

FIFTY-THIRD REPORT
PUBLIC ACCOUNTS COMMITTEE
(2003-2004)

(THIRTEENTH LOK SABHA)

CASE OF M/S PILCOM

*[Action Taken on Twenty-Fifth Report of Public Accounts Committee
(13th Lok Sabha)]*

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)



Presented to Lok Sabha on 13.8.2003

Laid in Rajya Sabha on 19.8.2003

LOK SABHA SECRETARIAT
NEW DELHI

August. 2003/Sravana. 1925 (Saka)

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PUBLIC ACCOUNTS COMMITTEE

(2003-2004)

Sardar Buta Singh — *Chairman*

Lok Sabha

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4. Shri M.O.H. Farook
5. Dr. Madan Prasad Jaiswal
6. Shri Raghunath Jha
7. Dr. K. Malaisamy
8. Dr. M.V.V.S. Murthi
9. Shri Rupchand Pal
10. Shri Mohan Rawale
11. Dr. Nitish Sengupta
12. Shri Raghuraj Singh Shakya
13. Shri Brij Bhushan Sharan Singh
14. Shri Kirit Somaiya
15. **Vacant

Rajya Sabha

16. Shri Santosh Bagrodia
17. Shri Prasanta Chatterjee
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19. Shri Bachani Lekhrāj
20. Dr. Alladi P. Rajkumar
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SECRETARIAT

1. Shri P.D.T. Achary	—	<i>Additional Secretary</i>
2. Shri S.K. Sharma	—	<i>Joint Secretary</i>
3. Shri Raj Shekhar Sharma	—	<i>Deputy Secretary</i>
4. Shri B.S. Dahiya	—	<i>Under Secretary</i>
5. Shri R.K. Suryanarayanan	—	<i>Committee Officer</i>

*Shri Haribhai Chaudhary resigned w.e.f. 9th May, 2003.

*Shri Chinmayanand Swami ceased to be a Member on his appointment as Union Minister w.e.f. 24th May, 2003.

INTRODUCTION

I, the Chairman, Public Accounts Committee having been authorised by the Committee, do present on their behalf, this Fifty-third Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Twenty-Fifth Report (13th Lok Sabha) on "Case of M/s PILCOM".

2. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 29th July, 2003. Minutes of the sitting form Part II of the Report.

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

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

NEW DELHI;
30 July, 2003
8 Sravana 1925 (Saka)

SARDAR BUTA SINGH,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1 This report deals with the action taken by the Government on the recommendations of the Public Accounts Committee (2001-2002) contained in their 25th report (13th Lok Sabha) on paragraph 3.4 of the Report of the Comptroller and Auditor General of India for the year ended 31st March, 1996 (No. 12 of 1997). Union Government (Revenue Receipts—Direct Taxes) relating to "case of M/s. PILCOM."

1.2 The aforesaid report of the Committee presented to Lok Sabha on 4th December, 2001 contained 11 recommendations. The Action Taken Notes in respect of all the recommendations/observations have been received from Government. These have been categorized as follows:

- (i) Recommendations and observations that have been accepted by Government.
Sl. Nos. 3, 4, 7, 8, 9, 10, 11.
(Paras 39, 40, 43, 44, 45, 46, 47)
- (ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government.
Sl. Nos. 1, 6.
(Paras 37, 42)
- (iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration.
Sl. Nos. 2, 5.
(Paras 38, 41)
- (iv) Recommendations and observations in respect of which Government have furnished interim replies.
Nil

1.3 The Committee desire that the action taken notes on the observations/recommendations contained in Chapter I of this Report be furnished to them at the earliest.

1.4 The 25th Report (13th Lok Sabha) of the Committee dealt with the income tax assessment case of M/s. PILCOM, *i.e.* Pakistan-India-Sri Lanka Joint Management Committee formed by the representatives of the cricket boards of India, Pakistan and Sri Lanka to jointly stage World Cup Cricket during February-March, 1996. The main issue in this case concerned the directive issued by the Central Board of Direct Taxes (CBDT) purportedly under Section 119 of the Income Tax Act, 1961, instructing the income tax authorities in Kolkata to withdraw the notice

served upon M/s. PILCOM under Section 175 of the aforesaid act. The Committee had *inter-alia* made the following recommendations/observations on this subject:—

- the CBDT directive dated 20th February, 1996 which was outside the scope of their powers in effect had impeded the due process of law and gave a handle to M/s. PILCOM to delay the assessment.
- the Ministry of Finance formulate guidelines within the framework of the Income Tax Act to define the discretionary powers of the CBDT and to consider and dispose of all representations made by assesseees to the Board in case of perceived hardship.
- conclusive action be taken for recovery of tax, which ought to have been deducted at source by M/s. ITC (sponsors of the World Cup) together with interest and penalty.
- responsibility be fixed on the negligent officials for issuing NOCs to M/s. ITC for remittance of funds abroad without perusing the sponsorship agreement and the terms of payment.
- a suitable provision in the Income Tax Act be inserted to bring *ad-hoc* bodies constituted for events like sports tournaments, beauty pageants etc. within the ambit of the Act. The Committee be apprised of the follow-up action taken by the Ministry with regard to the income tax assessment of M/s. PILCOM and if necessary, to recover revenue dues from the Indian constituent of M/s. PILCOM, namely, M/s. BCCI as per provisions of the Income Tax Act.

1.5 The Committee now proceed to deal with the action taken by Government on the recommendations/observations contained in their aforesaid report.

Receipts of M/s PILCOM

2.1 The Committee in their earlier original report in Para 37 had observed that the approximate aggregate amount received by M/s. PILCOM as Rs. 84.35 crores in accordance with Audit findings.

2.2 The Ministry of Finance (Department of Revenue) in their Action Taken Notes have contradicted these findings in as much as they have cited the aggregate amount received by M/s. PILCOM as Rs. 82,11,49,210/-.

2.3 The Committee would like the Department of Revenue to ascertain correctly the amount of aggregate receipts of PILCOM and reconcile the figures with that reported by Audit. The Committee desire that such issues relating to basic facts and figures be reconciled and settled by the Ministry with Audit at the earliest opportunity before the matter is reported to Parliament.

Need to Formulate Guidelines to Dispose of Representations of Assesseees

3.1 The Committee in Paras 38 & 39 of 25th Report (13th LS) had concluded that the directive dated 20th February, 1996 issued by the Central Board of Direct Taxes (CBDT) instructing the filed authorities to withdraw the notice served upon

M/s. PILCOM under Section 175 of the Income Tax Act 1961 actually impeded the due process of law and in effect, gave a handle to M/s. PILCOM to delay the assessment. The Committee had further observed that the aforesaid directive was outside the scope of powers of the Board and had expressed the hope that the Board will draw suitable lessons from this incident so that its discretionary powers are exercised in a manner as not to oust the statutory powers of the sub-ordinate authorities unless so provided in the Act itself. The Committee had therefore, recommended that the Ministry of Finance should formulate guidelines within the framework of the Income Tax Act to consider and dispose of all representations made to the Board by the assesseees in case of perceived hardship.

3.2 In their Action Taken Notes (ATNs), the Ministry of Finance (Department of Revenue) have only reiterated their original position that the directive in question did not retard the process of assessment as the tax was being collected under provisions of TDS (Section 194C of the Act) and that the normal course of assessment would have started after filing of the return at the end of relevant financial year. They have further maintained that subsequently this directive was withdrawn in view of difficulties conveyed by field offices. They have also reiterated that Section 119 of the Income Tax Act 1961 empowers the Board to issue directions in individual cases also if considered desirable for avoiding genuine hardship. They have clarified that the Board had no intention to impede the due process of law. In the same vein, the Department have accepted the recommendation of the committee regarding the use of discretionary powers by the Board under Section 119 of the Income Tax Act 1961 so as not to encroach upon the statutory powers of subordinate authorities. They have further assured the Committee that specific guidelines, as recommended by the Committee will be formulated by the Board to dispose of all representations made by the assesseees to the Board in case of perceived hardship.

3.3 The Committee are not satisfied with the reply of the Ministry attempting to justify the CBDT directive dated 20th February, 1996. The Committee reiterate their conclusion that the directive of the CBDT to the Assessing Officer to withdraw the notice served on M/s. PILCOM u/s 175 amounted to interference in the work of a subordinate statutory authority. The Committee have, however, been assured that the CBDT would exercise its power stipulated u/s 119 so as not to encroach upon the statutory powers of subordinate authorities and that specific guidelines would be formulated by the Board to dispose of all representations from assesseees in case of perceived hardship. The Committee hope that these guidelines would be framed expeditiously and they would be apprised in due course.

Need to Fix Responsibility on Negligent Officials

4.1 The Committee had in Paras 40 and 41 of their earlier report recommended that conclusive action be taken for recovery of tax which ought to have been deducted at source by M/s. ITC (sponsors of the World Cup) along with interest and penalty thereon and for fixing responsibility on the negligent officials who issued NOCs to M/s ITC for making payments into the foreign account of M/s. PILCOM without perusing the sponsorship agreement and the terms contained therein.

4.2 The Ministry of Finance (Department of Revenue), in their Action Taken Notes, have stated that income tax along with interest and penalty have been levied upon M/s. ITC. However the Department has maintained silence on the question of fixation of responsibility on negligent officials.

4.3 The Committee note that the Ministry of Finance (Department of Revenue) has not responded seriously on the issue of fixation of responsibility on negligent officials who issued NOCs to M/s. ITC for remitting payments into the foreign account of M/s. PILCOM without perusing the sponsorship agreement and the terms stipulated therein. The Committee expect that in such cases, the Department should not shy away from pinpointing individual responsibility particularly involving officials responsible for collection of revenue once the lapse becomes apparent.

Need to Widen the Scope of Sec. 10(23) of Income Tax Act, 1961

5.1 The Committee had recommended in Para 45 of their original report that it would be desirable to widen the scope of Section 10(23) or to insert a suitable provision in the Income Tax Act so that *ad-hoc* bodies set up for organizing special events like beauty pageants, music shows, sports tournaments etc. are brought within the ambit of Income Tax Act 1961.

5.2 The Ministry of Finance (Department of Revenue) have informed in their ATN that amendment in the Income Tax Act by way of an Explanation in clause (31) of Section 2 has been made so as to provide "that an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not, such person or body was formed or established or incorporated with the object of deriving income, profit or gain." In pursuance of the recommendation of the Committee, the Ministry have also inserted a new section, i.e. Sec. 174A in the Income Tax Act 1961 which provides that "where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person formed or established for a particular event or purpose, is likely to be dissolved in the same assessment year in which it was formed, or immediately after such assessment year the total income of such association or body or juridical person for the period from the expiry of the previous year for that assessment year up to the date of its dissolution shall be chargeable to tax in that assessment year."

5.3 The Committee are pleased to note that the Ministry of Finance (Department of Revenue) have made necessary amendments in the Income Tax Act, 1961 pursuant to the recommendations of the Committee, thereby bringing within the purview of Income Tax Act various transient entities generating substantial income but escaping income tax.

Recovery of Tax Due

6.1 The Committee in Para 47 of their original report on the assessment of taxable income in respect of both M/s. PILCOM and M/s. INDCOM (formed by M/s. BCCI to conduct the Indian leg of the World Cup), had desired that a detailed report on the assessment of taxable income of M/s. PILCOM be furnished by the Ministry indicating both the components of TDS and income tax assessed including the

amount of interest and penalty levied on M/s. PILCOM and also in respect of M/s. INDCOM. The Committee had also recommended that income tax due should be recovered, if necessary from the Indian constituent of M/s. PILCOM namely, M/s. BCCI as per provisions of the Income Tax Act and also as per the assurance given by the then Secretary (Revenue) to the Committee during oral evidence.

6.2 The Ministry of Finance (Department of Revenue) have stated in their ATN that the assessment order in respect of M/s. PILCOM could not be passed due to the interim order of Hon'ble High Court of Kolkata and that the Assessing Officer will be in a position to pass the assessment order as and when leave is obtained from Hon'ble High Court. The Ministry have assured the Committee that the matter of early disposal of the writ petition is being pursued with Ministry of Law and that the Additional Solicitor General has been engaged to represent the Department's case in the Hon'ble High Court. They have further informed that M/s. INDCOM has been treated for assessment purpose as part of M/s. BCCI.

6.3 The Committee hope that the Ministry will continue to pursue vigorously the matters pending before the Hon'ble High Court of Kolkata so that government revenue is well protected.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

The Committee find that section 119 of the Income Tax Act, which enumerates the grounds under which instructions may be issued by the Board to subordinate authorities, categorically stipulates *vide* sub-section 1(a) that such order, instructions or directions shall not be issued so as to require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner. Further, this section precludes instructions in individual cases except under two contingencies, namely, (i) those relating to applications for any exemption, deduction, refund or any other relief under the Act made after the expiry of the period specified under the Act, that is, prayer for condonation of delay and (ii) relaxation of any requirement contained in any of the provisions of Chapter IV (Computation of total income) and Chapter VIA (Deduction to be made in computing total income) where the assessee has failed to comply with any requirement for claiming deductions, provided the Central Government shall cause every order issued under this clause to be laid before each House of Parliament. The Committee are of the considered view that the impugned directive issued by the Board in the case does neither fall under the exceptions provided for individual cases nor does it come within the purview of the general instruction issued by the Board during the year 1974 (No. 796 dated 22 November, 1974) and relied upon by the Board in the instant case. This general instruction issued with reference to Section 119 clearly prohibited advance rulings/directions by the Board in individual cases. Undoubtedly, Section 119 only empowers the Board to give advice in individual cases either *suo-motu* or on reference from Commissioners only when difficult propositions of law or fact are involved. Such an advice will, however, be non-binding on the assessing officers. The Board, could not adduce a single precedent where the Board had earlier issued similar directive impeding the due process of law. The Committee, therefore, come to the inescapable conclusion that the impugned directive dated 20 February, 1996 which was in effect nullified by the Board on 21 November, 1996 not only impeded the due process of law but also aborted the income tax proceedings by usurping the statutory power of a subordinate authority. Surprisingly, the Board could not adduce any tangible evidence as to the deliberations in the Board with regard to the decision voiding the directive of 20 February, 1996. The Committee hope the Board will draw suitable lessons from this incident so that its discretionary powers as stipulated u/s 119 are exercised in a manner as not to out the statutory powers of the subordinate authorities unless so provided in the Act itself. The Committee also desire that the Ministry of Finance, formulate guidelines within the framework of the Income Tax Act to

consider and dispose of all representations made by the assesseees in case of perceived hardship to the Board.

[Sl. No. 3 Appendix-II Para 39 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

The Board has issued such directive u/s 119 which empowers it to issue direction in individual cases as well as in class of cases if it is considered desirable for avoiding genuine hardship in such cases. It is felt the Board had no intention to impede the due process of law. However, in compliance of the observation of the Committee, the CBDT would exercise its power stipulated u/s 119 so as not to encroach upon the Statutory powers of subordinate authorities. Specific guidelines will be formulated by the Board to dispose of all representations made by the assesseees in case of perceived hardship to the Board.

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001.A&APC-I

Dated: 4th June, 2002.

FTD O.M. No. 484/1/96-FTD Dated 8-2-2002

Ministry of Finance/Department of Revenue

Recommendation

Audit has referred to the agreement between M/s. ITC and M/s. PILCOM wherein the former was required to pay 10% of the sponsorship money in pound sterling into the London account of M/s. PILCOM. However, the Ministry has conceded that M/s. ITC Ltd. misrepresented before the Department for securing No Objection Certificates for making payment in foreign currency in the Calcutta account of M/s. PILCOM amounting to pound sterling 19,25,000 without deducting tax at source. The Ministry conceded further that the department have since revoked the NoCs on 11 April, 1996 and that M/s. ITC have subsequently deducted TDS on the entire payment made to M/s. PILCOM. Such incidents only reinforce the conclusion of the Committee that action u/s 175 of the Income Tax Act initiated by the Assessing Authority at Calcutta was timely and appropriate in view of the dubious conduct of the parties involved and that there was *bona fide* apprehension that funds may be transferred abroad by M/s. ITC using M/s. PILCOM as a conduit. The Committee, therefore, recommend that conclusive action may be taken for recovery of tax which ought to have been deducted at source by M/s. ITC alongwith interest and penalty thereon.

[Sl. No. 4 Appendix-II Para 40 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

In the Board's meeting with the representative of PILCOM, the issue regarding the status of PILCOM was discussed. In the light of available facts, it was concluded that there was no association of persons brought into existence when the three Cricket Boards bid for the event and established a management committee, called PILCOM. This view of the Board was guided by the assurance by the PILCOM that it would furnish further detail to the Board regarding exemption of PILCOM from the levy of income tax.

Subsequently additional facts were furnished to the Board by the field authorities with a request to review the Board's instruction dated 17.05.1996. The matter was discussed by the CBDT and consequently the instruction was withdrawn on 21.11.1996. Therefore, the action of the Board in deciding the status of PILCOM was based on available facts at that point of time and the change of stand regarding the status of PILCOM was taken by the Board only on the basis of the additional facts received subsequently from the field authorities.

The Board has issued the instructions dated 17th May, 1996 and 21st November, 1996 under Section 119 of the Income-tax Act, 1961 which empowers the Board to issue such directives.

On the basis of Report on para 5(b) (ii) arising out of oral evidence taken by PAC in the case of M/s. PILCOM proceedings were initiated u/s. 201(1A) & 221 of the I.T. Act 1961 on 15-1-99 for payment of interest & penalty on the late deposit of TDS made by M/s. ITC Ltd. from M/s. PILCOM in July & November 1995 for sponsoring the World Cup Cricket 1996.

After considering the ITC's explanation orders were passed on 6-5-99 charging interest of Rs.10,79,562/- u/s.201(1A) & a penalty of Rs.1,00,00,000/- (one crore) u/s. 221 of the I.T. Act'61.

Against these orders assessee went into appeal before the CIT(Appeal). *Vide* his Appeal Orders No.11/CIT(A)-I/AC.Cir.21(1)/99-2000 dated 28-11-2000 and No.12/CIT(A)-I/AC(TDS) Cir.21(1)/99-2000 dated 29-11-2000 the CIT(A)-I, Kolkata has partly allowed the appeal in respect of interest u/s. 201(1A) reducing it to Rs.1,68,720/- and fully allowed the appeal in respect of penalty reducing the penalty demand at NIL respectively.

Against these orders the Department went into second appeal before the I.T.A.T. Kolkata Bench on 23-3-2001 which are still pending.

The revised demand of interest u/s. 201(1A) amounting to Rs.1,68,720/-, as per CIT(A)'s order, has already been paid by the assessee on 29-12-2000.

So far as ITC is concerned, proceedings u/s 201(1A) were initiated for delayed deposit of TDS made by it from payments to PILCOM for sponsoring the World Cup Cricket, 1996.

Orders were passed on 6-6-99 charging interest of Rs.10,79,562/- u/s 210(1A) and penalty of Rs.1 crore u/s 221

Appeals were preferred by ITC against the orders. CIT(A) partly allowed the appeal in respect of interest reducing it to Rs.1,68,720/- while the appeal against the penalty was fully allowed reducing it to NIL. Department preferred appeal before the ITAT against both the orders. They are pending. The reduced demand of Rs.1,68,720/- has been paid by the assessee.

Sd/-

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001.A&APC-I

Dated: 4th June, 2002.

CIT(TDS)KOLKATA L.no.CIT(TDS)Report/2002-03/96 dated 29-4-2002

CCIT-KOLKATA L.no. DC/Hqrs./Planning/CBDT/4/2002-03/2000 dt: 6-5-02

Ministry of Finance/Department of Revenue

Recommendation

The Committee observe from the record placed before them that M/s. PILCOM had agreed that deduction of tax at source (TDS) would be made by them in respect of payments to contractors and others. The Ministry however, informed the Committee that since M/s. PILCOM had filed Income Tax return declaring "Nil" income and no accounts were filed, it cannot be ascertained whether M/s. PILCOM had deducted TDS on every payment made by them. The Ministry have further stated that on the basis of information collected from bank accounts of M/s. PILCOM, the Assessing Authority at Calcutta had passed two orders for short non-deduction of TDS amounting to tax demands of Rs.28,63,438/- and Rs.2,18,29,300/-, but the Income Tax Appellate Tribunal (ITAT) have deleted the entire demand in one case and have remanded the matter to the CIT with directions in the other case. The Committee desire to know the latest position on the issue of TDS in respect of all the payments/remittances made by M/s. PILCOM and as to whether the orders of the ITAT on the assessment made by the department in regard to TDS have been appealed against or not and what steps have been taken to protect the Revenue.

[Sl.No. 7 Appendix-II Para 43 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

PILCOM was established to organise Wills Cricket World Cup, 1996 No. TDS was made while paying the non-resident players and Sports Associations. Order raising TDS demand of Rs.2,18,29,300/- was passed by I.T. Authorities u/s.201(1A)/194E. PILCOM went in appeal against the said order but the order was confirmed by the CIT(A). This order of the CIT(A) was appealed against before the ITAT, Kolkata Bench. ITAT, Kolkata in its turn set aside the order of the CIT(A). CIT(A)-I then passed order on 28-12-98 allowing partial relief to the assessee and

the demand came down to Rs.97,30,303/-. The assessee again preferred appeal against this order before the ITAT and ITAT *vide* its order dated 4.1.2000 allowed further relief to the assessee and the demand was further reduced to Rs. 38,88,731/-. The assessee paid the demand in full but preferred appeal before the H.C. at Kolkata. The Department also went into appeal against the ITAT's order. The appeals are pending.

In the meantime orders u/s. 201(1A) & 220(2) were passed on 26.03.2000 charging interest of Rs. 26,86,697/- and Rs.19,24,922/- respectively. The assessee preferred appeal before CIT(A) against the orders who *vide* orders dated 7.12.2000 & 14.12.2000 dismissed them. The assessee then filed appeals before the ITAT, Kolkata which are still pending.

Another demand of Rs. 28,63,435/- was raised u/s. 201(1) *vide* I.T.O ward 21(4), Kolkata's order dated 14.3.96 against PILCOM's payments in the nature of 'contract', 'rent', 'professional charges' etc. PILCOM preferred appeal against the order. CIT(A) confirmed the status of PILCOM as AOP and allowed partial relief in respect of certain payments and partly set aside the order in respect of certain other payments. After giving effect to CIT(A)'s order the demand came down to Rs.1,66,991/-, later rectified u/s. 154 to Rs.1,74,781/-. Both the Department and the assessee preferred appeal before the ITAT against the old order of CIT(A). ITAT struck down the demand of Rs. 1,74,781/- *vide* its order dated 30.3.98. However, it remanded the case in respect of payments made to four persons e.g. (1) Shri Hanumanth Singh, (2) Shri I.S. Bindra, (3) Shri U.N. Banerjee and (4) BCCI for making fresh order by the A.O. Department's application u/s. 256(1) was also turned down by the ITAT by order dated 30.6.98. Thereafter Petition u/s. 256(2) was made by the Department. On 31/3/99 the set aside case was finalized by the A.O. raising a demand of Rs.51,311/- u/s 251/201(1)/194J/194A. The same was rectified u/s 154 *vide* order dated 3-8-2000 revising the demand at Rs. 53,806/-. The assessee preferred appeal against these orders which are still pending before the CIT(A), Calcutta.

Sd/-

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001 A&PAC.I

Dated: 4th June, 2002.

CCIT-KOLKATA L.no. DC/Hqrs./Planning/CBDT/4/2002-03/2000 dated 6-5-2002.

Ministry of Finance/Department of Revenue

Recommendation

Audit has referred to the decision of the CBDT regarding the income tax exemption enjoyed by M/s. BCCI under Section 10(23) of the Income Tax Act which is intended specifically to provide tax exemption to established sports bodies in the country. However, the Committee have observed from the note of Member (Legal), CBDT dated 19 February, 1996 preceding the aforesaid directive issued by the Board that M/s. BCCI was exempted from income tax under section 10(23)

only upto assessment year 1992-93 and their application for exemption for subsequent assessment years was under the consideration of DG (Exemption), Income Tax. The Committee would like to be apprised whether exemption has been subsequently granted to M/s. BCCI under Section 10(23) for the assessment years in question.

[Sl.No. 8 Appendix-II Para 44 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

Subsequent to 19 February 1996, the date referred to in the said para, the Board of Control for Cricket in India (in short BCCI) was notified for the purpose of clause (23) of Section 10 of the I.T. Act, 1961 by the Board for the assessment year 1993-94 to 1995-96 and for 1996-97 to 1998-99 *vide* Notification No. 10069 dated 16.07.1996 and Notification No. 10749 dated 12.07.1996 (F.No.196/15/96-ITA.I) respectively.

Sd/-

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001.A&PAC-I

Dated: 4th June, 2002

DGIT(EXEMPTION) L.no. DGIT(E)/M-51/10/(23)/97-98/7189 dt: 31-1-02

Ministry of Finance/Department of Revenue

Recommendation

As regards the taxability of ad-hoc bodies constituted for short duration or particular events, the Ministry have stated that, as of now, they are not treated as taxable entities. The Committee are seriously concerned that bodies such as M/s. PILCOM which are constituted for specific event or purpose and stand dissolved on the completion of the event will escape income-tax liability by claiming that they do not constitute an "association of persons". Such ad-hoc bodies, which mushroom overnight for organizing special events or occasions like beauty pageants, music shows, sporting tournaments etc. may increasingly become the order of the day and merrily escape income tax if not treated as taxable entities. The Central Board of Direct Taxes do not seem to have come to grips with such an emerging scenario wherein huge amount of potential income tax escapes assessment. The Committee, therefore, consider it desirable to widen the scope of Section 10(23) or insertion of a suitable provision in the Income Tax Act so that all such or similar bodies are brought within the ambit of the Income Tax Act.

[Sl.No. 9 Appendix-II Para 45 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

Following amendments have been proposed through the Finance Bill, 2002:—

- (a) It has been proposed to insert an Explanation in clause (31) of section 2 so as to provide that an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not, such person or body or authority or juridical person, was formed or established or incorporated with the object of deriving income, profits or gains.
- (b) A new section 174A has also been proposed to be inserted so as to provide that where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person formed or established or incorporated for a particular event or purpose, is likely to be dissolved in the same assessment year in which it was formed or established or incorporated, or immediately after such assessment year, the total income of such association or body or juridical person, for the period from the expiry of the previous year for that assessment year upto the date of its dissolution, shall be chargeable to tax in that assessment year.

Sd/-

(A.K. MOHANTY)

Member CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001 A&PAC-I

Dated: 4th June, 2002.

TPL O.M.No. 154/1/2002-TPL dt: 18-3-2002

Ministry of Finance/Department of Revenue

Recommendation

The Committee are surprised that M/s. PILCOM have not furnished to the income tax authorities their complete audited accounts so far on the plea that their accounts are being finalised in Pakistan. The Committee further observe that even though proceedings against M/s. PILCOM were initiated by the income-tax authorities as long back as 31 January, 1996 when summons were issued under Section 131 of the Income Tax Act, complete audited accounts and other books of account have still not been furnished to the department by M/s. PILCOM. The Committee also find to their dismay that the income tax authorities issued a notice u/s 142 (1) of the Income Tax Act to M/s. PILCOM for filing their return only on 18 February, 1997. Intriguingly, M/s. PILCOM did not respond to the notice until the Hon'ble High Court at Calcutta directed them to file their return. In compliance to the High Court directive, M/s. PILCOM eventually filed their return only on 7 January, 1999 by declaring their status as 'nil' and income as 'nil'. The Committee have also been informed by the department that they have filed a reference application before the Hon'ble High Court on the fundamental issue of the taxability

of M/s. PILCOM against the order of the Income Tax Appellate Tribunal (ITAT) dated 30 March, 1998 which held that M/s. PILCOM being not an Association of Persons (AOP) was not liable to tax in India. The Committee seek a comprehensive report explaining the unusually long intervening gaps between the dates of proceedings initiated by the department against M/s. PILCOM the inordinate delay in issuing notice to M/s. PILCOM for filing return and the reasons for inaction on the part of the Ministry allowing further compounded delay by M/s. PILCOM to actually file their return as late as 7 January, 1999. The Committee would also like the Government to bring into sharp focus the revenue implications if bodies like PILCOM are not treated as AOPs. the Committee would like to be apprised of the outcome of the reference application and the follow-up action taken by the Ministry in this regard.

[Sl. 10 Appendix-II) Para 46 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

- (a) In para 46, PAC has sought a comprehensive report explaining the unusually long intervening gaps between the dates of proceedings initiated by the Deptt. against M/s. PILCOM, the inordinate delay in issuing notice to M/s. PILCOM for filing return and the reasons for inaction on the part of the Ministry allowing further compounded delay by M/s. PILCOM to actually file the return as late 7th January, 1999. The Committee also wanted to be apprised of the outcome of the reference application and the follow up action taken by the Ministry in this regard. The replies to above observation are as follows:—
- (b) (I) The Cricket World Cup 96 was organised by M/s. PILCOM in the financial year ending on 31.3.1996. The corresponding assessment year was 1996-97 and the due date for filing return under section 139(1) of Income-tax Act was 31.10.1996. Notice u/s 142(1) calling for return would have been ordinarily issued on or after 1-11-1996. The instruction dt. 17.5.1996 of C.B.D.T. was operative stating that M/s. PILCOM would not be liable to tax. The said instruction was withdrawn on 21.11.1996. Notice u/s 142(1) was issued by the Assessing Officer on 18.2.1997. Hence the delay in issuing the notice which may be attributable to the Assessing Officer could be at the maximum about three months.
- (II) After the service of notice to file the return, many letters and statutory notices were issued to the assessee to file the return, the audited accounts, the bank statement, details of various receipts of expenses. However, M/s. PILCOM did not comply at all and instead filed a writ petition (W.P. No. 2443 of 1998) under Article 226 of the Constitution on 30.11.1998 in Hon'ble Kolkata High Court, challenging the assessment proceeding initiated by the Department. On 8.12.1998, the Hon'ble High Court passed an interim order directing M/s. PILCOM to file the Income-tax

Return and allowing the Assessing Officer to proceed with the assessment proceedings, but not pass the final order without the leave of the Court. The final disposal of the said writ petition is pending and the interim order of Hon'ble High Court is still operative.

- (III) M/s. PILCOM filed return of income on 7.1.1999 showing nil income. It has not furnished any details in relation to receipts land expenses, the books of accounts, bank statements, the audit report etc. The assessment order could not be passed because of the aforesaid interim order of Hon'ble High Court. The Assessing Officer is in position to pass the assessment order as and when the leave in this regard is obtained from Hon'ble High Court. As the assessment order has not been passed, the issue of levy of interest and penalty is premature and information about the assessment of income of M/s. PILCOM cannot be furnished. The matter of early disposal of the writ petition is being pursued with Ministry of Law. Due to the initiative taken from here, Additional Solicitor General, Shri Kipankar Ghosh, has been engaged to represent the Department's case in the Hon'ble High Court. Shri Ghosh has been briefed in the matter.
- (IV) M/s. PILCOM want in appeal against the order of I.T.O., T.D.S., Ward-21(4), Kolkata dt. 14.3.1996 for financial year 1995-96. In the order of I.T.O. T.D.S., the status of M/s. PILCOM was taken as A.O.P. and I.T.O. held M/s. PILCOM in default for not deducting tax from various payments. The order of I.T.O. became subject matter of appeal before I.T.A.T., which held in an order dt. 30.3.1007 (copy enclosed) that the tax authorities were wrong in treating M/s. PILCOM as an A.O.P. as it cannot be said to have been formed with the object of producing income. The Department filed a reference application before Hon'ble High Court which has been admitted by Hon'ble High Court with the direction to I.T.A.T. to refer to following question of law along with the statement of case within three months.

"Whether on the facts and circumstances of the cast, I.T.A.T. is right in holding that the tax Authority was wrong in treating the assessee as A.O.P."

Sd/-

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001. A&PAC-I

Dated: 4th June, 2002.

DGIT (Inv.) EAST L. no. DGIT/E/05/Audit & PAC/2001-02/4489dt: 27-2-2002

Ministry of Finance/Department of Revenue

Recommendation

The Committee were informed that the Hon'ble High Court, Calcutta while directing the department to continue the assessment proceedings has asked them

not to pass the final order of assessment without the leave of the Court. In view of the inconclusive status of the assessment, the Committee refrain from commenting as to revenue loss to the Government but recommend that income tax due should be recovered, if necessary, from the Indian constituent of M/s. PILCOM, namely M/s. BCCI as per provisions of the Income-tax Act and as per the assurance given by the Secretary (Revenue) to the Committee. The Committee also desire that a detailed report on the assessment of taxable income of M/s. PILCOM be furnished by the Ministry indicating both the components of TDS and income tax assessed including the amount of interest and penalty levied on M/s. PILCOM and also in respect of M/s INDCOM, which was formed by the BCCI to conduct the Indian leg of the World Cup and to receive the gate money and other earnings from the State Cricket Associations.

[Sl. No. 11 Appendix-II Para 47 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

M/s. PILCOM filed return of income on 7.1.1999 showing nil income. It has not furnished any details in relation to receipts and expenses, the books of accounts, bank statements, the audit report etc. The assessment order could not be passed because of the aforesaid interim order of Hon'ble High Court. The Assessing Officer is in a position to pass the assessment order as and when the leave in this regard is obtained from Hon'ble High Court. As the assessment order has not been passed, the issue of levy of interest and penalty is premature and information about the assessment of income of M/s. PILCOM cannot be furnished. The matter of early disposal of the writ petition is being pursued with Ministry of Law.

M/s. INDCOM has been treated as part of M/s. BCCI.

Sd/-

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001. A&PAC-I

Dated: 4th June, 2002.

DGIT (Inv.) EAST L. no. DGIT/E/05/Audit & PAC/2001-02/4489dt: 27-2-2002

CHAPTER III

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

M/s. PILCOM (Pakistan-India-Sri Lanka Joint Management Committee) was a body formed by the representatives of the Cricket Boards of India, Pakistan and Sri Lanka to jointly stage World Cup Cricket during February-March 1996. These three countries, as joint bidders, had secured from the International Cricket Council (ICC)- the right to stage World Cup Cricket in India, Pakistan and Sri Lanka. The bid amount was five million pound sterling. The mandate of this Committee included formulation of rules for the conduct of the matches, appointment of umpires for individual matches, disposal of representations made by the players, representatives etc. and the regulation of their commercial aspects. The approximate aggregate amount received by PILCOM in Indian rupees was 84.35 crore. The expenditure incurred by M/s. PILCOM included guarantee money paid to both participating and non-participating member-countries of the International Cricket Council (ICC), International Travel expenses, payments made to umpires players for various awards and money paid to contractors etc. The surplus generated by M/s. PILCOM was agreed to be shared equally between the Cricket Boards of India and Pakistan. The Sri Lanka Board was to be paid a compensation for having lost two of the four matches allotted to that country.

[Sl. No. 1 Appendix-II Para 37 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

The observations contained at Para 37 are largely statement of facts. In Para 37, the approximate aggregate amount received by PILCOM in Indian Rupees is given as Rs. 84.35 crores, whereas this figure is put at Rs. 82,11,49,210/- as per the reply furnished by the Ministry of Lok Sabha Secretariat on 13.11.1999.

Sd/-

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India
Ministry of Finance/Department of Revenue O.M. F. No. 241/1/2001. A&PAC-I

Dated: 4th June, 2002.

FTD O.M.NO. 484/1/96-FTD Dated 13-3-2002

Ministry of Finance/Department of Revenue

Recommendation

On the question of taxability of M/s. PILCOM, the Committee were informed that the Board had issued two sets of instructions; the first issued on 17 May 1996

declared that M/s. PILCOM would not be liable to income tax being "not an association of persons". It further stated that, M/s. BCCI, which was a constituent of M/s. PILCOM, may be treated as an "agent" of M/s. PILCOM under Section 163 of the Act for the purpose of deducting tax at source (TDS) in respect of : (a) payment made to contractors etc.; (b) payments in the nature of Man of the matches series awards etc. (c) guarantee money paid to those countries who played in Indian and with whom India did not have a double taxation avoidance agreements; and (d) remittances made from India like payments made to non-residents, namely, umpires, players etc. The CBDT, subsequently, issued another instruction on 21st November, 1996 nullifying the earlier instruction of 17th May 1996 by directing the field authorities in Calcutta to treat it as "withdrawn" and to take necessary follow-up action in accordance with law. The Committee find that the Board did not treat this issue of income-tax status of M/s. PILCOM with clarity or conviction. This ambivalence, in the considered opinion of the Committee, only resulted in undue and unwarranted delay in initiating assessment proceedings against M/s. PILCOM. Curiously, the income tax authorities eventually issued notice of M/s. PILCOM to file income tax return under section 142 of the Act only during February 1997. The Committee are anguished to note that the intervening period was marked by total inaction on the part of the Board which prevented the field authorities to proceed with assessment. The Committee, therefore, seek explanation as to the delay in deciding the taxability of M/s. PILCOM and the legal basis for issuing instructions on 17th May, 1996 and the voiding instruction on 21 November, 1996.

[Sl. No. 6 Appendix-II Para 42 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

The corresponding assessment year was 1996-97 and the due date for filing return under section 139(1) of Income-tax Act was 31-10-96. Notice under section 142(1) calling for return would have been ordinarily issued on or after 1-11-96. The instruction dated 17-5-96 of CBDT, was operative stating that M/s. PILCOM would not be liable to tax. The said instruction was withdrawn on 21-11-96. Notice under section 142(1) was issued by the Assessing Officer on 18-2-97. Hence the delay in issuing the notice which may be attributable to the Assessing Officer could be at the maximum about three months.

The CBDT instruction dated 17-6-96 was operative till 21-1-96. No action could have been taken by the A.O. prior to 21-1-96. Notice u/s 142(1) calling for the return of income was issued by the A.O. on 18-2-97. It cannot be said that there was inordinate delay on the part of the A.O. in initiating the assessment proceedings.

Sd/-

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India
Ministry of Finance/Department of Revenue O.M. No. 241/1/2001. A&PAC-I

Dated: 4th June, 2002.

DGIT (Inv.) EAST L.no DGIT/E/05/Audit & PAC/2001-02/4489 dt: 27-2-2002

DGIT (Inv.) EAST L.no DGIT/E/05/Audit & PAC/2001-02/706 dt: 7-5-2002

CHAPTER IV

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

The Committee note that an authorisation under section 133A of the Income Tax Act was issued by the Income Tax Authorities on 31 January, 1996 to conduct a survey on M/s. PILCOM. During this survey, the convener of M/s. PILCOM refused to produce the requisite documents on the ground that all the books of accounts of M/s. PILCOM were maintained by the Pakistan Cricket Board. The convener also refused to sign the survey proceedings. Thereafter, summons were issued under section 131 to M/s. PILCOM to furnish details of TDS and on non-compliance, proceedings for default in payment of TDS under section 201(1)/201(1A) were initiated. It was against this backdrop of non-compliance and non-cooperation that the notice under section 175 was issued upon M/s. PILCOM on 5 February, 1996 by the Assistant Commissioner, Circle 3(1) Calcutta under which M/s. PILCOM was required to file its return of income for Assessment Year 1996-97 within a week. The Committee find that M/s. PILCOM instead of responding to this notice, made a representation to the Board, which directed the assessing authority to withdraw the notice. Keeping in view the material facts and the conduct of M/s. PILCOM, the Committee conclude that the notice issued u/s 175 for accelerated assessment by the Income Tax Department at Calcutta was a necessary recourse under the law to realize the revenue. The Committee are unable to accept the contention of CBDT that the World Cup Cricket would have been put in jeopardy had the Board not intervened by way of its directive to the Income Tax Authorities in Calcutta to withdraw the notice. The Committee find this plea rather specious and far-fetched as the directive, in effect, impeded the due process of law and gave a handle to M/s. PILCOM to delay the assessments.

[Sl. No. 2 Appendix-II Para 38 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

The directive of the Board was issued in 17.5.95 after detailed discussion with PILCOM— wherein the situation arising out of the issuance of notice u/s 175 was reviewed. CBDT acted with the bonafide belief that such a notice might have obstructed the World Cup Cricket in the event of sustained pursuance of notice u/s 175 by Income Tax Authorities in Calcutta.

Even otherwise, the directives merely put a hold to the action u/s 175 but did not retard the process of assessment proceedings as the tax was being collected under

provision of TDS, u/s 194C. The normal course of assessment would have started after filing of the return at the end of relevant financial years.

Subsequently in view of the difficulties conveyed by the field offices towards implementing the Board's directive dated 17.5.1995, CBDT decided to withdraw the instructions after discussion in the full board meeting and accordingly on 21.11.1996, the instructions were revoked.

(A K Mohanty)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001.A&PAC-I

Dated: 4th June, 2002.

FTD O.M. No. 484/1/96-FTD Dated 8.2.2002

Ministry of Finance/Department of Revenue

Recommendation

The Committee do not view the conduct of the concerned officials of Income Tax Department beyond reapproach being responsible for granting NOCs to M/s. ITC without perusing the sponsorship agreement and the terms of payment stipulated therein. The Committee, therefore, recommend that responsibility should be fixed on the negligent officials responsible for issuing the NOCs to M/s. ITC. The Department also owes explanation as to the delay in revoking the NOCs and initiating proceedings against M/s. ITC, stating clearly as to when and how they discovered the offence committed by M/s. ITC and when they initiated corrective action in the matter.

[Sl. No. 5 Appendix-II Para 41 of 25th Report of PAC (13th Lok Sabha)]

Action Taken

M/s. ITC Ltd. had filed an application dated 21.6.95 before the DCIT, Spl. Range-16 Calcutta for issue of No Objection Certificate (NOC) to pay Pound Sterling 19,25,000 to PILCOM in India in the latter's foreign currency account in Calcutta as per the Seventh Schedule to the Sponsorship Agreement. In its application, M/s. ITC Ltd. submitted that since PILCOM was a resident in India and its Headquarters was located at Dr. B.C. Roy Club House, Eden Gardens, Calcutta, no tax was deductible u/s 195/194E of the I.T. Act, 1961. On the basis of this application, NOC dated 22.6.95 was issued to M/s. I.T.C. Ltd. allowing it to make the aforesaid payment without deduction of tax. Similarly, another NOC for payment of Pound Sterling 15,40,000 to the foreign currency account of M/s. PILCOM at Calcutta was issued on 8.11.95.

Thus both the NOCs were issued to ITC Ltd. on the basis of the information provided by it regarding the residential status of M/s. PILCOM and that the money was to be paid into the foreign currency account maintained in India. Subsequent enquiry revealed that ITC Ltd. in effect, remitted the aforesaid amounts abroad

using M/s. PILCOM only as a mode of disbursement of money abroad and this arrangement was approved by the Reserve Bank of India. M/s. ITC Ltd. was the sponsor of the World Cup for the purpose of deriving advertisement mileage therefrom. This shows that the PILCOM was only used as a means to remit money abroad by M/s. ITC Ltd., which attracted TDS Provisions. As soon as it was detected that M/s. ITC misrepresented the facts before the assessing officer, the CIT-West Bengal-III, Calcutta *vide* his letter dated 11.4.96 directed the DCIT, Spl. Range-16, Calcutta to revoke the NOCs granted by the latter in June and November, 1995 and also advised him to dire. M/s. ITC. Ltd. to deposit tax deductible u/s 195 on the remittances already made. Consequently, *vide* letter dated 11.4.96, NOCs dated 22.6.95 and 8.11.95 were revoke and M/s. ITC Ltd. was directed to deposit the tax deductible u/s 195.

The proceedings for levying of interest u/s 201(1A) for delay in deduction and deposit of tax and penalty proceedings u/s 221 were initiated against M/s. ITC Ltd. and interest and penalty amounting to Rs. 10,79,562 and Rs. 1 crore respectively have been levied. Thus there was no delay in initiating TDS assessment proceedings on the payments made to M/s. PILCOM.

(A.K. MOHANTY)

Member, CBDT and *Ex-Officio* Addl. Secretary to the Govt. of India

Ministry of Finance/Department of Revenue O.M. No. 241/1/2001 A&PAC-I
Dated: 4th June, 2002.

O.M. F.No. 240/6/98.A&PAC-I Dated 13.11.99.

CHAPTER V

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

NIL

NEW DELHI;
30 July, 2003
8 Sravana, 1925 (Saka)

SARDAR BUTA SINGH,
Chairman,
Public Accounts Committee.

PART II

MINUTES OF THE EIGHTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2003-2004) HELD ON 29 JULY, 2003

The Committee sat from 1530 hrs. to 1615 hrs. on 29 July, 2003 in Room No. "51", Parliament House, New Delhi

PRESENT

Sardar Buta Singh — *Chairman*

Lok Sabha

2. Shri Priya Ranjan Dasmunsi
3. Shri M.O.H. Farook
4. Dr. Madan Prasad Jaiswal
5. Shri Rupchand Pal
6. Shri Mohan Rawale
7. Shri Nitish Sengupta
8. Shri Raghuraj Singh Shakya
9. Shri Brij Bhushan Sharan Singh
10. Shri Kirit Somaiya

Rajya Sabha

11. Shri Santosh Bagrodia
12. Shri Prasanta Chatterjee

SECRETARIAT

- | | | |
|----------------------------|---|-----------------------------|
| 1. Shri P.D.T. Achary | — | <i>Additional Secretary</i> |
| 2. Shri S.K. Sharma | — | <i>Joint Secretary</i> |
| 3. Shri Raj Shekhar Sharma | — | <i>Deputy Secretary</i> |
| 4. Shri B.S. Dahiya | — | <i>Under Secretary</i> |
| 5. Shri N.S. Hooda | — | <i>Under Secretary</i> |

Office of C&AG of India

- | | | |
|----------------------|---|----------|
| 1. Shri Sanjay Kumar | — | Director |
|----------------------|---|----------|

2. At the outset, the Chairman, PAC welcomed the Members of the Committee. Thereafter, the Committee took up for consideration and adoption of the following reports:—

- (i) Draft Report on para 2.5 of the Report of Comptroller & Auditor General of India, Union Government (Direct Taxes), No. 12 of 2002 relating to "PAN Applications".

- (ii) Draft Report on Action taken on the recommendations contained in 24th Report of PAC (13th Lok Sabha) relating to "Undermining of Parliamentary Financial Control".
- (iii) Draft Report on Action Taken on the recommendations contained in 25th Report of PAC (13th Lok Sabha) relating to "Case of M/s PILCOM".

3. The Committee adopted the above-mentioned draft reports with minor modifications/amendments.

4. The Committee authorized the Chairman to finalise the draft reports in the light of changes arising out of the factual verification by Audit, if any, and also to present the same to Parliament in the current Session.

The Committee then adjourned.

APPENDIX

CONCLUSIONS AND RECOMMENDATIONS

Sl. No.	Para No.	Ministry/ Department Concerned	Conclusions/Recommendations
1	2	3	4
1.	1.3	Ministry of Finance (Deptt. of Revenue)	The Committee desire that the action taken notes on the observations/recommendations contained in Chapter I of this Report be furnished to them at the earliest.
2.	2.3	-do-	The Committee would like the Department of Revenue to ascertain correctly the amount of aggregate receipts of PILCOM and reconcile the figures with that reported by Audit. The Committee desire that such issues relating to basic facts and figures be reconciled and settled by the Ministry with Audit at the earliest opportunity before the matter is reported to Parliament.
3.	3.3	-do-	The Committee are not satisfied with the reply of the Ministry attempting to justify the CBDT directive dated 20th February, 1996. The Committee reiterate their conclusion that the directive of the CBDT to the Assessing Officer to withdraw the notice served on M/s. PILCOM u/s 175 amounted to interference in the work of a subordinate statutory authority. The Committee have, however, been assured that the CBDT would exercise its power stipulated u/s 119 so as not to encroach upon the statutory powers of subordinate authorities and that specific guidelines would be formulated by the Board to dispose of all representations from assessees in case of perceived hardship. The Committee hope that these guidelines would be framed expeditiously and they would be apprised in due course.
4.	4.3	Ministry of Finance (Department of Revenue)	The Committee note that the Ministry of Finance (Department of Revenue) has not responded seriously on the issue of fixation of responsibility on negligent officials who issued NOCs to M/s. ITC for remitting

1	2	3	4
			<p>payments into the foreign account of M/s. PILCOM without perusing the sponsorship agreement and the terms stipulated therein. The Committee expect that in such cases, the Department should not shy away from pinpointing individual responsibility particularly involving officials responsible for collection of revenue once the lapse becomes apparent.</p>
5.	5.3	Ministry of Finance (Department of Revenue)	<p>The Committee are pleased to note that the Ministry of Finance (Department of Revenue) have made necessary amendments in the Income Tax Act, 1961 pursuant to the recommendations of the Committee, thereby bringing within the purview of Income Tax Act various transient entities generating substantial income but escaping income tax.</p>
6.	6.3	-do-	<p>The Committee hope that the Ministry will continue to pursue vigorously the matters pending before the Hon'ble High Court of Kolkata so that government revenue is well protected.</p>