

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

**ESTIMATES COMMITTEE  
1993-94**

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**TENTH LOK SABHA**

# **THIRTY-SECOND REPORT ESTIMATES COMMITTEE (1993-94)**

**(TENTH LOK SABHA)**

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

**CENTRAL BOARD OF DIRECT TAXES**

**Action Taken by Government on the recommendations  
contained in the Tenth Report of Estimates Committee  
(Tenth Lok Sabha)**



*Presented to Lok Sabha on 13 August, 1993*

**LOK SABHA SECRETARIAT  
NEW DELHI**

*July, 1993 / Asadha, 1915(S)*

**EC No. 1309**

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*Price : Rs. 12.00*

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Seventh Edition) and printed by the Manager, P.L. Unit, Govt. of India Press, Minto Road, New Delhi.

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**COMPOSITION OF THE ESTIMATES COMMITTEE  
(1993-94)**

**CHAIRMAN**

**Dr. Krupasindhu Bhoi**

**MEMBERS**

2. Shri Pawan Kumar Bansal
3. Shri Chhitubhai Gamit
4. Shri Parshuram Gangwar
5. Shri S.K. Gangwar
6. Shri B.S. Hooda
7. Shri Imchalemba
8. Shri Barelal Jatav
9. Shri R. Jeevarathinam
10. Shri Dau Dayal Joshi
11. Smt. Sumitra Mahajan
12. Shri Hannan Mollah
13. Shri Rupchand Pal
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27. Shri Arvind Trivedi
28. Shri Laeta Umbrey
29. Shri Devendra Prasad Yadav
30. Shri K.P. Reddaiah Yadav

**SECRETARIAT**

1. Shri G.L. Batra — *Additional Secretary*
2. Shri K.K. Sharma — *Joint Secretary*
3. Shri K.L. Anand — *Under Secretary*

## INTRODUCTION

I, the Chairman of the Estimates Committee having been authorised by the Committee to submit the Report on their behalf, present this Thirty-Second Report on action taken by Government on the recommendations contained in the Tenth Report of Estimates Committee (Tenth Lok Sabha) on the Ministry of Finance (Department of Revenue) — Central Board of Direct Taxes.

2. The Tenth Report was presented to Lok Sabha on 23rd March, 1992. Government furnished their replies indicating action taken on the recommendations contained in that Report on 13th January, 1993. The draft Report was considered and adopted by the Estimates Committee (1993-94) at their sitting held on 15th July, 1993. The Committee authorised the Chairman to finalise the Report.

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

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

4. An analysis of action taken by Government on the recommendations contained in the Tenth Report of Estimates Committee (Tenth Lok Sabha) is given in Appendix II. It would be observed therefrom that out of 34 recommendations made in the Report, 17 recommendations i.e. 50 per cent have been accepted by the Government and the Committee do not desire to pursue 7 recommendations i.e. 20 per cent in view of Government replies. Replies have not been accepted in respect of 5 recommendations i.e. 15 per cent. Final replies of Government in respect of 5 recommendations i.e. 15 per cent are still awaited.

NEW DELHI;

29, 1993

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na 7, 1915 (S)

DR. KRUPASINDHU BHOI

Chairman,

Estimates Committee.

## **CHAPTER I**

### **REPORT**

1.1 This report of the Estimates Committee deals with action taken by Government on the recommendations contained in their 10th Report (10th Lok Sabha) on the Ministry of Finance, Department of Revenue — Central Board of Direct Taxes which was presented to Lok Sabha on 23rd March, 1992.

1.2 Action Taken notes have been received in respect of all the 34 recommendation contained in the Report.

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

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

Sl. No. 1, 2, 4, 5, 6, 12, 17, 18, 20, 21, 22, 23, 24, 27, 28, 31 and 34

(Chapter II — Total 17)

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

Sl. No. 9, 10, 11, 14, 16, 25 and 33

(Chapter III — Total 7)

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

Sl. No. 3, 7, 8, 29 and 32

(Chapter IV — Total 5)

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

Sl. No. 13, 15, 19, 26 and 30

(Chapter V — Total 5)

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

#### *Minimum Taxable Income*

##### **Recommendation [Sl. No. 3, Para No. 1.26 (iii)]**

1.5 The Committee had observed that pending an exercise to ascertain rational basis for determining minimum level of income for the purpose of

personal taxation, the Government should at least review the minimum taxable income at the end of every financial year and adjust it upwards taking into account the rate of inflation and consequential increase in the cost of living.

1.5(a) The Ministry in their reply stated that the Government has set up a Tax Reform Committee (TRC) under the Chairmanship of Dr. Raja J. Chelliah. The Committee has since submitted its interim report\*. On the basis of the report the exemption limit, under the Income-tax Act, has been raised from Rs. 22,000/- to Rs. 28,000/- and the tax rates have been reduced across the board through the Finance Act, 1992. Further necessary steps will be taken in this direction after the receipt of the final report of the Committee.

1.6 The Committee note that the exemption limit under the Income Tax Act has been raised from Rs. 22,000/- to Rs. 28,000/- (now revised to Rs. 30,000/-) and the tax rates have been reduced across the board through the Finance Act, 1992. Taking into account the rise in prices, the Committee is of the view that the exemption limit for the purpose of personal taxation should have been fixed at such a level which was commensurate with the increase in the cost of living. Since the final report of the Tax Reform Committee (TRC) has been received, the Committee would like the Ministry to take the decision on the recommendations of the TRC in regard to personal taxation at the earliest and apprise this Committee about the action taken within a period of 6 months.

### *Tax Evasion*

#### **Recommendation [Sl. No. 4, Para 1.26(iv)]**

1.7 The Committee had recommended that Government should have made an all out effort to combat that menace of black money and introduce a tax system which is simple, just and equitable.

1.8 The Ministry in their reply stated that it is a continuous process to combat the menace of black money in view of its regular and continuous generation and accumulation. The Government continues to take necessary legislative and administrative steps from time to time to curb/control black money. The Government is continuously striving to check tax evasion and accumulation of unaccounted wealth. In pursuance of this objective, systematic surveys, search and seizure operations, verification of information by Central Information Branches in a planned manner and scrutiny of selected cases are undertaken, Persons found to be indulging in tax evasion are dealt with severally by imposing penalties and by launching

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\*Final report has since been received by Government.



prosecution proceedings against them. Results achieved in searches and surveys during last four financial years are as under:

### SEARCHES

| Year    | No. of searches | Value of assets seized<br>(Rs. in crores) | Amount of concealed income surrendered<br>(Rs. in crores) |
|---------|-----------------|---|---|
| 1988-89 | 7505            | 152.70                                    | 249.35  |
| 1989-90 | 3984            | 128.02                                    | 193.44  |
| 1990-91 | 5474            | 227.87                                    | 328.01  |
| 1991-92 | 3468            | 179.84                                    | 188.35  |

1.9 There were a series of assaults on Income-tax Search/Survey parties at Gwalior, Meerut and Gurgaon in January and February, 1991 and search action was affected upto November, 1991.

### SURVEYS

| Year    | No. of premises surveyed | No. of new assessees added |
|---------|--------------------------|----------------------------|
| 1988-89 | 7,29,459                 | 4,98,176                   |
| 1989-90 | 8,17,803                 | 4,67,711                   |
| 1990-91 | 8,92,438                 | 5,23,052                   |
| 1991-92 | 9,98,176                 | 4,75,487                   |

1.10 Government introduced a new Chapter namely Chapter XX-C in the Income tax Act w.e.f. 1.10.1986 to curb the use of black money in the real estate transactions. This Chapter enables the Income tax Department to make pre-emptive purchase of immovable properties in 28 Metropolitan cities, whenever the Department comes to the conclusion that the sale value of the property has been understated. The Chapter applies to those transactions where the apparent consideration exceeds Rs. 10 lakhs.

1.11 Upto 31.3.1992, the Income-tax Department made purchases of 774 properties at a cost of Rs. 298.51 crores. The Department re-sold 382 properties whose cost was Rs. 146.78 crores for Rs. 195.10 crores and obtained a surplus of Rs. 48.31 crores.

1.12 The Government had set up a Tax Reforms Committee under the Chairmanship of Dr. Raja J. Chelliah. The Committee has since submitted its final report with regard to direct taxes. The recommendations of the Committee are under examination.

1.13 The Committee are not convinced with results achieved in searches and seizures to combat the menace of black money especially for the years 1989-90 and 1991-92. The Committee note that the value of assets seized and amount of concealed income surrendered were substantially less in these years as compared to the years 1988-89 and 1990-91. This is primarily because of less number of searches made during these years. Though the Government have advanced reasons for less number of searches for the year 1991-92 as assault on income tax searches/surveys parties, no reason has been given for less number of searches for the year 1989-90. The Committee would like to know the reasons in this regard.

1.14 Apart from taking stringent action against such elements, the Committee would also like to emphasise the need for safety and protection of lives of income tax officials, searches/surveys parties so that they could carry on their activities vigorously, smoothly and efficiently to combat the menace of black money. The Committee would like to be informed of the steps taken in this direction.

*Work norms for Assessing Officers*

**Recommendation [Sl. No. 6, Para 2.47(ii)]**

1.15 The Committee had recommended that the proposed comprehensive study of reforms carried out so far should focus on rationalisation of the manpower utilisation so as to re-deploy it on more productive activities such as survey operation and reduction in the number of pending assessments. The Department should strive to achieve a balance between the assessments related effort and that aimed at widening the tax base.

1.16 The Ministry in their Action Taken notes stated that a study by DOMS is under progress on the "Work Norm for Assessing Officers". This study will take into account the impact of changes in work norms brought about under the New Assessment Procedure.

1.17 The Board, in its Central Action Plan for the Income-tax Department for the year 1992-93, has taken following steps to reduce the number of pending assessments:

- (i) A target of reduction of pendencies under each of the CCIT by 10% as compared to the number of assessment pendencies brought forward as on 1.4.1992 is laid down.
- (ii) The ITOs/ACs have been withdrawn from DCIT (Spl. Ranges) and deployed in the assessment work with a view to reduce the assessment pendencies.
- (iii) Targets for disposal of assessments have also been prescribed for each quarter of the financial year to optimise disposal of assessments.

1.18 As regards widening of tax base, Directors General (Inv.) and Chief Commissioners of Income-tax have been asked to bring all liable

taxpayers into tax net. A target of adding 25% new assesseees over the number of existing effective assesseees has been fixed for each Chief Commissioner's Region under the Central Action Plan of the Department for the year 1992-93.

1.19 Further by clause 58 of Finance Act, 1992, Chapter XII-C has been inserted in the Income-tax Act providing special provisions for taxation of retail traders etc. Sections 115K, 115L, 115M and 115N have been introduced for assessment year 1993-94 and 1994-95 under which a simplified procedure of assessment has been introduced in respect of individuals and HUF, not assessed to tax earlier, who have income from business of retail trade having an annual turn over upto Rs. 5 lakhs and income upto Rs. 35,000. These provisions are also applicable to persons having income from running of an eating place or vocation upto Rs. 35,000.

1.20 The Committee note that a study by Directorate of Income-tax Organisation and Management Services is under progress on the "Work Norm for Assessing Officers" which will take into account the impact of changes in work norms brought about under the New Assessment Procedure. They desire that study by Directorate of Income Tax Organisation and Management Services may be expedited and the action taken furnished to the Committee within a period of six months.

1.21 The Committee also note that under the Central Action Plan for the Income-tax Department for the year 1992-93 a number of steps have been taken to reduce the pendencies under each of the CCIT by 10% and assessments and targets for disposal of assessments have also been fixed for each quarter. The Committee would like to be apprised of the results achieved. They also hope that based on the experience gained, the Central Action Plan will be suitably modified.

1.22 The Ministry has also informed that a Chapter XIIC has been inserted in the Income-tax Act in which special permission has been made for taxation of retail traders etc. The Committee would like to be apprised whether the new scheme to bring the retail traders etc. within the purview of Income-tax Act has achieved the desired results. They would also like to be informed of the amount realised on this account.

#### *Direct Tax Code*

#### **Recommendation [Sl. No. 7, Para 2.47 (iii)]**

1.23 The Committee had recommended that the work of drafting and adopting direct tax code might be completed within a fixed time frame.

1.24 The Ministry in their action taken note stated that the draft tax code prepared by an eminent tax Advocate and his team has been examined in the Ministry and is being finalised in consultation with the Ministry of Law. The final report of the Tax Reforms Committee Chaired by Dr. Raja Chelliah has also been received and the draft code will have

to be modified in the light of the decisions taken by the Government on the recommendations of the Committee. The Government will also have to take a decision on the recommendation of the Committee on the timing of the introduction of the Code itself.

**1.25 The Committee note that the draft tax code is being finalised in consultation with the Ministry of Law and that it will be modified in the light of the decisions taken by the Government on the recommendations of the Tax Reforms Committee. The Committee are of the view that the matter has not been given the urgent attention that is due and has been allowed to linger on for too long a period. They reiterate their recommendation and urge the Ministry to expedite finalisation of Direct Tax Code within a period of three months.**

### *Stability of Tax Laws*

#### **Recommendation [Sl. No. Para 2.47 (iv)]**

**1.26 The Committee in their report had observed that whenever major changes in the tax law like withdrawal of investment allowance are contemplated Government should give due notice to business managements so that they are able to readjust their financial projections and production plans.**

**1.27 The Ministry in their reply stated that whenever any tax incentive is withdrawn, the repercussions on the assesseees are carefully examined. Sometimes the decision is taken to bring about comprehensive changes which form a package. Withdrawal of concessions are often matched by some other incentives within the package. It is not always possible to give a notice for withdrawal of concession in such cases.**

**1.28 While appreciating that withdrawal of concessions are often matched by some other incentives within the package, the Committee do not see any reason why it should not be always possible to give a notice for withdrawal of tax incentive or concessions in all such cases. The Committee reiterate their recommendation and desire that the Government should plan the proposed changes in the tax laws in such a manner that the business managements are given reasonable time to readjust their financial projections and production plans.**

### *Reward Scheme*

#### **Recommendation [Sl. No. 20, Para 3.91 (vi)]**

**1.29 The Committee in their report recommended that the Department should substitute existing reward scheme by instituting awards for outstanding and meritorious performance in realisation of higher revenues for the Government. Quantum of such awards can be increased to make these sufficiently rewarding.**

**1.30 The Ministry in their action taken note stated that the recommendation of the Estimates Committee that the existing reward**

scheme should be substituted by a scheme of awards for outstanding and meritorious performance in realisation of higher revenues has been carefully considered. In fact a scheme of awards for outstanding performance in recovery and collection work for Assessing Officers and Tax Recovery Officers already exists. The purpose of maximising revenue collection is sought to be achieved by other means as well. Thus, reward is also granted for outstanding performance in bringing additional income to tax through search and seizure operations, scrutiny assessments and representation before the Income Tax Appellate Tribunal.

1.31 In this context, due note has been taken of the possibility of unjustified seizures being made in order to come within the eligibility limit of reward rules. The Central Board of Direct Taxes is aware of this problem and is considering revision of the existing reward rules so as to eliminate the criterion of minimum seizure for becoming eligible to a reward.

1.32 The Committee note that CBDT is considering revision of the existing reward rules so as to eliminate the criterion of minimum seizure for becoming eligible to a reward and to avoid unjustified seizures. The Committee would like the Ministry to expedite the decision and inform the action taken within six months.

1.33 The Committee desire that action may be taken against those responsible for making seizure with an ulterior motive.

#### *Vigilance*

#### **Recommendation [Sl. No. 22, Para 3.91 (viii)]**

1.34 The Committee recommended that the Central Board of Direct Taxes should monitor in quantitative terms the extent to which the complaints are received against officials at the lower rungs and action taken thereupon, within the jurisdiction of each Commissioner of Income-tax. This should be considered to be an important criterion for evaluating performance of the Commissioners of Income-tax, as prevalence of corrupt practices and harassment of tax-payers at lower levels clearly reflect upon style of functioning of higher authorities.

1.35 The Ministry in their Action Taken Notes stated that the Directorate of Income Tax (Vigilance) is receiving quarterly reports from the C.Cs.I.T. / Cs.I.T. in the prescribed proforma a copy of which is enclosed at Appendix I. This report is meant to enable the Board to monitor the performance of Cs.I.T. / Ds.I.T. in the matters concerning vigilance in relation to the officers / staff for which they are the disciplinary / supervisory authorities. Every year an Action Plan is drawn up by the Board laying down certain targets to be achieved in the field of vigilance work. This Action Plan is in two parts—Part-I is for the Directorate of Income-tax (Vigilance) and Part-II is for the Authorities in the Field. Part-II of the Board's Action Plan was delinked from the Action

Plan of the Directorate for the Financial year 1991-92. The Board's Action Plan for the Financial year 1992-93 has been discussed in the Board's Meeting held on 08.07.92 and the Directorate has been asked to revise the Action Plan so as to cut down the delays in taking decision on vigilance matters.

1.36 As regards the monitoring of the performance of Cs.I.T. and Ds.I.T. in the matters concerning vigilance, as the Board is not the Disciplinary Authority for N.G.Os., day-to-day monitoring is done by the C.Cs.I.T. and they are doing the overall supervision of vigilance and disciplinary matters in respect of non-gazetted staff including examination of C.C.S. (Conduct) Rules, immovable property returns, etc. The Directorate of Income-tax (Vigilance) is receiving the quarterly reports in the prescribed form on behalf of the C.B.D.T.

1.37 As regards the second part of the recommendation in para 3.91(viii), instructions have already been issued *vide* letter No. Con. 16(52) / Vig. / 87-88 / 438 dated 8.7.1988 by the Directorate of Income-tax (Vigilance) on behalf of the Board to all the C.Cs.I.T. and D.Gs.I.T. that they should keep the performance with regard to vigilance work in view while writing the A.C.R. of the Cs.I.T. / D.Cs.I.T.

1.38 The Committee note that the Board's Action Plan for the financial year 1992-93 was discussed in their meeting held on 8th July, 1992 and that the Directorate was asked to revise the Action Plan so as to cut down the delays in taking decision on vigilance matters. They fail to understand why the Action Plan for the financial year 1992-93 was not finalised before the commencement of the year. The Committee desire that they should be apprised of the changes made in the Action Plan for the year 1992-93 and how far these changes have proved effective in cutting down the delays in taking decisions on vigilance matters.

1.39 The Committee note that instructions were issued in July, 1988 that while writing the ACRs of the Cs.I.T. / D.Cs.I.T., the performance with regard to vigilance work should be kept in view. They are of the view that these instructions should be followed scrupulously.

*Collection of current demands and reducing arrears*

#### **Recommendation [Sl. No. 28, Para 4.76(v)]**

1.40 The Committee had observed in their report that the Income Tax Department should maintain relentless pressure on all fronts to show better results in collection of current demands and reducing arrears.

1.41 The Ministry in their Action Taken Notes stated that collection of outstanding demands has always been given very high priority in the Income-tax department. During 1991-92, the Chief Commissioners of Income tax had been advised that after budget collection, the highest priority should be given to the work of realisation of outstanding demands. Out of the total demands of Rs. 6695 crores outstanding on 1.4.1991,

demand of Rs.3247 crores had been collected/reduced upto 31.3.1992. However, current demands were also raised during this period out of which a portion has remained unrealised. Normally, the demands remain disputed in appeals and the recovery is generally possible only after the appeals have been decided.

1.42 The subject of reduction of outstanding demands was discussed in the recently concluded conference of Chief Commissioners/Commissioners of Income-tax. The conference has recommended, *inter-alia*, that during 1992-93 high priority should be given to the matter of budget collection and reduction of outstanding demands.

1.43 The Committee note that out of the total demands of Rs. 6695 crores outstanding on 1.4.1991, demand of Rs. 3247 crores had been collected/reduced upto 31.3.1992. They also note that current demands were also raised and a portion remained unrealised. Instead of a vague reply, it was expected of the Ministry to furnish the figures about the current demands raised and the amount remained unrealised. The Committee would like to be informed about the total amount realised and outstanding demands as on 31st March, 1993.

1.44 The Committee recommend that all efforts should be made to wipe out the outstanding demands and all out efforts made to ensure that the current demands are not allowed to remain unrealised. The Committee may be informed of the results achieved, and the efforts made in this direction.

#### *Cases in Litigation*

##### **Recommendation [Sl. No. 29, Para 4.76 (vi)]**

1.45 The Committee in their report had opined that whenever figures of Income-tax arrears are communicated on the floor of Parliament, the amounts against which actual demands have been raised should be specifically mentioned.

1.46 The Ministry in the their Action Taken Notes has stated that the recommendation of the Hon'ble Committee contained in this sub-para alongwith its observation in para 4.69 have been noted. The Committee desire that the figures of undisputed demand or the net realisable demand should be mentioned, whenever figures of income-tax arrears are communicated on the floor of Parliament.

1.47 Under the existing system of record maintenance and compilation of statistics in the Income-tax Department, it is not possible to accurately ascertain the total amount of undisputed demand or the net realisable demand outstanding on any given date. However, efforts are being made to carry out suitable changes in the system to ascertain the net realisable demand on any given date.

1.48 The Committee are surprised to note that under the existing system of compilation of statistics in the Income Tax Department, it is not possible to accurately ascertain the total amount of undisputed demand or the net

realisable demand outstanding on any given date. The Committee reiterate their earlier recommendation and recommend that suitable changes should be made in the system so that net realisable demand could be ascertained on any given date and the figures of income tax arrears communicated to Parliament should also include a statement of net realisable demand.

#### *Vacancies in the Appellate Tribunal*

##### **Recommendation [Sl. No. 31, Para 4.76 (viii)]**

1.49 In their report the Committee had opined that vacancies in the Appellate tribunal should be filled up without any further delay. Advance planning should be done and action initiated for filling up the vacancies as they actually arise.

1.50 In its reply, the Ministry has stated that at present there are 17 vacancies of members in the Income-tax Appellate Tribunal (Accountant Members—12 and Judicial Members—5). Action to fill up these vacant posts has already been initiated.

1.51 Advance Planning is invariably done to fill up the anticipated vacancies. For this purpose the vacancies likely to arise in a period of two years are identified and advertisement issued to make recruitment for these anticipated vacancies well in advance.

1.52 The Committee note that inspite of advance planning done for a period of two years, there are 17 vacancies of Members in the Income-tax Appellate Tribunal. They fail to understand why these vacancies could not be filled up immediately when the post fell vacant. The Committee would like to be informed of the total number of vacancies as on date with date from which they have fallen vacant. The Committee are also of the view that planning should be done in such a manner that any vacancy caused due to retirement or otherwise should be filled up without any delay. For that purpose they feel that an enlarged panel should be formed.

#### *Prosecution of Tax-law Offenders*

##### **Recommendation [Sl. No. 32, Para 4.76 (ix)]**

1.53 In their report, the Committee had recommended that the Income Tax Department should concentrate and prosecute only worthwhile cases and eschew the temptation to launch prosecution as an option to a compromise guided by enlightened self-interest. Simultaneously the Department should defend the worthwhile cases by engaging competent and reputed lawyers. The Income Tax Department should be given powers to engage lawyers of its choice if the amount under litigation is substantial.

1.54 In its reply, the Ministry has stated that the recommendation of the Committee has been noted. The department has taken a decision to launch prosecution only in good and relatively important cases. Efforts in this direction are concentrated on more serious offences and complaints are filed in really strong cases in which the chances of conviction are bright.



1.55 The Ministry of law has not so far agreed to the suggestion that the Income-tax Department should be given powers to engage lawyers of its choice in suitable cases. The matter is being pursued at the Secretary's level.

1.56 The Committee note that the Ministry of Law has not agreed to give powers to the Income Tax Department to engage lawyers of its choice if the amount under litigation is substantial. The Committee while reiterating their earlier recommendation suggest that the Ministry of Law should be impressed upon to form panel of lawyers in consultation with Income Tax Department.

#### **Implementation of Recommendations**

1.57 The Committee would like to emphasise that greatest importance to be attached to the implementation of recommendations accepted by Government. They expect the Government to take expeditious steps in implementing such recommendations. In cases where it is not possible to implement the recommendations in letter and spirit for any reason, the matter should be reported to the Committee in time with reasons for non-implementation.

1.58 The Committee desire that reply in respect of the recommendations contained in Chapter V of the Report may be finalised and final reply of the Government furnished to the Committee expeditiously.

## **CHAPTER II**

### **RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT**

#### **Recommendation [Sl. No. 1, Para 1.26 (i)]**

2.1 Government should clearly spell out its philosophy governing Direct Tax Laws and bring greater clarity in the objectives determining these laws and related procedures.

#### **Reply of Government**

2.2 In a developing and fast-changing economic scenario, the objectives of the Government undergo changes from time to time. These are reflected in the fiscal policies and Direct Tax Laws. The Government makes policy statements from time to time, including the annual Economic Survey presented to the Parliament before the budget, the budget speeches of the Finance Minister, the budget documents and the Finance Minister's speech while introducing changes in the Direct Tax laws through Direct Tax Laws (Amendments) Bills. The Central Board of Direct Taxes further explains the provisions and the objectives behind the enactments through press releases, notifications and public circulars.

#### **Recommendation [Sl. No. 2, Para 1.26(ii)]**

2.3 Efforts to bring all affluent sections of people including those in rural areas and small towns may be stepped up so as to widen the tax base in a gradual, but systematic way.

#### **Reply of Government**

2.4 Three types of surveys are conducted by the Department viz. under sections 133A, 133A(5), 133B. Verification of information is also carried out through the Central Information Branches of the Investigation Wings. While surveys under sections 133A and 133A(5) are conducted in respect of existing assesseees and for finding out ostentatious expenditure respectively, surveys under section 133B are primarily meant for detecting new assesseees. Verifications of information can also lead to detection of new assesseees. Therefore, it can be said that the major tool available with the Department to detect new assesseees is survey under section 133B. The Department has issued an instruction bearing F. No. 15/14/90-IT (Inv. I) (Instruction No. 1875) on 7th January, 1991 for streamlining the procedure for surveys under section 133B. According to this instruction, every year certain areas are selected for preparation of what can be termed as "street/area directory" by conducting systematic surveys. For this purpose, advance information is furnished to the businessmen in the area about the proposed survey and its scope as the survey is not a secret

operation. Thereafter, the streets are surveyed covering all the premises of the locality according to the municipal number of the premises and the businessmen of the area are asked to fill Form No. 45D. In the case of existing assesseees, only a few columns of the form are to be filled up. On completion of the survey, a street/area directory is prepared and kept with the Survey Wing. This street/area is taken up again for survey after reasonable lapse of time. After issuance of the aforesaid Instruction, the procedure of surveys has become more streamlined and is likely to lead to detection of larger number of new assesseees in the coming years.

2.5 The Department has also taken steps to bring small towns within the ambit of surveys under section 133B, so as to bring affluent sections of the population of these areas within the tax net gradually but systematically.

2.6 Statistical data in this regard is as below :—

| Year    | Number of premises surveyed | Number of new assesseees added |
|---------|-----------------------------|--------------------------------|
| 1988-89 | 729459                      | 498176                         |
| 1989-90 | 817803                      | 467711                         |
| 1990-91 | 892438                      | 523052                         |
| 1991-92 | 998176                      | 475487                         |

2.7 Through the Finance Act, 1992 a scheme of presumptive taxation has been launched. This scheme, which is optional in nature, covers retail traders and persons engaged in the running of eating places of in certain vocation. This scheme is meant only for such retail traders whose annual turn-over does not exceed Rs. 5 lakhs and the annual income does not exceed Rs. 35,000/-. In the case of persons engaged in certain vocations, their annual income should not exceed Rs. 35,000/- in order to be eligible for the aforesaid scheme. The said persons can also have income upto Rs. 5,000/- from other sources. On which tax will be payable at the lowest rate currently applicable viz. 20% if any part of the other income of Rs. 5,000/- is eligible for exemption under section 80L, tax will not be payable on such part. These persons are not to visit the Income-tax Officers. They have only to fill a simplified statement-cum-challan and furnish the same in a Bank alongwith the payment of taxes. Initially, the scheme will be in operation for assessment years 1993-94 and 1994-95. It is expected that this scheme will result in extra collection of income-tax of about Rs. 150 crores in a financial year.

**Recommendation [Sl. No. 4, Para 1.26(iv)]**

2.8 The Government should make an all out effort to combat the menace of black money and introduce a tax system which is simple, just and equitable.

**Reply of Government**

2.9 The recommendation of the Committee has been noted. It is a continuous process to combat the menace of black money in view of its regular and continuous generation and accumulation. The Government continues to take necessary legislative and administrative steps from time to time to curb/control black money.

2.10 The Government is continuously striving to check tax evasion and accumulation of unaccounted wealth. In pursuance of this objective, systematic surveys, search and seizure operations, verification of information by Central Information Branches in a planned manner and scrutiny of selected cases are undertaken. Persons found to be indulging in tax evasion are dealt with severely by imposing penalties and by launching prosecution proceedings against them. Results achieved in searches and surveys during last four financial years are as under:

**SEARCHES**

| Year    | No. of searches | Value of<br>assets seized<br>(Rs. in crores) | Amount of<br>concealed income<br>surrendered<br>(Rs. in crores) |
|---------|-----------------|--|---|
| 1988-89 | 7505            | 152.70                                       | 249.35  |
| 1989-90 | 3984            | 128.02                                       | 193.44  |
| 1990-91 | 5474            | 227.87                                       | 328.01  |
| 1991-92 | 3468            | 179.84                                       | 188.35  |

2.11 There were a series of assaults on Income-tax Search/Survey parties at Gwalior, Meerut and Gurgaon in January and February, 1991, and search action was affected up to November, 1991.

### SURVEYS

| Year    | No. of Premises surveyed | No. of new assesseees added |
|---------|--------------------------|-----------------------------|
| 1988-89 | 7,29,459                 | 4,98,176                    |
| 1989-90 | 8,17,803                 | 4,67,711                    |
| 1990-91 | 8,92,438                 | 5,23,052                    |
| 1991-92 | 9,98,176                 | 4,75,407                    |

2.12 Government introduced a new Chapter namely Chapter XX-C in the Income-tax Act w.e.f. 1-10-1986 to curb the use of black money in the real estate transactions. This Chapter enables the Income tax Department to make pre-emptive purchase of immovable properties in 28 Metropolitan cities, whenever the Department comes to the conclusion that the sale value of the property has been understated. The Chapter applies to those transactions where the apparent consideration exceeds Rs. 10 lakhs.

2.13 Upto 31-3-1992, the Income-tax Department made purchases of 774 properties at a cost of Rs. 298.51 crores. The Department re-sold 382 properties whose cost was Rs. 146.78 crores, for Rs. 195.10 crores and obtained a surplus of Rs. 48.31 crores.

2.14 The Government had set up a Tax Reforms Committee under the chairmanship of Dr. Raja J. Chelliah. The Committee has since submitted its final report with regard to direct taxes. The recommendations of the Committee are under examination.

#### Recommendation [Sl. No. 5, Para 2.47(i)]

2.15 In order to import simplicity and effectiveness to tax law and procedure the government should make a shift in its approach towards direct taxation and focus it on generation of revenue through better compliance rather than talking of a large number of socio-economic objectives which tend to make tax compliance as well as tax administration cumbersome and complex.

#### Reply of Government

2.16 The Government has made its intention clear from time to time that it intends to make tax laws and procedures simple and effective. Such simplification will itself lead to better tax compliance and administration. The situation is reviewed every and appropriate action taken for this purpose. Moreover, increase in the number of tax payers

and generation of progressively more revenue are the major objectives on which attention is focussed.

**Recommendation [Sl. No. 6, Para 2.47(II)]**

2.17 The proposed comprehensive study of reforms carried out so far should focus on rationalisation of the manpower utilisation so as to re-deploy it on more productive activities such as survey operation and reduction in the number of pending assessments. The Department should strive to achieve a balance between the assessments related effort and that aimed at widening the tax base.

**Reply of Government**

2.18 A study by DOMS is under progress on the "Work Norms for Assessing Officers". This study will take into account the impact of changes in work norms brought about under the New Assessment Procedure.

2.19 The Board, in its Central Action Plan for the Income-tax Department for the year 1992-93, has taken following steps to reduce the number of pending assessments:

- (i) A target of reduction of pendencies under each of the CCIT by 10% as compared to the number of assessment pendencies brought forward as on 1.4.1992 is laid down.
- (ii) The ITOs/ACs have been withdrawn for DCIT (Spl. Ranges) and deployed in the assessment work with a view to reduce the assessment pendencies.
- (iii) Targets for disposal of assessments have also been prescribed for each quarter of the financial year to optimise disposal of assessments.

2.20 As regards widening of tax base, Directors General (Inv.) and Chief Commissioners of Income-tax have been asked to bring all liable taxpayers into tax net. A target of adding 25% new assesses over the number of existing effective assesseees has been fixed for each Chief Commissioner's Region under the Central Action Plan of the Department for the years 1992-93.

2.21 Further by clause 58 of Finance Act, 1992, Chapter XIIC has been inserted in the Income-tax Act providing special provisions for taxation of retail traders etc. Sections 115K, 115L, 115M and 115N has been introduced for assessment years 1993-94 and 1994-95 under which a simplified procedure of assessment has been introduced in respect of individuals and HUF, not assessed to tax earlier, who have income from business of retail trade having an annual turn over upto Rs. 5 lakhs and income upto Rs 35,000. These provision are also applicable to persons having income from running of an eating place or vocation upto Rs. 35,000.

**Recommendation [Sl. No. 12, Para 2.47 (viii)]**

2.22 Not only should the position of refunds be monitored at the level of Board for each of the Chief Commissioners/Commissioners of Income Tax but it should be considered an important criterion for assessing their performance.

**Reply of Government**

2.23 The Department has in-built machinery at various levels to supervise the work of the subordinate offices including the main public relation function of prompt issue of refunds. As a result of this, compared to the number of assesseees involved, the number of assessments involved and the volume of the work of the Department, the number of cases of delayed refunds is not significant.

2.24 There are various checks and balances to supervise the prompt issue of refunds by the supervisory officers. There is a column in the monthly Progress Report of the Assessing Officers about the issue and pendency of refunds. By scrutinising the Progress Report, the Deputy Commissioner and the Commissioner are able to exercise a check over the issue of refunds.

2.25 The Deputy Commissioners of Income-tax are required to carry out periodical inspections of the work of the offices under their control during the course of which, issue of refunds is also looked into.

2.26 The Commissioners and the Deputy Commissioners also conduct, surprise and vigilance inspections of the Income Tax Offices where lapses in issue of refunds are scrutinised. In the vigilance inspections, amongst other items of work, the prompt issue of refunds is also looked into. In particular, the following points are routinely checked:—

- (a) Are the refund order and advice books kept in the safe custody of the ITO/IAC?
- (b) Whether undue delay (say more than 1 month) is noticed in the matter of issuing refunds due after an order u/s 143/250/264/273 etc.?
- (c) Have refunds been issued promptly in direct refund cases?
- (d) Whether register regarding receipt and disposal of refund application has been maintained?

2.27 There is an elaborate vigilance machinery in the Department looking into the charges of corruption against the officers and staff. They also often look into cases of delayed refunds.

2.28 There is also an Inspection Division functioning directly under the Chairman (CBDT) which inspects the work of various charges in the country. The Inspection Division invariably checks whether the refunds are issued promptly.

2.29 There are Grievance Cells in various charges; besides an apex Grievance Cell which function directly under the Chairman (Central Board of Direct Taxes). The Grievance Cells look into various grievances of the assesseees including cases of delayed refunds. Thus we have an elaborate machinery to exercise checks on delayed issue of refunds and to take action against defaulting officers and staff.

This issues with the approval of Member (IT).

**Recommendation [Sl. No. 17, Para 3.91 (iii)]**

2.30 Greater emphasis is required to be given to activities which can bring in more people within the tax net leading to an upswing in the collections of direct taxes. The Department should re-assess its workload and project its requirement of manpower keeping in view the effort required for widening the tax base manifold. This, the Committee feel, is achievable in a country of India's size given the necessary will and deployment of resources.

**Reply of Government**

2.31 The following steps have been taken in Central Action Plan for financial year 1992-93 for widening the tax base:

- (a) A target of adding 25% new assesseees over the number of existing effective assesseees has been fixed for each CCIT Region.
- (b) A scheme of presumptive taxation has been brought in vide Finance Act, 1992. Chapter-XIIC containing special provisions u/s. 115K, 115L, 115M and 115N have been inserted in the Income-tax Act: A simplified procedure of assessment has been prescribed in respect of individuals and HUF, not assessed to tax earlier, having retail trade with an annual turn over upto Rs. 5 lakhs and income of Rs. 35,000 /- These provisions are also applicable to persons having income from running of an eating place or vocation upto Rs. 35,000/-

**Recommendation [Sl. No. 18, Para 3.91 (iv)]**

2.32 The work norms targets should be fixed expeditiously in such a way that while providing necessary challenge to the officers of the Department these should not result in undue harassment of the taxpayers.

**Reply of Government**

2.33 Under the existing provisions of Section 143(1)(a) of Income-tax Act, almost 97% of the returns are being accepted without issuing any notice to or calling the assesseees. Only in about 3% of cases, prima-facie adjustments are being made to the returned income and that too only on the basis of returns and documents enclosed therewith without calling the assesseees. Only limited number of cases are taken up for detailed scrutiny.



2.34 The present target for disposal of assessments, after scrutiny by various categories of officers, is as under:

|                    |     |
|--------------------|-----|
| DCIT               | 80  |
| ACIT               | 150 |
| ITO                | 120 |
| ACIT (Inv.) Circle | 50  |

2.35 The above targets have been fixed on the basis of past performance and with a view to provide challenge to the assessing officers.

**Recommendation [Sl. No. 20, Para 3.91 (vi)]**

2.36 The Department should substitute existing reward scheme by instituting awards for outstanding and meritorious performance in realisation of higher revenues for the Government. Quantum of such awards can be increased to make these sufficiently rewarding.

**Reply of Government**

2.37 The recommendation of the Estimates Committee that the existing reward scheme should be substituted by a scheme of awards for outstanding and meritorious performance in realisation of higher revenues has been carefully considered. In fact a scheme of awards for outstanding performance in recovery and collection work for Assessing Officers and Tax Recovery Officers already exists. The purpose of maximising revenue collection is sought to be achieved by other means as well. Thus, reward is also granted for outstanding performance in bringing additional income to tax through search and seizure operations, scrutiny assessments and representation before the Income Tax Appellate Tribunal.

2.38 In this context, due note has been taken of the possibility of unjustified seizures being made in order to come within the eligibility limit of reward rules. The Central Board of Direct Taxes is aware of this problem and is considering revision of the existing reward rules so as to eliminate the criterion of minimum seizure for becoming eligible to a reward.

**Recommendation [Sl. No. 21, Para 3.91 (vii)]**

2.39. Income Tax Department should show greater sensitivity in regard to complaints of corruption received against the Gazetted Officers of the Department and ensure that anonymous or pseudonymous complaints pointing out definite cases of corruption ought not to be filled without due investigation by the senior officials.

**Reply of Government**

2.40. The Department is taking all necessary action on the complaints of corruption received against the gazetted officers. The complaints are not discarded straightaway merely on the ground that these are anonymous/pseudonymous. The statistical information relating to the receipt, disposal

and pendency of complaints in the Directorate during the two preceding financial years is as under:—

**Financial Year 1990-91**

|   | I   | II<br>Quarter | III | IV  | Total |
|---|-----|---------------|-----|-----|-------|
| (a) Opening Balance                                   | 8   | —             | —   | —   | 8     |
| (b) No. of complaints received during the (C) quarter | 170 | 110           | 104 | 101 | 485   |
| (c) No. of complaints on which decisions taken        | 178 | 110           | 104 | 88  | 480   |
| (d) No. of complaints taken up for investigation      | 55  | 25            | 32  | 21  | 133   |
| (e) No. of complaints filed                           | 123 | 85            | 72  | 67  | 347   |
| (f) Closing balance                                   | —   | —             | —   | 13  | 13    |

**Financial Year 1991-92**

|  | I  | II<br>Quarter | III | IV  | Total |
|--|----|---------------|-----|-----|-------|
| (a) Opening Balance                                | 13 | —             | —   | —   | 13    |
| (b) No. of complaints received during the quarter. | 63 | 100           | 76  | 149 | 388   |
| (c) No. of complaints on which decisions taken.    | 76 | 100           | 76  | 149 | 401   |
| (d) No. of complaints taken up for investigation.  | 21 | 60            | 34  | 41  | 156   |
| (e) No. of complaints filed.                       | 44 | 36            | 46  | 109 | 235   |
| (f) Closing Balance                                | —  | —             | —   | 10  | 10    |

2.41. As regards the procedure for dealing with the anonymous/pseudonymous complaints. Such complaints containing specific/verifiable allegations having a bearing on the integrity of the officer are not simply filed. A procedure exists for dealing with such complaints against the officers of the rank of Cs.I.T./C.Cs.I.T. wherein specific allegations are made. Against the officers below the rank of Cs.I.T., while taking action on the decision taken during the conference of Chief Commissioners and Commissioners of Income-tax held during May, 1992, the Board has recently decided upon a similar procedure as in the case of

2.42. Thus, the procedure which has been decided upon in the department is along the same lines as the Committee has recommended.

**Recommendation [Sl. No. 22, Para 3.91(viii)]**

2.43 The Central Board of Direct Taxes should monitor in quantitative terms the extent to which the complaints are received against officials at the lower rungs and action taken thereupon, within the jurisdiction of each Commissioner of Income-tax. This should be considered to be an important criterion for evaluating performance of the Commissioners of Income-tax, as prevalence of corrupt practices and harassment of taxpayers at lower levels clearly reflect upon style of functioning of higher authorities.

**Reply of Government**

2.44 The Directorate of income Tax (Vigilance) is receiving quarterly reports from the C.Cs.I.T./Cs.I.T. in the prescribed proforma a copy of which is enclosed at Annexure 'A'. This report is meant to enable the Board to monitor the performance of Cs.I.T./Ds.I.T. in the matters concerning vigilance in relation to the officers/staff for which they are the disciplinary/supervisory authorities. Every year an Action Plan is drawn up by the Board laying down certain targets to be achieved in the field of vigilance work. This Action Plan is in two parts. part-I is for the Directorate of Income-tax(Vigilance) and Part-II is for the Authorities in the field. part-II of the Board's Action Plan was delinked from the Action Plan of the Directorate for the Financial year 1991-92. The Board's Action Plan for the Financial year 1992-93 has been discussed in the Board's Meeting held on 08.07.92 and the Directorate has been asked to revise the Action Plan so as to cut down the delays in taking decision on vigilance matters.

2.45 As regards the monitoring of the performance of Cs.I.T. and Ds.I.T. in the matters concerning vigilance, as the Board is not the Disciplinary Authority for N.G.Os., day-to-day monitoring is done by the C.Cs.I.T. and they are doing the overall supervision of vigilance and disciplinary matters in respect of non-gazetted staff including examination of C.C.S.(Conduct) Rules, immoveable property returns, etc. The Directorate of Income-tax(Vigilance) is receiving the quarterly reports in the prescribed proforma on behalf of the C.B.D.T.

2.46 As regards the second part of the recommendation in para 3.91(viii), instructions have already been issued vide letter No. Con. 16(52)/Vig./87-88/438 dated 08.07.1988 by the Directorate of Income-tax(Vigilance) on behalf of the Board to all the C.Cs.I.T. and D.Gs.I.T. that they should keep the performance with regard to vigilance work in view while writing the A.C.R. of the Cs.I.T./D.Cs.I.T.

**QUARTERLY REPORT ON VIGILANCE ACTION PLAN FOR  
QUARTER ENDING**

**A. C.C.I.T.'s charge**

**Chief Commissioner**

**B. Name of C.C.I.T.(Admn.)**

**1. Disposal of complaints-(Taking  
decision whether to investigate  
a complaint or to file it)**

**G.Os**

**N.G.Os**

(i) No. of complaints B/F from the  
previous quarter.

(ii) No. of complaints received  
during the quarter.

(iii) Total.

(iv) No. of complaints taken up for  
investigation out of above.

(v) No. of complaints filed without  
investigation out of the above.

(vi) Balance C/F.

(vii) No. of complaints, in which  
decision to investigate or not  
could not be taken within one  
month of receipt thereof.

**2. Investigation into complaints  
received directly or through  
Board/Directorate**

**G.Os.**

**N.G.Os.**

(i) No. of complaints pending for  
investigation at the beginning of  
the quarter:—

(a) Received Directly.

(b) Received from  
Board/Directorate.

(ii) No. of complaints taken up or received during the quarter for investigation.

(a) Received directly

(b) Received from Board/  
Directorate

(iii) Total

(a) Received directly

(b) Received from Board/  
Directorate.

(iv) No. of cases wherein investigations finalised during the quarter

(a) Out of (iii) (a)

(b) Out of (iii) (b)

(v) Balance C/F

(a) Received directly

(b) Received from Board/  
Directorate

(vi) No. of cases where in investigations not completed within three months

(a) Received directly

(b) Received from Board/  
Directorate

3. (i) No. of complaint cases initiated before 31.12.84.

(ii) No. of complaint cases initiated between 1.1.85 & 31.12.87.

**4. Investigation of financial and technical affair of officers and staff referred by the Board/ Directorate**

**G.Os.**

**N.G.Os.**

- (i) No. of cases pending at the beginning of the quarter
- (ii) No. of references received during the quarter
- (iii) Total
- (iv) No. of cases out of (iii) above, in which inspections completed during the quarter and reports furnished
- (v) Balance C/F
- (vi) No. of cases wherein inspection not completed within **three months.**

**5. Inspection of technical performance & financial affairs of officers identified as of doubtful integrity**

**G.Os.**

**N.G.Os.**

- (i) No. of cases pending for inspection **as on 1.4.91**
- (ii) No. added during the quarter
- (iii) No of cases wherein inspection completed during the quarter and reports furnished to Board/ Directorate(in cases of G.Os.)
- (iv) Balance C/F

**6. Investigation report received from C.B.I. in cases of G.Os.**

**G.Os.**

- (i) No. of investigation reports pending for comments at the beginning of the quarter.
- (ii) No. of reports received during the quarter.
- (iii) Total

(iv) No. of cases out of (iii) above, in which comments furnished during the quarter to the Board/Directorate.

(iv) Balance C/F

(vi) No. of cases wherein comments not furnished within one month of receipt of report.

(i) No. of cases pending for issue of charges sheets at the beginning of the quarter.

7. Issue of charge sheet in cases of **Group(B) Officers**

**Major  
penalty**

**Minor  
penalty**

(i) No. of cases pending for issue of charge sheets at the beginning of the quarter.

(ii) No. of cases added during the quarter for issue of charge sheet.

(iii) Total

(iv) No. of charge sheets issued during the quarter out of (iii) above

(v) Balance C/F

(vi) No. of cases wherein charge sheets not issued within three months of receipt of C.V.C's advice or decision to initiate disciplinary proceedings,

8. Review of suspensions of Group 'B', 'C' & 'D' officials

**Group 'B'  
Officers**

**N.G.Os.**

(i) No. of Officers/Officials under suspension at the beginning of the quarter

(ii) No. of Officers/Officials suspended during the quarter.

(iii) Total

(iv) No. of cases wherein review carried out of (iii) above during the quarter

(v) Balance C/F

(vi) No. of cases wherein review not carried out of for over 3 months.

**9. Issue of Charge Sheets to N.G.Os.**

(i) No. of cases pending for issue of charge sheets at the beginning of quarter.

(ii) No. of cases added during the quarter for issue of charge sheets.

(iii) Total

(iv) No. of cases wherein charge sheets issued during the quarter

(v) Balance C/F

(vi) No. of cases wherein charge sheets not issued within 3 months

**10. Appointment of I.Os/P.Os in case of NGOs.**

(i) No. of cases pending for appointment of I.Os/P.Os at the beginning of the quarter

(ii) No of cases wherein statement of defence from charged officials received during the quarter

(iii) Total

(iv) No. of cases wherein I.Os/P.Os appointed, during the quarter

(v) Balance C/F

(vi) No. of cases wherein I.Os./ P.Os. not appointed within one month of receipt of statement of defence.



**11. Final orders in cases of minor penalty proceedings against Group 'B' Officers & N.G.Os.**

**Group 'B'  
Officers**

**N.G.Os.**

- (i) No. of minor penalty cases pending at the beginning of the quarter.
- (ii) No. of cases wherein replies received to statements of imputations during the quarter.
- (iii) Total.
- (iv) No. of cases wherein final orders passed during the quarter.
- (v) Balance C/F.
- (vi) No. of cases wherein final orders not passed within one month of receipt of reply to imputations.

**12. Final orders in cases of Major Penalty proceedings against N.G.Os.**

**N.G.Os.**

- (i) No. of cases in which inquiry reports received and pending at the beginning of the quarter.
- (ii) No. of cases wherein inquiry reports of I.Os. received during the quarter.
- (iii) Total
- (iv) No. of cases wherein final orders passed during the quarter.
- (v) Balance C/F,
- (vi) No. of cases wherein final orders not passed within two months of receipt of I.Os. reports.

**13. Disposal of Appeals by N.G.Os.**

- (i) No. of appeals B/F from the last quarter.
- (ii) No. of appeals received during the quarter.

- (iii) Total.
- (iv) No. of appeals disposed of during the quarter.
- (v) Balance C/F.
- (vi) No. of cases wherein appeals not disposed of within three months of receipt.

#### 14. Scrutiny of I.P.Rs.

- (i) No. of IPRs B/F from last quarter where scrutiny is pending (upto & including Group 'B' officer).
- (ii) Disposal by way of scrutiny.
- (iii) Balance pending on\_\_\_\_\_ 1990 (Addition to be shown for March Quarter ending only).

#### 5. Preventive Vigilance

- (i) No. of cases selected for sample scrutiny at the beginning of quarter ending\_\_\_\_\_90.
- (ii) Addition during quarter.
- (iii) Total
- (iv) No. of cases checked out of (iii) above.
- (v) Balance C/F.
- (vi) No. of cases out of (iv) above processed for possible disciplinary action.

#### Recommendation [Sl. No. 23, Para 3.91 (ix)]

2.47 CBDT should construct more buildings for its field offices in a phased manner giving priority to offices in medium size towns where land and construction costs are cheaper. In smaller towns and mofussils, however, hired buildings should be taken on long term basis. Plan for acquiring office space in metropolitan cities should be drawn and implemented without further delay. While planning such buildings, adequate provision should be made for waiting rooms for assesseees who have to wait for long hours whenever they are called by the assessing officers or have to visit Income Tax Offices for official work.

### **Reply of Government**

2.48 The recommendation has been noted for guidance. However, acquisition of land and construction of buildings are subject to availability of funds in the annual budget of the Department.

[This issues with the approval of Member (P&V)]

### **Recommendation [Sl. No. 24, Para 4.76(i)]**

2.49 The Department should concentrate the survey efforts on the category of professionals like doctors, lawyers, small contractors, property dealers and also petty businessmen who have substantial income but usually escape the tax net. The surveys should also cover small towns, mofussils and rural areas so as to assess the incomes of money-lenders, contractors, middlemen, etc. Provision of sufficient work force for conducting surveys need to be reviewed seriously and adequate machinery, including provision of sufficient number of vehicles for conducting smooth survey works, created to widen the taxbase.

### **Reply of Government**

2.50 Three types of surveys are conducted by the Department viz., under sections 133A, 133A(5), 133B. Verification of information is also carried out through the Central Information Branches of the Investigation Wing. While surveys under sections 133A and 133A(5) are conducted in respect of existing assesseees and for finding out ostentatious expenditure respectively, surveys u/s. 133B are primarily meant for detecting new assesseees. Verifications of information can also lead to detection of new assesseees. Therefore, it can be said that the major tool available with the Department to detect new assesseees is survey under section 133B. The Department has issued an instruction bearing F. No. 415/14/90-IT(Inv.) (Instruction No. 1875) on 7th January, 1991 for streamlining the procedure for surveys under section 133B. According to this instruction, every year certain areas are selected for preparation of what can be termed as street/area directory by conducting systematic surveys. For this purpose, advance information is furnished to the businessmen in the area about the proposed survey and its scope as survey is not a secret operation. Thereafter, the streets are surveyed covering all the premises of the locality according to the municipal number of the premises and the businessmen of the area are asked to fill Form No. 45D. In the case of existing assesseees, only a few columns of the form are to be filled up. On completion of the survey, a street/area directory is prepared and kept with the survey Wing. This street/area is taken up again for survey after reasonable lapse of time. After issuance of the aforesaid Instruction, the procedure of surveys has become more streamlined and is likely to lead to detection of larger number of new assesseees in the coming years.

2.51 The Department has also taken steps to bring small towns within the ambit of surveys u/s 133B, so as to bring affluent sections of the population of these areas within the tax-net gradually, but systematically.

2.52 Statistical data in this regard is as below:

| Year    | Number of premises surveyed | Number of new assesseees added |
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| 1988-89 | 729459                      | 498176                         |
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| 1990-91 | 892438                      | 523052                         |
| 1991-92 | 998176                      | 475487                         |

Survey Wings also verify information gathered from various internal and external sources. This procedure was further streamlined *vide* copy of Instruction No. 1874, dated 7-1-1991 enclosed herewith. For this purpose, 96 sources had been identified. In March, 1991, one more source code No. 086 under the head, viz., 'Names and addresses of employees having taxable salary who have received service charges from the hotel/restaurant along with amount of service charges received, was added taking the total identified sources to 97. Out of these, in 1992-93, 20 sources have been identified as mandatory for receipt and verification of information by all the wings. However, the Directors may pick up some other sources also depending upon the local conditions. The verification of information is trade/profession based. A list of 20 sources identified for mandatory verification is enclosed. As is evident, Code Nos. 001, 050, 074, 201 selected for the current year cover businessmen, doctors, contractors and property dealers respectively. Statistical data of verification of information in last four years is indicated below:

| Year    | Pieces of information collected | Pieces of information verified |
|---------|---------------------------------|--------------------------------|
| 1988-89 | 8,48,123                        | 7,04,800                       |
| 1989-90 | 11,88,770                       | 10,51,117                      |
| 1990-91 | 15,68,941                       | 11,71,648                      |
| 1991-92 | 16,36,670                       | 12,13,346                      |

2.53 The Deptt. of Revenue attaches due importance of the survey work and appropriate survey operations in a planned manner are regularly undertaken. The requirements of man-power and vehicles etc. for strengthening the survey and investigation machinery are reviewed from time to time. Additional man-power/vehicles are sanctioned by the Govt. as and when found necessary. During the last 4 years 2650

additional posts in different grades were sanctioned for strengthening the survey and investigation wing. 90 additional vehicles were also sanctioned for survey etc. operations during the above period.

**INSTRUCTION NO. 1874**

**F. NO. 414/35/90-IT(INV. I)**  
**GOVERNMENT OF INDIA**  
**MINISTRY OF FINANCE**  
**DEPARTMENT OF REVENUE**  
**CENTRAL BOARD OF DIRECT TAXES**  
**NEW DELHI**

Dated the 7th January, 1991.

To

All Directors General of Income-tax

All Chief Commissioners of Income-tax,

Sir,

**SUBJECT:—** Collection, collation, verification, dissemination and utilisation of information review of the existing procedure — regarding —

Instruction No. 1759 dated the 11th June, 1987, issued *vide* Board's F. No. 415/8/87-IT(Inv. I), laid down the procedure for collection, collation, verification, dissemination and utilisation of information collected from various internal and external sources by the Central Information Branches functioning under the Investigation Wing of the Department.

2. The experience has, however, shown that there is no uniformity with regard to the extent of verification carried out and the nature of information disseminated to the Assessing Officers by the various CIB Units under different Directors of Income-tax (Inv.). Further, it has not been possible to judge the efficacy of the CIB Units in the absence of a reporting system with regard to utilisation of information collected and verified by the CIBs.

3. In order to achieve uniformity with regard to procedures and for making CIB verification more effective, the guidelines, as per succeeding paragraphs, are laid down.

**The existing Instruction No. 1759 would stand modified to the extent of the changes proposed in these guidelines.**

4. The CIB Units in the Investigation Wing will carry out verification of the transactions contained in the information collected by the Unit in all cases, including those where the party claims to be an existing assessee.

Verification in the case of an existing assessee would mean obtaining of relevant information to ascertain whether the transaction stands duly reflected in the income and/or wealth declared by the assessee or not. For carrying out such verification, a reference may also be required to be made to the assessment records.

Verification in the case of a person, who is not an existing assessee, would mean obtaining of relevant information to ascertain whether the person has taxable income and/or taxable wealth or not.

5. For the purpose of carrying out verification, the CIB Units will write to the concerned party by sending a letter, as is laid down in Instruction No. 1759. If necessary, the language of the letter may be suitably modified to meet the requirements of verification in each case. However, if there is no response from the party to the said letter, enquiry should be pursued in every case and, if necessary, by using powers under sections 131, 133 and 133A of the Income-tax Act. Such enquiry would also be taken to its logical conclusion, so as to indicate further action, if any, to be taken by Assessing Officer.

6. On verification of the transaction, the following four types of situations may arise and are required to be dealt with as under:—

- (i) In the cases of existing assessees, if on verification, the transaction is found to be duly accounted for for income-tax/wealth-tax purposes, such cases will be kept apart by the CIB Units for transmission to the Assessing Officers for being placed on the relevant assessment records.
- (ii) In the cases of existing assessees, if on verification, the transaction is not found to be accounted for and indicates evasion of income-tax/wealth-tax, such cases will be marked for further action to be taken by the Assessing Officers.
- (iii) In cases where the party is not an existing assessee and, on verification, there is an indication that the concerned party has taxable income and/or wealth, such cases will also be marked for action to be taken by the Assessing Officer.
- (iv) In cases where the party is not an existing assessee and, on verification of the transaction, it is noticed that the concerned party does not have taxable income and/or taxable wealth these cases will be simply filed in the Investigation Wing.

7. In cases, where the CIB Unit proposes that action is to be taken by the Assessing Officer, clear and specific recommendations about the nature of action will be given. The recommendations of the Income-tax Officer, CIB will be vetted by the concerned Assistant Director of Income-tax (Inv.) in each case. The Deputy Director of Income-tax (Inv.) and Director of Income-tax (Inv.) may see some cases at random to ensure that the recommendations for action are in order. Such of the cases, which have high revenue potential, may be brought to the notice of the

concerned Commissioner of Income-tax by the Director of Income-tax (Inv.) through separate letters.

8. Details of these cases of the type referred to at S.No. (ii) and (iii) of paragraph 6 will be listed as per columns 1 to 8 of Annexure IV appended to Instruction No. 1759 (copy enclosed for ready reference). The verified pieces of information will be appended to the list and forwarded to the range Deputy Commissioner at the end of every month. A copy of the list alone will also be forwarded to the concerned Commissioner of Income-tax.

9. In the type of cases referred to at S.No. (i) of paragraph 6, the verified pieces of information will be forwarded to the concerned Assessing Officers through a covering letter at the end of every quarter. The individual pieces of information will be placed by the Assessing Officers in the relevant assessment records of the concerned assessee.

10. For the purpose of monitoring the information received from the CIB Units with specific recommendations on further action to be taken by the Assessing Officer, a register in the format as per Annexure IV to Instruction No. 1759 will be maintained by the range Deputy Commissioners. Entries in this register will be made every month immediately on receipt of verified pieces of information from the CIB Units. The pieces of information will be transmitted to the concerned Assessing Officers immediately thereafter. No register will be maintained in the Commissioner's Office. The lists of cases received from the CIB Units every month will be placed in a file in the Commissioner's office.

11. A 'CIB and Survey' register, in the following format, will be maintained by each Assessing Officer:—

| Sl. No. | Date of receipt of information | Names & address of the party along with PAN/GIR No., if any | Action proposed by the Investigation Wing. | Action taken by the Assessing Officer | Tax/ additional tax determined u/s 143(1) (a) or on assessment, with date |
|---------|--------------------------------|---|--|---------------------------------------|---|
| (1)     | (2)                            | (3)   | (4)  | (5)                                   | (6)   |

This register should be maintained in 3 parts for making entries of cases as follows:—

- (i) *Cases where tax evasion by the existing assessee has been found by the CIB;*
- (ii) *Cases of new assessee identified by the CIB;*

- (iii) Cases of new assesseees located through survey under section 133 B.  
The same register may be continued for a period of 3 years.

12. At the end of every month, the Assessing Officers will record the progress made in this area of work in all the three parts of the register in the following form:

1. S.No. of cases in respect of which returns were accepted u/s 143 (1) (a) during the month, or assessments were completed under scrutiny during the month.

2. Tax/additional tax determined u/s 143 (1) (a) or on assessment, in respect of the cases mentioned at 1 above.

13. For reporting the results of utilisation of information, proforma I of the monthly report of 'Survey and New Assesseees' prescribed, vide Board's letter F.No. 415/121/89-IT (Inv. I) dated 18th August, 1989 has been modified and the revised format is being issued separately. The progress recorded at the end of every month as per paragraph 12 above, should form the basis of furnishing information in part C of the proforma. Board's Instruction No. 1876 dated 7.1.91 issued from F. NO. 414/17/90-IT (Inv.I) may be referred to in this context.

14. The Commissioners and the Deputy Commissioners of Income tax will carry out random checks regarding action taken by the Assessing Officers in respect of the verified pieces of information which were forwarded by the CIB Units for action. This aspect will also be examined by the Commissioners/range Deputy Commissioners during the course of inspection of the Assessing Officer's work.

15. The aforesaid instructions may be brought to the notice of all concerned and steps may be taken to implement them with immediate effect.

Yours faithfully,

(VINITA CHOPRA)

*Director (Inv. I)*

*Central Board of Direct taxes*

*Copy to:*

(1) All Officers in C.B.D.T. of the rank of Under Secretary and above.

(2) Director of Income-tax, RSP & PR for publication in the quarterly Tax Bulletin and for circulation as per his usual mailing list.

(VINITA CHOPRA)

*Director (Inv. I)*

*Central Board of Direct Taxes*



ANNEXURE- IV

Register of cases of Action Proposed by CIB

| Sl. No. | Name of Assessee | PAN/GIR No. (if any) | Designation of Assessing Officer | Nature of information | Sl. No. of corresponding entry in CIB verification Register | Brief particulars of verification by CIB | Action proposed by CIB | Date of information to Assessing Officer | Date of receipt from A.O. of confirmation of action taken | Any other remarks |
|---------|------------------|----------------------|----------------------------------|-----------------------|---|--|------------------------|--|---|-------------------|
| 1       | 2                | 3                    | 4                                | 5                     | 6   | 7  | 8                      | 9  | 10  | 11                |

**Recommendation [Sl. No. 27, Para 4.76 (iv)]**

2.54 Much greater effort requires to be made to achieve a consistent growth of income-tax collection to a really appreciable degree.

**Reply of Government**

2.55 It has always been the Government's endeavour to maximise the tax collections. Appropriate legislative and administrative measures are continuously taken for this purpose. The following figures of collection of income-tax (including corporation tax) will show the constant growth in income-tax collections.

|         | (Rupees in crores)<br>Collections |
|---------|-----------------------------------|
| 1985-86 | 5376                              |
| 1986-87 | 6039                              |
| 1987-88 | 6625                              |
| 1988-89 | 8648                              |
| 1989-90 | 9739                              |
| 1990-91 | 10706                             |
| 1991-92 | 14520                             |
|         | (provisional)                     |

2.56 It would be seen that during 1991-92, there has been an unprecedented quantum jump of about 3800 crores (over 35%) as compared to income-tax collection in 1990-91. In the current year's budget also several new initiatives have been taken to broaden the tax base and increase the income-tax collections.

**Recommendation [Sl. No. 28, Para 4.76 (v)]**

2.57 The Income-Tax Department should maintain relentless pressure on all fronts to show better results in collection of current demands and reducing arrears.

**Reply of Government**

2.58 Collection of outstanding demands has always been given very high priority in the Income-tax department during 1991-92, the Chief Commissioners of Income tax had been advised that after budget collection, the highest priority should be given to the work of realisation of outstanding demands. Out of the total demands of Rs. 6695 crores outstanding on 1.4.1991, demand of Rs. 3247 crores had been collected/reduced upto 31.3.1992. However, current demands were also raised during this period out of which a portion has remained unrealised. Normally, the demands remain disputed in appeals and the recovery is generally possible only after the appeals have been decided.

2.59 The subject of reduction of outstanding demands was discussed in the recently concluded conference of Chief Commissioners/

commissioners of Income-tax. The conference has recommended, *inter-alia*, that during 1992-93 high priority should be given to the matter of budget collection and reduction of outstanding demands.

**Recommendation [Sl. No. 31, Para 4.76 (viii)]**

2.60 Vacancies in the Appellate Tribunal should be filled up without any further delay. Advance planning should be done and action initiated for filling up the vacancies as they actually arise.

**Reply of Government**

2.61 At present there are 17 vacancies of members in the Income-tax Appellate Tribunal (Accountant Members-12 and Judicial Members-5). Action to fill up these vacant posts has already been initiated.

2.62 Advance Planning is invariably done to fill up the anticipated vacancies. For this purpose the vacancies likely to arise in a period of two years are identified and advertisement issued to make recruitment for these anticipated vacancies well in advance.

**Recommendation [Sl. No. 34, Para 4.76 (xi)]**

2.63 There is urgent need to bring about necessary attitudinal changes amongst the officials responsible for redressal of public grievances.

**Reply of Government**

2.64 The Department has a hierarchy of Grievance Cells as under:—

- (i) *Central Grievance Cell under Chairman, C.B.N.T.*
- (ii) *Regional Grievance Cell under each Chief Commissioner and Director General of Income-tax.*

In Multi-Chief Commissioner charges, the Regional Grievance Cell functions under one Chief Commissioner.

- (iii) *Grievance Cell with outstation Commissioners and Directors of Income-tax (in places where no Chief Commissioner or Director General is posted.)*

These grievance cells are functioning smoothly.

2.65 In addition to these regular grievance cells, the following steps have been taken to prevent/redress tax-payers' grievances.

- (i) The subject 'Prevention and redressal of tax-payers' grievances was discussed at depth at the Conference of Chief Commissioners/Commissioners of Income-tax held in May, 1992. Great stress was laid on improving the image of the Department. The officers were exhorted to deal with the tax-payers with courtesy. Emphasis was laid on cutting down delay in dealing with tax-payers' applications and requests. There was a commitment from the officers to show a perceptible improvement in the image of the Department.
- (ii) Every month the Chief Commissioners and Directors General give

a specific report in their monthly D.O. letters to Chairman on the work done on prevention and redressal of public grievances and their efforts to improve the image of the Department. The performances of the Chief Commissioners and Directors General are reviewed by the Chairman.

- (iii) Inspection Divisions of the C.B.D.T. stationed at Delhi and Calcutta conduct regular inspection of the field offices in areas relating to public grievances and submit reports to the Board.
- (iv) At the instance of the C.B.D.T., Chief Commissioners have constituted separate inspection squads to check issue of refunds, tax clearance certificates and other matters giving rise to public grievances.

## **CHAPTER III**

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

#### **Recommendation [Sl. No. 9, Para 2.47(v)]**

3.1 The actual impact of the withdrawal of investment allowance during the assessment year 1990-91 on the overall realization of Corporate Tax may be studied and Committee apprised of the results.

#### **Reply of Government**

3.2 During the year 1990-91 there was a shortfall in the collection of direct taxes. As against Rs. 9,722 crores collected during 1989-90, the target for 1990-91 had been fixed as Rs. 11,910 crores. The actual collection during 1990-91 was 10,596 crores. Thus, compared to 1989-90 while the collection had gone up, the amount collected was less than the amount estimated. The major shortfall was in respect of Corporate Tax which amounted to about Rs. 1000 crores. A contributory factor was the package of changes in the tax laws involving reduction of corporate rate of tax by 10%, deletion of section 115J under which 30% of book profits were being taxed and the deletion of provisions relating to investment allowance and investment deposit. Thus, it may be stated that the overall impact during 1990-91 was negative in so far as revenue collection is concerned. It has, however, not possible to estimate the extent of the role played by the withdrawal of investment allowance in the overall result.

#### **Recommendation [Sl. No. 10, Para 2.47(vi)]**

3.3 The scope of the provision under section 64(1)(ii) of the Income Tax Act and their actual operation in the field should be studied again and suitable amendments in the law made to recognise a team of husband and wife who are engaged in running a small business enterprise for the purpose of assessment of income of each spouse in such cases separately. This will not only help raise women's status but also give due encouragement to such family enterprises leading to the well being of the individual families as also the society at large.

#### **Reply of Government**

3.4 The enactment of the provisions of section 64(1)(ii) was designed to discourage the tendency on the part of the taxpayers to avoid or reduce tax liability by paying salary, commission, fees or other form remuneration to a spouse in underserving cases. The scope of the provision is limited to only the spouses, who are normally under the protection of the assessee and are dependents on them. Due care has been taken to safeguard the

position where the spouse possesses technical or professional knowledge and experience.

**Recommendation [Sl. No. 11, Para 2.47(vii)]**

3.5 Powers under Section 19 of the Income-tax Act, 1961 to relax in suitable cases under the provisions of Section 234B regarding charging of interest for defaults in payment of advance tax as also for late submission of returns may be delegated to the Chief Commissioners/Commissioners of Income-tax.

**Reply of Government**

3.6 The powers of the Board, incorporated in Section 119(2)(a) of the Income-tax Act, to relax the provisions of sections 234A and 234B of the Act ensure uniform application of these provisions. If the powers are given to Chief Commissioners/Directors General to relax the provisions of the aforesaid sections, there may not be an uniformity of approach.

**Recommendation [Sl. No. 14, Para 2.47 (x)]**

3.7 More effective measures should be taken to ensure that the new Income Tax Return forms are available to the taxpayers as soon as the amendments are carried out in the Act/Rules. These forms should be made available to the public, particularly in metropolitan towns like Delhi, Bombay, Madras and Calcutta at a number of places simultaneously, preferably through banks and Post Offices.

**Reply of Government**

3.8 Income tax return forms are statutory forms which are notified under Income tax rules; Printing of Income tax return forms are undertaken after these are notified in official gazette. Govt. of India Presses normally require 60 to 90 days for printing of the return forms apart from additional 10 to 15 days required for transit. The Directorate of (Research, Statistics, Publication and Public Relations) which is responsible for getting income tax return forms printed and distributed had taken steps to reduce the bad time between notification of return forms in official gazette and making them available to the Public through income-tax offices. Consequently the lead time has been reduced to less than 30 days. It has been ensured that return forms are made available to the tax payers sufficiently in advance before the due dates for filing returns.

3.9 Attempts have been made earlier for making returns forms available through Post Offices. However, as the Post Offices make these forms available at a price (handling charges) and in view of ready availability of these forms, free of cost, with the department, the response of public was not encouraging. Alternative arrangements for the sale through Super

Bazar/Kendriya Bhandar were made at some metropolitan cities but again the sales were very nominal. The logistic problems of making them available at bank counters, along with the poor response of the public to availability through Post Offices and Super Bazar/Kendriya Bhandar as encountered earlier, makes availability through banks not feasible. Private printers are also printing income-tax return forms and selling the same to taxpayers.

### **Recommendation [Sl. No. 16, Para 3.91(ii)]**

3.10 The Department of Personnel, Public Grievances and Administrative Reforms should explain why they failed to furnish to the Committee their comments on the representation made by Indian Revenue Services (DT) Association within the stipulated time.

### **Reply of Government**

3.11 A copy of the Memorandum received from the IRS Association by the Estimates Committee was forwarded to this Ministry for comments vide Lok Sabha Secretariat's letter dated 12th March, 1991. The main demand of the Association was for a separate Department of Direct Taxes headed by the Chairman CBDT as its Secretary. Since the demand raised by the Association involved a major restructuring of the existing Department of Revenue, it was felt necessary to scrutinise the relevant files in which the subject of ex-officio secretariat status to the Chairman of the Revenue Boards had been examined. The relevant files were called from the Department of Revenue in June 1991. The files were obtained in Sept. 1991 but before the matter could be finalised, the files were withdrawn by that Department. It was then understood that they were required by Department of Revenue in connection with the examination of a representation from Indian Customs and Central Excise Service Association on the same subject.

3.12 On 12th December, 1991, a similar representation from the Indian Customs and Central Excise Service Association was forwarded to this Department by the Department of Revenue. The demands made in this representation were similar to those made in this IRS Association. This representation was also considered alongwith that made by the IRS Association. Meanwhile, the report of the Estimates Committee was received in April, 1992. The relevant files were finally obtained and the comments of the Department of Personnel & Training finalised and sent to Comments of the committee vide our OM dated 20th July, 1992.

3.13 I admit that there has been a lapse in not bringing the facts leading to the cause of delay and seeking an extension of time from the Committee. We would also like to apologise to the Committee for any inconvenience caused in this connection.

**Recommendation [Sl. No. 25, Para 4.76(ii)]**

3.14 The Ministry of Finance (Department of Revenue) may review the provisions of the Income Tax Act in regard to processing and completion of assessments on the basis of results of searches and seizures and bring about changes leading to simplification of the assessment procedures so that such cases are not allowed to linger on for years. The assessing officer should take every care to function strictly within the ambit of the law so that at the stage of appeals such cases are not reverted to the assessing officers for re-assessment on technical grounds.

**Reply of Government**

3.15 Generally, the Income-tax Act does not provide for any distinct assessment procedure for search and seizure cases, except that in every case where a search is conducted and valuables are seized, the assessing officer is required to pass a summary order within 120 days of the search estimating the undisclosed income and computing the tax, interest, and penalty imposable thereon. While in the ordinary scrutiny cases the assessing officer goes about collecting the information from the assessee and also the third parties either through correspondence or through field survey, in a search and seizure assessment he is to deal with the voluminous books of accounts and other documents seized from the premises of the assessee and also from the premises of the connected persons. The assessing officer has also to record statements from the assessee and also the witnesses with reference to the materials found in the course of the search. In addition he is also to correspond with other assessing officers/authorities functioning under other laws to obtain information relevant to the determination of the income of the assessee. Thus while the procedure for assessment remains essentially the same for both ordinary scrutiny cases and for search and seizure cases, the delay generally occurs in the latter category of cases mainly on account of investigative factors mentioned above. It is felt that such delays cannot be avoided by any amendments in law but can be reduced only by systematic and speedy follow up action. General instructions have been issued from time to time to the assessing officers on the need to expedite disposal of search and seizure cases. Also separate action plan targets are fixed every year for disposal of such assessments.

3.16 As regards the Committee's recommendation that the Assessing Officers should take care to see that the assessments are not set aside on technical grounds, here again instructions have been issued on the necessity to give adequate opportunities to the assessee wherever materials collected from third party witnesses are used against the assessee.



**Recommendation [Sl. No. 33, Para 4.76(x)]**

3.17 The suggestions for increasing the strength and Benches of the Settlement Commission and for vesting of more powers in the Commissioners of Income-tax to settle cases without reference to the Settlement Commission, pending for consideration before the Government should be taken seriously and necessary steps taken without further delay to enable the Commission to cope with its work. Suitable norms for the functioning of the Settlement Commission should be fixed so as to clear the pendency of the backlog within the next four years. The structural and procedural re-organisation of the Commission should also be brought about without any delay. The reasons for unduly long time of 6 to 8 years being taken for disposal of cases should be gone into and remedial measures taken to reduce the same by streamlining the procedures.

**Reply of Government**

3.18 There was only one Bench—Principal Bench at Delhi functioning upto 1986. The additional Bench at Bombay was created on 4.12.86 and two additional Benches at Madras and Calcutta were set up on 22.12.87 in order to clear the pendency of applications with the Settlement Commission. The total pendency of applications with the Settlement Commission as on 1.8.92 is as under:

|                 | Applications<br>pending for<br>admission as on<br>1.8.92 | Admitted<br>applications for<br>final disposal as<br>on 1.8.92 | Total pendency<br>as on 1.8.92 |
|-----------------|--|--|--------------------------------|
| Principal Bench | 495  | 485  | 980                            |
| Calcutta Bench  | 125  | 148  | 273                            |
| Madras Bench    | 36   | 191  | 227                            |
| Bombay Bench    | 189  | 213  | 402                            |
| <b>Total</b>    | <b>845</b>   | <b>1037</b>  | <b>1882</b>                    |

The average disposal of the applications by each of the Benches with full strength of Members is expected to be around 150. With the amendment in Chapter XIXA of the Income-tax Act, 1961, by which sub-section (IA) of Section 245D was deleted, the Commissioners' right of objecting to admission of an application has been taken away with effect from 27.9.91. This has facilitated quicker admission of the cases by the Settlement Commission and saved time of the Commission otherwise spent on hearing of the cases for admission.

3.19 The additional Bench at Bombay was conferred jurisdiction with effect from 16.11.87. Thus it became functional only from 1988 contributing some disposal in financial year 1987-88. During financial year 1988-89 onwards, it was fully functional. The Additional Bench at Madras worked intermittently from 1989-90. It became fully functional only from

19.6.90. The Additional Bench at Calcutta was assigned jurisdiction in December, 1988 and became functional only from 1989 onwards. The full impact of the disposal of the Calcutta Bench is reflected only in functional years 1989-90 onwards. Structural changes have since taken place. It can reasonably be expected that the annual disposal of these four Benches together will be around 600. On this basis, the pending workload with the Commission as on 1.8.92 is around 3 years' workload.

3.20 The Settlement Commission is a quasi-judicial Tribunal. The Complexities involved in the cases and the number of assessments per case vary from case to case and from region to region. It is, therefore, neither possible nor desirable to fix a norm for disposal for any of the Benches. Fixation of norms may also lead to unhealthy practices and slipshod work, which may mean denial of justice to the litigant—public. The Commission is the final authority in respect of cases it settles and there is no appeal (except) SLP under Article 136 of the Constitution) even to the Supreme Court on the merits of the decision of the Commission. It is felt that even at the rate of present disposals (which may be about 600 applications per annum), the time-lag will come down to reasonable limits.

3.21 It may be pointed out that an unduly long-time of 6 to 8 years was being taken in final disposal of cases in the past because when the Commission was originally created only one Bench was functioning with the jurisdiction covering the entire country and it was unable to cope up with the total workload of the applications filed. With the creation of three additional Benches in metropolitan towns of Calcutta, Madras and Bombay, the position has substantially improved and is likely to further improve as the full impact of creation of these benches materialises.

3.22 Regarding the Commissioners of Income-tax being vested with powers to settle cases without reference to the Settlement Commission, this issue was examined in detail by the Government. It was felt that, since a separate machinery for settlement of cases already existed in the form of Settlement Commission, there was no necessity to vest Commissioners with powers to "settle" cases. A copy of the instruction issued to all commissioners of Income-tax is enclosed.

## **CHAPTER IV**

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

#### **Recommendation [Sl. No. 3, Para 1.26(iii)]**

4.1 Pending an exercise to ascertain rational basis for determining minimum level of income for the purpose of personal taxation, the Government should at least review the minimum taxable income at the end of every financial year and adjust it upwards taking into account the rate of inflation and consequential increase in the cost of living.

#### **Reply of Government**

4.2 The Government has set up a Tax Reform Committee (TRC) under the Chairmanship of Dr. Raja J. Chelliah. The Committee has since submitted its interim report. On the basis of the report the exemption limit, under the Income-tax Act, has been raised from Rs. 22,000/- to Rs. 28,000/- and the tax rates have been reduced across the board through the Finance Act, 1992. Further necessary steps will be taken in this direction after the receipt of the final report of the Committee.

#### **Recommendation [Sl. No. 7, Para 2.47(iii)]**

4.3 The work of drafting and adopting direct tax code may be completed within a fixed timeframe.

#### **Reply of Government**

4.4 The draft tax code prepared by an eminent tax Advocate and his team has been examined in the Ministry and is being finalised in consultation with the Ministry of Law. The final report of the Tax Reforms Committee chaired by Dr. Raja Chelliah has also been received and the draft code will have to be modified in the light of the decisions taken by the Government on the recommendations of the Committee. The Government will also have to take a decision on the recommendation of the Committee on the timing of the introduction of the Code itself.

#### **Recommendation [Sl. No. 8, Para 2.47(iv)]**

4.5 Whenever major changes in the Tax law like withdrawal of investment allowance are contemplated Government should give due notice to business managements so that they are able to readjust their financial projections and production plans.

### **Reply of Government**

4.6 Whenever any tax incentive is withdrawn, the repercussions on the the assesseees are carefully examined. Sometimes the decision is taken to bring about comprehensive changes which form a package. Withdrawal of concessions are often matched by some other incentives within the package. It is not always possible to give a notice for withdrawal of concession in such cases.

#### **Recommendation [Sl. No. 29, Para 4.76(vi)]**

4.7 Whenever figures of Income-tax arrears are communicated on the floor of Parliament, the amounts against which actual demands have been raised should be specifically mentioned.

### **Reply of Government**

4.8 The recommendation of the Hon'ble Committee contained in this sub-para alongwith its observation in para 4.69 have been noted. The Committee desire that the figures of undisputed demand or the net realisable demand should be mentioned, whenever figures of income-tax arrears are communicated on the floor of Parliament.

4.9 Under the existing system of record maintenance and compilation of statistics in the Income-tax Department, it is not possible to accurately ascertain the total amount of undisputed demand or the net realisable demand outstanding on any given date. However, efforts are being made to carry out suitable changes in the system to ascertain the net realisable demand on any given date.

#### **Recommendation [Sl. No. 32, Para 4.76(ix)]**

4.10 The Income Tax Department should concentrate and prosecute only worthwhile cases eschew the temptation to launch prosecution as an option to a compromise guided by enlightened self-interest. Simultaneously the Department should defend the worthwhile cases by engaging competent and reputed lawyers. The Income Tax Department should be given power to engage lawyers of its choice if the amount under litigation is substantial.

### **Reply of Government**

4.11 The recommendation of the Committee has been noted. The department has taken a decision to launch prosecution only in good and relatively important cases. Efforts in this direction are concentrated on more serious offences and complaints are filed in really strong cases in which the chances of conviction are bright.

The Ministry of Law has not so far agreed to the suggestion that the Income-tax Department should be given powers to engage lawyers of its choice in suitable cases. The matter is being pursued at the Secretary's level.

## **CHAPTER V**

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

#### **Recommendation [Sl. No. 13, Para 2.47(ix)]**

5.1 The Ministry should review the procedure for refunds and facilitate payment of refunds also through nationalised banks other than State Bank of India particularly in places where branches of State Bank of India do not exist.

#### **Reply of Government**

5.2 The Committee's recommendation has been noted. The matter is being examined in consultation with the Reserve Bank of India.

#### **Recommendation [Sl. No. 15, Para 3.91(i)]**

5.3 The status of the posts of the Chairmen of Central Board of Direct Taxes and Central Board of Excise and Customs should be raised to the level of the Secretary to the Government of India. As a corollary to this the members of two boards should be given the status of Special Secretary. This will not only streamline the functioning of the two organisations but also raise the morale of the two premier revenue services of the country.

#### **Reply of Government**

5.4 The request for further extension of time is being made because action on Para 3.91(i) of the recommendation has to be considered in consultation with other Department and is to be decided at a very high level.

[Extract of OM No. 405/20/92-ITCC dated 12-2-93 received from Ministry of Finance, Department of Revenue.]

#### **Recommendation [Sl. No. 19, Para 3.91(v)]**

5.5 The efficacy of the various training facilities provided by the Board should be got examined by an independent organisation, to effect necessary improvement and make the same more result-oriented. The various training programmes being run by the Department should be structured and integrated to provide the requisite professional and managerial development of personnel at all levels.

### **Reply of Government**

5.6 The Department has approached the Indian Institute of Public Administration for undertaking the job of evaluating the efficacy of the training facilities. There response is awaited.

#### **Recommendation [Sl. No. 26, Para 4.76(iii)]**

5.7 The Income-tax Department should evolve a procedure whereunder the operations to be undertaken by the search parties are kept strictly confidential and an active and healthy liaison is maintained with the top police authorities of the area to ensure adequate security to the search parties during the course of actual search operation. The key personnel engaged in survey/search should have a fixed tenure unless there are charges of corruption or inefficiency against them. In their cases their transfers should be effected only on administrative grounds and not extraneous considerations/complaints or any political pressure.

### **Reply of Government**

5.8 Searches are authorised by very senior officers of the department while very few officials are involved in actual processing of pre-search actions. As a result, strict confidentiality regarding search operations is maintained in the Income-tax Department.

5.9 Liaison with the police authorities is maintained and necessary security cover is provided to the search parties. However, the issue of further streamlining and strengthening measures is under active consideration of the Government.

5.10 Transfer of group 'A' Officers (including those engaged in Survey and Search Operations) are effected as per written guidelines circulated by the Central Board of Direct Taxes. Maximum tenures have been prescribed for cadre controlling regions/metro cities and other stations. Retention at the same station has also been prescribed. It is ensured that the guidelines are broadly followed and officers are not transferred on extraneous considerations. Guidelines have also been issued for filling up special pay posts including those on the Investigation side. Every effort is made that transfers are ordered in such a way that process of investigation is not hampered or jeopardised and morale of the officers involved is in no way adversely affected.

#### **Recommendation [Sl. No. 30, Para 4.76(vii)]**

5.11 The decision with regard to setting up of National Tribunal of Direct Taxes should be taken without further delay.

### **Reply of Government**

**5.12 The matter is under active consideration of the Government.**

**NEW DELHI,  
July 29, 1993**

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***Sravana 7, 1915(S)***

**DR. KRUPASINDHU BHOI,**  
*Chairman,  
Estimates Committee.*

## APPENDIX I

### *Quarterly Report on vigilance action Plan for Quarter Ending*

- A. C.C.I.T. s charge Chief Commissioner
- B. Name of C.C.I.T (Admn.)
1. *Disposal of Complaints—(Taking decision G.Os N.G.Os whether to investigate a complaint or to file it)*
- (i) *No. of complaints B/F from the previous quarter.*
  - (ii) *No. of complaints received during the quarter.*
  - (iii) *Total*
  - (iv) *No. of complaints taken up for investigation out of above.*
  - (v) *No. of complaints filed without investigation out of the above.*
  - (vi) *Balance C/F*
  - (vii) *No. of complaints, in which decision to investigate or not could not be taken within one month of receipt thereof.*
2. *Investigation into complaints received G.Os N.G.Os directly or through Board/Directorate*
- (i) *No. of complaints pending for investigation at the beginning of the quarter*
    - (a) *Received directly*
    - (b) *Received from Board/Directorate*
  - (ii) *No. of complaints taken up or received during the quarter for investigation*
    - (a) *Received directly*
    - (b) *Received from Board/Directorate*
  - (iii) *Total*
    - (a) *Received directly*
    - (b) *Received from Board/Directorate*



- (iv) No. of cases wherein investigations finalised during the quarter
  - (a) Out of (iii) (a)
  - (b) Out of (iii) (b)
- (v) Balance C/F
  - (a) Received directly
  - (b) Received from Board/Directorate
- (vi) No. of cases wherein investigations not completed within three months
  - (a) Received directly
  - (b) Received from Board/Directorate
- 3. (i) No. of complaint cases initiated before 31.12.84
  - (ii) No. of complaint cases initiated between 1.1.85 & 31.12.87
- 4. *Investigation of financial and technical G.Os N.G.Os*  
*affair of officers and staff referred by the*  
*Board/Directorate*
  - (i) No. of cases pending at the beginning of the quarter
  - (ii) No. of references received during the quarter
  - (iii) Total
  - (iv) No. of cases out of (iii) above, in which inspections completed during the quarter and reports furnished
  - (v) Balance C/F
  - (vi) No. of cases wherein inspection not completed within *three months*
- 5. *Inspection of technical performance & G.Os N.G.Os*  
*financial affairs of officers identified as of*  
*doubtful integrity*
  - (i) No. of cases pending for inspection *as on 1.4.19*
  - (ii) No. added during the quarter

- (iii) No. of cases wherein inspection completed during the quarter and reports furnished to Board/Directorate (in cases of G.Os.)
- (iv) Balance C/F
6. *Investigation report received from C.B.I. in cases of G.Os.* *G.Os.*
- (i) No of investigation reports pending for comments at the beginning of the quarter.
- (ii) No. of reports received during the quarter.
- (iii) Total
- (iv) No. of cases out of (iii) above. in which comments furnished during the quarter to the Board/Directorate.
- (v) Balance C/F
- (vi) No. of cases wherein comments not furnished within one month of receipt of report.
7. *Issue of charge sheet in cases of Group (B) Officer* *Major penalty* *Minor penalty*
- (i) No. of cases pending for issue of charge sheets at the beginning of the quarter.
- (ii) No. of cases added during the quarter for issue of charge sheet.
- (iii) Total
- (iv) No. of charge sheets issued during the quarter out of (iii) above
- (v) Balance C/F  
No. of cases wherein charge sheets not issued within three months of receipt of C.V.C's advice or decision to initiate disciplinary proceedings.
8. *Review of suspensions of Group 'B' 'C' & Group 'B' 'D' officials* *N.G.Os. Officers*
- (i) No. of Officers/Officials under suspension at the Beginning of the quarter
- (ii) No. of Officer/Officials suspended during the quarter.
- (iii) Total

(iv) No. of cases wherein review carried out of (iii) above during the quarter

(v) Balance C/F

(vi) No. of cases wherein review not carried out of for over 3 months.

**9. *Issue of Charge Sheets to N.G.Os***

(i) No. of cases pending for issue of charge sheets at the beginning of quarter.

(ii) No. of cases added during the quarter for issue of charge sheets.

(iii) Total

(iv) No. of cases wherein charge sheets issued during the quarter

(v) Balance C/F

(vi) No. of cases wherein charge sheets not issued within 3 months

**10. *Appointment of I.Os/P.Os in case of NG Os.***

(i) No. of cases pending for appointment of I.Os/P.Os at the beginning of the quarter

(ii) No. of cases wherein statement of defence from charged officials received during the quarter

(iii) Total

(iv) No. of cases wherein I.Os/P.Os appointed, during the quarter

(v) Balance C/F

(vi) No. of cases wherein I.Os/P.Os. not appointed within one month of receipt of statement of defence.

**11. *Final orders in cases of minor penalty Group 'B' N.G.Os. proceedings against Group 'B' Officers Officers N.G.Os.***

(i) No. of minor penalty cases pending at the beginning of the quarter

(ii) No. of cases wherein replies received to statements of imputations during the quarter

(iii) Total

(iv) No. of cases wherein final orders passed during the quarter

(v) Balance C/F

(vi) No. of cases wherein final orders not passed within one month of receipt of reply to imputations.

**12. *Final orders in cases of Major Penalty proceedings against N.G.Os.*** *N.G.Os.*

(i) No. of cases in which inquiry reports received and pending at the beginning of the quarter.

(ii) No. of cases wherein inquiry reports of I.Os received during the quarter.

(iii) Total

(iv) No. of cases wherein final orders passed during the quarter.

(v) Balance C/F

(vi) No. of cases wherein final orders not passed within two months of receipt of I.Os. reports.

**13. *Disposal of Appeals by N.G.Os***

(i) No. of appeals B/F from the last quarter

(ii) No. of appeals received during the quarter.

(iii) Total

(iv) No. of appeals disposed of during the quarter

(v) Balance C/F

(vi) No. of cases wherein appeals not disposed of within three months of receipt.

**14. *Scrutiny of I.P.Rs.***

(i) No. of IPRS B/F from last quarter where scrutiny is pending (upto & including Group 'B' officer)

(ii) Disposal by way of scrutiny

(iii) Balance pending on .....1990 (Addition to be shown for March Quarter ending only).

**15. Preventive Vigilance**

- (i) No. of cases selected for sample scrutiny at the beginning of quarter ending.....1990
- (ii) Addition during quarter.
- (iii) Total
- (iv) No. of cases checked out of (iii) above.
- (v) Balance C/F
- (vi) No. of cases out of (iv) above processed for possible disciplinary action.

## APPENDIX II

(Vide Introduction of the Report)

### *Analysis of Action Taken by Government on the 10th Report of Estimates Committee (10th Lok Sabha)*

|      |  |                 |
|------|--|-----------------|
| I.   | Total number of recommendations  | 34              |
| II.  | Recommendations/Observations which have been accepted by Government<br>(Nos. 1, 2, 4, 5, 6, 12, 17, 18, 20, 21, 22, 23, 24, 27, 28, 31 and 34)<br>Percentage | Total 17<br>50% |
| III. | Recommendations/Observations which the Committee do not desire to pursue in view of Government replies<br>(Nos. 9, 10, 11, 14, 16, 25 and 33)<br>Percentage  | Total 7<br>20%  |
| IV.  | Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee<br>(Nos. 3, 7, 8, 29 and 32)<br>Percentage     | Total 5<br>15%  |
| V.   | Recommendations/Observations in respect of which final replies of Government are still awaited<br>(Nos. 13, 15, 19, 26 and 30)<br>Percentage                 | Total 5<br>15%  |

**APPENDIX III**  
**ESTIMATES COMMITTEE**  
**(1993-94)**

**MINUTES**

**2ND SITTING**

15.7.1993

The Committee sat from 1500 to 1630 hours.

**PRESENT**

**Dr. Krupasindhu Bhoi—Chairman**

**MEMBERS**

2. Shri Pawan Kumar Bansal
3. Shri Chhitubhai Gamit
4. Shri Parshuram Gangwar
5. Shri S. K. Gangwar
6. Shri B. S. Hooda
7. Shri Barelal Jatav
8. Shri R. Jeevarathinam
9. Shri Dau Dayal Joshi
10. Shri Hannan Mollah
11. Shri B. Akbar Pasha
12. Shri Mohan Vishnu Rawale
13. Shri Satya Deo Singh
14. Shri Rajnath Sonkar Shastri
15. Shri Vishwanath Shastri
16. Shri K. D. Sultanpuri
17. Shri Braja Kishore Tripathy
18. Shri Arvind Trivedi
19. Shri Laeta Umbrey
20. Shri Devendra Prasad Yadav
21. Shri K. P. Reddaiah Yadav

*SECRETARIAT*

1. *Shri G. L. Batra—Additional Secretary*
2. *Shri K. L. Anand—Under Secretary*
3. *Shri R. C. Gupta—Assistant Director*

2. The Committee considered the Draft Report on action taken by Government on the recommendations contained in the 10th Report of the Estimates Committee (10th Lok Sabha) on the Ministry of Finance, Department of Revenue—Central Board of Direct Taxes with certain amendments/modifications and remarks as indicated in Annexure-I.

3. The Committee adopted the draft Report and authorised the Chairman to finalize the Report in the light of factual verification received from the Ministry. He was also authorised to make verbal and consequential changes therein and present the same to Lok Sabha.

*The Committee then adjourned.*



(see para 2 of the Minutes of Sitting held on 15.7.1993)

*Amendments/Modifications made by the estimates committee in the draft report on action taken by Government on the recommendations contained in the Tenth Report of Estimates Committee (10th Lok Sabha) on the Ministry of Finance, Department of Revenue—Central Board of Direct Taxes.*

| Para No. | Line  | Amendments/Modifications/Remarks   |
|----------|-------|--|
| 1        | 2     | 3  |
| 1.13     | 5-6   | <i>For</i> have substantially come down<br><i>Substitute</i> were substantially less   |
| 1.20     | 9-10  | <i>For</i> six months period<br><i>Substitute</i> a period of six months   |
| 1.22     | 6     | <i>For</i> into the<br><i>Substitute</i> within the purview of   |
| 1.25     | 11    | <i>After</i> Code <i>Add</i> within a period of three months   |
| 1.33     | 2-4   | <i>For</i> where.....reward<br><i>Substitute</i> for making seizure with an ulterior motive  |
| 1.38     | 3     | <i>For</i> the Board's<br><i>Substitute</i> their<br><i>After</i> and <i>Add</i> that  |
|          | 4     | <i>For</i> has been<br><i>Substitute</i> 'was  |
| 1.48     | 10-12 | <i>For</i> alongwith.....Parliament<br><i>Substitute</i> communicated to Parliament should also include a statement of net realisable demand.  |
| 1.52     | 7-11  | <i>For</i> since when.....vacancies at present<br><i>Substitute</i> of the total number of vacancies as on date with date from which they have fallen vacant. The Committee are also of the view that planning should be done in such a manner that any vacancy caused due to retirement or otherwise should be filled up without any delay. For that purpose they feel that an enlarged panel should be formed. |

| 1    | 2    | 3   |
|------|------|---|
| 1.56 | 7-13 | <i>For</i> allow.....small cases<br><i>Substitute</i> form panel of lawyers in consultation with<br>Income Tax Department.  |
| 1.57 | 1-2  | <i>For</i> "They attach the greatest importance"<br><i>Substitute</i> greatest importance has to be attached.   |
|      | 3-4  | <i>For</i> therefore, urge that Government should take<br>steps in this regard.<br><i>Substitute</i> they expect the Government to take<br>expeditious steps in implementing such<br>recommendations. |