

PUBLIC ACCOUNTS COMMITTEE (1978-79)

(SIXTH LOK SABHA)

HUNDRED AND FORTY-SECOND REPORT

DIRECT TAXES

**MINISTRY OF FINANCE
(Department of Revenue)**

**Action Taken by Government on the recommendations
of the Public Accounts Committee contained in
their 79th Report (Sixth Lok Sabha).]**

Presented in Lok Sabha on 27-4-1979

Laid in Rajya Sabha on 27-4-1979



**LOK SABHA SECRETARIAT
NEW DELHI**

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C O R R I G E N D A

142nd Report of the Public Accounts Committee
(1978-79) (Sixth Lok Sabha) on Action Taken
by Government on the recommendations contained
in their 79th Report (Sixth Lok Sabha) on Direct
Taxes.

<u>Page</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
(v)	9	Arrear of Tax,	Arrears of Tax
2	23	Rs 30799	Rs. 307.99
6	27	suggestion	suggestions
7	14	positions	position
13	12	arrea	arrear
20	15	is	as
20	28	<u>Delete</u> the line "jet-----Accounts"	
20	29	After 'Accounts', <u>add</u> 'Committee and the need to prevent hardships to tax payers in whose'	
21	3-4	lunched	launched
21	9	model	pedal
21	30	at	as
22	21	of	or
24	23	solvent	insolvent
25	29	sealing	scaling
33	24	made	make
41	2	After 'arrears', <u>add</u> 'are'	

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PUBLIC ACCOUNTS COMMITTEE
(1978-79)

Shri P. V. Narasimha Rao—*Chairman.*

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2. Shri D. C. Pande—*Senior Financial Committee Officer.*
3. Shri Bipin Behari—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Hundred and Forty-Second Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Seventy-Ninth Report (Sixth Lok Sabha) on Paragraph 6 of the Report of the Comptroller and Auditor General of India for the year 1975-76, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes, relating to Arrear of Tax, Demands.

2. On 31st May, 1978 an 'Action Taken Sub-Committee' consisting of the following Members was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

- | | |
|--|------------------|
| 1. Shri P. V. Narasimha Rao— <i>Chairman</i> | |
| 2. Shri Asoke Krishna Dutt— <i>Convener</i> | |
| 3. Shri Vasant Sathe | } <i>Members</i> |
| 4. Shri M. Satyanarayan Rao | |
| 5. Shri Gaurishankar Rai | |
| 6. Shri Kanwar Lal Gupta | |

3. The Action Taken Sub-Committee of the Public Accounts Committee (1978-79) considered and adopted the Report at their sitting held on 21 April, 1979. The report was finally adopted by the Public Accounts Committee (1978-79) on 25 April 1979.

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

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

NEW DELHI;
April 25, 1979.

Vaisakha 5, 1901 (S).

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the conclusions or recommendations of the Committee contained in their 79th Report (Sixth Lok Sabha) presented to the Lok Sabha on 28th April, 1978 on paragraph 6 of the Report of Comptroller and Auditor General of India for the year 1975-76, Union Government (Civil).

2. Action taken Notes in respect of all the 15 conclusions or recommendations contained in the Report have been received from the Government and these have been categorised as follows:

- (i) Conclusions or Recommendations that have been accepted by Government:

Sl. Nos. 1, 4, 5, 6, 7, 8, 10, 12 and 14.

- (ii) Conclusions or Recommendations which the Committee do not desire to pursue in view of the replies received from Government:

Sl. Nos. 11 and 15.

- (iii) Conclusions or Recommendations replies to which have not been accepted by the Government and which require reiteration:

Sl. Nos. 2, 9 and 13.

- (iv) Conclusions or Recommendations in respect of which Government have furnished interim replies:

Sl. No. 3.

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

Special drives for reduction of arrears of tax (Paragraph 112—Sl. No. 2)

4. Commenting on the cases involving tax arrears of Rs. 10 lakhs and above, the Committee in paragraph 112 of the Report has observed as follows:

“There are 33.13 lakhs assesseees against whom gross arrears of Rs. 993.79 crores were due on 31-3-1976. Since the number

of assesseees for which the Central Board of Direct Taxes is responsible (i.e. cases in which arrears exceed Rs. 10 lakhs) to supervise the recovery work is hardly 800, it should not, the Committee feel, be difficult for the Board to see that the arrears are recovered in these cases without further loss of time. Concrete steps taken by the Board in this regard and the total amount of tax realised out of these arrears may be reported to the Committee."

5. In a note dated 5 December, 1978, the Ministry of Finance (Department of Revenue) have stated as follows:

"As regards total amount of tax realised out of the arrears of Rs. 307.99 crores outstanding as on 31-3-76 in 812 cases wherein such arrears exceeded Rs. 10 lakhs in each case, under the existing procedure, the dossiers are received quarterly in respect of a case where the arrears as at the end of the quarter exceed Rs. 10 lakhs. The result is that as and when in any case, the gross demand as at the end of the quarter (i.e. both the arrear demand and the current demand raised in that case till the end of the quarter put together) go below Rs. 10 lakhs at the end of any quarter, reports are discontinued. It will, therefore, not be possible to furnish the demand outstanding as on 31-3-77 or 31-3-78 out of the demands of Rs. 307.99 crores as on 31-3-76 and the corresponding realisation/reduction therefrom unless data is collected from the field formations afresh. Thus, out of the 812 cases referred to earlier, demands exceeding Rs. 10 lakhs were outstanding even as on 31-3-77 in 535 cases. The corresponding outstanding demands (including demands created in these cases during financial year 1976-77) aggregated to Rs. 199.78 crores."

6. The Committee note that under the existing procedure the Central Board of Direct Taxes receive quarterly dossiers in respect of a case where the arrears as at the end of the quarter exceed Rs. 10 lakhs, with the result that as and when in any case, the gross demand as at the end of the quarter goes below Rs. 10 lakhs, reports are discontinued. The Committee are unable to appreciate the reasons for discontinuing the Reports. If in any quarter, the gross demand in any case exceeds Rs. 10 lakhs, that case should be the concern of the Central Board of Direct Taxes till the entire arrears of that case are recovered. By discontinuing Reports in such cases, monitoring the progress in recovery of arrears in such cases is not

possible. The Committee would, therefore, like that once a case is brought within the purview of the C.B.D.T., the Central Board of Direct Taxes should continue to supervise the case till the entire arrears are recovered.

Steps to improve the Collection of Tax (Para 119—Sl. No. 9)

7. The Committee had, in paragraph 119, noted that during 1975-76, only a sum of Rs. 27.01 crores was deducted at source on payments made to contractors all over India and Rs. 1.12 crores realised as tax on winning from Lotteries and crossword Puzzles. It had apprehended that considering the fact that payments to contractors all over the country were quite substantial and almost every State in India ran a Lottery, tax deduction from the sources was not being given the attention that it deserved. The Committee had recommended that the Board should take up this matter with the Government Departments, particularly C.P.W.D. and State PWD and devise procedures to obviate the possibility of leakage of revenue on this account. Reporting the action taken by the Government on the recommendation, the Ministry of Finance (Department of Revenue) has, in a communication addressed to the Committee in November, 1978, stated as follows:

“A Working Group was constituted in September, 1977 with a view to make efficient administrative arrangements for management of various functions relating to “Tax Deduction at Source”. Its Report is under consideration of the Central Board of Direct Taxes. Steps necessary to improve the collection of tax at source will be taken as soon as a decision is arrived at.”

8. The Committee consider that the Department of Revenue is not applying itself earnestly to the task of examining the Report of the Working Group. The period of a year and a half should have been more than sufficient for the examination of the Report and formulation of concrete steps in pursuance thereof. They would like conclusive action to be reported to them by the end of the next six months, i.e. October, 1979.

Enhancement of the rate of interest on Unpaid Tax (Para 123—Sl. No. 13)

9. The Committee had, in paragraph 123, noted that under Section 220, any amount (other than by way of advance tax) specified as payable in the notice of demand was payable within 35 days of the service of the notice and if the amount was not paid within that

period, the assessee was deemed to be in default and was liable to simple interest at 12 per cent per annum, which was too low as against the prevailing rate of interest for loans in the open market. It has recommended that the adequacy of rate of interest on unpaid tax should be examined by the Department.

10. In a note dated 22 November, 1978, the Ministry of Finance (Department of Revenue) have stated as follows:

“As suggested by the PAC, the matter of upward revision of the interest chargeable under section 220(2) has been examined.

The adequacy of the rate of interest charged under section 220(2) was gone into some time ago by the Direct Taxes Inquiry Committee which had made some recommendations in this behalf. Section 80-V of the Income Tax Act was introduced with effect from 1-4-76 in pursuance of para 4.36 of their recommendations. This section was specifically meant to encourage early payment of taxes even by borrowing. The deduction under this section is available to all assesseees on interest paid on moneys borrowed for payment of income tax. Prior to this amendment the position in law was that such interest was not an admissible deduction in computing the business income of an assessee. The provisions of Section 80-V are so worded that the deduction will be available only on interest paid on *moneys borrowed* by the assessee. Thus, any interest payable by an assessee under section 220(2) of the Act may not be available as a deduction under section 80-V.

At the current rates of taxation, postponement of the payment of taxes even by paying interest @12 per cent as specified under section 220(2) will become attractive to an assessee liable to income-tax at the maximum rate (60 per cent plus surcharge of 15 per cent) only if the market rate of interest exceeds 38.7 per cent, if the effect of Section 80-V is taken into account. In the circumstances, an upward revision of interest chargeable under section 220(2) is not presently considered necessary.”

11. The reason advanced by the Ministry for not accepting the recommendation of the Committee is not sufficiently convincing. A case is made out that default in payments of tax attracting the

penalty of 12 per cent interest is unattractive as the assessee who is unable to pay the Tax could take loan from private sources and claim deductions under Section 80-V of the Income-tax Act. The existence of a large number of defaulters in payment of tax shows that the defaulters are not taking the advantage of Section 80-V and if necessary choose to pay the penal interest provided for in Section 220(2) of the Act. The Committee therefore, recommend that this matter may be reconsidered in the light of the admittedly mounting tax arrears.

CHAPTER II

CONCLUSIONS OR RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The question of Arrears of Tax demand is a one over which the Public Accounts Committee have been continuously expressing great concern and giving concrete suggestions [(6th, 21st, 28th, 46th Reports (Third Lok Sabha) 3rd, 17th, 73rd, 76th, 117th Reports (Fourth Lok Sabha), 51st, 87th, 115th, 150th, 186th Reports (Fifth Lok Sabha)]. The last mentioned Report is the Review Report on action taken by Government over the past several years on the recommendations of the Public Accounts Committee. The relevant paragraphs are contained in Chapter XI thereof. The Committee are distressed to find that despite assurances held out to the Committee in the past the special drives launched by the Central Board of Direct Taxes, the additional posts created at various levels, the Scheme of incentives and rewards and working improvements made to the law, rules and procedures there has been no perceptible effect on the growth of arrears of Corporation-tax and Income-tax. 'Gross Arrears' comprising Corporation-tax, Income-tax, interest and penalty, which stood at Rs. 790.02 crores at the end of 1972-73, have after registering an increase year after year (except in 1976-77 when the arrears came down to Rs. 873.56 crores as against Rs. 993.79 crores in 1975-76) have reached on all-time high figure of Rs. 1,008.76 crores as on 31-12-1977. Arrears of tax is the problem which has been engaging the constant attention of the Committee and they have been giving concrete suggestion in many of their past reports to resolve the chronic problem of mounting tax arrears, the action taken by Government on these suggestions was reviewed by the Committee in their 186th Report (Fifth Lok Sabha). It is clear that the steps taken by Government have had an insignificant effect on the growth of tax arrears. The Committee feel that it is high time that Government took a fresh look at the problem of soaring arrears of tax demand and devise more effective steps to minimise and contain the problem. (Para 111)

The Committee also note that since 1970, the Department of Revenue have sanctioned 5 posts of Commissioners of Income-tax

(created in lieu of 5 posts of Additional C.I.Ts.) and 272 posts of Income-tax Officers (30 in Class I and 242 in Class II) for "liquidation of arrears" and "tax recovery work". The Committee have been informed that with the discontinuance of the functional scheme of work w.e.f. 1st April, 1975, there are, it has been stated, no separate posts of ITOs (Collection). Due to re-organisation in August, 1974, on the basis of the recommendations of Wanchoo Committee these Commissioners have been given territorial jurisdiction like other Commissioners of Income-tax and they are no longer functioning as Tax Recovery Commissioners exclusively. Under the Unitary system existing now, an I.T.O. is looking after not only the assessment work but also the collection work. The Committee are surprised that despite augmentation of staff strength during the course of last 7 years or so, the positions of arrears of tax demand has continued to be bad except during 1976-77 when the gross arrears declined from Rs. 993.76 crores as on 31-3-76 to Rs. 874 crores as on 31-3-77. The Committee recommend that Department should so organise the work among the existing staff that the tax recovery work is given as much attention as the work of completion of assessment.

The Committee were informed as far back as in December, 1970 that the problem of mounting arrears of tax demand had been discussed in a Conference of Commissioners of Income-tax in May, 1970 and a special drive called "RAT" (Reduction of Arrears of Tax) had been launched. The Committee find that despite this special drive, the gross arrears instead of decreasing remained stable around Rs. 800 crores during the years 1971-72 to 1973-74. Thereafter these increased to Rs. 935.96 in 1974-75 and to Rs. 993.79 crores in 1975-76. However, the special drive launched by the Department, in 1976-77 had some impact in as much as the gross arrears were reduced to Rs 873.59 crores in that year. Unfortunately the Department has failed to maintain that trend and by 31-12-77, the gross arrears have moved up to Rs. 1008.76 crores. The Committee recommend that reasons for failure of earlier special drives and particularly of the set back during 1977-78 should be analysed and appropriate steps taken to make such drives more effective.

[Sl. Nos. 1, 5 & 6 (para 111, 115 & 116) of Appendix V to the 79th Report of the PAC (6th Lok Sabha) (1977-78).]

Action Taken

The problem of arrears of Income-tax was discussed at the Commissioners' Conference held in May, 1978 and the reasons for the increase in tax arrears compared to these on 31-3-77 analysed. It

was decided at the Conference that highest priority has to be given to reduction of the arrears during the year 1978-79. In the light of the discussions it was decided to fix the target of collection/reduction out of arrear demand at 55 per cent and out of current demand at 90 per cent and to stipulate that the target of overall reduction 25 per cent should be made an alternative to the earlier two targets. In other words, each Commissioner's charge will be expected to achieve EITHER collection/reduction of 55 per cent out of arrear demand and 90 per cent out of current demand OR 25 per cent overall reduction in the arrears demand to be carried forward on 1-4-1979 compared to such demand brought forward on 1-4-1978. The Action Plan has been so designed as to enable the deployment of some manpower from the assessment work to the work relating to tax arrears. The more important steps to be taken during the current year, as per the decisions of the Conference are highlighted as under:—

- (i) One ITO in each CIT's charge should be exclusively assigned the duties of assisting the SIT in supervising the recovery work. Some of the items of work which this I.T.O. will attend to are enumerated in Annex-I.
- (ii) Each ITO should set apart one or two days in a week or one week in a month to exclusively deal with collection/reduction of tax arrears| current demand with the help of the relevant registers and records. The tax payers should also be suitably advised about this and they should be invited to get their problems, if any, of adjustment of pre-paid taxes, rectification claims, appeal effects, etc., settled specifically on such days.
- (iii) Tax Recovery Officers should be more actively associated with the collection/reduction of tax arrears by involving them in the process of giving credit for pre-paid taxes/appeal effects, etc. in respect of arrears demand. One or two teams from out of the Tax Recovery Officers' staff can be constituted for attending to such work of one or two ITOs at a time in each IAC's range.

The progress in the collection/reduction of tax arrears in the form of monthly telegraphic report is required to be submitted by the Commissioners to the DOMS so that the same is reviewed periodically.

- (iv) a post of Director of Recovery has been created to assist Member in charge of recovery for expediting recovery of

tax arrears, scrutiny of dossier cases and monitoring the work of field officers in the matter of recovery.

It is hoped that as a result the steps indicated above there will be substantial improvement in the reduction/collection of arrears of Income-tax.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/14/78
A&PAC-T Dated 24 October, 78.]

ANNEXURE—I

*Important measures for maximisation of tax arrears and realisation/
reduction of tax arrears*

I. Advance-tax:

- (i) *Current demand*: Enforcing payment of the advance-tax demand raised under section 210 and that intimated by the taxpayers under section 209A/212.
- (ii) *Arrear demand*: Particular attention to be given to advance tax demand raised during 1977-78 but not paid so far, this amounted to Rs. 96.05 crores (Provisional) on 1-4-1978.

II. Current (regular) demand:

- (i) *Assessments in bigger cases* to be completed well in time for the demand to be collected before the end of the financial year.
- (ii) The Commissioners and IACs should *personally* carry out periodical test checks to ensure that no delays take place in the distribution of chalans by CTUs/DTUs/LTUs to the Income-tax Officers. *Timely distribution of chalans is essential* for various purposes, including follow-up recovery action by ITOs and preparation of monthly Detailed Account (minor, sub and detailed headwise).
- (iii) Chalans received by ITO should be entered in the DCR/D&CR and placed on files immediately thereafter.
- (iv) Credit for pre-paid taxes should be given at the time of finalising the assessments. Also, please see para III (i) below.

- (v) *expeditious service of demand notices.* Demand notice and challan/refund voucher to be sent along with the assessment/refund order.
- (vi) Proper follow-up action to be taken *from month to month* so that current demand does not fall into arrears.
- (Adequate attention should also be paid to collection 'out of current demand in smaller cases so that the number of entries to be carried forward to the next year is kept to the minimum).
- (vii) *IACs should review the position ITO-wise every month.* Where the percentage of collection/reduction out of current demand is less than 90 per cent, the IACs should feel concerned and examine the matter in detail. They should *personally* review all cases where the net demand raised on assessment is Rs. 10,000/- or more.

III. *Arrear (regular) demand:*

- (i) (a) Identify all cases where *credit for pre-paid taxes* has not been given.
- (b) *Enter* all such claims made by the assesseees in reply to aid sheets or otherwise in a separate part of the Register of Rectification Applications.
- (c) *Enter* also, in the said Register of Rectification Applications, *the particulars of cases where the amount of pre-paid taxes shown in the return of income is higher than the amount of tax verified at the time of regular assessment.* (Among other things, the Income-tax representatives/bar associations, etc., may be requested to furnish lists of such cases in order to complete the Departmental records in this regard).
- (d) Follow-up action for giving credit for pre-paid taxes (whether in respect of current demand or arrear demand) should be promptly taken.
- (e) *IACs must check this part of the Register at least once a month and record their comments wherever necessary.*
- (ii) *Unfiled old challans*, if any, should be traced out and placed in the respective files with the help of special squads, if necessary, after making requisite entries in the D&CR.

- (iii) Special attention should be paid to collection/reduction of the outstanding demand raised during the years 1976-77 and 1977-78. The target should be to reduce the number of such entries by 85 per cent.

- (iv) *Recovery in bigger cases—Supervision by Senior Officers.* Although the statutory duty of taking necessary and timely action for recovery of arrears in all cases rests with the I.T.Os., the senior officers should continue to involve themselves in watching the progress of recovery of arrears in bigger cases so that necessary steps are taken in time.

Each Commissioner will prepare lists of cases in which the arrear demand exceeds Rs. 1 lakh. Similarly, each IAC will prepare lists of cases with arrear demand ranging between, say, Rs. 25,000/- and Rs. 1,00,000/-. (If the number of such cases exceeds 100, the lists may be limited to the top 100 cases). The lists should show brief reasons of pendency of demand and the action proposed to be taken. (Adequate space may be left after each entry so that notes can be kept from time to time). With the decision to bunch the entries of arrear demand, assessee-wise, preparation of such lists is not likely to present any difficulty. The Commissioners/IACs should review the progress of recovery in such cases at least once a month by, *inter alia*, holding discussions with the IACs/ITO concerned and give suitable directions in the matter wherever necessary. In the case of mofussil IACs/ITOs, suitable control may be exercised through correspondence, apart from discussion during tours.

It is seen that dossier cases are reviewed by some Commissioners only quarterly, when the dossiers are put up to them. This must be substituted by a monthly scrutiny by the Cs. I. T. on their own initiative.

- (v) *High demand appeals—*As per DI (IT&A)'s Circular No. 32 dated 3rd June, 1978 AACs are now required to ascertain high demand appeals on the basis of appeal memos and copies of the notices of demand attached thereto. The commissioner may not ordinarily have to send list of such appeals to the AAC for early disposal. The CIT will, however, call for a monthly report of pendency

and disposal of *high demand appeals* from the AACs concerned and will keep an effective check on the progress of their disposals, normally, within three months of their institution.

The Appellate Tribunal may also be requested by the Cs.I.T. for early disposal of appeals where the tax involved exceeds Rs. 25,000/- and lists of such appeals should be furnished to the Tribunal. (The monetary limit may be increased suitably if considered necessary in bigger charges.) Consolidated lists of such appeals pending on 36-6-78 should be furnished to the Tribunal and, thereafter, quarterly lists can be sent to the Tribunal with a covering letter of request. Particular follow up action is necessary in cases where the Tribunal has stayed the payment.

Suitable action for early disposal of cases where payment of tax has been stayed by the *High Courts* should be taken by the Commissioners, *vide* Board's Instructions No. 702 dated 7-6-74 and No. 1069 dated 28-6-77. References/writs involving common points may be identified and Cs.I.T. may call on the Chief Justices for expeditious hearing of such references/writs.

(vi) Adequate attention should be paid to *writing off of irrecoverable demand, particularly in regard to:*

- (a) all tax demands outstanding for 10 years or more; and
- (b) arrear demands upto Rs 2,000/- and pending for more than five years, which are irrecoverable, for *ad hoc* write off *vide* Board's Instruction No. 929 dated 4-3-76.

IV. *Special Squads:*

The special squads, where feasible, each consisting, of one Inspector and 2 UDCs should be formed for each IACs Range (other than company and Central ranges where the work will be done by the respective ITOs themselves) for attending to various items of work listed below. The staff for the purpose may be found from that of the T.R.O.s and the staff of the ITOs in the range. These special squads will work under the direct control of the T.R.O.s and will be closely supervised by IACs. The Commissioners should also review the performance of these squads periodically. This will automatically lead to clearance of tax recovery certificates also.

Items of work to be attended to by Special Squads

- (i) Identification and processing of cases where applications under sections 146 and 154 and appeal effects are pending, in relation to arrear demand as on 1-4-1978.
- (ii) (a) Identification and processing of cases where pre-paid taxes have not been given credit for, in relation to arrear demand as on 1-4-1978. [See item III (i)]
- (b) Tracing out chalans of payments made before 1-4-1978, making the requisite entries in the D&CRs, placing the chalans in the files and processing the cases for giving credit for pre-paid taxes in respect thereof.
- (iii) Bunching of entries of arrear demand, assessee-wise, as per proforma given in Annexure II relating to ITOs (other than of Company Circles, Central Circles, Special Investigation Circles where the number of such entries being small, the bunching should be done by the staff of the respective ITOs). [This will also facilitate the issue of refunds]

Action for settling these demands should be taken in the office to the extent possible by scrutinising the available records and correspondence with the assessees. Where necessary or considered more effective, Inspectors may be sent to the respective areas (the arrears sheets in Annex-II to be arranged area-wise for this purpose) for verifying that the tax demands are really due and, if so, requesting the assessees to pay the same. The power of *distrainment of movable property* should be discriminately and judiciously used for this purpose. Inspectors for such out door work should be properly briefed to handle the work tactfully and courteously so as to avoid any complaints. Attention in this connection is invited to Board's Instruction No. 979 dated 15-7-76.

- (iv) Processing of *ad-hoc* write-off cases in pursuance of Board's Instruction No. 929 dated 4th March, 1976.

V. Tax Deduction at source:

- (i) Separate TDS circles should be set up, if not done earlier. The staff sanctioned for this work should be properly and effectively utilised. These circles *should cover TDS work in relation to all types of income*. Apart from Salaries, par-

ticular attention should be paid to tax required to be deducted from contractors, residents and non-residents.

- (ii) The Registers of Tax Deductors should be completed and up-dated from time to time.
- (iii) Timely receipt of statutory returns regarding TDS, including the monthly returns regarding salaries under Rule 32, should be watched. Interest under section 201 (1A) and, where necessary, penalty under section 221 read with section 201(1A) should be levied.
- (iv) In the case of salaries, the annual returns under section 206 should be scrutinised and follow-up action taken (For this purpose, the work has been computerised at certain places).
- (v) Commissioners should have direct control/supervision over TDS work.

VI. Tax Recovery Officers:

- (i) Action to be taken as per separate Action plan for Tax Recovery Officers.
- (ii) Tax Recovery Officers should be *effectively* utilised for reducing tax arrears. They should concentrate on certificates involving larger amounts.
- (iii) IACs should exercise direct control and supervision over the working of TROs and review the progress at monthly intervals.

ARREAR SHEET No.....

ANNEXURE-II

Name and address of the assessee _____

PAN :

Page No. of D & C Register	Nature of demand (Use abbreviations R—Regular asstt. P—Penalty Int—Interest F—Fine)	Demand outstanding on 1-4-1978 (Rs.)	Collection Reduction during the year.	Balance on 31-3-1979 Balance (Rs.)	Initials	Remarks
1	2	3	4	5	6	7

Assessment year
197 -7

Total.

Assessment year
197 -7

Do.

Demand outstanding
on 1-4-1979

Do.

Balance on 31-3-1980

Do.

Do.

**STATEMENT INDICATING THE ACTION TAKEN ON THE
RECOMMENDATION|OBSERVATION OF THE PUBLIC
ACCOUNTS COMMITTEE**

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)**

Recommendation

The Committee are surprised to note that despite setting up a Special Cell in the Central Board of Direct Taxes in 1978 to keep a watch on the work of recovery of arrears of Rs. 10 lakhs each, the number of assessees with arrears of Rs. 25 lakhs each was first given as 238 as on 31st March, 1974 (which figure was supplied to Audit also *vide* Audit Report 1973-74. It was later changed in January, 1976 to 261 as on 31st March, 1974 with the total demand outstanding going up from Rs. 133.66 crores to Rs. 153.44 crores. Department of Revenue have explained that the method followed during 1975-76 and 1976-77 was that the Commissioner-wise Dossiers were initially scrutinised by an officer of the rank of I.T.O. and thereafter put up to a Deputy-Secretary. In suitable cases, the matter was placed before the Member concerned in the Board.

The discrepancy noticed reflects adversely on the monitoring being done by the special cell. The Committee recommend that the work procedures in the cell should be reorganised in such a way that it is able at any time to indicate the correct and latest position in regard to any cases of arrear exceeding Rs. 10 lakhs and that the monitoring and progressing done being is close and effective showing concrete results.

[SL No. 4(Para 114) of Appendix V to the 79th Report of the PAC (6th Lok Sabha) (1977-78).]

Action Taken

The reasons for the discrepancy in number of cases with arrears exceeding Rs. 25 lakhs as on 31-3-74 were placed before the PAC in this Ministry's Office Memorandum F. No. 240|19|77-A & PAC dated 21-1-76. It may be stated that the Cell started functioning from January, 1974. The original figures were supplied to the C& AG on 14-11-74 on the basis of the information supplied by the Directorate of Inspection (RS&P). Some divergence was noticed according to the information prepared in the Board on the basis of

the quarterly dossiers received by it. Thereafter, after reconciliation of the differences revised figures were furnished on 21-1-1976.

2. The comments of the Committee have been noted. Efforts are being made to ensure that the Cell set up in the Board is able at any time to indicate the correct and latest position in regard to any cases of arrear exceeding Rs. 10 lakhs and that the monitoring and progressing done by it is close and effective showing concrete results.

[Ministry of Finance (Deptt. of Revenue) OM No. 241/15/78
A&PAC I dated 24-10-1978]

Recommendation

The Committee find that yearly cash collections during each of the years since 1971-72 were, on an average, no more than 10.5 per cent of the total arrears. There has been no year when Department was able to collect more than the current demand. During evidence, the Finance Secretary expressed the view that it would not be correct to say that "only cash collections represent the efficiency of the Department." While the Committee concede that not all demands are recoverable instantly, they feel that the present rate of cash collection is quite low. As far as the Committee can see, at this rate of cash collection, the prospects of liquidation of arrears of tax even in the distant future appear to be very dim. Since cash collections are taken into consideration by Government at the time of preparation of Budget estimates, Department's inability to increase cash collection in the context of the evergrowing need for financial resources has the effect of increasing the incidence of taxation on the people and stands in the way of rationalisation of tax structure. In view of these grave implications, the Committee cannot but stress too strongly the need to prepare a time bound programme for stepping up cash collections in respect of arrears of tax.

[Sl. No. 7 (Para 117) of the Appendix V of the 79th Report of the PAC (6th Lok Sabha) (1977-78)]

Action Taken

Instructions in the matter have been issued *vide* d.o. No. 385/79/78-IT(B), dated 4th October, 1978. A copy of the same is annexed.

[M/O Finance (Deptt. of Revenue) OM No. 241/15/78 A&PAC-I
dated 24 October, 1978.]

F. No. 385/79/78—IT(B)

GOVERNMENT OF INDIA

DEPARTMENT OF REVENUE

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 4th October, 1978.

To

All Commissioners of Income-tax.

Sir,

SUBJECT.—*79th Report of the PAC (1977-78)—Para 117 of the Report—Time bound programme for stepping up cash collections in respect of arrears of tax.*

I am directed to say that in para 117 of its report (1977-78) the Public Accounts Committee has made the following recommendations:—

117. The Committee find that yearly cash collections during each of the years since 1971-72 were, on an average, no more than 10.5 per cent of the total arrears. There has been no year when Department was able to collect more than the current demand. During evidence, the Finance Secretary expressed the view that it would not be correct to say that "only cash collections present the efficiency of the Department." While the Committee concede that not all demands are recoverable instantly, they feel that the present rate of cash collection is quite low. "Since cash collections are taken into consideration by Government at the time of preparation of Budget estimates, Department's inability to increase cash collections in the context of the evergrowing need for financial resources has the effect of increasing the incidence of taxation on the people and stands in the way of rationalisation of tax structure. In view of these grave implications, the Committee cannot but stress too strongly the need to prepare a time bound programme for stepping up cash collections in respect of arrears of tax."

2. The figures of cash collection out of arrear demand during the last five years are as under:—

Financial year	(Amount in Rs. crores)	
	Arrears at the end of the previous year	Cash collection during the year
1973-74	790.02	80.27
1974-75	815.60	74.13
1975-76	935.96	97.74
1976-77	993.79	108.69
1977-78	873.56	94.66

It will be seen from the above statistics that the tax collection represents about 10 per cent of arrears outstanding at the end of the previous year which is considered low. Since cash collections go to increase the budget collection, the need for increasing them cannot be over emphasised. As suggested by the Public Accounts Committee, you may kindly prepare a time bound programme for your charge stepping up the cash collections out of demand raised on regular assessments and *in particular out of arrears of tax*. Special attention should be paid to arrears, recovery of which will be by way of cash collection as distinguished from reduction/remission etc. Steps may kindly be taken to ensure that the programme so prepared is adhered to and the cash collection augmented substantially. Action on the lines indicated above may be taken immediately.

3. Please acknowledge the receipt of this letter.

Yours faithfully,

Sd/-

(S. R. WADHWA),

Secretary, Central Board of Direct Taxes.

Recommendation

The Committee recall that their suggestion made in paragraph 1.80 of their 73rd Report (Fourth Lok Sabha) regarding the amendment of the Income-tax Act to provide for tax on undisputed income being paid before an appeal was admitted, was not accepted by Government in November, 1969. The Committee reiterated the suggestion in paragraph 1.56 of their 117th Report (Fourth Lok Sabha) and paragraph 3.22 of their 51st Report (Fifth Lok Sabha). In 1975 the Government met this point by amending Section 249 of the Income-tax Act through the Taxation Laws (Amendment) Act,

1975 w.e.f. 1-10-75. The Committee are convinced that with this change in law, it should not be too difficult for the Department of Revenue to reduce the arrears because they found that of the total tax arrears as on 31-3-1976 undisputed demands amounted to Rs. 497.05 crores. The Committee would watch the results through future Audit Reports.

[Sl. No. 8 (para 118) of Appendix V to the 79th Report of the PAC (6th Lok Sabha) (1977-78)].

Action Taken

The recommendations have been noted.

[M/o Finance (Deptt. of Revenue) OM No. 241/16/78
A&PAC-I dated 24th October, 78].

Recommendation

The Committee find that while the demands of Income-tax (including Corporation tax) is on 31st March, 1977 stayed by Courts amounted to Rs. 19.55 crores only, the demands stayed by Income-tax authorities themselves aggregated Rs. 88.73 crores. This gives the impression as if Income-tax authorities have been quite liberal in the matter of grant of stay orders, thereby contributing to accumulation of Gross arrears of tax. The Committee would impress upon the Departmental officers the need to exercise due restraint and caution in taking decisions in these matters.

[S. No. 10 (Para 120) of Appendix V to the 79th Report of the PAC (6th Lok Sabha) (1977-78)]

Action taken

The observations of the Public Accounts Committee are noted. The instructions which are issued to the Field officers on this subject are in keeping with the observations of the Public Accounts. The instructions which are issued to the Field officers on this subject are in keeping with the observations of the Public Accounts cases demands are genuinely disputed.

[M/o Finance (Deptt. of Revenue) O.M No. 241/13/78
A&PAC-I dated 25th October, 78]

Recommendation

The Committee are perturbed to find that though various sections relating to prosecution for offences under the Income-tax Act, 1961 were amended by Taxation Laws (Amendment) Act, 1975 (effective from 1st October, 1975) and made more stringent, the Department of Revenue have continued to follow a soft line. The Finance Secretary stated in evidence that the Income-tax Department's "philoso-

phy of collection does not consist in immediately launching prosecution and attaching properties". There is not a single case of arrears of tax demand exceeding Rs. 2.5 lakhs where Department has launched prosecution under amended section 276 C(2) of the Act. A few cases of arrears of tax demand exceeding Rs. 5 lakhs are stated to have come to the notice of the Department which *prima facie* came within the mischief of Section 276 C(2). These cases, the Committee, have been assured are being processed. The Committee disapprove of the approach of the Department to soft model offences and are of the view that after the Parliament had made the law more stringent the Department of Revenue and the Central Board of District Taxes, should have seen to it that the amended provisions were followed by the Commissioners in letter and spirit. The Committee recommend that Commissioners of Income-tax may be instructed suitably.

[S. No. 12 (para 122) of Appendix V of the 79th Report of the PAC (1977-78)].

Action Taken

In view of the Committee's recommendation, instructions were issued to all the Cs.I.T. to scrutinise all the cases involving arrears of tax exceeding Rs. 5 lakhs in the aggregate as on 1st August, 1977 for prosecution u/s 276 C(2), whenever justified on the facts *vide* Board's Instruction No. 1088, dated 6th August, 1977 (Copy attached). Subsequently further instructions were issued *vide* Instruction No. 1156, dated 14th March, 1978 (Copy attached) to scrutinise also case of arrears of tax, penalty or interest Amounting to Rs. 1 lakh or more as on 31st January, 1977 with a view to determining the feasibility of launching prosecution under Section 276C(2) of the Income-tax Act, 1961. Some of the Commissioners have reported that the question of prosecution under section 276C (2) is being processed in consultation with their Counsels at indicated below:

S. No.	CIT's Charge	No. of potential cases for prosecution u/s 276C(2)
1. A. P.—I	1
2. Delhi—II	1
3. Delhi—III	1
4. Gujrat—I	3
5. Madras (Central)	2
		8

[M/o Finance (Deptt. of Revenue) OM No. 241/16/78, A&PAC-I, dated 29th December, 1978].

APPENDIX 'A'

INSTRUCTION NO. 1083.

F. No. 285/362/77-IT (Inv)

GOVERNMENT OF INDIA

Central Board of Direct Taxes

New Delhi, dated the 6th August, 1977.

To

All Commissioners of Income-tax.

SUBJECT.—*Prosecution for wilful attempts to evade payment of tax, penalty or interest—*

Under section 276C(2) of the Income-tax Act, 1961 inserted by Section 67 of the Taxation Laws (Amendment) Act, 1975, wilful attempt in any manner whatsoever to evade payment of any tax, penalty or interest under the I.T. Act, 1961 has been added, *inter alia*, to the list of offences which will attract prosecution. The prosecution will lie without prejudice to any penalty that may be imposable under any other provision of the Act. The Explanation to Section 276C(2) is in the following terms:—

“Explanation—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable of imposable under this Act or the payment thereof shall include a case where any person—

- (i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or
- (ii) makes or causes to be made any false entry or statement in such books of account or other documents; or
- (iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or
- (iv) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.”

A similar provision for prosecution for wilful attempts to evade payment of any tax, penalty or interest under the W.T. Act has

also been made U/s. 35A(2) of the Wealth-tax Act, inserted by Section 100 of the Taxation Laws (Amendment) Act, 1975. The provisions of both sections 276C(2) of the Income-tax Act and 35A(2) of the Wealth Tax Act may be invoked in respect of an assessee's wilful attempt to evade payment of tax after 1-10-1975.

2. Under the existing instructions prosecutions for offences under the various Direct Taxes Acts and/or I.P.C. require the Board's prior administrative approval. I am directed to request you to examine all the cases in which recovery of taxes has been deliberately thwarted by assesseees and submit formal proposal to the Board for prosecution, wherever justified on the facts. Scrutiny of cases involving arrears of tax exceeding Rs. 5 lakhs in the aggregate as on the results should be undertaken immediately. Your report on the results of scrutiny should be sent to the Board by 15-9-1977. Formal proposals for the Board's approval may be sent in these cases by 30-11-1977.

Sd/-

(V. P. BHAGAT)

Officer on Special Duty (Legal),
Central Board of Direct Taxes

ANNEXURE 'B'

INSTRUCTION NO. 1156.

F. No. 285/362/77-IT (Inv)

GOVERNMENT OF INDIA

Central Board of Direct Taxes

New Delhi, dated the 14th March, 1978

To

All Commissioners of Income-Tax.

SUBJECT.—*Prosecution for wilful attempts to evade payment of tax, penalty or interest—*

Your attention is invited to instruction No. 1083 circulated under Board's F.No. 285/362/77-IT (Inv) dated the 6th August, 1977 requesting you to examine all cases in which recovery of taxes has been deliberately thwarted by the assessee and to submit formal

proposals to the Board for prosecution wherever justified on the facts. In particular, you are requested to undertake immediate scrutiny of cases involving arrears of tax exceeding Rs. 5 lakhs in aggregate as on 1-8-1977 and to report the results of such scrutiny by 15-9-1977, to be followed up by formal proposals for prosecution for Board's approval later.

2. The Board now desire that similar scrutiny to be undertaken immediately of arrears of tax, penalty or interest amounting to Rs. 1 lakh or more as on 31-1-1977 with a view to determining the feasibility of launching prosecution under Section 276C(2) of the Income-tax Act, 1961. The results of the scrutiny may please be reported to the Board latest by 30-4-1978 and formal proposals for Board's approval may please be sent as soon as possible thereafter.

Sd/-

(V. P. BHAGAT)

*Officer on Special Duty (Legal),
Central Board of Direct Taxes.*

Recommendation

The Committee find that during the last 7 years (1970-71 to 1976-77), the Department of Revenue had written off arrears of tax to the tune of Rs. 38.64 crores. The Committee have been informed that these arrears related to (i) assesseees who had died leaving behind no assets or who had gone in liquidation or become solvent, (ii) assesseees being untraceable, (iii) assesseees having left India, (iv) assesseees who are alive but have either closed their business or have no attachable assets amounts involved being unenforceable due to being duplicate or protective demand, (v) amounts written off on grounds of equity or as a matter of international courtesy or where the time and labour involved in usual remedies for realisation were considered to be disproportionate to the amounts of recovery. The Committee would like to be assured that arrears of tax in these cases were written off by the Department only after exhausting all remedies available under the Income-tax Act for non-payment and fully satisfying themselves that arrears proposed to be written off were fully irrecoverable.

[S. No. 14(para 124) of Appendix of the 79th Report of PAC (1977-78)]

Action taken

Ministry assure the Committee that the arrears of tax which become irrecoverable are written off only after all possible legal steps for their recovery as provided under the Income-tax Act, are exhausted and there is no possibility of any recovery. In cases where although assets are available with the assessee or his relatives but they are heavily encumbered with prior mortgages or where there may be legal difficulties in the Department's enforcing recovery or where forced sales and auctions do not find a ready purchaser, a settlement for scaling down of the outstanding tax arrears can be entered into between the Department through the Commissioner of Income-tax, and the assessee. Such a settlement is, however, made subject to the following conditions:—

- (i) the settlement should result in large recovery than would be realised by recourse to enforced sale of assets or other modes of recovery;
- (ii) the amount settled should be paid by the assessee without delay after the finalisation of the settlement and in case the instalments are required, adequate security should be furnished; and, lastly,
- (iii) an affidavit should be taken from the assessee concerned declaring particulars of his assets as on the date of the settlement and each such settlement is made expressly subject to the condition that if at a future date, any assets come to the notice of the Department, which were not disclosed in the affidavit, the settlement would be treated as void and the government would be free to go ahead with the recovery proceedings according to law.

2. For the purpose of ensuring that the powers of write off/scaling down of tax arrears are exercised by the Commissioners of Income-tax judiciously, certain administrative checks have been laid down. Any cash involving an amount of Rs. 1 lakh and above is first considered by a Zonal Committee consisting of three Commissioners of Income-tax, including the Commissioner of the Charge to which it relates. A case involving arrears of taxes to the extent of Rs. 10 lakhs and above for write off and Rs. 1 lakh and above for scaling down, is required to be submitted to the Board along with the Zonal Committee's recommendations for its prior approval before the write off/scaling down order is passed by the Commissioner. In the Board's office such cases are scrutinised by the two Secretaries

of the Board and if they are satisfied that the tax arrears are irrecoverable or the case is fit for scaling down, it is submitted to the Member of the Board for his consideration and approval. In case the amount exceed Rs. 25 lakhs it is considered by the full Board and approval accorded. However, where the arrears of the exceed Rs. 50 lakhs the case is not only considered by the full Board but the approval of the Ministry is also taken.

[M/o Finance (Deptt. of Revenue) O.M. No. 241/29/78 A&PAC-I,
dated 12 December, 78].

CHAPTER III

CONCLUSIONS OR RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

The Committee also view with concern that despite the Central Board of Direct Taxes attaching "great importance" to the disposal of 'High Demand Appeal Cases' (i.e. cases where the outstanding demands exceed Rs. 25,000 in places other than Bombay and Calcutta and Rs. 50,000 in places in Bombay and Calcutta), the number of such cases has increased from 2,278 as on 1st April, 1975 to 2,745 as on 1st April, 1976, and 3,427 as on 1st April, 1977. The Committee recommend that reasons for this adverse trend should be gone into and remedial measures taken to reverse it.

[Sl. No. 11(Para 121) of Appendix V to the 79th Report of the PAC (Sixth Lok Sabha) (1977-78)].

Action taken

The reasons for rising trend of high demand appeals have been looked into and it is explained as under:—

(i) The institution (i.e., filing of appeals) of high demand appeals is increasing every year, while unfortunately average working strength of AACs. has been going down in successive years. In spite of this the disposal figures of the appeals by the A.A.Cs. for the three years show rising trend and average disposal per A.A.C. is also showing appreciable rise every year. This may be seen as under:—

Year	Institution of H. D. Appeals	Disposal	Average strength of AACs	Average disposal per AAC
1974-75	8458	3456	174	48
1975-76	9209	8742	160	54
1976-77	14819	14137	138	102

Kind attention of the Committee is invited to this Ministry's O.M. No. 240/1/78-A&PAC-I, dated 10th August, 1978 forwarding a statement giving reasons headwise for the pendency of high demand appeals as on 31st March, 1976 and 31st March, 1977. Item 2(j) thereof states the figures of appeals i.e. 729 and 1380 which were held up for disposal on the respective dates because of the vacancies in the post of AACs. Thus it may be clear that there had been progressively higher disposal of high demand appeals every year. If there is progressively higher balance at the closing dates of the respective years, it is mainly because of the reduced working strength of AACs and also because of higher institutions of fresh appeals every year.

(ii) Periodwise break-up of the pendency on the respective three dates would show that more pendency as on 1st April, 1977, is due to the fact that more appeals pending for less than three months are included therein. The institution pattern quarterwise in the three years shows that larger institutions of H.D. appeals took place in the third and fourth quarters of the year 1976-77. This is due to the fact that high demand assessments were completed by the ITOs with the approval of the IAC under section 144B in the third quarter. In the fourth quarter of the year 1976-77 the institution was very high and the comparative figures for the earlier years are given hereunder. This caused a higher figure for closing balance at the close of the year.

Year	Institution in IV quarter	Over three months	Less than 3 months	Total of columns 3 and 4
(1)	(2)	(3)	(4)	(5)
1974-75 .	2583	1237	1041	2278
1975-76 . . .	2521	1588	1157	2745
1976-77	6143	1464	1963	3427

2. During 1977-78, the average strength of the A.A.Cs was increased to 182 and they disposed of 15,473 high demand appeals. To concentrate on the disposal of high demand appeals, 69 posts of Commissioners of Income-tax (Appeals) were created during the current year (1978-79) to deal mainly with such appeals. This step is

expected to result in disposal of a larger number of high demand appeals.

[M/O Finance (Deptt. of Revenue) O.M. No. 241/9/78-A&PAC, dated 4 October, 1978].

Recommendation

The Committee view with grave concern the fact that even the instructions were issued by the Central Board of Direct Taxes in November 1973 that, as required under Rules 112(12) of the Income Tax Rules, 1962, cash seized in the course of a search should invariably be deposited in the Personal Deposit Account of the Commissioner "immediately" after the search is over, there were as many as 75 cases (28 in Delhi, 46 in Bombay and 1 in Tamil Nadu) where seized cash was not deposited in the PDA of the Commissioner within 3 months of the seizure. In some cases the delays ranged from 2 to 3 years and the cash seized ran into lakhs of rupees. The Department of Revenue have attributed these delays to large numbers of searches conducted at too short intervals and paucity of staff in the Commissioner's offices to comply with the rules governing depositing of seized cash. The Committee recommend that a firm time limit should be laid down in the Income-tax Rules and any violation thereof should render the official concerned liable to disciplinary action.

[Sl. No. 15 (Para 125) of the Appendix to the 79th Report of the PAC (6th Lok Sabha) (1977-78)]

Action taken

The Board had issued Instruction No. 806 to all Commissioners of Income-tax in November, 1974 laying down that Cash seized in the course of search should invariably be deposited in the Personal Deposit Account of the Commissioner immediately after the search except when it is to be retained in order to preserve the identity of the currency notes with a view of launching prosecution proceedings so that the same could be produced as a piece of evidence to prove the falsity of the assessee's claim. Thereafter, a demi-official circular was sent under Board's F. No. 286/17/78-IT (Inv) dated 30th January, 1978 (Copy attached) reiterating the earlier instructions and seeking confirmation that cash seized in all cases had been duly credited in the Personal Deposit Account of Cs. I.T. As already intimated in para 2 of Board's reply contained in F. No. 240/1/77-A&PAC-I dated 29-3-1978, confirmation has since been received from all the Cs. I.T. that no cash is kept by any one of them at present

in their strong rooms for more than the minimum period needed to make the deposit in bank in accordance with the existing instructions.

Further, Cs. I.T. were advised to obtain the explanation(S) of the Officer(S) concerned wherever delay had occurred and to take necessary action thereon to avoid such lapses in future.

2. Existing instructions require deposit of seized cash "immediately" except in the rare cases referred to above. The failure to comply with Board's instructions renders an officer liable for disciplinary action and the circular already issued emphasises the need for suitable action in any case of delay which may come to notice in future. In the circumstances the Board consider that the incorporation of any time limit in the Rules is unlikely to serve the purpose intended to be achieved. More strict adherence to the Board's instructions and suitable action wherever any lapse is noticed in future will perhaps serve the purpose better. Accordingly, a fresh circular dated 11-8-1978 on the subject (Copy attached) has been issued in the light of the Committee's observations and strict observance of Board's instructions is proposed to be watched through monthly progress report to be furnished by Cs. I.T. to Director of Inspection (INV).

[M/O Finance (Deptt. of Revenue) O.M. No. 241|10|78-
A&PAC-I dated 15 Sep., 78].

IMMEDIATE

K. Srinivasan,
Member.

D.O.F. No 286|17|78-IT (Inv.)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 30th January, 1978.

SUBJECT: *Searches and seizures under the Income-tax Act, 1961—
Instructions regarding.*

My dear

The Board notice that in spite of repeated instructions, seized cash is not credited to the Personal Deposit Account of the Commissioner concerned with the utmost expedition in all cases. Will

you please review immediately all such cases for immediate necessary action and send me a confirmation by 10 February 1978 that cash seized in all cases till date has been only credited in your Personal Deposit Account except in that rare case where it may be necessary to retain the seized currency notes themselves as a piece of evidence.

2. Wherever delay in depositing the seized cash in your Personal Deposit Account has occurred, please obtain the explanation(s) of the officer(s) concerned and take necessary action thereon to avoid such lapses in future.

Yours sincerely,

Sd/- .

(K. Srinivasan)

Shri

Commissioner of Income-tax.

CIRCULAR

K. Srinivasan,

Member.

D.O. F. No.411/28/78-IT(Inv.)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 11th August, 1978.

SUBJECT.—*Deposit of seized cash in the Personal deposit accounts of the Commissioners—Delay in*

My dear

The Public Accounts Committee have reported in Para 125 of their 79th Report (1977-78) relating to Arrears of Tax Demands, that inspite of the instructions contained in Board's F. No. 286/48/74-IT(INV) dated the 30th November, 1974 (Instruction No. 806), there were as many as 75 cases where seized cash was not deposited in the personal deposit account of the Commissioner within three months of the seizure. In some cases, the delay ranged from 2 to 3 years

and the cash seized ran into lakhs of rupees. The P.A.C. have recommended that disciplinary action should be taken against the officials responsible for the delay in depositing the cash within the stipulated period.

2. The Board emphasize that a serious notice will be taken of any delay that comes to its notice in future and the I.T.O. (Hqrs.)/ADIs (Int.) associated with the retention of seized cash in safe custody, will ordinarily be held responsible for such delays. In this connection attention is invited to para 2 of Board's D.O. Circular No. 286/17/78-IT(INV) dated 30-1-78 and the Board expect that in every case of lapse noticed in future suitable action will invariably be taken by the CIT under intimation to Board.

3. In this connection, the Director of Inspection (Inv.) has already addressed you demi-officially *vide* his D.O. No. INV. VII/S&S| (4) |77-78 dated 4/5-7-1978 wherein he has called for the requisite information in the monthly progress report which is submitted to him by the Intelligence Wings. He will bring such delays to the notice of the Board for taking appropriate action against the officers concerned.

4. The receipt of this letter may please be acknowledged. Regards.

Yours sincerely,

Sd/-

(K. Srinivasan)

Shri

Commissioner of Income-tax.

CHAPTER IV

CONCLUSIONS OR RECOMMENDATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE GOVERNMENT AND WHICH REQUIRE REITERATION

Recommendation

The Committee note that from 1 April, 1973, the work of supervision of recovery of arrears of taxes was allocated amongst various authorities. Supervision of recovery in case of arrears exceeding Rs. 1 lakh but below Rs. 5 lakhs was allocated to the Commissioners of Income-tax and cases of arrears exceeding Rs. 5 lakhs but below Rs. 10 lakhs to the Director of Inspection (RS&P). The supervision of cases of arrears above Rs. 10 lakhs was to be that of Central Board of Taxes itself. In the reallocation of work made from 1 April, 1974 responsibility for supervision of cases of arrears exceeding Rs. 5 lakhs but below Rs. 10 lakhs was transferred from Director of Inspection to the Commissioners of Income-tax. Explaining the significance of allocation of supervisory responsibility over work of arrears of tax at various levels, the representative of the Department of Revenue stated in evidence that despite such allocation "direct responsibility" for taking action under the various sections of the law rested solely and squarely on the Income Tax Officer and that the Central Board of Direct Taxes exercised only "general supervision" by getting quarterly Dossiers and inspection visits to administrative zones to made on the spot appraisal of cases where tax demands exceed Rs. 10 lakhs. While the Committee agree that responsibility for completion of assessments and enforcing recovery of tax due in each case must continue to rest with the Income Tax Officer, the Committee feel that the Central Board of Direct Taxes being the highest authority for direct tax administration in the country should not rest content with a passive role but should assume a more active role of giving a positive lead to field officers and see that cases involving tax arrears of Rs. 10 lakhs and above are processed with the expedition they deserve. There are 33.13 lakhs assesseees against whom gross arrears of Rs. 993.79 crores were due on 31st March, 1976. Since the number of assesseees for which the Central Board of Direct Taxes is responsible (i.e., cases in which arrears exceed Rs. 10 lakhs) to supervise the recovery work is hardly 800, it should not, the Committee feel, be difficult for the Board

to see that the arrears are recovered in these cases without further loss of time. Concrete steps taken by the Board in this regard and the total amount of tax realised out of these arrears may be reported to the Committee.

[S. No. 2(Para 112) of Appendix V of the 79th Report of the
PAC (1977-78)]

Action Taken

The observations of the Committee regarding keeping a close watch on developments in each of the cases with larger arrears, have been noted subject to the submissions made to the P.A.C. during the oral evidence and summarised in paragraph 6 to 13 of the 79th Report of the PAC (1977-78). Efforts are being made to ensure that the supervision and monitoring done by the Board is closer and more effective, by suitably strengthening the organisational set up.

2. As regards total amount of tax realised out of the arrears of Rs. 307.99 crores outstanding as on 31st March, 1976 in 812 cases wherein such arrears exceeded Rs. 10 lakhs in each case, under the existing procedure, the dossiers are received quarterly in respect of a case where the arrears as at the end of the quarter exceed Rs. 10 lakhs. The result is that as and when in any case, the gross demand as at the end of the quarter (i.e. both the arrear demand and the current demand raised in that case till the end of the quarter put together) go below Rs. 10 lakhs at the end of any quarter, reports are discontinued. It will, therefore, not be possible to furnish the demand outstanding as on 31st March, 1977 or 31st March, 1978 out of the demands of Rs. 307.99 crores as on 31st March, 1976 and the corresponding realisation/reduction therefrom unless data is collected from the field formations afresh. Thus, out of the 812 cases referred to earlier, demands exceeding Rs. 10 lakhs were outstanding even as on 31st March, 1977 in 535 cases. The corresponding outstanding demands (including demands created in these cases during financial year 1976-77) aggregated to Rs. 199.78 crores.

3. Break-up of realisations/reductions out of arrears as on 31st March, 1977 during the financial year 1977-78 is available. Thus, out of the above mentioned 535 cases pending as on 31st March, 1977, there were 417 cases in each of which arrears continued to

exceed Rs. 10 lakhs, the corresponding arrear demand being Rs. 156.73 crores as on 31st March, 1978.

[M/O Finance (Deptt. of Revenue) O.M. No. 241/27/78
A&PAC 12th December, 1978].

Recommendation

The Committee are surprised to find that during 1975-76, only a sum of Rs. 27.31 crores was deducted at source on payments made to contractors all over India and Rs. 1.12 crores realised as tax on winnings from Lotteries and Crossword puzzles. The Committee apprehend that considering the fact that payments to contractors all over the country are quite substantial and almost every State in India ran a Lottery, tax deduction from these sources is not being given the attention that it deserves. The Committee have been informed that every year a circular is issued by the Central Board of Direct Taxes explaining various provisions relating to deduction of tax from winnings from lotteries or crossword puzzles. As regards tax on payments made to contractors, apart from issuing circulars, the Board had issued a Brochure in June 1975 under the "Tax Payers Information Service" explaining the provisions relating to deduction of tax at source out of payments to contractors or sub-contractors in simple language for the benefit of such persons. Suitable instructions were also issued to the Commissioners on 28th December, 1977 and 6th January, 1978. The Committee recommend that the Board should take up this matter with the Government Departments, particularly CPWD and State PWDs and devise procedures to obviate the possibility of leakage of revenue on this account.

[Sl. No. 9(Para 119) of Appendix V to the 79th Report of the
PAC (6th Lok Sabha) (1977-78)].

Action Taken

The impact of the instructions issued in December, 1977 by the Directorate of Inspection (Income-tax & Audit) will be fully reflected during the year 1978-79 and it is considered that further steps if called for would be thought of after the statistics for that year are available. However, a limited review of deduction of income-tax made from the payments made to the Contractors and sub-contractors during the years 1975-76 and 1976-77 by the Ministries of Railways, Works and Housing and Shipping and Transport and their attached and subordinate offices reveals the percentage

of tax deducted to the amount paid to such contractors and sub-contractors between 1.62 to 1.95. The aggregate percentages for the years 1975-76 and 1976-77 are 1.74 and 1.76. In accordance with the existing provisions deduction @ 2 per cent of the amount paid to the contractors and 1 per cent of such amount to sub-contractors is to be made from the payments in pursuance of any contract the consideration for which exceeds Rs. 5,000|. The apprehension of leakage of revenue on this account is, therefore, not borne out from this review.

2. A Working Group was constituted in September, 1977 with a view to make efficient administrative arrangements for management of various functions relating to "Tax Deduction at Source". Its Report is under consideration of the Central Board of Direct Taxes. Steps necessary to improve the collection of tax at source will be taken as soon as a decision is arrived at.

[M/O Finance (Dept. of Revenue) O.M. No. 241/19/78, A&PAC-I,
dated 28th November, 1978].

Recommendation

The Committee note that under section 220, any amount (other than by way of advance tax) specified as payable in the notice of demand is payable within 35 days of the service of notice. If the amount is not paid within that period, the assessee is deemed to be in default and is liable to simple interest at 12 per cent per annum. The Committee feel that this rate of interest is so low as against the prevailing rate of interest for loans raised in the open market that an assessee would be easily tempted to delay payments of arrears. The Committee recommend that the adequacy of rate of interest on unpaid tax should be examined by the Department.

[S. No. 13 (para 123) of Appendix V of the 79th Report of the
PAC (1977-78)].

Action Taken

As suggested by the P.A.C., the matter of upward revision of the interest chargeable under section 220(2) has been examined.

2. The adequacy of the rate of interest charged under section 220(2) was gone into some time ago by the Direct Taxes Enquiry Committee which had made some recommendations in this behalf. Section 80-V of the Income Tax Act was introduced with effect from 1st April, 1976 in pursuance of para 4.36 of their recommenda-

tions. This section was specifically meant to encourage early payment of taxes even by borrowing. The deduction under this section is available to all assesseees on interest paid on moneys borrowed for payment of income tax. Prior to this amendment the position in law was that such interest was not an admissible deduction in computing the business income of an assessee. The provisions of Section 80-V are so worded that the deduction will be available only on interest paid on *moneys borrowed* by the assessee. Thus, any interest payable by an assessee under section 220(2) of the Act may not be available as a deduction under section 80-V.

3. At the current rates of taxation, postponement of the payment of taxes even by paying interest @ 12 per cent as specified under section 220(2) will become attractive to an assessee liable to income-tax at the maximum rate (60 per cent plus surcharge of 15 per cent) only if the market rate of interest exceeds 38.7 per cent if the effect of Section 80-V is taken into account. In the circumstances, an upward revision of interest chargeable under section 220(2) is not presently considered necessary.

[M/O Finance (Deptt. of Revenue) O.M. No. 241/27/78-
A&PAC, dated 22 November, 1978].

CHAPTER V

CONCLUSIONS OR RECOMMENDATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendation

The Committee made a sample check of Dossiers maintained by the Central Board of Direct Taxes and found to their utter dismay that adequate follow-up on cases for which the Board was responsible, to supervise the recovery of arrears was lacking. To cite only a few instances, in one case, the recovery of arrears relating to the assessment year 1973-74 had been stayed by Delhi High Court and in the Dossier for the period ending 30th June, 1977 the Commissioner had remarked that the Board was requested on 14th June, 1976 to move the Delhi High Court to dispose of the writ petition early. The Dossier did not indicate what further action, if any, was taken on it. In another case, though the arrears of demand related to assessment years 1962-63, 1967-68 and 1970-71, the assessments were made *ex-parte* only in 1973: The Committee were given to understand that the assessee was engaged in the racket of 'compensatory payments'. The assessee was a partner of a firm which was closed on 31-8-1974, leaving no assets. In yet another case, though the Inspecting Assistant Commissioner had recommended in March, 1975 liquidation of a limited company and prosecution of its Directors, the Dossier did not show whether the Board had pursued the matter adequately. An idea of how such delays and indifference by Income tax administration can jeopardise the prospects of recovery of arrears can be had from the details of another case. In this case, the assessments for the years 1944-45, 1948-49 to 1952-53 and 1957-58 were made in March, June and September, 1970, October, 1972 and March, 1974. The Committee learnt during evidence that this company had been a profitable concern for a number of years but by the time assessments were completed, only a shell of it was left. In another case, the Commissioner granted stay of recovery of Rs. 2.20 crores in respect of assessment year 1973-74 and that too without taking any security from the assessee. The Committee recommend that the Central Board of Direct Taxes should keep a close watch on developments on each of the cases for which it is responsible and guide the Commissioners of the steps that they should, on the facts and circumstances of each case, take in the best interests of revenue.

[S. No. 3(Para 113) of Appendix V of the 79th Report of the
PAC (1977-78)].

Action taken

In one case where the writ petition was pending in the High Court of Delhi, efforts to expedite the disposal of the petition have been made and the case is now appearing in the cause list of the High Court and may be heard shortly. In the other case relating to the *ex-parte* assessments made against the assessee engaged in the racket of compensatory payments, a substantial portion of the arrears has since been written off. In the third case, wherein the liquidation of limited company was recommended by the Inspecting Assistant Commissioner, the matter was examined by the Commissioner in consultation with his legal Adviser and the matter was dropped on the basis of the advice furnished by him. Regarding the fourth case, a further report will follow.

2. As regards granting of stay of recovery of Rs. 2.20 crores in respect of a case without taking security from the assessee, the demand stayed was highly disputed in appeal proceedings. As the company was solvent, it was not considered necessary to insist on any security. However, instructions have since been issued to the field officers on the question of taking security before granting stay of recovery proceedings and a copy of the relevant Instruction (Instruction No. 1158) dated 27-3-78 was also submitted to the PAC while furnishing a reply on the action taken on para 1.47 of the 51st Report of the PAC (6th Lok Sabha) (1977-78).

3. The observations of the Committee regarding keeping a close watch on developments in each of the cases with larger arrears, have been noted subject to the submissions made to the Committee during the oral evidence and summarised in paragraphs 6 to 13 of the 79th Report of the PAC (1977-78). Efforts are being made to ensure that the supervision and monitoring done by the Board is closer and more effective, by suitably strengthening the organisational set up.

[M/O Finance (Deptt. of Revenue) O.M. No. 241/10/78-A&PAC—I dated 12 December, 78].

NEW DELHI

April 25, 1979.

Vaisakha 5, 1901 (S).

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

APPENDIX

STATEMENT OF CONCLUSIONS AND RECOMMENDATIONS

Sl. No.	Para No.	Ministry/Department	Conclusion or Recommendation
(1)	(2)	(3)	(4)
1	6	Ministry of Finance (Deptt. of Revenue)	<p>The Committee note that under the existing procedure the Central Board of Direct Taxes receive quarterly dossiers in respect of a case where the arrears as at the end of the quarter exceed Rs. 10 lakhs, with the result that as and when in any case, the gross demand as at the end of the quarter goes below Rs. 10 lakhs, reports are discontinued. The Committee are unable to appreciate the reasons for discontinuing the Reports. If in any quarter, the gross demand in any case exceeds Rs. 10 lakhs, that case should be the concern of the Central Board of Direct Taxes till the entire arrears of that case are recovered. By discontinuing Reports in such cases, monitoring the progress in recovery of arrears in such cases is not possible. The Committee would, therefore, like that once a case is brought within the purview of the C.B.D.T. the Central Board</p>

of Direct Taxes should continue to supervise the case till the entire arrears recovered.

2 8 -D>

The Committee consider that the Department of Revenue is not applying itself earnestly to the task of examining the Report of the working Group . The period of a year and a half should have been more than sufficient for the examination of the Report and formulation of concrete steps in pursuance thereof. They would like conclusive action to be reported to them by the end of the next six months, i.e. October, 1979.

3 11 -Do-

The reason advanced by the Ministry for not accepting the recommendation of the Committee is not sufficiently convincing. A case is made out that default in payments of tax attracting the penalty of 12 per cent interest is unattractive as the assessee who is unable to pay the Tax could take loan from private sources and claim deductions under Section 80-V of the Income-tax Act. The existence of a large number of defaulters in payment of tax shows that the defaulters are not taking the advantage of Section 80-V and if necessary choose to pay the penal interest provided for in Section 220(2) of the Act. The Committee therefore, recommend that this matter may be reconsidered in the light of the admittedly mounting tax arrears.