prior to putting new system in place.

Status : Partly implemented. RBI vide circular no. 385 dated 28th April, 2016 has made it mandatory for authorized banks to follow up submission of evidence of import and remittance within stipulated time irrespective of the amount involved and upload on Import Data Processing and Management System(IDPMS) software. Regarding correlation of previous remittances outstanding action is being taken by RBI and matter is under monitoring of SIT.

9. Need for establishment of Central Know Your Customer(KYC) Registry : The SIT had recommended that central KYC Registry should be established with all law enforcement agencies, Registrar of Companies and financial institutions having access to its database.

Status : Implemented. The rules for Central KYC Registry have been notified by Department in November 2015 under Prevention of Money laundering Act. Steps are being taken by Department of Financial Services for operationalizing the Registry.

10. Empowerment of DRI under section 20,21 and 22 of SEZ Act : SIT had observed that DRI was not empowered under section 20,21 and 22 of the SEZ Act, to carry out investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner. Department of Commerce has so far issued only entry passes for some DRI officers for certain SEZs.

SIT had recommended that Ministry of Commerce look into the matter urgently and issues necessary notifications u/s 20,21 and 22 of the SEZ Act empowering DRI to carry out investigation, inspection, search or seizure in the Special Economic Zone or Unit without prior intimation or approval of the Development Commissioner.

Status : Implemented . Ministry of Commerce has issued notifications dated 5th August, 2016 authorizing officers of DRI under section 21 and 22 of SEZ Act to carry out investigation, inspection, search or seizure in the Special Economic Zone and intimate the details of any such action to Joint Secretary in charge of Special Economic Zones Division in Department of Commerce.

11. Non realization of export proceeds: The SIT had asked RBI to give details of exports made where exports proceeds were yet to be utilised even after a period of more than one year. In response, RBI provided data on Export outstanding for shipping bills prior to 1st March, 2014 pending for more than one year as well as data on export outstanding for shipping bills on or after 1st March, 2014 pending for more than one year.

From the data provided by RBI, it emerged that huge amount of export proceeds have not been realized. The SIT directed as follows :

- Enforcement Directorate to take necessary action under FEMA wherever needed and specially with respect to 216 Companies with respect to the period before 1st March, 2016 and 572 Companies for the period after 1st March, 2016 for which each such Company had export proceeds pending for realization for more than Rs. 100 crores and inform SIT on action taken.
- Directorate of Revenue Intelligence(DRI) to check from it's database on how many Companies have claimed duty drawback but have failed to bring export proceeds, take necessary action against them as per law and inform SIT of action taken.
- RBI may immediately develop an institutional mechanism and IT system

to not only immediately red flag those cases where exports have been outstanding in violation of FEMA guidelines but share the complete data with Enforcement Directorate and Directorate of Revenue Intelligence on a monthly basis.

Status : Action is being taken by various agencies. The matter is being monitored by SIT.

12. Putting an upper limit to Cash transactions : The SIT has felt that large amount of unaccounted wealth is stored and used in form of cash. Having considered the provisions which exist in this regard in various countries and also having considered various reports and observations of courts regarding cash transactions the SIT felt that there is a need to put an upper limit to cash transactions. Thus, the SIT has recommended that there should be a total ban on cash transactions above Rs. 3,00,000 and an Act be framed to declare such transactions as illegal and punishable under law.

Status: Matter is under consideration of the Government.

13. Putting a limit on cash holding : The SIT had recommended prescribing a reasonable threshold, may be Rs.10 lacs or Rs.15 lacs, for regulating the possession and transportation of cash, particularly putting a limitation on cash holdings for private use and including provisions for confiscation of cash held beyond prescribed limits, provision in the Act should be made.

Status : The matter is under examination of Government .

14. Undeclared assets held abroad be declared as national property : The SIT had recommended that legal provisions should be made so that all money/moveable & Immovable property owned by or under the control of every Indian National which ought to have been disclosed under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, shall, after 01st October, 2015, vest in the Union of India. The right, title and interest of every Indian National in such money or property shall stand transferred to and vested absolutely in the Union of India.

Status : The matter is under examination of Government.

CBDT:

As regards the issue of quantum of unaccounted money brought back from abroad, it is re-iterated that the Income Tax Department (ITD) is entrusted with the responsibility of investigating the tax evasion/ black money cases and taking follow up actions such as assessment of income, levy of tax, interest &

penalty and filing of prosecution complaints before criminal courts, wherever applicable. Other law enforcement agencies such as Enforcement Directorate, Central Bureau of Investigation, etc. also take action under laws administered by them, depending upon facts of each case. The taxes, penalties, etc. levied by the ITD form part of the total liability of each assessee and is recovered in accordance with law. There are provisions for recovery of the same from the assets kept abroad also in accordance with legal instruments with relevant foreign jurisdictions. However, as per scheme of the Income-tax Act, 1961, only the demand/ liability raised in relation to the assessed total income is recoverable and not the undisclosed income/black money per-se. Recognizing the limitations under the existing legislation [Income-tax Act, 1961, etc.], the Government enacted a comprehensive new law on black money - The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. The new law has made the offence of wilful attempt to evade tax, etc. in relation to undisclosed foreign income and assets a Scheduled Offence under the Prevention of Money-laundering Act, 2002 (PMLA). This enables attachment and confiscation of the proceeds of crime of wilful attempt to evade such tax, etc. i.e. the black money stashed abroad, eventually leading to recovery of such undisclosed foreign income and assets/black money stashed abroad. Further, where property/proceeds of crime is taken or held outside the country, PMLA has been amended through the Finance Act, 2015 enabling attachment and confiscation of property equivalent in value held within the country.

As regards action on recommendations of the SIT on Black Money headed by Justice M.B. Shah, it is submitted that CBDT has been promptly submitting its response on relevant issues to the SIT and thereafter, updating the SIT as and when asked by it. A large number of macro (policy related) and micro (case specific) issues relating to black money are under extensive monitoring of the SIT. Besides, a large number of tax evasion/black money cases are also under regular monitoring and review of the SIT. So far, the SIT has submitted five reports to Hon'ble Supreme Court. Appropriate action on relevant recommendations of the SIT has been/is being taken by the CBDT in an expeditious manner.

Considering the observation of SIT on black Money and representations received from various stakeholders, rule 114B of the Income-tax Rules , 1962 has been amended vide notification dated 30.12.2015 in order to provide for mandatory quoting of PAN on sale or purchase, by any person, of goods or services of any nature, exceeding two lakh rupees per transaction.

Under the Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015 (the Act) besides the levy of 120% (tax and penalty put together), willful attempt to evade tax, penalty or interest chargeable under

the Act is an offence punishable with rigorous imprisonment up to 10 years and with fine under section 51 of the Act. The same has also been made a scheduled offence under Part C of schedule to Prevention of Money Laundering Act, 2002 (PMLA). The enforcement agencies under PMLA can take action on such evasions under Chapter III of PMLA which relates to 'Attachment, Adjudication and Confiscation'.

Under rule 114E of the Rules as amended vide Notification No. 95 dated 30.12.2015, all cash transactions relating to sale of goods and services in excess of rupees two lakh are to be reported by a person specified therein.

The Government has taken several effective measures, both by way of policy-level initiatives as well as effective enforcement action, to address with the issue of black money, particularly black money stashed away abroad. Recent major initiatives taken by the Government include –

- ❖ Constitution of the Special Investigation Team (SIT) on Black Money under Chairmanship and Vice-Chairmanship of two former Judges of Hon'ble Supreme Court,
- ❖ Enactment of a comprehensive law - The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 which has come into force w.e.f. 01.07.2015 to specifically and more effectively deal with the issue of black money stashed away abroad,
- ❖ Introduction of the Benami Transactions (Prohibition) Amendment Bill, 2015 to amend the Benami Transactions (Prohibition) Act, 1988 with a view to, inter alia, enable confiscation of Benami property and provide for prosecution,
- ❖ While focusing upon non-intrusive measures, due emphasis on enforcement measures in high impact cases with a view to prosecute the offenders at the earliest for credible deterrence against tax evasion/black money,
- ❖ Proactively furthering global efforts to combat tax evasion/black money, inter-alia, by joining the Multilateral Competent Authority Agreement in respect of Automatic Exchange of Information and having information sharing arrangement with USA under its Foreign Account Tax Compliance Act (FATCA),
- ❖ Initiation of the information technology based 'Project Insight' by the Income Tax Department for strengthening the non-intrusive information driven approach for improving tax compliance and effective utilization of available information,
- ❖ Legislative measures including amendments in the Income-tax Act, 1961.

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

Recommendation (Sl. No. 7)

Direct Tax Code

The Committee are constrained to observe that the Government are picking and choosing the proposals made in the Direct Taxes Code, 2010 instead of adopting the Code in toto and they are displeased by the casual approach of the Government in stating that there is no merit in going ahead with the DTC as it exists today. They are unable to appreciate the reluctance of the Government to whole heartedly embrace the code in totality. The Committee reiterate its suggestion of adoption of DTC, 2010 in its entirety which would go a long way in simplification and rationalization of our present cumbersome tax regime.

Reply of the Government

The stated policy of the government in this regard was expressed by Finance Minister in Para 129 of his budget speech for 2015-16 which is reproduced as under:

“Enactment of a Direct Taxes Code (DTC) has been under discussion for quite some time. Most of the provisions of the DTC have already been included in the Income-tax Act. Among the very few aspects of DTC which were left out, we have addressed some of the issues in the present Budget. Further, the jurisprudence under the Income-tax Act is well evolved. Considering all these aspects, there is no great merit in going ahead with the Direct Tax Code as it exists today.”

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

Recommendation (Sl. No. 8)

Cases with One Crore plus Agricultural Income

The Committee have taken note of the sudden surge in the number of cases with Rs. one crore plus agricultural income. The Committee are not satisfied by the adhoc manner in which the Department has been handling such an important issue. Such a lapse or overlooking may lead to creation of 'domestic tax haven' in our economy whereby unaccounted or black money may be stashed / hidden under the head / guise of agricultural income. They recommend for stringent action on part of the Ministry to check this trend forthwith. The Committee, therefore, desire that the latest update on this

subject along with judicial outcome, if any, may be furnished to the Committee within a month of the presentation of this Report.

Reply of the Government

The Income Tax Department (ITD) collects information pertaining to agricultural income of the taxpayers, inter alia, through their Income Tax Returns, and the same along with the information collected from various other sources and the information available in the database of the ITD is taken into consideration in the analysis on various risk parameters for appropriate action under direct taxes law. Appropriate action against tax evasion/black money, including in the guise of agricultural income, is an on-going process. Such action under direct tax laws includes searches, surveys, enquiries, scrutiny assessments, assessment of income, levy of taxes, penalties, etc. and filing of prosecution complaints before criminal courts, wherever applicable. Agricultural income is not subject to Income-tax under the Income-tax Act, 1961 and it is used for rate purposes only.

In order to verify the genuineness of the Agricultural Income reported by the tax payers for the period AY 2007-08 to AY 2015-16, a total of 2517 unique PAN-AY cases were subjected to verification by the field authorities (a total of 2746 cases where agricultural income above Rs 1 Cr was reported by the taxpayers in Schedule EI or Part B-TI of the Income Tax Returns for AYs 2007-08 to AY 2015-16 was initially identified which included revised returns filed in a few cases). Verification in 838 cases is complete and is ongoing in the remaining cases. Based on the replies received from the field authorities it has been found that the figures of agriculture income as per the ITRs vis-a-vis the figures reported by the Assessing officers can be broadly classified in to the following:

- e. Data entry error: Data entry errors have been largely committed while punching data related to agricultural income in the system. In case of paper returns, Assessing officers/Data Entry operators have made mistakes while punching data mentioned in the return in to the system. It has been reported by the assessing officers that in a few cases even assesseees have committed data entry errors while filing the income tax return.
- f. Misclassification of Income: In a few cases, the tax payer has wrongly claimed certain income as agriculture income and claimed exemption. While in some cases such incomes are exempt under the IT Act 1961 (e.g.: Dividend income, Share of profit from partnership firm etc), in some cases they are not. Therefore, such claims have been disallowed and reclassified by the assessing officers as Business income/Income from other sources/Capital Gains. It has been reported by the assessing

officers that income from sale of agricultural land has been shown as agricultural income in quite a few cases where exemption u/s 10(37) is claimed by the assesseees. However, as per Explanation 1 of subsection 1A of Section 2, Agriculture Income does not include revenue from transfer of any agricultural Land (such income has been excluded while computing the actual agricultural income which is mentioned below).

- g. Non-genuine income shown as Agriculture income: In a few cases, the assessing officer has reported that the genuineness of the Agriculture income couldn't be verified completely during the assessment proceedings for want of relevant documentary evidences. Therefore, adhoc disallowance has been made in the assessment proceedings to disallow certain portion of agricultural income and treat the same as income from other sources.
- h. No variation in the agriculture income reported: In a few case it was seen that there was no variation in the agriculture income reported by the tax payer in the return of income and the income confirmed by the assessing officer.

Summary of the analysis made is as under (based on reports from field authorities received till 24.05.2016):

- c. There are a total of 324 cases where data entry error/ changes in agriculture income/misclassification of income have been reported by the assessing officers.
- d. Out of 838 cases the corrected agriculture income after verification and confirmation by the assessing officers totals up to Rs 1,394.95 Cr as against the agriculture income of Rs 4,31,617.39 Cr entered by the assessing officers/tax payers in the return of Income in the 838 cases.

In view of the above, it is noticed that huge agriculture incomes in the ITRs are on account of mostly data entry error. Wherever the discrepancy has been noticed by the assessing officer, corrective measures like rectification order under 154 is being passed. Further, in several cases assessing officers have reported that reopening of assessment is under consideration or have already been reopened by issuing notice u/s 148.

As regards the PIL filed before Hon'ble Patna High Court, the Department has filed the revised position of the claims of agricultural income made in the income-tax returns. However, the petitioner has filed a rejoinder before the High Court on which comments of the Department have been sought by the Hon'ble Court. The matter has been re-fixed for 26.8.2016.

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

Recommendation (Sl. No. 9)

Pendency of Tax Refunds

(i) The Committee are alarmed upon observing the fact that 13.34 lakh cases of tax refunds involving Rs. 1,29,910 crore are pending. The figures mentioned above clearly indicate that a substantial proportion of taxes collected are being returned by way of refunds. The Committee would like to be apprised of the reasons behind ever increasing pendency of tax refunds. The Committee suggest for time - bound refunds and thorough review for curbing the piling up of such cases immediately otherwise this phenomenon will inflict grave implication on quantum of net revenue generated.

(ii) Moreover, it is pertinent to mention here that the Committee have been recommending for interest liability of tax refunds to be included in the Union Budget. The Committee are still awaiting the Ministry to act upon this. They desire the Ministry to take necessary action in the matter.

Reply of the Government

(i) Refunds are pending for various statutory and administrative reasons. Various measures have been undertaken by the Department to reduce the time period involved in processing, determination, issuance and delivery of refunds so as to minimize the interest outgo on the refunds. These include expanding the scope of mandatory e-filing of returns for expeditious processing, issuance of refunds through refund banker, e-filing of TDS/TCS statements to reduce data mismatch, facility of viewing 26AS statements by taxpayers for verification of taxes paid/deducted and credited, online viewing of status of refund and strengthening of grievance redressal mechanism. Further, in order to process the returns faster and issue the refunds in a time bound manner, Income tax Department has set up a Centralised Processing Centre (CPC) for Income tax returns at Bengaluru.

During the FY 2015-16, CPC processed 4.14 crore returns which was an increase by 35% over the preceding year's processing volume of 3.07 crore returns. Processing was completed in 65% of the cases within 30 days from the date of filing/validation of ITR/EVC. CPC processed 1.61 crore refunds (Refund value >Rs. 100) during FY 2015-16 as against 1.10 crore refunds in the same period last FY which is an increase of 47%. More than 67% of these refunds were issued within 30 days from the date of filing/validation/EVC. The aggregate amount of refunds issued was Rs. 45,068 crore during FY 2015-16 as against Rs. 32,879 crore issued in FY2014-15, an increase of 37%.

All efforts are being made to clear the back log of refunds, especially of small amounts. Following additional measures have been taken for speedier processing of refunds:

1. In an initiative to reduce taxpayer grievances and enhance the taxpayer satisfaction, the Central Board of Direct Taxes had issued instructions to Central Processing Center (CPC), Bengaluru and the field officers in December, 2015 to issue refunds of amounts less than Rs.50,000/- expeditiously.
2. In order to further expedite the process of issue of small refunds, CBDT has also directed CPC-Bengaluru and the field units that refunds up to Rs.5,000/-, and refunds in cases where outstanding arrears are up to Rs.5,000/- may be issued without any adjustment of outstanding arrears.
3. Introduction of Electronic verification (EVC) of returns: There is faster processing of returns in FY 2015-16 as 71 lakh taxpayers validated their returns using EVC as against filing of ITR V. The delay caused by physical transmission of ITR-V by post to CPC has been obviated in such cases.
4. Measures to streamline the verification and correction of outstanding demands: Verification of the outstanding demands and application of the same against the refund amounts is a major reason for delayed processing of refunds. During the year CBDT has brought out elaborate guidelines and Standard Operating Procedures (SOP) for verification of the outstanding demands by the taxpayers and correction of erroneous demands by the Assessing Authority vide Circular 8/2015. In pursuance of these guidelines the taxpayers have provided their response in 13,66,077 cases involving outstanding demand of Rs.1,16,709.02 Crores as on 23 May 2016. Similarly, the Assessing Officers have also verified and corrected outstanding demands in 3,33,818 cases amounting to Rs. 44,018.27 Crores as on date. Due to expeditious verification of demands, delay in processing of refunds has been reduced during the FY 2015-16.

(ii) Interest payable on refund of tax is a statutory payment, which is non-discretionary in nature. It is an integral part of the refund payable to the tax payer and is granted in accordance with the legislative provisions of Section 244A of the Income-tax Act. Section 244A of the Act provides that where refund of tax becomes due to the taxpayer, he shall be entitled to receive, in addition to the refund, interest thereon at the prescribed rate and for the prescribed period.

Refunds of revenue are not regarded as expenditure for purposes of grants or appropriation, as laid down by Rule 270(4) of the General Financial Rules. Therefore, interest on refunds, which is an integral part of refund, shall

also not be regarded as expenditure, for the purposes of grants or appropriation. Further, tax revenue collections figures reflected in the Receipt Budget are net figures, after taking into account the outgo towards refunds along with interest.

Article 265 of the Constitution of India provides that no taxes shall be levied or collected except by authority of law. Refund payable to the taxpayer as per statutory provisions is of the nature of excess tax paid by the taxpayer. As such, refund of tax does not acquire the character of revenue receipts, forming part of Consolidated Fund of India, as the same represents amounts paid, or collected, in excess of the taxes leviable.

Article 266 of the Constitution of India provides that all revenue received, all loans raised, and all money received in repayment of loans, by the Government of India, shall form one consolidated fund to be entitled as the '*Consolidated Fund of India*'. Thus, any amount received by the Central Government in excess of the taxes leviable as per law, is required to be refunded along-with statutory interest. Therefore, such refund together with interest is netted off against gross receipts.

This net amount only represents taxes levied by authority of law, within the Article 265 of the Constitution, and thereby forms part of the '*Consolidated Fund of India*' for the purposes of Article 266 of the Constitution.

Article 114 of the Constitution lays down that no money shall be withdrawn from the Consolidated Fund of India, except by way of an appropriation made by law in accordance with that Article. However, this requirement of appropriation does not apply to the refund of tax, together with interest, as the same does not form part of the '*Consolidated Fund of India*'.

It is, therefore, submitted that interest on refund is not required to be expressly provided for in the Union Budget by way of Demand for Grant.

On an earlier occasion, the Public Accounts Committee had directed this Ministry to seek legal opinion of Ld Attorney General of India on this issue. The matter was referred accordingly, and Ld Attorney General, in his opinion dated 16.05.2013, has concurred with the Department's view that refund of excess tax, as also interest thereon, is not an expenditure within the meaning of Article 112 of the Constitution of India.

Thus, the prevalent procedure followed by the Department of netting-off the refund, along with interest thereon, against the gross tax collection, is in conformity with the scheme of Constitution, the General Financial Rules and also conforms to the tenets of transparency and accountability.

Recommendation (Sl. No. 10)

Mechanism to deal with Tax Arrears

The Committee are constrained to note that the Department seems to be trapped in vicious cycle of tax arrears whereby raising of unrealistic demands proved to be prime mover. The huge pendency of tax arrears is clear manifestation of failure of tax policy and administration. Though a lot of measures have been enumerated to be taken by the Department to curb this issue, they have proved to be insufficient and ineffective. The Committee, therefore, recommend for overhauling the procedure which leads to such arrears and also advocate for a changed approach, based on identifying debtors rather than the present method of identifying debts/arrears, which can give better results.

Reply of the Government

The reason for pendency of huge tax arrears cannot be solely attributed to the quality of assessments as there may be other reasons for pendency of demand as well, such as long drawn process of appeal and litigation, due to which the taxpayer gets the flexibility to postpone payment of regular tax assessment demand. The huge pendency of tax arrears arises mainly because of non recoverable demands in Scam cases, Money laundering cases and shell companies etc. Some of them have no assets for recovery, assessee are not traceable and/or litigation is pending in various courts for long periods of time.

The recommendations of the Committee regarding change of approach based on identifying debtors rather than debts is noted and Assessing Officers will bear this in mind while framing assessment orders. Additionally, the Directorate General of Income Tax (Risk Assessment) has been set up for creation of risk profiles of debtors of the department using risk scoring techniques and is assigning risk score to each new tax debt as per international norms (as per TARC Report). The past behaviour of tax defaulter is being adjudged according to objective criteria. Further segmented approach based on size, sector of tax payers for yielding high results against tax debts is being considered. Further, CBDT has devised a scheme of publishing the names of tax defaulters in public domain which is popularly called as 'Name and Shame' as another means of identifying debtors. Earlier, defaulters of Rs. 5 crore and above were covered under this scheme. From FY 2016-17, the limit for being covered under this scheme is reduced to Rs. 1 crore.

A number of administrative measures have been taken by CBDT in the last financial year and current year, which, besides improving upon the quality of assessments orders are also going to curb creation of unrealistic tax demands by the Assessing Officers. Some of them are enumerated below:

- Making the scrutiny selection process more and more scientific and discretion free, which aims to select revenue potential cases after conducting thorough risk-assessment of the cases available for scrutiny selection.
- A substantial number of cases in scrutiny basket termed as 'Limited Scrutiny cases' have been selected for issue based verification only. In these cases, Assessing Officer is required to verify only the specific issue(s) for which cases have been selected for scrutiny.
- In financial year 2015-16, Board had issued directions for constitution of Local Committees in each Pr. Chief Commissioner charge to expeditiously deal with taxpayer grievances from high-pitched assessments. This step has been taken with a view to ensure that assessments are framed in a fair and reasonable manner and also act as a deterrent against raising unrealistic demands by the Assessing Officers based upon frivolous additions in assessments (Instruction No. 17/2015).
- With effect from reporting year 2015-2016, Board has modified the Annual Performance Appraisal Report (APAR) of the Assessing Officers to bring about greater accountability in assessment work with the objective to ensure that assessments are framed in a judicious manner. Now the performance of Assessing Officer will also be specifically judged from the perspective of quality of scrutiny assessments being framed and collection of taxes arising from these assessments.

[Ministry of Finance (Department of Revenue) O.M. No.H-11013/2/2016-
Parl. dated 28.10.2016]

CHAPTER III

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

-NIL-

CHAPTER IV

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

-NIL-

CHAPTER V

**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL
REPLIES OF THE GOVERNMENT ARE STILL AWAITED**

-NIL-

NEW DELHI;

01 December, 2016

10 Agrahayana, 1938 (Saka)

DR. M. VEERAPPA MOILY,

**Chairperson,
Standing Committee on Finance.**

Minutes of the Seventh sitting of the Standing Committee on Finance

The Committee sat on Wednesday, the 30 November, 2016 from 1500 hrs. to 1615 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Dr. M. Veerappa Moily - Chairperson

LOK SABHA

2. Shri T.G. Venkatesh Babu
3. Shri Gopalakrishnan Chinnaraj
4. Shri Nishikant Dubey
5. Shri P.C. Gaddigoudar
6. Prof. Sanwar Lal Jat
7. Shri Chandrakant B. Khaire
8. Shri Bhartruhari Mahtab
9. Shri Prem Das Rai
10. Shri Rayapati Sambasiva Rao
11. Shri Gajendra Singh Sekhawat
12. Shri Gopal Chinayya Shetty
13. Shri Anil Shirole
14. Dr. Kiritbhai Solanki
15. Dr. Kirit Somaiya
16. Shri Dinesh Trivedi
17. Shri Shivkumar Udasi

RAJYA SABHA

18. Shri Naresh Gujral
19. Shri A. Navaneethakrishnan
20. Dr. Mahendra Prasad
21. Shri T.K. Rangarajan
22. Shri Ajay Sancheti
23. Shri Digvijaya Singh

SECRETARIAT

- | | | |
|---------------------------------|---|---------------------|
| 1. Smt. Abha Singh Yaduvanshi | - | Joint Secretary |
| 2. Shri P.C. Tripathy | - | Director |
| 3. Shri Ramkumar Suryanarayanan | - | Additional Director |
| 4. Shri Kulmohan Singh Arora | - | Deputy Secretary |

WITNESSES

- | | | | | | | |
|----|----|----|----|----|----|-----|
| | XX | XX | XX | XX | XX | XX |
| 2. | XX | XX | XX | XX | XX | XX. |
3. Thereafter, the Committee took up the following draft reports for consideration and adoption:
- (i) Draft Report on 'The Companies (Amendment) Bill, 2016
 - (ii) Draft Report on Action Taken by the Government on the Recommendations contained in the 20th Report (16th Lok Sabha) on "Planning Process - A Review "
 - (iii) Draft Report on Action Taken by the Government on the Recommendations contained in the 27th Report (16th Lok Sabha) on "Non - Performing Assets Of Financial Institutions "
 - (iv) Draft Report on Action Taken by the Government on the Recommendations contained in the 29th Report on Demands For Grants (2016-17) of the Ministry of Finance (Departments of Economics Affairs, Expenditure, Financial Services and Disinvestment.
 - (v) Draft Report on Action Taken by the Government on the Recommendations contained in the 30th Report on Demands For Grants (2016-17) of the Ministry of Finance (Department of Revenue).
 - (vi) Draft Report on Action Taken by the Government on the Recommendations contained in the 31st Report on Demands For Grants (2016-17) of the Ministry of Planning.
 - (vii) Draft Report on Action Taken by the Government on the Recommendations contained in the 33rd Report on Demands For Grants (2016-17) of the Ministry of Statistics and Programme Implementation.

After some deliberations, the Committee adopted the above draft Reports with minor modifications and authorised the Chairperson to finalise them and present these Reports to Parliament.

4. XX XX XX XX XX XX.

The Committee then adjourned.

APPENDIX

(Vide Para 4 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE THIRTIETH REPORT OF THE STANDING COMMITTEE ON FINANCE (SIXTEENTH LOK SABHA) ON DEMANDS FOR GRANTS (2016-17) OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

		Total	% of total
(i)	Total number of Recommendations	10	
(ii)	Recommendations/Observations which have been accepted by the Government (vide Recommendations at Sl. Nos. 1,2,4,5,6,7,8,9 & 10)	09	90.00%
(iii)	Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies	Nil	0.00
(iv)	Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee (vide Recommendations at Sl. No. 3)	01	10.00%
(v)	Recommendations/Observations in respect of which final reply of the Government are still awaited	Nil	-