PAC No. 437

PUBLIC ACCOUNTS COMMITTEE (1974-75)

(FIFTH LOK SABHA)

HUNDRED AND FORTY-FIRST REPORT

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 119th Report (Fifth Lok Sabha) on Chapter III of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes, relating to Income Tax].

LOK SABHA SECRETARIAT
NEW DELHI

April 1975/Chaitra 1897 (Saka)

Price : Rs. 1.95

LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA SECRETARIAT PUBLICATIONS

Sl. No.	Name of Agent
	ANDHRA PRADESH
1.	Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam).
2.	G. R. Lakshmipaty Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District.
	ASSAM
3.	Western Book Depot, Pan Bazar, Gauhati.
	BIHAR
4	Amar Kitab Ghar, Post Box 78, Diagonal Road, Jamshedpur.
5	M/s. Crown Book Depot, Upper Bazar, Ranchi.
	GUJARAT
6.	Vijay Stores, Station Road, Anand.
7.	The New Order Book Company, Ellis Bridge, Ahmedabad-6.
	HARYANA
8.	M/s. Prabhu Book Service, Nai Subzi Mandi, Gurgaon.
	MADHYA PRADESH
9.	Modern Book House, Shiv Vilas Palace, Indore City.
	MAHARASHTRA
10.	M/s. Sunderdas Gianchand, 601, Girgaum Road, New Princess Street, Bombay-2.
11.	The International Book House, (Private) Limited, 6, Ash Lane, Mahatma Gandhi Road, Bombay 1
12.	The International Book Service, Deccan Gymkhana, Poona-4.
13.	Charles Lambert & Company, 10, Mahatma Gandhi Road, Opposite Clock Tower, Fort, Bombay.
14.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.
15.	Deccan Book Stall, Fergusson College Road, Poona-4.
16.	M.& J. Services, Publishers Representatives, Accounts & Law Book Sellers, Bahri Road, Bombay-15
	MYSORE
17.	People Book House, Opp. Jaganmohan Palace, Mysore.
	RAJASTHAN
18.	Information Centre, Government of Rajasthan, Tripolia, Jaipur City.
19.	M/s. Usha Book Depot, 585/A, Chitra Bazar, Tripolia, Jaipur.
	UTTAR PRADESH
20.	Law Book Company, Sardar Patel Marg, Allahabad-1.

CONTENTS

CORRIGENDA TO HUNDRED FORTY FIRST REPORT OFTHE PUBLIC ACCOUNTS COMMITTEE (5TH LOK SABHA) PRESENTED TO LOK SABHA ON 28TH APRIL, 1975.

*****

Page	Para	Line	For	Substitute
3	1.8	23	Boad's	Board's
3	1.8	30	basides	besides
7	1.15	17	detailed in	detailed report in
7	1.16	4	films circle	film circles
9	1.23	3	reproduces	reproduced
21		3rd line from bottom	detail in	detailed report in
28	1.42	5	ocurred	occurred
29	-	19	both the time	both at the time
91	1.50	4	Sechome	Schome

PUBLIC ACCOUNTS COMMITTEE
(1974-75)

CHAIRMAN

Shri Jyotirmoy Bosu

MEMBERS

2. Shri S. C. Besra
3. Shri C. D. Gautam
4. Shri Pampan Gowda
5. Shri Jagannathrao Joshi
6. Shrimati Parvathi Krishnan
7. Shri Y. S. Mahajan
8. Shri Bibhuti Mishra
9. Shri Paripoornanand Painuli
10. Shri Narain Chand Parashar
11. Shri H. M. Patel
12. Shri P. Antony Reddi
13. Shri Shibban Lal Saksena
14. Shri Biswanarayan Shastri
15. Shri Sunder Lal
16. Shrimati Pratibha Singh
17. Shri G. R. Patil
18. Shri V. B. Raju
19. Shri Mohammed Usman Arif
20. Shri T. N. Singh
21. Shri Sasankasekhar Sanyal
22. Shri A. K. A. Abdul Samad.

SECRETARIAT

Shri N. Sunder Rajan—*Senior Financial Committee Officer.*

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.

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

NEW DELHI;
17th *April*, 1975.
27th *Chaitra*, 1897 (*S*).

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations contained in their 119th Report (Fifth Lok Sabha) on Chapter III of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes, relating to Income-tax, which was presented to Lok Sabha on the 24th April, 1974.

1.2. Action Taken Notes have been received from Government in respect of all the 59 recommendations contained in the Report.

1.3. Action Taken Notes/Statements on the recommendations of the Committee contained in the Report have been categorised under the following heads :—

(i) *Recommendations/Observations that have been accepted by Government.*

Sr. Nos. 1, 3, 4, 6, 8-11, 14-15, 16-17, 20-22, 25, 28, 30, 35, 41-42, 43-44, 45-47, 48-50, 51-52, 57-58 and 59.

(ii) *Recommendations/Observations which the Committee do not desire to pursue in the light of the replies received from Government.*

Sr. Nos. 18, 26, 27, 32, 36, 38-40, 53-55 and 56.

(iii) *Recommendations/Observations replies to which have not been accepted by the Committee and which require reiteration.*

Sr. Nos. 2 and 29.

(iv) *Recommendations/Observations in respect of which Government have furnished interim replies.*

Sr. Nos. 5, 7, 12-13, 19, 23-24, 31, 33-34 and 37.

1.4. The Committee are distressed that final replies in regard to a number of recommendations made about a year ago to which only interim replies have so far been furnished, have not been given. These must be submitted to them expeditiously after getting them vetted by Audit, together with an explanation for this unusual delay.

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

Avoidable mistakes involving considerable revenues (*Paragraph* 1.32—*Sr. No.* 1)

1.6. Commenting on the serious mistake committed by an Income-tax Officer in computation of income in the case of a film star, the Committee in paragraph 1.32 of the Report observed as under:—

> "The Committee note that the total income of a film star for the assessment year 1967-68 was computed at Rs. 1,56,264 instead of Rs. 2,56,264. It is not for the first time that a mistake of this type has come to the notice of the Committee year after year a number of mistakes have been brought out in the Audit Reports which are attributed to carelessness and negligence and the Committee have been expressing their concern. One common interesting feature of these mistakes was the dropping of one lakh of rupees from the total income. Many of the cases in which mistakes of this nature occurred were in the high income bracket and were assessed in important Special Wards. In paragraph 2.43 of their 87th Report the Committee had come to the conclusion that either there was no effective check in the Department or the mistakes were not bonafide. In this case as the mistake had occurred in a Film Circle specifically created to scrutinise the case of film stars properly, the bonafides of the mistakes should be carefully gone into for appropriate action."

1.7. In their reply dated 5th October, 1974, the Ministry of Finance (Deptt. of Revenue and Insurance) have stated:

> "A special inspection of the I.T.O.'s work both in the Film Circle as well as in the Central Circle to which he was posted was carried out. On the basis of the reports received, the Board is satisfied that no malafides could be attributed to the officer. The recurrence of such mistakes has been receiving the attention of the Ministry and the following steps have been taken to minimise them :—
>
> (a) Instruction No. 598 (F. No. 236/254/72-A&PAC) dated 25th August, 1973 was issued emphasising strict adherence to earlier instructions as also supplementing them;
>
> (b) Laying a special emphasis on proper tax calculation during the course of training of clerical and supervisory staff;
>
> (c) An analysis of repetetive mistakes that have come to light has been made and a list of such mistakes prepared and communicated to all officials. All I.T.Os

have been advised to keep it on their tables to serve as a constant reminder for avoiding such mistakes. A copy of the same is attached.

The Ministry expect that the above measures would have the desired effect."

1.8. The instructions issued in this regard on the 15th August, 1973 read as follows:—

"Instances of serious arithmetical mistakes in computation of total income continue to come to the Board's notice *vide* paras 26(i) to (iii), C&AG's Report, 1971-72. Arithmetical accuracy in computation of total income is completely a responsibility of the Income-tax Officer in all cases.

2. In regard to arithmetical accuracy of tax calculations, the I.T.O. is personally responsible for checking this in important cases *vide* Board's Instructions No. F.36/40/67/-IT (Audit) dated 13th December, 1968 and No. 233 F. No. 9/37/68-IT (Audit) dated 23rd October, 1970 read with para 21(xvii) of Chapter XII of Office Manual, Volume II, Section II. These important Income-tax cases are of income over Rs. 1 lakh and refunds over Rs. 10,000. Tax calculations in the case of companies with assessed or returned total income of Rs. 10 lakhs and above were also to be checked by the Chief Auditor *vide* item (v) of Annexure III to Board's Circular No. 5/4/69-IT (Audit) dated 26th May, 1969 and this audit work is now to be performed by ITO (Internal Audit), *vide* last para of Boad's Instruction No. 485 F. 328/105/72-WT dated 11th October, 1972, directing that Assistant Controllers of Estate Duty, Wealth-tax Officers and Gift-tax Officers should personally check tax calculations in cases where demand raised exceeded Rs. 25,000 or refunds exceeded Rs. 10,000.

3. With regard to arithmetical accuracy of computation of total income, basides following the directions in the Board's above-noted instruction No. 355 dated 13th December, 1971 the I.T.O. should record a very concise reconciliation memo as an office note below the assessment order (the note being an office copy of the order and for

office use only), reconciling the returned and assessed income. This will help eliminate arithmetical errors of addition, subtraction and omission generally and particularly in the cases where the assessed income is less than the returned income. This procedure may be followed for all assessments made u/s 143(3) or section 144. For summary assessments completed u/s 143(1) the ITO's should carefully check the arithmetical accuracy of the assessees returned income before accepting it, and in cases of modification they should comply with the Board's Instruction No. 535 F. 246/82/72-A&PAC dated 29th March, 1973 recommending an assessment proforma; the ITO should carefully check the arithmetical accuracy of the figures in the proforma before signing it.

4. The directions in the preceding para about total income computation apply *mutatis mutandis* to assessment orders relating to other taxes. Steps are being taken to amplify the relevant para in the Office Manual to cover check of arithmetical accuracy of computation of total income etc. in the manner detailed above."

1.9. The Committee note that various steps have now been taken by the Central Board of Direct Taxes to minimise mistakes due to carelessness and negligence. The Committee would suggest that regular periodical check should be undertaken : this will give some indication of the extent to which their administrative directions have been successful.

1.10. The Committee find from the instructions issued by the Central Board of Direct Taxes on 15th August, 1973, that steps are being taken to amplify the relevant para in the office manual relating to arithmetical accuracy of computation of total income etc. The Committee's presumption that this amplification has by now been carried out, may be confirmed.

Failure to levy penalty/interest on the late filing of Income-tax returns—Tendency to postpone the penalty proceedings till they were about to become time-barred. (*Paragraph* 1.33—*Serial No.* 2).

1.11. Referring to the delay of four and half years in filing the income-tax return by the assessee and the failure on the part of the Income-tax Department to levy penalty or interest in such cases the Committee, in paragraph 1.33 of the Report observed as follows:

"The assessee filed the return in December, 1971 after a delay of four and half years and yet neither penalty nor inte-

rest has been levied so far. The Committee receive an impression that the Department have developed a mentality to postpone the penalty proceedings till they are about to become time-barred. The Finance Secretary stated that it appeared to him that when the order of assessment was passed the ITO did not at the same time take action in regard to penalties and that he generally kept it until there was an appeal. The Committee are not happy over this state of affairs. They desire that the procedures followed by the ITOs should be critically studied with a view to (a) ensuring that final orders are passed expeditiously, (b) taking steps to see that the interests of revenue are safeguarded and (c) invoking the penalty provisions effectively in time."

1.12. In their reply dated the 30th August, 1974, the Ministry have stated:

"Under Sec. 275 of the Income-tax Act, 1971, as it stood before 1-4-1971, no order imposing a penalty under Chapter XXI could be passed after the expiry of two years from the date of completion of the proceedings in the course of which the proceedings for the imposition of penalty have been commenced. The Taxation Laws (Amendment) Act, 1970 has substituted this period of limitation as under with effect from 1-4-1971 :

No order imposing a penalty under this Chapter shall be passed—

(a) in a case where the relevant assessment or other order is the subject matter of an appeal to the Appellate Assistant Commissioner u|s 246 or an appeal to the Appellate Tribunal under sub-section (2) of section 253, after expiration of a period of—

(i) two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or

(ii) six months from the end of the month in which the order of the A.A.C. or, as the case may be, the Appellate Tribunal is received by the Commissioner whichever period expires later;

(b) in any other case, after the expiration of two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed.

2. The intention behind extending the period of limitation in cases where appeals have been filed before the A.A.C. or the Appellate Tribunal is to see that unnecessary litigation is avoided.

3. After the 87th Report of the PAC was received, instructions were issued to Commissioners streamlining the procedure regarding imposition of penalties. The Commissioners have also been asked to watch and review the progress of penalty proceedings through quarterly reports. A half yearly report indicating the position of penalties initiated and completed has also to be sent to the Board.

4. As regards penalties under the 1922 Act, though there is no period of limitation, Commissioners were asked in Board's instruction No. 571 dated 17-7-1973 to see that all such penalty proceedings which are not stayed by judicial authorities should be completed before 31-3-1974. In spite of these instructions, some of the Commissioners have reported pendency of penalty proceedings on 31-3-1974. They have been demi-officially addressed to look into each case and ensure that it is disposed of expeditiously.

5. In view of what has been stated above, this Ministry consider that the steps taken so far are adequate to see that final orders are passed expeditiously, interests of revenue are safe-guarded and penalty provisions are invoked effectively and in time."

1.13. The Committee note that instructions have been issued to Commissioners, streamlining the procedure relating to the imposition of penalties. It is, however, not clear whether the critical study, as suggested by the Committee of the procedures followed by the I.T.Os. in the matter of initiating penalty proceedings, has been carried out. The Committee may be apprised of the results of the study and action taken thereon by Government at an early date.

1.14. The Committee find that in spite of the fact that a time-bound schedule has been prescribed for the completion of penalty

proceedings under the Income-tax Act of 1922, viz. by 31st March, 1974, many Commissioners have reported that some penalty proceedings remain outstanding. The Committee desire that such cases should be disposed of expeditiously and the Commissioners concerned should be asked to explain why this could not be completed in time, that is before 31st March, 1974.

Need to streamline the working of Film Circles—Necessity to undertake Critical examination of their performance. (*Paragraph* 1.34—*Serial No.* 3).

1.15. Commenting on the delay in issuing a notice to a film star under Section 17 of the Wealth-tax Act the Committee in paragraph 1.34 of the Report observed as under:

> "The Committee are surprised to find that in this case, although the assessee was found to possess assessable wealth a notice was served on him under Section 17 of the Wealth-tax Act only in February, 1973. This should seem to indicate that the Film Circle is not functioning with the speed and efficiency as it ought to be. The Committee, therefore, suggest that the working of the Film Circles in the country since their inception should be critically examined with reference to the concealed income/wealth-gifts detected, under-valuation of assets found out, penalties levied, prosecutions launched and arrears of tax collected. On the basis of such an examination steps should be taken to make the Circles really effective. The Committee like to have a detailed in this regard."

1.16. In their reply dated the 5th October, 1974 the Ministry have *inter alia* stated:

> "The suggestion of the Committee for streamlining the working of Films Circle is being considered by the Ministry. The outcome will be intimated to the Committee in due course."

1.17. The Committee attach much importance to their suggestion that the streamlining of the working of Film Circles should be completed expeditiously and would, therefore, like to know how much more time will it take the Central Board of Direct Taxes to comply with the suggestions.

Mistakes due to carelessness and negligence—(*Paragraph* 1.51—*Serial No.* 6)

1.18. Referring to the omission of Rs. 1 lakh from the total income in an assessment the Committee, in paragraph 1.51 of the Report, observed as follows:

> "This is yet another case in which Rs. 1 lakh escaped assessment. Although it was shown in the assessment order as income to be assessed, it was omitted to be included in the total income. Regrettably the case had not been looked into by Internal Audit. The Committee trust that suitable action will be taken in the matter."

1.19. In their reply dated 8th November, 1974, the Ministry have stated:

> "With the introduction of 'Immediate Audit' from July, 1972, it is expected that Internal Audit Parties will be in a position to check high income cases within a month of completion of assessments. The accelerated procedure will go a long way in ensuring that such cases do not escape timely scrutiny by the Internal Audit."

1.20. From the reply furnished by Government, the Committee are surprised to note that Government have not yet gone into the circumstances under which the income of Rs. 1 lakh can be omitted from the final computation of tax. The Committee would like to know whether any such investigation has at all been carried out and desire that the investigation should be carried out forthwith, if not already done. The results of the investigation may be reported to the Committee within three months without fail.

Settlements made before completing assessments (*Paragraph* 1.52—*Serial No.* 7)

1.21. Referring to a case wherein the assessments for the years 1965-66 to 1967-68 were made after discussion with the group consisting of the assessee and his three brothers, the Committee in paragraph 1.52 of the Report observed as under:

> "The Committee have been informed that the assessments for the years 1965-66 to 1967-68 were made after discussion with the group consisting of the assessee and his three brothers. The Committee would in this connection refer to their recommendation in paragraph 2.60 of their 50th

Report (Fifth Lok Sabha) and reiterate that the settlement made without authority of law would be irregular. The Committee would like to know whether there was any defect in the settlement and whether the group had paid all the taxes up-to-date."

1.22. In their reply dated the 8th November, 1974, the Ministry have stated:

"The observations of the Committee have been noted. It may, however, be pointed out that where the lower authorities require any guidance or advice in any particular case or cases, it is the duty of the higher authorities to give such guidance and sort out difficulties in complicated cases. Such a procedure also enables the Department to avoid unnecessary litigation and to collect taxes expeditiously. The settlement referred to is only assessments on agreed lines within the purview of the law, taking into consideration all the facts and circumstances of the case so as to avoid prolonged litigation and uncertainty of its outcome.

So far as the query about the particular case is concerned, the matter is being examined.

As regards the position of collection, the arrears as on 30th June, 1974 were of the order of Rs. 81 lakhs out of which 60.93 lakhs represent amounts stayed by the Income-tax Appellate Tribunal and other authorities. Only 12.80 lakhs represent demands out of the assessments completed under the 'settlement' and the same has been allowed to be paid in quarterly instalments of Rs. 81,000/-. The instalments are being paid regularly. The balance represents Annuity Deposits of Rs. 5 lakhs and other demands due from the members of the group which are payable from June, 1974 in phased instalments."

1.23. The Ministry have also furnished a copy of the reply given to Lok Sabha Unstarred Question No. 3369 dated the 23rd August, 1974, answered in this connection, which is reproduces below:

"(a) Apart from—

(i) demand of Rs. 60.93 lakhs disputed in appeals and stayed by Income-tax Appellate Tribunal and other authorities,

(ii) demand of Rs. 12.80 lakhs which is being recovered in the balance demand quarterly instalments of Rs. 81,000, on account of income-tax and penalty due from Tamil Nadu Komarapalyan Shri J.K.K. Angappa and his brothers, namely, S/Shri J.K.K. Natarajah, J.K.K. Sundararajah and J.K.K. Munirajah as on 30-6-74 was Rs. 7.09 lakhs.

(b) As a result of coercive measures resorted to by the Department like attachment of garnishee debts under section 226(3) of the Income-tax Act, 1961 and refusal to issue Income-tax Verification Certificates to the concerns in which the four brothers were interested, a comprehensive scheme has been drawn up, according to which the aforesaid demand of Rs. 7.09 lakhs will be liquidated during the current year."

As regards the prosecution for penalty arrears, the Minister of State in the Ministry of Finance in his reply to the Unstarred Question No. 3369 dated 23rd August, 1974, stated that the matter was under consideration.

1.24. The Committee were informed that the settlement referred to was "only assessments on agreed lines within the purview of the law taking into consideration all the facts and circumstances of the case so as to avoid prolonged litigation and uncertainty of its outcome." In so far as this particular case is concerned, the Ministry have stated that the Committee's query regarding defect, if any, in the settlements, was being examined. Government should complete their examination quickly and report the outcome to the Committee within three months.

1.25. The Committee note from the reply furnished by Government that where the lower authorities require any guidance or advice in any particular case or cases, it is the duty of the higher authorities to give such guidance and sort out difficulties in complicated cases. It is not clear what guidance was sought by the lower authorities in this case in making the assessments on an agreed basis and under which provision of law this guidance was sought. The Committee would like to know the nature of guidelines issued in this case by the Board or Ministry, and the provision of Law under which and the authority by which these guidelines were issued. The Committee would further suggest that these aspects should also be taken into consideration while examining the case under question.

1.26. As regards the recovery of taxes due, the Committee find that out of the arrears of Rs. 81 lakhs as on 30th June, 1974, a sum of Rs. 60.93 lakhs represents the amounts stayed by the Income-tax Appellate Tribunal and other authorities and that only Rs. 12.80 lakhs represent demands out of the assessments completed under 'settlement' and the same has been allowed to be paid in quarterly instalments of Rs. 81,000/-. With regard to the balance of Rs. 7.09 lakhs on account of income-tax and penalty, the Committee were informed that a comprehensive scheme was drawn up, according to which the aforesaid demand would be liquidated during 1974. The Committee would like it to be confirmed that the amount of Rs. 7.09 lakhs has since been recovered.

Failure to levy interest under Section 139 *on late filing of the Income-tax returns.* (*Paragraph* 1.70—*Serial No.* 9)

1.27. Commenting on the failure to levy interest under Section 139 on late filing of Income-tax returns, in a case, the Committee, in paragraph 1.70 of the Report, observed as follows:—

> "In this case, the return was due from the assessee on 30th June, 1968, but it was filed on 4th November, 1968. Interest under Section 139 should have, therefore, been levied which unfortunately was not done both at the time of original assessment in June, 1971, as also at the time of rectification made in September, 1972. The lapse in this regard should be gone into for appropriate action."

1.28. In their reply dated the 18th September, 1974 the Ministry have stated:—

> "The Commissioner of Income-tax concerned is looking into this lapse for taking suitable action."

1.29. The Committee would like to be apprised of the outcome of the final scrutiny of the Commissioner of Income-tax, which needs to be expedited.

Under assessment due to non-revision of exemption certificates issued under Section 197(3)—*Need for review.* (*Paragraph* 4.28 *and* 4.29—*Sl. Nos.* 23-24).

1.30. Referring to the non-revision of the exemption certificates issued under Section 197(3) which resulted in under assessment to

the extent of Rs. 17.22 lakhs in one case, the Committee, in paragraphs 4.28 and 4.29 of the Report, observed as under:—

> "This is yet another case of non-revision of the exemption certificates issued under Sec. 197(3) which resulted in underassessment of dividend income to the extent of Rs. 17.22 lakhs in the hands of the shareholders. While the Committee await a report regarding the recovery of the tax due, they consider that notwithstanding the difficulties pointed out by the Ministry, it is worthwhile to undertake a review of cases of all big companies in which such certificates were issued to find out in how many cases underassessment had taken place and to recover the differential tax wherever possible. The Committee are surprised that the Department have not so far thought on these lines. The Committee would await the results of the review.
>
> The Committee would like Government to review the existing statutory provisions on the subject with a view to amend the law, as necessary, to obviate recurrence of such cases."

1.31. In their reply dated the 4th December, 1974 the Ministry have stated:—

> "A review of the cases where revision of 80-K relief is due, following the final determination of relief u/s 80-J has been ordered as desired *vide* instruction No. 774 [F. No. 178/46/74-IT(AI)] dated the 28th Oct, 1974 copy enclosed). Reports have come so far from nine charges only. The results are tabulated below:—

(*i*)	No. of cases in which provisional certifications were issued u/s 197(3)	22
(*ii*)	No. of (*i*) above in which regular assessments have been completed	15
(*iii*)	No. of (*ii*) above in which regularising of the provisional certificate u/s 197(3) involves withdrawal of relief under section 80-K	4
(*iv*)	Whether information in the cases at (iii) above have been sent to all Commissioners of Income-tax.	2

> In respect of the remaining two cases the assessments were completed recently and action is being taken by the C.I.T. to communicate the relevant information to all other Ca

I.T. Information from other charges is awaited. Further communication will follow.

The review of the existing statutory provisions on the subject is under consideration of the Ministry."

1.32. The Committee note from the reply that a review of cases of all big companies in which exemption certificates were issued, to find out in how many cases under-assessment had taken place and to recover the differential tax wherever possible, has been ordered as suggested by the Committee and that reports have come so far from nine charges only. The information from other charges is still awaited. The Committee would like to be informed of the results of the remaining charges also together with the tax effect.

1.33. Further, the Ministry's reply does not indicate as to by whom the review of cases where revision of 80K relief is due, following the final determination of relief under section 80J was conducted. The Committee stress that in future, in cases where a review has been recommended by them, such a review should invariably be made not by the assessing officer himself but by some other independent authority like the Internal Audit.

1.34. The Committee had earlier suggested that the Government should review the existing statutory provisions on the subject with a view to amending the law, if necessary, to obviate recurrence of such cases and they have been informed that this is under consideration of the Ministry. The Committee would like the Government to come to an early decision in this regard.

Escapement of income received after the cessation of profession—Need for a column in the return of income for disclosing the receipt of professional income year after year (Paragraph 4.48—Serial No. 29).

1.35. Referring to the escapement of income received after the cessation of profession, from tax, the Committee, in paragraph 4.48 of the Report, suggested as under:—

"In order that the income received after the cessation of profession may not escape notice, the Committee suggest that wherever a person discontinues his profession the ITO should obtain a statement from him showing the outstanding fees. Further, there should be a column in the return of income, to ensure that the receipt of professional income is disclosed year after year after the discontinuance

of the profession which can be checked with reference to the statement of outstanding fees obtained by the ITO.'

1.36. In their reply dated the 27th July, 1974 the Ministry have stated:—

"A copy of the Instruction No. 703(F.201/6/74-ITA. II) dated 12-6-1974 issued to all Commissioners of Income-tax in the matter is attached. Kind attention is invited to paras 4 and 5 thereof, and it is hoped that these instructions are sufficient to meet the situation."

1.37. Paragraphs 4 & 5 of the Instruction No. 703 dated 12th June, 1974 issued by the Ministry, are reproduced below:—

"With a view to ensuring that professional receipts received after the discontinuance of profession is brought to tax, Board have decided that in such cases, the Income-tax Officer must invoke the provisions of Sec. 133(6) for calling for the information regarding all outstanding fees in the year in which profession is discontinued. This will enable them to keep track of the receipts in the subsequent years for income tax purposes as well as to verify the amounts of debt outstanding shown in the return of net wealth. For this purpose, the Income-tax Officer should keep track of the intimations received under section 176(3) or utilise information received to this effect during the course of the hearing of the case. If the Income-tax Officer finds that in a case where intimation under section 176(3) has been received and it is covered under the summary assessment scheme, that case should be disposed of only after calling for the information regarding the outstanding fees.

Necessary instructions may kindly be issued to all the Income-tax Officers working in your charge for their guidance and strict compliance."

1.38. The Committee had earlier suggested that there should be a column in the Return of Income to ensure that the receipt of professional income was disclosed even after a person has ceased to carry on the profession so that it could be checked with reference to the statement of outstanding fees obtained by the Income-tax Officer. The Committee have been informed that necessary instructions were issued on 12th June, 1974 to all the Commissioners of Income-tax in this regard.

1.39. The Committee, however, regret to note that the Ministry has neither accepted their suggestion for an additional column being provided in the Income-tax Return, for keeping a watch over the receipt of outstanding professional income nor has it offered any reason for turning it down. The Committee, however, attach sufficient importance to the suggestion to make it necessary for them to reiterate their recommendation and trust that this would be processed expeditiously under intimation to them.

Laxity in applying the provisions for imposition of interest resulting in loss of considerable revenue—Call for review of all assessments more than Rs. 50,000. (Paragraph 6.4—Sr. No. 37).

1.40. Referring to the laxity on the part of the Income-tax Department in applying the various provisions of the Income-tax Act for imposition of interest which resulted in the loss of considerable revenue, the Committee, in paragraph 6.4 of the Report, observed as under:—

> "The Income-tax Act has several provisions for imposition of interest with a view to ensuring stricter compliance by the assessees with provisions of the Act relating to assessment and collection. The interest is leviable (i) for short/non-payment of advance-tax, (ii) for delay in submission of return of income and (iii) for non-payment of tax by the due dates. The Income-tax Department is evidently lax in applying these provisions and year after year lapses involving huge revenue are brought to the notice of the Committee. In this connection they would refer to para 2.294 of their 51st Report (Fifth Lok Sabha). Audit have brought out during the years 1970-71 and 1971-72, 2493 and 2012 cases respectively involving amount of interest omitted to be levied to the extent of Rs. 67.05 lakhs and Rs. 54.52 lakhs. The Committee have been exhorting the Ministry to ensure that the penal provisions are properly enforced. The Ministry does not seem to have come to grips with the problem. Having regard to the fact that non-levy of interest has become chronic the Committee consider that there is need for a general review of all cases where assessments for more than Rs. 50,000 have been completed, at least for the past three years. This review should be undertaken urgently and the results communicated to the Committee."

1.41. In their reply dated 5th Oct, 1974 the Ministry have stated:—

> "A general review of all cases of assessments of Rs. 50,000/- and above completed during the years 1971-72, 1972-73 and 1973-74 has since been ordered as suggested by the Committee *vide* F. No. 231/21/73-A&PAC-II, dated 27-9-74 (copy attached). The results of review will be communicated to the Committee in due course.
>
> In their letter dated the 27th September, 1974, the Central Board of Direct Taxes have asked the Commissioners of Income-tax to communicate the results of the review to the Board by the 31st Oct., 1974 positively."

1.42. The Committee note from the reply dated 5th October, 1974 that the Ministry have ordered a review of all cases of assessments of Rs. 50,000 and above completed during the years 1971-72 to 1973-74 to see whether interest has been levied in all cases for short or non-payment of advance tax, for delay in submission of return of income and for non-payment of tax by the due dates and that the results were expected by 31st October, 1974. It is most deplorable that even after six months of the target date fixed, the results of the review have not been made available to the Committee. The Committee take a serious view of the delay that has taken place and for which there would appear to be no valid reasons. They would urge the Government to expedite the review and report the results to them without any further loss of time. The Committee also desire that responsibility for the delay should be fixed.

Evasion of tax by professionals—Need for setting up a special machinery or special cells for different professionals. (*Paragraphs* 9.14 *to* 9.16—*Sr. Nos.* 48—50).

1.43. Referring to the question of evasion of tax by professional lawyers, doctors, engineers, contractors, etc. the Committee, in paragraphs 9.14 to 9.16 of the Report, observed as under:—

> "After the Committee raised in 1971 the question of evasion of tax by the professional lawyers, doctors, engineers, contractors, etc. the Department had taken some steps to assess the position. The information relating to the four major cities of Delhi, Bombay, Calcutta and Madras so far gathered reveals that out of 24,084 practising doctors and 43,190 lawyers enrolled with Bar Associations, only 13,872 and 7,404 respectively are on the General Index Register of the Department, which confirms the fears of the Com-

mittee. The Committee have, however, been informed that some of the lawyers who are borne on the Bar Council Registers are not practising. The Actual number of practising lawyers should be ascertained immediately. The Committee are not convinced that the earnings of a doctor or a lawyer who has been actively practising for some years will ordinarily fall below the limit of exemption for income-tax. Therefore, the cases of practising doctors and lawyers who have not been filling their returns should be immediately gone into with a view to assessing them to tax. The action taken in this regard may be reported to the Committee. The Committee further desire that the survey in this regard should cover other areas also as early as possible."

"The information in regard to contractors and engineers is stated to be still under collection. The Committee desire that the position in regard to other professional categories, such as architects, chartered accountants etc. should also be ascertained after getting information from the concerned institutes. The whole survey in regard to all the categories should be completed before June, 1975 and the results as well as action taken to assess them to income-tax/wealth tax should be intimated to the Committee. In this connection, the Committee note that at present only 3,389 doctors, 1,419 lawyers and 346 engineers are assessed to wealth-tax."

"It is surprising that although several decades have passed, the Department has not organised itself in a manner that would ensure that tax due from the members of various professions is fully recovered. The question has quite clearly been ignored so far. It is regrettable that it needed prodding by this Committee for the Department to undertake a survey now. The Committee would like to be informed of the concrete steps proposed to be taken as a result of the survey to see that the professionals are assessed to tax properly. It is necessary that a special machinery is devised and set up for this purpose with utmost expedition. What the machinery should be is for the Government to decide. One of the suggestions could be to set up separate special circles for the different professionals, which should be really effective unlike the Film Circles."

1.44. The Ministry in their reply dated 8th Nov., 1974 have stated:—

9.14 & 9.15 "These paras deal with the question of evasion of tax by the professional lawyers, doctors, engineers, contractors, architects, chartered accountants etc.

"Steps are being taken to ensure that persons carrying on the above professions and having taxable income/wealth are brought into the tax net. To begin with, the Commissioners of Income-tax in the four major cities of Madras, Bombay, Calcutta and Delhi were required to take urgent action by making necessary verification with the membership registers of the respective professional bodies. Recently, this survey has been extended to the remaining Commissioners' charges as well. The reports about action taken are being received from the Commissioners of Income-tax and progress is being watched. The work is expected to be completed by June, 1975."

"The recommendation of the Committee has been noted. Detailed guidelines have been issued for conduct of requisite operations, in respect of both professional and non-professional assessees. The work relating to collection of information and its utilisation, as also external survey, has been systematised."

1.45. The Ministry have further added:—

"In some of the bigger cities, case of persons deriving income from certain professions have already been centralised. The Commissioners of Income-tax, Bombay, Calcutta, Delhi, Madras, Ahmedabad, Poona, Hyderabad, Bangalore, Lucknow, Kanpur, Patna and Nagpur have been requested to examine the feasibility of having the jurisdiction over professionals in convenient groupings to ensure maximum possible centralisation depending upon the workload. The function of these circles would be to scrutinise and investigate cases, wherever necessary with reference to the usual source materials and verify them with investments and expenditure."

1.46. The Committee had suggested that special machinery should be devised and set up to ensure that the professionals like lawyers, doctors, engineers, contractors etc. are asses[illegible] tax properly. One

of the suggestions was the establishment of separate special and effective circles for the different professions. Although the Commissioners of Income-tax of bigger cities have been requested about a year ago to examine the feasibility of convenient grouping of the jurisdiction over professionals, it is clearly evident that the Government have not yet applied their mind to the recommendation of the Committee that a special circle should be set up for each of the professionals, on the lines of the film circles but capable of functioning efficiently.

1.47. The Committee would like to emphasize that they attach considerable importance to this recommendation of theirs and would like to be informed at an early date as to when it will be completed.

Shortcomings of the Income-tax Department in tax collections—*Need for organisational improvements and greater supervisory efficiency* (*Paragraph* 11.10—*Sr. No.* 59).

1.48. Commenting on the continued existence of inefficiency, carelessness and negligence in the Income-tax Department, the Committee, in paragraph 11.10 of the Report, observed as under:—

> "The Committee would like specifically to invite attention of the Government to paragraphs(*) which bring to light gross shortcomings in the way in which tax collecting machinery is functioning. These shortcomings are not inescapable. They must account for very serious loss of revenue to Government; if they can be overcome by organisational improvements and greater supervisory efficiency, the revenue for direct taxes would without doubt substantially increase. There is no excuse for continued existence of sure inefficiency, carelessness and negligence, not to speak of corrupt practices.

1.49. In their reply dated 28th Nov., 1974 the Ministry have stated:

> "The mistakes pointed out in the above paragraphs arose not so much from lack of instructions as from oversight, neglect or carelessness. These could be avoided through purposeful supervisory checking and control. While it may not be feasible to eliminate all shortcomings in all cases, the Ministry realise the inescapable necessity of ensuring

---

*1.32 to 1.34; 1.71; 4.11; 4.4 to 4.48; 5.11; 5.62; 5.32—5.33; 6.4; 7.32 to 7.34; 8.8—8.9 and 9.14 to 9.16"—

adequate and timely action in regard to top cases which, although small in number, contribute most of the revenue. The Board have recently introduced in the major charges, which together contribute about 80 per cent of the revenue, a scheme, the broad features of which are as under:

(a) Each I.T.O. of a Company Circle, despite all difficulties and constraints, will be held personally responsible for timely and adequate action in all respects in the top 20/25 cases of his Circle. The ITO of a Non-company Circle/Ward will be similarly responsible for the top 40/50 cases of his Circle/Ward.

(b) The I.A.C. should review the top 100 cases of his Range case by case and check the remaining top cases of his ITOs, on a sample basis.

(c) The Commissioner should review, case by case, the top 100 cases of his charge and check the remaining top cases on the list of his officers, on a sample basis.

It is hoped that this new administrative measure would lead to improvement in the performance of the Department."

1.50. The Committee hope that with the introduction of the new scheme, there will be considerable improvement in the performance of the Income-tax Department. The Committee, are, however, anxious that this scheme should so operate that it does not dilute the Income-tax Officers' responsibility for all the assessments made by him.

1.51. The Committee would like to be informed of the charges in which this scheme has been introduced. The Government should also keep a close watch on the working of the scheme so as to ensure its proper implementation and strict compliance with the instructions issued in this regard. They would like to watch the progress through future audit reports.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee note that the total income of a film star for the assessment year 1967-68 was computed at Rs. 1,56,264 instead of Rs. 2,56,264. It is not for the first time that a mistake of this type has come to the notice of the Committee year after year a number of mistakes have been brought out in the Audit Reports which are attributed to carelessness and negligence and the Committee have been expressing their concern. One common interesting feature of these mistakes was the dropping of One lakh of rupees from the total income. Many of the cases in which mistakes of this nature occurred were in the high income bracket and were assessed in important Speical Wards. In paragraph 2.43 of their 87th Report the Committee had come to the conclusion that either there was no effective check in the Department or the mistakes were not bonafide. In this case as the mistake had occurred in a Film Circle specifically created to scrutinise the case of film stars properly, the bonafides of the mistakes should be carefully gone into for appropriate action.

The Committee are surprised to find that in this case, although the assessee was found to possess assessable wealth a notice was served on him under Section 17 of the Wealth-tax Act only in February, 1973. This should seem to indicate that the Film Circle is not functioning with the speed and efficiency as it ought to be. The Committee, therefore, suggest that the working of the Film Circles in the country since their inception should be critically examined with reference to the concealed income|wealth|gifts detected, under-valuation of assets found out, penalties levied, prosecutions launched and arrears of tax collected. On the basis of such an examination steps should be taken to make the Circles really effective. The Committee like to have a detail in this regard.

[S. Nos. 1 & 3 (Para 1.32 & 1.34) of Appendix to 119th Report of the Public Accounts Committee (1973-74)].

Action Taken

A special inspection of the I.T.O's work both in the Film Circle as well as in the Central Circle to which he was posted was carried out. On the basis of the reports received, the Board is satisfied that no malafides could be attributed to the officer. The recurrence of such mistakes has been receiving the attention of the Ministry and the following steps have been taken to minimise them:—

(a) Instruction No. 598 (F. No. 236|254|72-A&PAC) dated 25-8-1973 was issued emphasising strict adherence to earlier instructions as also supplementing them (copy enclosed);

(b) Laying a special emphasis on proper tax calculation during the course of training of clerical and supervisory staff;

(c) An analysis of repetetive mistakes that have come to light has been made and a list of such mistakes prepared and communicated to all officials. All I.T.Os have been advised to keep it on their tables to serve as a constant reminder for avoiding such mistakes. A copy of the same is attached.

The Ministry expect that the above measures would have the desired effect.

The information required at item 3 of the Lok Sabha Secretariat Office Memorandum No. 2|7|III|2|73|PAC dated 11-1-1974 regarding examination of the working of Film Circles has already been furnished to the Committee *vide* Ministry's Office Memorandum of even number dated 20-4-1974. The suggestion of the Committee for streamlining the work of Film Circle is being considered by the Ministry. The outcome will be intimated to the Committee in due course.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236|254|72-A&PAC II dated 5-10-1974].

INSTRUCTION NO. 598

F. No. 236|254|72-A&PAC

CENTRAL BOARD OF DIRECT TAXES

New Delhi, August 25, 1973.

From

Shri S. K. Lall,
Director, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

Sub:—Computation of total income—Arithmetical mistakes—Steps to be taken for avoiding—Instructions regarding—

I am directed to invite a reference to the Board's Instruction No. 355 F. 240|3|71-A&PAC dated 13-12-71. Instances of serious arithmetical mistakes in computation of total income continue to come to the Board's notice *vide* paras 26(i) to (iii), C&AG's Report, 1971-72. Arithmetical accuracy in computation of total income is completely a responsibility of the Income-tax Officer in all cases.

2. In regard to arithmetical accuracy of tax calculations, the I.T.O. is personally responsible for checking this in important cases *vide* Board's Instructions No. F. 36|40|67-IT(Audit) dated 13-12-1968 and No. 233 F. No. 9|37|68-IT(Audit) dated 23-10-1970 read with para 21(xvii) of Chapter XII of Office Manual, Volume II, Section II. These important Income-tax cases are of income over Rs. 1 lakh and refunds over Rs. 10,000. Tax calculations in the case of companies with assessed or returned total income of Rs. 10 lakhs and above were also to be checked by the Chief Auditor vide item (v) of Annexure III to Board's Circular No. 5|4|69-IT (Audit) dated 26-5-1969 and this audit work is now to be performed by ITO (Internal Audit), *vide* last para of Board's Instruction No. 485 F. No. 246/76/72-A&PAC. dated 12-12-1972. As regards other taxes, reference is invited to Board's Instruction No. 465 F. 328/105/72-WT dated 11-10-1972, directing that Assistant Controllers of Estate Duty, Wealth tax Officers and Gift-tax Officers should personally check tax calculations in cases where demand raised exceeded Rs. 25,000 or refunds exceeded Rs. 10,000.

3. With regard to arithmetical accuracy of computation of total income, besides following the directions in the Board's above-noted

instruction No. 355 dated 13-12-1971 the I.T.O. should record a very concise reconciliation memo as an office note below the assessment order (the note being an office copy of the order and for office use only), reconciling the returned and assessed income. This will help eliminate arithmetical errors of addition, subtraction and omission generally and particularly in cases where the assessed income is less than the returned income. This procedure may be followed for all assessments made u/s 143(3) or section 144. For summary assessments completed u/s 143(1) the ITOs should carefully check the arithmetical accuracy of the assessees returned income before accepting it, and in cases of modification they should comply with the Board's Instruction No. 535 F. 246/82/72-A&PAC dated 29-3-1973 recommending an assessment proforma; the ITO should carefully check the arithmetical accuracy of the figures in the proforma before signing it.

4. The directions in the preceding para about total income computation apply *mutatis mutandis* to assessment orders relating to other taxes. Steps are being taken to amplify the relevant para in the Office Manual to cover check of arithmetical accuracy of computation of total income etc., in the manner detailed above.

Yours faithfully,

(Sd.)

(S. K. Lall)

Director, Central Board of Direct Taxes.

Copy forwarded to the Director of Inspection (Income-tax and Audit), New Delhi for taking steps for modifying the relevant para in the Office Manual suitably under intimation to the Board; the modification may cover the total position indicated above.

Yours faithfully,

(Sd.)

(S. K. Lall)

Director, Central Board of Direct Taxes.

Remember Avoiding these Mistakes Reported by Audit

Mistakes due to want of proper care and attention.

Totalling errors.

Proposed additions mentioned in the body of the assessment order not taken into account in the computation of total income.

Earlier revisions/rectifications overlooked while giving effect to appellate orders.

The expenses and allowances deducted by the assessee not added back while allowing the same separately in the assessment order resulting in double deduction of the same item.

Reserves or provisions made in the P&L Account not added back while allowing the actual expenditure.

Incorrect application of rates of tax:

Appropriate slab rates not applied.

Departmental instructions regarding checking of tax calculations etc., at appropriate level not followed.

Classification of the company, such as domestic company, a company in which the public are substantially interested or an industrial company etc., is not properly taken into consideration in applying the appropriate rate.

Total income of the company is not taken into consideration in applying the appropriate rate;

Whether a particular item of income is business income or royalty income, not determined while applying the appropriate rate.

Mistakes in computing depreciation:

Incorrect allowance on assets on which depreciation is not admissible, such as intangible assets, land etc.

Application of incorrect rates;

Errors in calculating multiple shift allowance;

Multiple shift allowance allowed on items marked 'N.E.S.A.'.

Total depreciation allowance not restricted to original cost.

Incorrect determination of original cost of assets without taking into account part of the cost met directly or indirectly by any other person.

In the case of foreign companies, depreciation is incorrectly calculated on the value of the assets in the foreign currency and subsequently converted into Indian currency.

Mistakes in computing development rebate:

Incorrectly allowed on items not eligible, such as office equipment etc.

Allowed without creating adequate reserve.

Higher rate allowed to non-priority industries.

Development rebate allowed in an earlier year not withdrawn when asset is transferred or the reserves mis-applied within the prohibited period.

Irregular exemptions and reliefs:

Relief u/s 80-I given to non-entitled industries;

Relief under Section 80-J allowed for more than 5 years or in cases of mere expansion of the existing units.

Profits from priority industries or new industrial undertakings not correctly determined by taking into account depreciation and development rebate on assets used in the priority industries or new industrial undertakings.

Certificate issued under Rule 20 not revised in time on completion of the regular assessment or variation of the income as a result of the appeal, revision etc.

Exemption to charitable trusts given when all the conditions are not fulfilled.

Export incentives incorrectly allowed.

Relief under Chapter VI given while the gross total income is a negative figure.

Incorrect computation of income under the head 'Business':

Capital expenses allowed as revenue:

Reserves/provisions/depreciation/development rebate claimed not added back while allowing the actuals.

Expenses separately allowed under other heads of income not taken into account in determining business income, leading to double allowance.

Perquisites to high paid staff not limited to 20 per cent;

Incorrect carry forward and set off of losses.

Entertainment allowance not restricted or fully disallowed as provided in Section 37.

Bonus shares not correctly valued.

Failure to ignore book losses when accounts are rejected and net profits estimated.

Non-levy or incorrect levy of interest/penal interest leviable under the various provisions of the Act:

Non-levy/incorrect levy of interest u/s 139(8), 216/217.

Non-levy/incorrect levy u/s 220(2).

Non-observance of the provisions of Rules 118 and 119.

Mistakes in Surtax assessments:

Delay in completion of Surtax assessments.

Failure to revise Surtax assessments consequent on variation of total income in the Income-tax assessment on account of revisions, rectifications, appeal etc.

Failure to exclude proportionate capital under Rule 4 in respect of relief given under Chapter VIA.

Other lapses:

Non-revision of partners assessments immediately after completion of the firm's assessment.

Non-completion of provisional assessment u/s 141A within six months of filing the return leading to unnecessary payment of interest u/s 214.

Delay in issuing refunds in giving effect to appellate orders and consequent payment of interest.

Irregular collections without any regular demand towards the end of the financial year and refund of the same a few days later.

Failure to record reasons for not initiating penal proceedings.

Non-conversion of foreign currency into Indian currency.

Failure to determine the original cost or correct market value of capital assets on 1-1-54 in determining capital gains.

Failure to coordinate information available in the records of other direct tax assessments.

Failure to issue demand notices immediately after the completion of the assessments.

Failure to apply the provisions of Section 104 in appropriate cases.

Recommendation

1.42. In this case a mistake in allocating the firm's income among its partners and a totalling error have resulted in undercharge to the extent of Rs. 1.40 lakhs. The Committee take a serious view of mistake which could be attributed to anything besides carelessness and negligence. That these have ocurred in a Central Circle in an important case which had to be referred to the Income-tax Investigation Commission, is distressing. The Committee, therefore, feel that the case requires a thorough investigation by the Board to find out how such mistakes could happen in a Central Circle. They would await the result of the investigation.

[S. No. 4, Para 1.42 of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

1.42. A thorough investigation in the case has been made by the Commissioner of Income-tax. He found that the mistakes leading to the undercharge of tax are undoubtedly bonafide and these can be attributed to carelessness only. The erring I.T.O. has been asked to be more careful in future.

[Ministry of Finance (Deptt. of Revenue and Insurance) O.M. No. 236/11/72-A & PAC II dated 14-10-1974]

Recommendation

This is yet another case in which Rs. 1 lakh escaped assessment. Although it was shown in the assessment order as income to be assessed, it was omitted to be included in the total income. Regrettably the case had not been looked into by Internal Audit. The Committee trust that suitable action will be taken in the matter.

[S. No. 6 (Para 1.51) of Appendix to 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

1.51. With the introduction of 'Immediate Audit' from July, 1972, it is expected that Internal Audit Parties will be in a position to check high income cases within a month of completion of assessments. The accelerated procedure will go a long way in

ensuring that such cases do not escape timely scrutiny by the Internal Audit.

[Ministry of Finance (Revenue & Insurance) O.M. No. 236/21/72-A & PAC II dated 8th November, 1974]

Recommendation

In this case while the law regarding capital gains as amended w.e.f. 1968-69 was correctly applied to in framing the assessment, it was lost sight of at the stage of calculation of tax. The Committee find that the Commissioner of Income-tax, Bombay has issued a circular on 8th June, 1973 pointing out the change in the law. The Committee desire that the assessments involving capital gains relating to the assessment years from 1968-69 onwards completed prior to the issue of this circular should be checked to see whether similar mistakes had been committed while calculating tax. The action taken in this regard may be reported to them.

In this case, the return was due from the assessee on 30th June, 1968, but it was filed on 4th November, 1968. Interest under Section 139 should have, therefore, been levied which unfortunately was not done both the time of original assessment in June, 1971, as also at the time of rectification made in September, 1972. The lapse in this regard should be gone into for appropriate action.

Another aspect of this case which causes concern to the Committee is that the assessment was completed by the Department 22 years after the receipt of the return. Such delays could be very inconvenient to the assessees who are really anxious to pay the income-tax. There seems to be no planning at all in the Department to ensure that all the assessments are taken promptly.

The Committee have received an impression that the ITOs act with alacrity where they want to and other cases are put off till these are about to become time-barred. The figures reported in paragraph 7(iv) of the Report of the C&AG (1971-72) speak eloquently of the utter lack of planning. The number of assessments completed during 1970-71 and 1971-72 was as low as 59,688 and 57,408 respectively in April and 55,078 and 55,737 respectively in May and it started rising gradually thereafter. The number of assessments completed in the month of March during these years was 5.37 lakhs and 4.94 lakhs respectively. That the performance is so poor in the beginning of a year despite the carry-over of the pending assessments to the extent of over 12 lakhs in number

shows that something is seriously wrong somewhere. The Committee are convinced that with proper orientation and planning it should be possible not only to overtake the arrears but also to complete the assessments in time. They accordingly desire that the Department should give serious thought to this problem and take steps to normalise the position soon. The Committee would like to be informed of concrete measures taken to improve the rate of disposal of cases in the beginning of the financial year and to eliminate the undue rush towards the end of the financial year.

[S. Nos. 8-11 (Paras 1.69 to 1.72) of Appendix to 119th Report of the Public Accounts Committee (1973-74) Fifth Lok Sabha]

Action Taken

As desired by the Committee a review was conducted as a result of which similar mistakes were detected in 2 other cases. In one case, the tax effect is less than Rs. 100/- and the second case is being rectified.

The Commissioner of Income-tax concerned is looking into this lapse for taking suitable action.

In this connection the Ministry have taken concrete steps for proper planning of work and stepping up of disposal of assessments uniformly throughout the year as detailed in reply to item 14 of the Lok Sabha Secretariat's Office Memorandum No. 2/7/III/A/1/74/PAC dated 24-7-74. A close watch on the implementation of the action plan is being kept by the Board.

[Ministry of Finance O.M. No. 236/180/72-A&PAC II dated 18-9-1974]

Recommendation

This is a deplorable case of failure to correlate income tax records of the assessee with the Estate Duty records of the assessee's husband. The land property which was valued as on 19th January, 1960 as Rs. 12,500 for the purpose of Estate Duty was valued as 1.08 lakhs as on 1st January, 1954 for the purpose of capital gains. The Committee, however, find that the assessee has filed a writ petition against the revision of the income-tax assessment on the ground that the land being agricultural, capital gains tax is not applicable.

The Committee do not think at all that the land measuring 8295 sq. yds. which is lying within the corporation limits of Ban-

galore city was valued correctly for the purpose of Estate Duty. This view has also been shared by the representative of the Central Board of Direct Taxes. This Committee accordingly stress that the supplementary account under the Estate Duty proceedings should be called with a view to checking the correctness of the valuation and taking appropriate action.

[S. Nos. 14 & 15 (Paras 3.13 and 3.14) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

The writ petition filed by the assessee against the revision of the income-tax assessment by the Commissioner of Income-tax under Section 263 of the Income-tax Act has been dismissed by the High Court of Karnataka on 9th August, 1974. The order of the High Court was received on 24th August, 1974. The High Court has observed that since the order under Section 263 passed by the Commissioner of Income-tax is appealable under Section 253(1) (c) of the Income-tax Act, 1961, the assessee should file an appeal before the Income-tax Appellate Tribunal within 30 days from the date of judgment. It has also been ascertained from the Tribunal that the assessee has filed an appeal on 7th September, 1974 against the order under Section 263 passed by the Commissioner of Income-tax.

The Assistant Controller of Estate Duty has completed the assessment under Section 58 read with Section 53(4) of the Estate Duty Act, in the case of late Shri Krishna Rao, the deceased husband of Smt. C. K. Shanthabai on 12th September, 1974. He has valued the lands at Ulsoor at Rs. 1,24,425/- by adopting a rate of Rs. 15/- per sq. yd. on the date of death (19th January, 1960) considering the fact that in the wealth-tax assessment of Smt. C. K. Shanthabai for assessment year 1964-65, the Appellate Assistant Commissioner has adopted a rate of Rs. 20/- per sq. yd. The additional duty raised is Rs. 15,241/-.

[Ministry of Finance, O.M. No. 236/159/72-A&PAC II dated 3rd October, 1974]

Recommendation

The Committee find that the capital gains were not included in the total income of the firm but were apportioned among the partners and assessed in their hands after allowing the initial deduction of Rs. 5,000 separately in each case. This irregular method of assessment of the capital gains resulted in short-levy of tax by Rs. 25,899. The Committee understand that the Depart-

ment has not accepted the explanation of the ITO that as the sale proceeds must have been credited to the partners' account the capital gains accrued to them.

The Committee regret that although the acceptance of the Audit objection has been communicated by the Ministry in January, 1973, the remedial action has not yet been completed. The Committee would like to have an explanation for this delay, as also a report on the recovery of the additional tax.

[S. Nos. 16 & 17 (Paras 3.22 & 3.23) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

The Commissioner of Income-tax concerned has found some inaccuracy in the explanation of the I.T.O. As this explanation was given by the I.T.O. without consulting the relevant records, he has been given an opportunity to resubmit his explanation after going through the records. Suitable action will be taken after considering the fresh explanation of the I.T.O.

In this connection the I.T.O. had in fact put up a proposal for action u/s 263 in March, 1972 soon after the receipt of the audit objection but the same was not approved by the Inspecting Assistant Commissioner of Income-tax concerned in April, 1972. He had, therefore, submitted a report in November, 1972 seeking approval to take action u/s 147(a) in the cases of the firm and partners as suggested by I.A.Cs. In the course of scrutiny of the proposal u/s 147(a) some irregularity was found and the ITO was instructed in July, 1973 to submit fresh proposals. The revised proposals were finally approved by the Commissioner of Income-tax in September, 1973. In the meantime the case records were called for by the Ministry for reference during the Public Accounts Committee meetings held last year. The re-assessments in the case of firm and partners have since been made raising additional demands of Rs. 21,390/- and Rs. 9,960/- respectively. The demands have yet to be collected.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/195/72-A&PAC II dated 26th September, 1974]

Recommendation

Under the provisions of the Income-tax, a percentage of the profits of a new industrial undertaking is exempt from tax that portion

of dividend which is deemed to have been paid out of the exempted portion of the profits of the company is exempt from tax in the hands of the shareholders. The Committee understand that a certificate is obtained in advance from the ITO assessing the company, showing the percentage of dividend qualifying for exemption. However, when the assessment of the company is completed or revised and the exempted portion is altered, the certificate originally issued becomes invalid and the shareholders' assessment require revision. The Department does not seem to have any machinery at present to keep track of such cases and ensure the reopening of the assessments of the shareholders to collect the extra tax payable by them. The Committee suggest that this lacuna should be remedied soon.

In the case reported in the Audit paragraph, although revision of the company assessment in March 1970 resulted in the reduction of the percentage of dividend qualifying for exemption from 21.41 per cent to 7.96 per cent, revised certificate was not issued till August, 1971. In the meanwhile, Audit had also pointed out the omission in June 1970. The reason for this inordinate delay should be ascertained expeditiously and the Committee advised as to what action has been taken against the persons responsible.

The Committee find that assessments of the shareholders holding 1.69 lakhs out of 2.5 lakhs shares of the company have been revised. The Committee would await the position in regard to the remaining shareholders' assessments.

[S. No. 20—22 (Paras 4.11 to 4.13) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

In this connection attention is invited to the Ministry's reply to para 2.147 of 87th Report of the Public Accounts Committee (1972-73) enclosing a copy of Instruction No. 555 (F. 275/98/73-ITJ) dated 11th June, 1973 issued to the Commissioners of Income-tax in the matter. Para 3(d) of this instruction is intended to cover the lacuna pointed out by the Committee.

4.12. The officer responsible for the delay has stated that he was posted to a Company Circle for the first time in June, 1970. He took sometime to acquaint himself with company assessments. Besides, the charge was heavy and there were a number of pending category I cases for assessment. As such he could not issue revised certificate earlier due to rush of work and the delay was unintentional. He

has, however, deeply regretted the delay in issuing the revised certificate. The Commissioner of Income-tax has considered the explanation and in the circumstances of the case has advised him to be careful in future.

4.13. In respect of 7 shareholders who are at Madras no relief u/s 85 was due to them in respect of 1,842 shares on the basis of the original dividend warrants filed by them and hence no such relief has actually been allowed. Many shareholders of the company are in various Commissioners charges outside Madras. They have already been addressed regarding the correct percentage of the dividend assessable for the year 1967-68. Confirmation as to whether such relief if allowed, was withdrawn is awaited from the Commissioners concerned. In the case of 23 shareholders having 4,487 shares no action is necessary as most of them were not assessed to income-tax during the relevant assessment year.

[Ministry of Finance (Revenue and Insurance) OM No. 236/156/72-APAC II dt. 29-6-1974].

Recommendation

4.36. The provisions of Income-tax law relating to allowance of deduction from total income for subscription to Public Provident Funds and the cumulative deposit schemes are confined only to individuals. However, deductions were allowed in 5 cases assessed in the status of Hindu Undivided Family resulting in short-levy of tax of Rs. 21,026. The lapse of the ITO and the failure of the Internal Audit Party to detect the mistake may be suitably dealt with. The Committee would await the results of a general review of the position in all the Circles and the action taken on the basis thereof.

[Sl. No. 25 (Para 4.36) of the Appendix to 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

A review was directed to be carried out in Board's Instruction No. 553 dated 7th June, 1973 (copy attached) to find out whether deductions u/s 80-C(2)(6) of Income-tax Act, 1961 was allowed in H.U.F. cases. As a result of review in 66 cases mistakes involving tax effect of Rs. 56,157/- were noticed.

[Ministry of Finance (Revenue and Insurance) OM No. 236/72/72- A &PAC II dated 4-12-1974]

INSTRUCTION NO. 553

COPY

F. No. 167/77/73-IT (AI)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, dated the 7th June, 1973.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—Deduction u/s 80C of the I. T. Act, 1961—whether admissible in the case of HUF on the contributions made to the Public Provident Fund set up by the Central Government and under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959.

I am directed to state that instances have come to the notice of Board that deductions under section 80C(1) have been allowed in the assessments of Hindu undivided families also in respect of contributions to the Public Provident Fund set up by the Central Government and/or deposits in a 10-year or 15-year account under the Post Office Savings Bank (Cumulative Time-Deposits) Rules, 1959. This is not in accordance with the law. Provisions about a Hindu undivided family are contained in 80C(2) (b) of the Income-tax Act, 1961 under which a Hindu undivided family is entitled to deductions only in respect of any sums paid in the previous year by the assessee out of its income chargeable to tax, to effect or to keep in force an assurance on the life of any member of the family.

2. 80C(2) (f) permits the deduction of sums deposited in 10-year or 15-year account only to an individual and not to a H.U.F.

3. Necessary clarifications may please be issued to the Income-tax Officers working in your charge. Past assessments may also be reviewed to the extent feasible to withdraw the excess relief, if any, allowed in such cases.

Yours faithfuly,

Sd/-

(T. P. JHUNJHUNWALA)

Secretary, Central Board of Direct Taxes.

Recommendation

In view of what has happened in this case the Committee desire that the Board should consider a general review of similar cases of completed assessments involving income received after the cessation of profession.

4.49. Incidentally the Committee understand that in this case the assessee had not shown the outstanding fees in his wealth-tax returns before they were realised. If it was required to be assessed to wealth-tax notwithstanding the maintenance of account on cash basis, suitable action may now be taken to levy wealth-tax. Further, general instructions may also be issued for the guidance of the assessing officers in future.

[S. Nos. 28 & 30 (Paras 4.47 and 4.49 of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

A general review has been ordered as suggested by the Committee.

The Commissioner of Income-tax concerned has been asked to look into the question of levying wealth-tax in this case.

A copy each of the Instructions No. 373(F. 328/92/71-WT) dated 24th January, 1972 and No. 720 (F. 328/60/72-WT) dated 22nd July, 1974 issued in this connection for the guidance of assessing officers is attached for information of the Committee.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/1003/72-A&PAC II dt. 8-11-1974]

INSTRUCTION NO. 373

F. No. 328/92/71-WT

GOVERNMENT OF INDIA

Vitta Mantralaya

Department of Revenue & Insurance

Central Board of Direct Taxes

New Delhi, the 24th January, 1972.

To

All Commisioners of Income-tax & Wealth-tax

Sir,

SUBJECT: Wealth-tax Act, 1957—Treatment of outstanding fees of professional persons for wealth-tax purposes—Instructions regarding.

Attention is invited to Board's letter F. No. 328/67/70-WT dated the 3rd October, 1970 on the above subject and the report furnished

to the Board about the procedure being followed by the Wealth-tax Officers in different charges. The question as to whether fees outstanding on the valuation date, of professional persons maintaining accounts on cash basis can be included in the net wealth for the purposes of wealth-tax assessment has been examined.

2. It is now well settled that in its ordinary as well as legal sense, a debt is a sum of money payable under an existing obligation. If it is payable forthwith, *solverdum in presenti*, it is a debt 'due'; or if it is payable at a future date, *solvendum future*, it is a debt 'accruing'. A contingent debt has no present existence and is not a debt as understood in law unless the contingency happens. [Shanti Prashad Jain V. Director of Enforcement, (1963) 2 S.C.R. 297 at 326; see also Kesoram Industries & Cotton Mills Ltd. *vs.* C.W.T. (1966) 59 ITR 767 (S.C.)]. It has been held that by virtue of sections 3 & 4 of the Legal Practitioners (Fees) Act, 1926 and the rules of the High Courts, fees due to advocates and other legal practitioners are recoverable by legal process (K. L. Caube *vs.* J. Vasica, A.I.R. 1956 Bom. 34). If, therefore, a client has entered into an arrangement to pay an ascertained sum by way of fees to a person following a profession, the said sum would be a 'debt' due to the latter and would be includible in his net wealth. The Andhra Pradesh High Court, in the case of Vadreyu Venkapparao *vs.* C.W.T. (69 ITR 552), have also held that interest accrued on the valuation date of loans and advances was liable to be included in the net wealth even though the accounts of the assess are maintained on cash basis.

3. It has to be noted that under section 145 of the Income-tax Act, 1961, income chargeable under the head "profits and gains of business or profession" or "income from other sources" shall be computed in accordance with the method of accounting regularly employed by the assessee; whereas section 7(2)(a) of the Wealth-tax Act, 1957 provides that where the assessee is carrying on a business for which accounts are maintained by him regularly, the Wealth-tax Officer may, instead of determining separately the value of each asset held by the assessee in such business, determine the net value of the assets of busines as a whole having regard to the balance-sheet of such business as on a valuation date and make such adjustments therein as may be prescribed. It would, therefore, appear that, while under the Income-tax Act the income chargeable shall be computed in accordance with the method of accounting regularly employed by the assessee, the Wealth-tax Act only provides that the Wealth-tax Officer may have regard to the balance sheet of such business as on the valuation date.

4. In view of what is mentioned above, the Board are advised that the right of a chartered accountant, doctor, lawyer or any person following a profession to receive his fees is certainly a right to property and is, therefore, an asset within the meaning of section 2(e) of the Wealth-tax Act and the fees outstanding on the valuation date would be liable to wealth-tax even if the cash system of accounting is being followed by such a person.

5. This may please be brought to the notice of the Wealth-tax Officers working in your charge. Pending cases may be dealt with in the light of what is stated above but closed cases need not be re-opened.

Yours faithfully,
Sd/- BALBIR SINGH,
Secretary, Central Board of Direct Taxes.

Copy forwarded to:—

1. All Directors of Inspection, New Delhi and Director, I.R.S. (D.T.) Staff College, Nagpur.
2. Assistant Director of Inspection (R.S. & P.—Bulletin) 4 copies.
3. The Comptroller & Auditor General of India—20 copies.
4. Shri P. V. Venkatasubramanian, Joint Secretary, Ministry of Law, New Delhi.
5. Shri S. Narayana, Secretary, Direct Taxes Enquiry Commitee, D-25-B, South Extension, Part—II, New Delhi.
6. All Officers and Sections in the Central Board of Direct Taxes.

Sd./- N. NIGAM
Under Secretary, Central Board of Direct Taxes.

INSTRUCTION NO. 720

F. No. 328/60/72-W.T.

GOVERNMENT OF INDIA/BHARAT SAKAR

Central Board of Direct Taxes

Dated, New Delhi, the 22nd July, 1974

To

All Commissioners of Wealth-tax.

Sir,

SUBJECT:—Wealth-tax Act, 1957—Treatment of outstanding fees of professional persons for wealth-tax purposes—instructions regarding.

Attention is invited to Board's letter F. No. 328/92/71—WT dated 24th January, 1972 (Instruction No. 373) on the above subject,

in which it is stated that the right of chartered accountant, doctor, lawyer or any person following a profession, to receive his fees is a right to property and is, therefore, an asset within the meaning of sec. 2(e) of the Wealth-tax Act and that the fees outstanding on the valuation date would be liable to wealth-tax even if cash system of accounting is being followed by such a person.

2. The Board have since been advised that the outstanding fees of those advocates who only plead and do not act are not legally recoverable debts and as such are not "assets", within the meaning of the Wealth-tax Act. Instruction No. 373 (F No. 328/9 F. No. 328/92/71-WT) dated 24th January, 1972 is, therefore, modified to this extent, *viz.* the outstanding fees as on the valuation date of the advocates, who only plead and do not act, are not "assets" and are, therefore, not assessable to net wealth.

3. The Advocates who only plead in the original sides of Calcutta and Bombay High Courts on the instructions of solicitors and do not act and the advocates in the Supreme Court who are not advocates on record of that court and who only plead on the instructions of the advocates on record and do not act, fall in the category of "advocates who only plead and do not act". In these cases, there will be no contract, express or implied between the said pleading advocates and the clients for payment of the former's fees. Nor will there be any such contract between the pleading advocates of the one part and solicitors or advocates on record, as the case may be, of the other part for payment of the said pleading advocates' fees. The said pleading advocates look to the solicitors or the advocates on record, as the case may be, for the payment of their fees, but the matter of payment of such fees has always been and continue to be a matter of honour and not of legal obligation. To this category will also belong senior or fairly senior advocates generally throughout India having good practice who are, in fact, briefed by Junior Advocates and who, in fact, only plead and do not act and look to such Junior Advocates for payment of fees. The outstanding fees of advocates, other than pleading advocates referred to above, and the outstanding fees of solicitors are, however, "assets" within the meaning of the Act.

4. This may please be brought to the notice of the Wealth-tax Officers working in your charge. Pending cases may be dealt with in the light of what is stated above but closed cases need not be revised.

Yours faithfully,
Sd/- BALBIR SINGH,

Director, Central Board of Direct Taxes.

Copy forwarded to:—

1. All Directors of Inspection, New Delhi.

2. Comptroller & Auditor General of India, New Delhi (20 copies).
3. Director, Revenue Audit, New Delhi.
4. Shri P. B. Venktasubramanian, Joint Secretary & Legal Advisor, Ministry of Law, Deptt. of Legal Affairs, New Delhi.
5. All officers and sections in the Technical Wing of CBDT.
6. Bulletin Section (3 spare copies).

Sd/- S. BAPU,
Under Secretary,
Central Board of Direct Taxes.

Recommendation

This is a case of an assessee trying to get advantage from both the Sales-tax Department and the Income-tax Department and the later acquiescing in it. The failure to charge the refund of the sales-tax under Section 41(1) of the Income-tax Act, 1961 resulted in a short-levy of Rs. 22,270/-. Audit had brought it to light on verifying the relevant sales-tax records. It is a pity that there is no coordination between Sales-tax Department and the Income-tax Department. The Committee accordingly recommend that here should be system of collecting information from the Sales-tax Department direct to ensure that all the refunds are properly brought to tax.

[S. No. 35 (Para 5.32) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action taken

The Committee would appreciate that this was another unusual case of refund of sales-tax. The assessee had shown this amount in Part IV of the Income-tax Return claiming that it was not taxable as it had to be paid back to the Sales-tax Department and the Sales-tax Officer had proposed to rectify the order to withdraw the refunds. The Income-tax Officer accepted the assessee's contention as there were instructions from the Commissioner of Income-tax that in cases of sales-tax refund they need not be taxed if the sales-tax authorities had taken steps to withdraw the refund in view of the retrospective effect of the Central Sales-tax (Amendment) Act, 1969.

As recommended by the Committee, all Commissioners are being directed to establish liaison with the Sales-tax Department for the purpose of collecting information about large refunds

issued with a view to consider the assessability of such refunds to Income-tax.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/108/72-A&PAC II dated 24-7-1974]

Recommendation

The Audit paragraph brings out the failure to convert foreign income into Indian currency which resulted in considerable undercharge of tax. Such instances have been reported by Audit earlier also. The explanation for the failure of the official and Internal Audit Party in this case is far from satisfactory. As the assessees had shown the foreign income separately, surely it ought to have been checked up whether it was in foreign currency. It seems highly improbable that this was first a simple case of oversight. The Committee desire that appropriate action should be taken against the persons concerned. Further, as the assessee is reported to have stated that in all the previous years Ceylonese rupee used to be taken for assessment, the Committee would like to know whether there was undercharge of tax in these years also.

The Committee learn that the Board have ordered a review of all cases involving foreign income of Rs. 10,000 in the case of non-corporate assessees and Rs. 5,000 in the case of corporate assessees. The results of the review as also the disciplinary action taken in glaring cases of negligence may be reported to the Committee.

[S. Nos. 41 and 42 (Paras 8.8 and 8.9) of Appendix to 119th Report of the Public Accounts Committee (1973-74) Fifth Lok Sabha].

Action taken

The Indian rupee was devalued in June, 1966, *i.e.*, during the relevant year to the assessment year 1967-68. Prior to this devaluation, the value of the Indian rupee was at par with that of Ceylon and therefore the problem of the conversion of Ceylon rupee into Indian currency did not arise in the earlier assessments. Because of this the assessing officers had missed the point while completing assessments for the assessment years 1967-68 and 1968-69. The erring officers have been directed to be more careful in future.

As stated above no rectificatory action is called for the assessment years prior to the assessment year 1967-68 as the Indian rupee was at par with that of Ceylon in those years.

As a result of review of 370 cases of Income-tax, the omission to convert foreign currency into Indian rupee was found in 7 cases involving a revenue of Rs. 20,039. A similar review of 229 wealth-tax cases resulted into detection of such an omission in 6 cases and a

loss of revenue of Rs. 4,125. In view of smallness of revenue involved in these cases the Commissioners of Income-tax are being asked to examine whether any action against the erring officers, is necessary.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/93/72-A&PAC II dated 6-11-1974]

Recommendation

A representation received from an assessee has shown that there has been a delay of over 7 years in giving refund on the basis of an appellate order. Only after the matter was taken up with the Central Board of Direct Taxes, interest amounting to Rs. 22,900 was paid to the assessee for the belated refund. The Committee consider that the inordinate delay in this case calls for severe disciplinary action. Indeed, a thorough inquiry and study is necessary to establish how a refund due on an appellate order can remain unpaid for as many as seven years. Such refunds should be paid with the utmost promptness and procedures should be evolved to ensure that this invariably happens.

The Committee have dealt with a problem of belated refunds in paragraph 2.24 of their 87th Report (Fifth Lok Sabha). A Study of 509 cases of refunds in important charges has revealed that refunds were made belately in 31 cases of which no interest was paid in 26 cases. The Committee takes a serious view of the delay in making refunds and non-payment of interest. It is quite evident that such publicised refund drives haven't helped to any great extent.

[S. Nos. 43-44 (Paras 8.23 and 8.24) of Appendix to 119th Report of the Public Accounts Committee (1973-74) (5th Lok Sabha)].

Action taken

A reference is invited to this Ministry's detailed note sent in reply to Lok Sabha Secretariat's Office Memorandum No. 2/7/III/1-73/PAC, dated 6-1-1973 (copy attached). It has been reported by the Commissioner of Income-tax that responsibility has been fixed on four Income-tax Officers and one dealing clerk. Appropriate action is being taken against them. With a view to guard against such lapses in future, the Board have issued instruction No. 653 (F. No. 212/2/74-I.T.A. II) dated 21st January, 1974 (copy annexed) asking the Commissioners of Income-tax to carry out surprise inspections to find out whether refunds are promptly granted and interest is also paid wherever due.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/112/73/A&PAC II dated 3-10-1974].

(COPY)

F. No. 240/4/73-A&PAC

MINISTRY OF FINANCE

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 7th September, 1973.

OFFICE MEMORANDUM

SUBJECT:—*Over-assessment of Income-tax—Delay in refunds and grant of interest—Assessment year* 1957-58—*Smt. Shantilata Dey.*

Reference is invited to Lok Sabha Secretariat Office Memorandum No. 2/7/III/1/73/PAC dated 6-11-1973 on the above subject.

2. A detailed note as desired is submitted as follows:

Smt. Shantilata Dey declared an income of Rs. 17,988 by way of 75 per cent share from firm of M/s. Pulin Behari Shaw during the assessment year 1957-58. It was accepted by the Income-tax Officer. In the course of wealth-tax assessment proceedings for the year 1957-58, it was noticed that the assessee had declared cash balance of Rs. 60,000 as on 13-4-1957, the valuation date for the assessment year 1957-58 for wealth-tax purposes. The assessee was called upon by the Income-tax Officer to explain the source of the cash balance. In her explanation, the assessee submitted that she has the following sources from which the cash has come :—

			Rs.
1.	Withdrawal from M/s. Pulin Behari Shaw for the last 13 years		57,398
2.	Income from agriculture for the last 10 years @ 2,500 per year		25,000
3.	Rent collections		500
	Less :		82,898
(*a*)	Amount spent for making ornaments	7,200	
(*b*)	Personal and other expenses for the last 13 years .	15,698	22,898
			60,000

3. The Income-tax Officer thereupon asked the assessee to produce evidence in support of the sale proceeds of agriculture and to appear before him for cross-examination regarding the facts of having all the money at home. The explanation given by the assessee regarding the extent of her expenses, her agricultural income and purchases of ornaments was not accepted by the Income-tax Officer in the absence of what he considered as adequate

evidence. The Income-tax Officer therefore, added the whole amount of Rs. 60,000 as income from undisclosed sources in his assessment order dated 13-8-1962 after reopening the original assessment under Section 34.

4. The assessee preferred an appeal against the assessment order before the Appellate Assistant Commissioner. The Appellate Assistant Commissioner by his order dated 4-7-1966 deleted the addition on a technical ground without going into the merits of the case. The ground given by the A.A.C. is that income from undisclosed source is to be assessed on financial year basis as per provisions of the law. Since the cash balance appears on 13-4-1957, it fell for consideration in the assessment year 1958-59. This decision of the A.A.C. was accepted by the Department.

5. The decision of the A.A.C. dated 4-7-1966 was received by the Income-tax Officer on 29-8-1966 and the direction of the A.A.C. was carried out by the ITO on 20-11-1966. Under Section 244 of the Income-tax Act, the effect of the appellate order must be given within six months of the date of the A.A.C.'s order and this was done within six months. There appears to be no particular reason for delay in giving effect to the A.A.C.'s order from the date of receipt, *i.e.*, 29-8-1966 to 20-11-1966 except that the officials concerned were attending to other work.

6. The refund was worked out on the file but it was not issued to the assessee, the reason being that in view of the findings of the A.A.C., the assessments for the assessment year 1958-59 was to be re-opened to tax the amount of Rs. 60,000 as undisclosed income during the assessment year 1958-59. Notice under Section 148 was issued on 20-11-1966, the date when the appeal effect for the assessment year 1957-58 was given. The assessee moved a petition dated 6-5-1967 to the Commissioner of Income-tax, West Bengal-III, requesting that the refund due for the assessment year 1957-58 may be granted to the assessee. The Commissioner by his letter dated 26-5-1967 issued instructions to the Income-tax Officer that the assessment for the assessment year 1958-59 may be completed immediately and the resultant demand should be adjusted against the refund due for 1957-58. The case was taken up for hearing on 8-6-1967 but it was adjourned after being heard in part only. Due to frequent changes in the incumbents of the office the assessment escaped the attention of the Income-tax Officer and ultimately the assessment was completed on 30-1-1971 on an income of Rs. 83,270, including the

sum of Rs. 60,000 as income from undisclosed sources for the assessment year 1958-59. The assessee went in appeal against this addition also and the A.A.C. by his order dated 28-8-1972 deleted the addition accepting the explanation of the assessee, as given above. The Department has filed an appeal against the order of the A.A.C. before the Tribunal on 6-1-1973. The assessee again moved a petition before the Commissioner of Income-tax on 21-5-1973 for grant of refund. The ITO asked for the permission of the Commissioner of Income-tax for withholding the refund u/s 241 as in his opinion there was likelihood of the demand that is to be raised in 1958-59 not being collected in case the refund was issued for 1957-58. However, the Commissioner of Income-tax did not agree with the same and in view of the sound financial position of the assessee issued instructions for granting of refund by his letter dated 10-8-1973. A refund voucher was accordingly issued for Rs. 37,035.92 on 29-8-1973. The interest of Rs. 22,900 has now been granted to the assessee on 16-11-1973.

7. No review has been carried out for subsequent assessment years. However, it is reported that the income returned has been accepted in the subsequent years with only slight modification.

8. Commissioner of Income-tax, West Bengal in whose jurisdiction the case falls, is satisfied with the explanation given by the ITO for the delay in giving effect to the appellate order and issue of refund voucher. However, the Board considers it necessary to examine the facts further to fix the responsibility. Suitable action will, if necessary, be taken against the erring officials.

Sd/-

(S. K. Lall)

Director (PAC)

Central Board of Direct Taxes.

To

Shri T. R. Krishnamachari,

Under Secretary,

Lok Sabha Secretariat,

New Delhi.

INSTRUCTION NO. 653

COPY

F. No. 212/2/74-IT(A.II)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, 21st January, 1974.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Payment of interest on delayed refunds—Surprise Inspections—Instructions ragarding.*

I am directed to say that the Board receives from time to time complaints that refunds are not being issued promptly and the interest due on the delayed refunds is not being paid by pressuring the assessees not to claim it. Although some of the assessees bring such instances to the notice of the superior officers, a large number of assessees do not out of fear bring forward facts in specific cases. However, this leaves a feeling of dissatisfaction and injustice among those tax payers who are denied interest to which they are entitled.

2. The Board desires that steps may be taken to carry out surprise inspections to find out whether refunds are granted promptly and interest is paid when there are delays. If any specific cases come to light in the course of the inspction or as a result of complaints, such cases should be carefully and promptly investigated. With a view to preventing lapses in the future, consequential action should be taken by streamlining the functioning of the Ward/Circle and awarding appropriate punishment to the erring officials.

Your faithfully,

Sd/-

(T. P. Jhunjhunwala),

Secretary,

Central Board of Direct Taxes.

Endorsement as usual.

Recommendation

This paragraph illustrates the manner in which communications addressed to the Income-tax Officer are ignored when framing assessments causing inconvenience and possible harassment to the assessees.

It also illustrates the manner in which the provisions of law are ignored.

The assessee applied for exemption from payment of annuity deposit on the ground that she had crossed the age of 70 years. This application was made in October, 1967. The option was, however, ignored while making assessment subsequently in November, 1967. Strangely enough, it is now reported that the application stated to have been personally handed over to the Income-tax Officer is not on record. The Committee desire that the matter should be investigated with a view to fixing responsibility. The Committee need hardly point out that there is a need to improve the public image of the Income-tax Department and such instances which undermine the confidence of the public should be taken serious note of.

On the basis of another letter dated 15-4-1969, from the assessee, IAC's approval for condonation of the delay in filing the application for non-payment of annuity deposit was obtained on 16th May, 1969. However, while revising the assessment for the year 1965-66 on 25th March, 1969, the tax was calculated on the gross income without a deduction for annuity deposit which was clearly wrong. Further, rectification order dated 24th May, 1969 was also erroneous inasmuch as by that date the I.T.O. had accepted the assessee's request for opting out of the Annuity Deposit Scheme. The Committee desire that these lapses should be gone into for taking appropriate action.

[S. No. 45 to 47 (Paras 8.35 to 8.37) of Appendix to 119th Report of the Public Accounts Committee (1973-74)].

Action Taken

Instructions already exist in regard to proper filing of papers and also to impress upon the Income-tax Officers of the necessity to take into account all materials on record while framing the assessment. Such instructions are, however, again being repeated by the Commissioner of Income-tax for stricter compliance.

The Commissioner of Income-tax has examined circumstances of the case in detail and he has come to the conclusion that, *prima facie*, the alleged letters from the assessee was not received by the Incometax Officer on 9-10-1967.

Two officers responsible for the mistake have already been warned. However, the Board *vide* Instruction No. 653 [F. No. 212/2/74-IT(A. 2)] dated 21st January, 1974 (copy enclosed) has directed the Commissioners of Income-tax to carry out surprise inspections to find out whether refunds are granted promptly and interest is paid when there

are delays in making such refunds.

[Ministry of Finance (Revenue and Insurance) O.M. No. F. 236/74/72-AP&C II dated 14-10-1974].

INSTRUCTION NO. 653

COPY

F. No. 212/2/74-IT(A.II)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 21st January, 1974.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Payment of interest on delayed refunds—Surprise Inspections—Instructions regarding*—

I am directed to say that the Board receives from time to time complaints that refunds are not being issued promptly and the interest due on the delayed refunds is not being paid by pressuring the asseessees not to claim it. Although some of the assessees bring such instances to the notice of the superior officers, a large number of assessees do not out of fear bring forward facts in specific cases. However, this leaves a feeling of dissatisfaction and injustice among those tax payers who are denied interest to which they are entitled.

2. The Board desires that steps may be taken to carry out surpirse inspections to find out whether refunds are granted promptly and interest is paid when there are delays. If any specific cases come to light in the course of the inspection or as a result of complaints, such cases should be carefully and promptly investigated. With a view to preventing lapses in the future, consequential action should be taken by streamlining the functioning of the Ward/Circle and awarding appropriate punishment to the erring officials.

Yours faithfully,

Sd/-

(T. P. Jhunjhunwala),

Secretary.

Central Board of Direct Taxes.

Endorsement as ususal.

Recommendation

After the Committee raised in 1971 the question of evasion of tax by the professional lawyers, doctors, engineers, contractors, etc. the Department had taken some steps to assess the position. The information relating to the four major cities of Delhi, Bombay, Calcutta and Madras so far gathered reveals that out of 24,084 practising doctors and 43,190 lawyers enrolled with Bar Associations, only 13,872 and 7,404 respectively are on the General Index Register of the Department, which confirms the fears of the Committee. The Committee have, however, been informed that some of the lawyers who are borne on the Bar Council Registers are not practising. The Actual number of practising lawyers should be ascertained immediately. The Committee are not convinced that the earnings of a doctor or a lawyer who has been actively practising for some years will ordinarily fall below the limit of exemption for income-tax. Therefore, the cases of practising doctors and lawyers who have not been filing their returns should be immediately gone into with a view to assessing them to tax. The action taken in this regard may be reported to the Committee. The Committee further desire that the survey in this regard should cover other areas also as early as possible.

The information in regard to contractors and engineers is stated to be still under collection. The Committee desire that the position in ragard to other professional categories ,such as architects, chartered accountants etc. should also be ascertained after getting information from the concerned institutes. The whole survey in regard to all the categories should be completed before June 1975 and the results as well as action taken to assessee them to income-tax/wealth-tax should be intimated to the Committee. In this connection, the Committee note that at present only 3,389 doctors, 1,419 lawyers and 346 engineers are assessed to wealth-tax.

It is surprising that although several decades have passed, the Department has not organised itself in a manner that would ensure that tax due from the members of various professions is fully recovered. The question has quite clearly been ignored so far. It is regrettable that it needed provided by this Committee for the Department to undertake a survey now. The Committee would like to be informed of the concrete steps proposed to be taken as a result of the survey to see that the professionals are assessed to tax properly. It is necessary that a special machinery is devised and set up for this purpose with utmost expedition. What the machinery should be is for the Government to decide.

One of the suggestions could be to set up separate special circles for the different professionals, which should be really effective unlike the Film Circles.

[S. Nos. 48 to 50 (Paras 9.14 to 9.16) of Appendix to 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

These paras deal with the question of evasion of tax by the professional lawyers, doctors, engineers, contractors, architects, chartered accountants etc.

Steps are being taken to ensure that persons carrying on the above professions and having taxable income/wealth are brought into the tax net. To begin with, the Commissioners of Income-tax in the four major cities of Madras, Bombay, Calcutta and Delhi were required to take urgent action by making necessary verification with the membership registers of the respective professional bodies. Recently, this survey has been extended to the remaining Commissioners' charges as well. The report about action taken are being received from the Commissioners of Income-tax and progress is being watched. The work is expected to be completed by June, 1975.

The recommendation of the Committee has been noted. Detailed guidelines have been issued for conduct of requisite operations, in respect of both professional and non-professional assessees. The work relating to collection of information and its utilisation, as also external survey, has been systematised.

In some of the bigger cities, case of persons deriving income from certain professions have already been centralised. The Commissioners of Income-tax, Bombay Calcutta, Delhi Madras, Ahemdabad, Poona, Hyderabad, Bangalore, Lucknow, Kanpur, Patna and Nagpur have been requested to examine the feasibility of having the jurisdiction over professionals in convenient groupings to ensure maximum possible centralisation depending upon the workload. The function of these circles would be to scrutinise and investigate cases, wherever necessary with reference to the usual source materials and verify them with investments and expenditure.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/1002/72—A&PAC II dated 8th November, 1974]

Recommendation

Despite the concern expressed by the Committee and strict instructions issued by the Central Board of Direct Taxes in pursuance of their observations, the practice of making irregular collection of amounts from the assessees to make good the shortfall of the budget estimates continues. The Board should therefore consider seriously as to what prompts the Tax Officials to resort to this highly undesirable practice and take suitable steps to put an end to it.

The Committee are surprised at the contention that the payments referred to in the Audit paragraph had been made by the assessees voluntarily. The Committee would suggest that the assessments of the obliging assessees completed by this ITO should be carefully examined to see whether any favouritism had been shown to them. The Committee also consider it important to undertake a review of substantial collections made at the end of the financial year without raising demands and refunded in toto at the beginning of the subsequent year in all the Circles. Such a review may indicate whether there was any collusion between the assessees and the assessing authorities.

[S. Nos. 51-52 (Paras 9.24 & 9.25) of Appendix to 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

The Ministry share the concern of the Committee. They deprecate this tendency on the part of the Tax Officials and have issued instruction No. 593 [F. No. 385/97/73-IT(B)] dated 23rd August, 1973 (copy annexed) stressing the need to stop this practice forthwith and that any deviation will be severely dealt with.

A review was conducted as suggested by the Committee. Reports received from the Commissioners of the Income-tax show that there were no such cases except in the Karnataka and Madhya Pradesh charges where irregular collections were made at the end of the financial year without raising demands and refunded to the assessees at the beginning of the next financial year.

In Karnataka charge there were 12 cases where irregular collections were made. After carrying out an inspection of these

cases, the Commissioner of Income-tax has reported that there is no evidence of any favouritism having been shown to the concerned assessees in their assessments. In Madhya Pradesh charge also similar irregularity was found in 8 cases but in these cases also, after an inspection, no favouritism is reported to have been shown to the assessees.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/175/72-A PAC II, dated 1st October, 1974]

ANNEXURE

INSTRUCTION NO. 598

F. No. 385/97/72-IT (B)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 23rd August, 1973

From

S. N. Nautial,

Director, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

SUBJECT:—*Irregular collections of amounts to make good the shortfall of Budget Estimates-Avoidance of—Instructions regarding.*

Sir,

In para 55(d) of the Audit Report (Civil) on Revenue Receipts, 1967, there was an adverse comment regarding irregular collection by the Income-tax Officers towards the end of a financial year which were refunded within a few days in the next financial year. Such collections were being made without there being any outstanding demand. In Board's Instructions issued in F. No. 83/92/66-ITB dated 9th December, 1967, it was stated that collections made in this manner should be discontinued forthwith and that any deviation would be seriously viewed.

It has come to the notice of the Board that inspite of these instructions, I.T.Os. continue to make unauthorised collections towards the end of a financial year, without there being a valid de-

mand against the assessee. In para 35(ii) of the C&AG's Audit Report, 1971-72, an instance has been pointed out of such irregular collection of a sum of Rs. 1 lakh from two assessees on 31st March, 1971 which was refunded within three days i.e. on 2nd April, 1971.

3. The Board has viewed the recurrance of this practice of irregular collection with extreme displeasure. The Income-tax Officers working in your charge may be informed that such irregular collections will render them liable to disciplinary proceedings.

Yours faithfully,

Sd/-

(S. N. NAUTIAL)

Director, Central Board of Direct Taxes.

Recommendation

The Committee would like to know whether the Internal Audit checked the assessment in this case and detected the incorrect levy of penal interest. If the mistake was not detected, the action taken against the persons responsible may be reported to the Committee.

The Committee presume that the income of the assessee relating to the years prior to and after 1950-51 has also been brought to tax. This may be confirmed.

[S. Nos. 57-58 (Paras 11.8 and 11.9) of 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

The case was checked by the Internal Audit and the mistake was not detected. The I.A.P. Official has been cautioned to be more careful in future.

The assessments prior to the year 1950-51 were made on positive figures and from the year 1951-52 onward the assessments had either been made at 'nil' or proceedings were filed as the assessee had not been doing any business or having any income.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/327/72-A PAC II, dated the 28th August, 1974]

Recommendation

The Committee would like specifically to invite attention of the Government to paragraph (*) which bring to light gross shortcomings in the way in which tax collecting machinery is functioning.

---

*1.32 to 1.34; 1.72; 4.11; 4.46 to 4.48; 5.11-5.12; 5.32-5.33; 6.4; 7.32 to 7.34; 8.8—8.9 and 9.14 to 9.16.

These shortcomings are not inescapable. They must account for very serious loss of revenue to Government; if they can be overcome by organisational improvements and greater supervisory efficiency, the revenue for direct taxes would without doubt substantially increase. There is no excuse for continued existence of sure inefficiency, carelessness and negligence, not to speak of corrupt practices.

[Sl. No. 59 (Para 11.10) of Appendix to 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

The mistakes pointed out in the above paragraphs arose not so much from lack of instructions as from oversight, neglect or carelessness. These could be avoided through purposeful supervisory checking and control. While it may not be feasible to eliminate all shortcomings in all cases, the Ministry realise the inescapable necessity of ensuring adequate and timely action in regard to top cases which, although small in number, contribute most of the revenue. The Board have recently introduced in the major charges, which together contribute about 80 per cent of the revenue, a scheme, the broad features of which are as under:

(a) Each I.T.O. of a Company Circle, despite all difficulties and constraints, will be held personally responsible for timely and adequate action in all respects in the top 20/25 cases of his Circle. The ITO of a Non-company Circle/ Ward will be similarly responsible for the top 40/50 cases of his Circle/Ward.

(b) The I.A.C. should review the top 100 cases of his Range case by case and check the remaining top cases of his ITOs, on a sample basis.

(c) The Commissioner should review, case by case, the top 100 cases of his charge and check the remaining top cases on the list of his officers, on a sample basis.

It is hoped that this new administrative measure would lead to improvement in the performance of the Department.

[Ministry of Finance (Revenue and Insurance) O.M. No. 241/3/74—A&PAC II dt. 28-11-1974].

CHAPTER III

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

Recommendation

The assessee constructed a house meeting the expenditure partly by a non-refundable advance from his Provident Fund Account. As he did not obtain prior permission of the Government for the sale of the house, he had to refund the amount together with interest of Rs. 27,932 to the Provident Fund Account. Strangely enough, the Income-tax Officer allowed his claim for the deduction of the interest also while arriving at the capital gains. As the interest paid to his own account cannot be regarded as an item of expenditure the circumstances under which it was allowed to be deducted should gone into with a view to taking appropriate action.

[S. No. 18 (para 3.29 of Appendix to the 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

As the issue was not free from doubt the opinion of the Ministry of Law was obtained. In view of the peculiar circumstances of the case the Commissioner of Income-tax has not considered it necessary to take any action against the Income-tax Officer.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/1005/72-APAC II dt. 10-0-1974]

Recommendation

The Committee suggest that Government should consider whether there is any worthwhile reason for limiting the relief for contribution to Public Provident Fund and cumulative time deposit only to individuals.

[S. No. 26 (Para 4.37) of the Appendix to 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action taken

The suggestion has been taken note of and will be considered.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/72/72-A&PAC II dt. 4-12-1974]

Recommendation

The Committee find that there is a specific provision in the Income-tax Act, 1961 to assess income received after cessation of profession. In this case although the assessee realised such an income he showed it in Part IV of his return and claimed that the amount was not taxable since when he received it, it had become time-barred for him to prefer a claim. As he was following the cash method of accounting the amount was assessable to tax. The Finance Secretary stated during evidence that he did not think that the claim was properly made. However, the ITO is reported to have stated that the assessment was completed under the Small Income Scheme and that part IV of the return where the exemption was claimed escaped his notice. This raises a general question whether it is advisable to complete the assessment to big salary cases under the Small Income Scheme. The Committee desire that this question should be examined critically.

[S. No. 27 (Para 4.46) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action taken

Under the summary Assessment Scheme a return can be subjected to detailed scrutiny if the ITO feels that it is necessary to do so and even after the completion of assessment the correctness and completeness of the return can be verified by reopening the case u/s 143(2) of the Income-tax Act with the previous approval of the Inspecting Assistant Commissioner concerned. In view of this and because such cases are likely to be very few the Ministry do not consider that any rethinking is necessary at this stage.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/1003/72-A&PAC II, dt. 8-11-74]

Recommendation

In the meanwhile, the question of invoking section 92 of the Act in this case should be examined expeditiously and the result intimated to the Committee.

[S. No. 32 (Para 5.12) of the Appendix to 119th Report of the Public Accounts Committee (1973-74) (5th Lok Sabha)]

Action taken

In the instant case, the question of invoking section 92 of the Income-tax Act has been examined on the basis of factual data available and the C.I.T. is of the opinion that the provisions of the said section are not attracted.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/200/72-APAC II, dt. 3-10-1974]

Recommendation

Incidentally the Committee find that the irregularity in this case was not objected to by the Internal Audit Party as the refund had not been brought to tax in accordance with the circular instructions issued by the Commissioner of Income-tax. The responsibility for issuing such a patently wrong instructions should be gone into for taking appropriate action, besides conducting a general review of the assessments of registered dealers in this Circle. The Committee would await a report in this regard.

[S. No. 36 (Para 5.33) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action taken

The circumstances under which the circular was issued by the Commissioners of Income-tax, Bangalore are given in the Annexure. In view of the reasons given therein the Ministry do not consider it necessary to pursue the matter further.

A general review of such cases has been ordered by the Commissioner concerned. The results of this review will be intimated to the Committee in due course.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/108/72-APAC II, dt. 24-7-1974]

ANNEXURE

The circumstances under which the Circular, dated 20th March, 1970 was issued by the then Commissioner of Income-tax, are as follows. Under the provisions of Secs. 6, 8 & 9 of the Central Sales-tax Act, 1956 (as stood before its amendment in 1969), every dealer was liable to pay Central Sales-tax with effect from 1st July, 1957 on all sales effected by him in the course of inter-state trade. Certain dealers in Mysore State questioned the interpretation of the

above section through Writ Petition in the High Court of Mysore, Bangalore. The High Court held that Central Sales-tax cannot be levied on inter-state sales unless such sales were liable to sales-tax if such sales take place within the State under the State Sales-tax Act. The Government of Mysore (now Karnataka) filed appeal to the Supreme Court in one of the dealers cases, Yadalam Lakshminarasimhaiah Setty and Sons. The Supreme Court confirmed the decision of the Mysore High Court. Consequent on the decision of the Supreme Court, the dealers who collected and paid Central Sales-tax on inter-state sales became entitled to refunds. However, the Central Government promulgated an ordinance on 9th June, 1969 and later this was enacted as the Central Sales-tax (Amendment) Act of 1969 to overcome the decision of the Supreme Court in Yadalam's case. This amendment Act was given retrospective effect with the result refunds of Sales-tax became repayable to the Sales-tax department.

2. The Income-tax Officers at first were assessing the sales-tax refunds received by the dealers. However, the assessees went in appeal objecting to this arguing that in view of the retrospective effect of the Central Sales-tax (Amendment) Act, these refunds have to be paid back to the Government and therefore no benefit has accrued to them under Sec. 41(1). The I.T.A.T, also held in a number of cases that such refunds of sales-tax were not taxable.

3. While issuing the circular dated 20th March, 1970 the then Commissioner of Income-tax observed as follows:

> "The Ordinance, and thereafter the Central Sales-tax (Amendment) Act, have validated the levy of Central Sales Tax, which was held as illegal by the Supreme Court. In view of this, department cannot seek to tax any amount on the ground that the merchant has received a benefit by way of refund or cessation of liability as a result of the Court decisions, second appeals not therefore called for. It is true that some assessees had filed writs challenging the validity of the ordinance and the Amendment Act, and when the writs were dismissed, have obtained leave to appeal against those orders. This should not make any difference to the legal position existing at present. Until the Supreme Court holds that the Act is illegal or ultra-vires—if at all they are to hold so—the merchants are liable to pay Sales-tax on the impugned sales. If at all the Supreme Court decides in their favour, the benefit therefrom will accrue on the date of the Supreme Court,

decision, and not earlier. In view of this also, second appeal is not called for.

In one case, the department has filed a reference application before the Ordinance was promulgated. Let us write to the Board seeking permission to withdraw the reference.

A circular should be issued to all ITOs bringing to their notice, the effect of the Amendment Act."

4. The opinion of the Standing Counsel was also obtained which supported the view taken in the Circular dated 20th March, 1970. The reference application referred to in the above note was in the case of Shri C.R.N. Ramanatha Shetty, and the Board agreed with the view of the Commissioner of Income-tax and gave permission for withdrawal of the reference application.

Further Information

Attention is invited to this Ministry's reply of even number dated the 24th July, 1974 on the above recommendation. The Committee was informed earlier that a general review of such cases had been ordered by the Commissioner concerned. It has now been reported by the Commissioner of Income-tax that the review has been completed by the Inspecting Assistant Commissioners in both the charges of Karnataka-I & II. In five cases where the assessee have received refunds of sales-tax, the concerned Income-tax Officer has been directed to initiate re-assessment proceedings. In another case (M/s Velji Mulji of Gadag) re-assessment has been made and the tax effect in respect of the firm and partners is about Rs. 59,550/-.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/108/72 APAC II, dt. 20-9-74]

Recommendation

Section 139 of the Income-tax Act, 1961, places the legal obligation on all persons having taxable income to disclose their income in the prescribed form. The explanation to Section 271(1) introduced w.e.f. 1st April, 1964 casts on the assessee the burden of proving that the omission to disclose true income did not proceed from any fraud or gross or wilful neglect in cases where the returned income is less than 80 per cent of the income. In the context in which the word 'voluntary' has been used in Section 271(4A), it is only reasonable to infer that the disclosure should be one which is of one's own free will and not prompted by fear or inducement of any kind.

The Committee find in this case that having received information, the Income-tax authorities carried out search of the premises of the firm and its partners. Only thereafter the firm and its partners submitted a 'disclosure petition'. The disclosure was treated as 'voluntary' and a penalty of Rs. 88,636 at 10 per cent of the tax sought to be evaded was levied as against the minimum of 20 per cent. The Department has justified the reduction of penalty under Section 271(4A) in terms of instructions issued in 1965. The Committee find that the instructions of 1965, which did not appreciate correctly the legal position, were subsequently superseded by instructions issued in 1969.

There would appear to be some serious failure in the system of filing instructions which makes an oversight of such important possible. The Committte suggest that the whole matter should be reconsidered and clear instructions issued defining the scope of Section 271 (4A). Further, the guidelines should be laid down regarding the acceptance of the 'voluntary' disclosures of the assessees especially in cases where the Department has information regarding evasion and is carrying on investigations.

[S. Nos. 38-40 (Paras 7.32 to 7.34) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action taken

The suggestion of the Committee in para. 7.34 above has been considered in the context of their observations in the preceding paras 7.32 and 7.33. It may be observed that the voluntary disclosure in this case was accepted on 12th July, 1968. As such the Department had no opportunity of having the benefit of guidelines contained in the Board's confidential instructions issued subsequently in 1969 referred to by the Committee in para 7.33 above. A copy of this circular had been supplied to the Committee in February, 1974. This circular is comprehensive enough and in para 16 thereof several types of disclosures, such as those made after a search or after receipt of information regarding tax evasion, etc., have been dealt with. Whenever Commissioners have expressed any doubt about the scope of the instructions contained in this circular, clarifications are being issued. As the existing instructions are clear enough, it is felt that no further guidelines are called for at present.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/155/72 APAC II, dated, 8-10-1974]

Recommendation

10.8. The Committee are greatly concerned about the utter lack of co-ordination between the Central Excise and Customs Authorities and the Income-tax Department which resulted in this case alone in a loss of revenue of Rs. 69,000. The case of the assessee who was prosecuted for holding gold worth Rs. 66,330 without satisfactory explanation was brought to the notice of the Income-tax Officer in September, 1954. However, after completion of the investigation to initiate action under section 147, the permission to start proceedings was sought only in March, 1964. In the meanwhile, the assessee had disposed of the confiscated gold returned to him in 1959 by the Customs Department. Regrettably, the Customs Department did not keep the ITO informed of the release of the gold. The fact came to notice only in July, 1963. The demand raised in February, 1965 thus became irrecoverable.

10.9. There are two points which clearly emerge, why should it have taken ten years for the Income-tax Officer to take any action in this matter? Clearly, something is grossly wrong somewhere in the organisation. Secondly, ought there not be a regular exchange of information between the Customs Department and the Income-tax Department, both of which come under the Ministry of Finance, so that the concealment of income may come to notice and the tax thereon recovered promptly?

10.10. The Committee would like to be apprised of action taken by the Ministry and the Central Board of Direct Taxes.

[S. Nos. 53—55 (Paras 10.8 to 10.10) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action taken

The observations of the Committee have been noted.

The delay in initiating action in this case has already been explained in reply to the Public Accounts Committee's query at S. No. 133 of their O.M. No. 2/7/III/2/73/PAC dated 11-1-74. Regarding the exchange of information between the various Departments under the Ministry of Finance it may be stated that in pursuance of a decision taken in September, 1967, Co-ordination Committees at Headquarters and Zonal level were started with a view to effectively co-ordinate the work of various intelligence, investigation and enforcement agencies dealing with fiscal offences. Secret instructions were issued by the Ministry to all the Collectors of Customs & Central Excise and to all the Commissioners of Income-tax, with a view to establish exchange of information and

co-ordination between the Customs, Central Excise and the Income-tax Departments.

In the particular case under consideration, the gold was released as early as in 1959, long before the Co-ordination Committees were set-up.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/261/72 APAC-II, dt. 15-11-1974]

Recommendation

It is indeed amazing that it took 16 years to issue a notice calling for return of income relating to the assessment year 1950-51 from the assessee. The action was taken only when it was about to become time-barred. As the assessee had been assessed in 1947 the Department should not have lost track of him and should have issued notice calling for the return promptly on the basis of the entries on the general index register. Further, the assessment was completed on the penultimate date of March, 1971 and it would have presumably become time-barred after 31st March, 1971. The Committee take a very serious notice of the inordinate delay which is hardly excusable. They trust that deterrent action will be taken for the laxity.

[S. No. 56 (Para 11.7) of 119th Report of the Public Accounts Committee (1973-74)]

Action taken

In this case the assessee had voluntarily filed a return for the assessment year 1950-51 sometime late in 1950 showing a total income of Rs. 2,539. The notices under sections 23(2) and 22(4) of the Income-tax Act, 1922 were issued but the proceedings ultimately had to be filed as no notice under section 22(2) was issued and the total income shown in the return was below taxable limit. Later on some information came in the possession of the Department and after protracted enquiries it was decided in December, 1963 that proceedings under section 147(a) should be initiated for the assessment years 1947-48 and 1948-49. The assessments for these two years were reopened in 1964 and 1965 respectively. Subsequently assessments for the assessment years 1949-50 and 1950-51 were also reopened in 1966 and 1967 respectively. It was the reopened assessment for the year 1950-51 which has been referred to by the Committee. It may thus be observed that it was not a simple case of calling of return of income as in such cases notice under section 148

can be issued only when the Income-tax Officer has reason to believe that on account of the assessee's failure to make a return of income or to disclose fully and truely all material facts necessary for his assessment, income chargeable to tax has escaped assessment.

As regards delay in completing the reassessment it has been reported by the Department that the assessee died in 1958 and notice under section 142(1) had to be served by affixture. There was no response to the notice so served. The Income-tax Officer waited till 30th March, 1971 in the hope of some response to the notice as he was finding it difficult to make ex-parte assessment in the absence of adequate material because accounts called for were not available. Moreover, between the date of initiation of proceedings under section 147(a) and completion of reassessment there were three changes of assessing officers. In the circumstances, the Ministry do not consider any further action in this respect as the officer concerned has already been asked to be more careful in future.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/327/72/APAC-II, dt. 28-8-1974]

CHAPTER IV

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

Recommendation

The assessee filed the return in December, 1971, after a delay of four and half years and yet neither penalty nor interest has been levied so far. The Committee receive an impression that the Department have developed a mentality to postpone the penalty proceedings till they are about to become time-barred. The Finance Secretary stated that it appeared to him that when the order of assessment was passed the ITO did not at the same time take action in regard to penalties and that he generally kept it until there was an appeal. The Committee are not happy over this state of affairs. They desire that the procedures followed by the ITOs should be critically studied with a view to (a) ensuring that final orders are passed expeditiously, (b) taking steps to see that the interests of revenue are safeguarded and (c) invoking the penalty provisions effectively in time.

[S.No. 2 (para 1.33) of Appendix to 119th Report of Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

Under Section 275 of the Income-tax Act, 1961, as it stood before 1st April, 1971, no order imposing a penalty under Chapter XXI could be passed after the expiry of two years from the date of completion of the proceedings in the course of which the proceedings for the imposition of penalty have been commenced. The Taxation Laws (Amendment) Act, 1970 has substituted this period of limitation as under with effect from 1st April, 1971:—

No order imposing a penalty under this Chapter shall be passed—

(a) in a case where the relevant assessment or other order is the subject matter of an appeal to the Appellate Assistant Commissioner u/s. 246 or an appeal to the Ap-

pellate Tribunal under sub-section (2) of section 253, after the expiration of a period of—

(i) two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or

(ii) six months from the end of the month in which the order of the A.A.C. or, as the case may be, the Appellate Tribunal is received by the Commissioner whichever period expires later;

(b) in any other case, after the expiration of two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed.

2. The intention behind extending the period of limitation in cases where appeals have been filed before the A.A.C. or the Appellate Tribunal is to see that unnecessary litigation is avoided.

3. After the 87th Report of the P.A.C. was received, instructions were issued to Commissioners streamlining the procedure regarding imposition of penalties. The Commissioners have also been asked to watch and review the progress of penalty proceedings through quarterly reports. A half yearly report indicating the position of penalties initiated and completed has also to be sent to the Board.

4. As regards penalties under the 1922 Act, though there is no period of limitation, Commissioners were asked in Board's instruction No. 571, dated 17th July, 1973 to see that all such penalty proceedings which are not stayed by judicial authorities should be completed before 31st March, 1974. In spite of these instructions, some of the Commissioners have reported pendency of penalty proceedings on 31st March, 1974. They have been demi-officially addressed to look into each case and ensure that it is disposed of expeditiously.

5. In view of what has been stated above, this Ministry consider that the steps taken so far are adequate to see that final orders are passed expeditiously, interests of revenue are safe-guarded and penalty provisions are invoked effectively and in time.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/254/72-A&PAC II, dt. 30-8-1974]

Recommendation

In order that the income received after the cessation of profession may not escape notice, the Committee suggest that wherever a person discontinues his profession the ITO should obtain a statement from him showing the outstanding fees. Further, there should be a column in the return of income, to ensure that the receipt of professional income is disclosed year after year after the discontinuance of the profession which can be checked with reference to the statement of outstanding fees obtained by the ITO.

[S.No. 29 (Para 4.48) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

A copy of the Instruction No. 703 (F.201/6/74-ITA.II), dated 12th June, 1974 issued to all Commissioners of Income-tax in the matter is attached. Kind attention is invited to paras 4 and 5 thereof, and it is hoped that these instructions are sufficient to meet the situation.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/1003/72-A & PAC-II, dt. 27-7-1974]

COPY

Instruction No. 703

F. No. 201|6|76-ITA.II

GOVERNMENT OF INDIA

Central Board of Direct Taxes

New Delhi, the 12th June, 1974.

From:

Secretary, Central Board of Direct Taxes,

To:

All Commissioners of Income-tax.

SUBJECT:—*Discontinuance of profession-Outstanding professional fees—Section 176(3) and (4) of the Income-tax Act, 1961—Steps regarding assessment in cases of receipts in succeeding years.*

Sir,

Persons deriving income from profession generally offer their income for assessment on cash basis. Many a times, such persons discontinue their profession either for taking up an employment or for any other reason. At the time of discontinuance, in almost

all cases of professional people, there is some outstanding fees for the services rendered by them in the earlier years.

2. Section 176(4) of Income-tax Act, 1961 provides that where any profession is discontinued in any year on account of cessation of the profession by, or the retirement or death of the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the aforesaid person, had it been received before such discontinuance.

3. Section 176(3) casts an statutory obligation on any person discontinuing any business or profession to give notice of such discontinuation to the Income-tax Officers within fifteen days thereof. Failure to comply with the provisions of Section 176(3) attracts levy of penalty under section 272 of the Income-tax Act. Section 272 empowers the Income-tax Officer to levy a penalty which shall not be less than 10 per cent of the tax but which shall not exceed the amount of tax subsequently assessed on him in respect of any income of profession upto the date of discontinuance.

4. With a view to ensuring that professional receipts received after the discontinuance of profession is brought to tax, Board have decided that in such cases, the Income-tax Officer must invoke the provisions of Section 133(6) for calling for the information regarding all outstanding fees in the year in which profession is discontinued. This will enable them to keep track of the receipts in the subsequent years for income tax purposes as well as to verify the amounts of debt outstanding shown in the return of net wealth. For this purpose, the Income-tax Officer should keep track of the intimations received under section 176(3) or utilise information received to this effect during the course of the hearing of the case. If the Income-tax Officer finds that in a case where intimation under section 176(3) has been received and it is covered under the summary assessment scheme, that case should be disposed of only after calling for the information regarding the out-standing fees.

5. Necessary instructions may kindly be issued to all the Income-tax Officers working in your charge for their guidance and strict compliance.

Yours faithfully,

Sd/-

(T. P. JHUNJHUNWALA)

Secretary, Central Board of Direct Taxes.

Copy forwarded to:—

1. All Additional Commissioners of Income-tax.
2. The Comptroller & Auditor General of India (25 copies).
3. Director of Inspection (Income-tax & Audit)/Investigation/Research, Statistics and Publication, New Delhi.
4. Directorate of O&M Services (Income-tax), 1st Floor, Aiwan-a-Ghalib, Mata Sundri Lane, New Delhi.
5. Bulletin Section (3 copies).
6. All Officers/Sections in Central Board of Direct Taxes, (Income-tax Wing).
7. Director (A&PAC) with reference to his O.M. dated 1-5-75 (F. No. 236/1003/72-A&PAC) for information.

Sd/-

(T. P. JHUNJHUNWALA)

Secretary, Central Board of Direct Taxes.

CHAPTER V

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

Recommendation

Incidentally the Committee understand that the assessment of the firm has been set aside in an appeal which was preferred after Statutory Audit had gone into the case. The Committee would await the details of the re-assessment.

[S. No. 5 (Para 1.43) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

The set aside assessment of M/s. Bansidhar Durgadutt for the assessment year 1966-67 has been completed on 28th August, 1974 under section 143(3)/182(1) of the Income-tax Act, 1961. The Committee will be informed of the other details in due course.

[Ministry of Finance (Revenue and Insurance) O.M. No. 236/11/72—A&PAC II, dated 14th October, 1974]

Recommendation

The Committee have been informed that the assessments for the years 1965-66 to 1967-68 were made after discussion with the group consisting of the assessee and his three brothers. The Committee would in this connection refer to their recommendation in paragraph 2.60 of their 50th Report (Fifth Lok Sabha) and reiterate that the settlement made without authority of law would be irregular. The Committee would like to know whether there was any defect in the settlement and whether the group had paid all the taxes up-to-date.

[S. No. 7 (Para 1.52) of Appendix to 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

The observations of the Committee have been noted. It may, however, be pointed out that where the lower authorities require any guidance or advice in any particular case or cases, it is the duty of the higher authorities to give such guidance and sort out difficulties in complicated cases. Such a procedure also enables the Department to avoid unnecessary litigation and to collect taxes ex-

peditiously. The settlement referred to is only assessments on agreed lines within the purview of the law, taking into consideration all the facts and circumstances of the case so as to avoid prolonged litigation and uncertainty of its outcome.

So far as the query about this particular case is concerned, the matter is being examined.

As regards the position of collection, the arrears as on 30th June, 1974 were of the order of Rs. 81 lakhs out of which 60.93 lakhs represent amounts stayed by the Income-tax Appellate Tribunal and other authorities. Only 12.80 lakhs represent demands out of the assessments completed under the 'settlement' and the same has been allowed to be paid in quarterly instalments of Rs. 81,000/-. The instalments are being paid regularly. The balance represents Annuity Deposits of Rs. 5 lakhs and other demands due from the members of the group which are payable from June, 1974 in phased instalments. A copy of reply given to Lok Sabha Unstarred Question No. 3369, dated 23rd August, 1974 answered in this connection is annexed.

[Ministry of Finance (Revenue and Insurance) O.M. No. F.236/21/72—A&PAC-II, dated 8th November, 1974]

COPY

LOK SABHA

UNSTARRED QUESTION NO. 3369

To be answered on the 23rd August, 1974/1st Bhadra, 1896 (Saka)

Recovery of Income-tax from J. K. K. group

3369. SHRI S. A. MURUGANANTHAM: Will the Minister of FINANCE be pleased to state:

(a) whether Government have not yet recovered from Tamil Nadu Komarapalyan J. K. K. Angappa and Brothers the tax and penalty arrears of about Rs. 65 lakhs;

(b) if so, the reasons therefor;

(c) whether they are being prosecuted for penalty arrears; and

(d) if not, reasons for not doing so?

ANSWER

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI K. R. GANESH): (a) Apart from:

(i) demand of Rs. 60.93 lakhs disputed in appeals and stayed by Income-tax Appellate Tribunal and other authorities.

(ii) demand of Rs. 12.30 lakhs which is being recovered in quarterly instalments of Rs. 81,000, the balance demand on account of income-tax and penalty due from Tamil Nadu Kumarapalyan Shri J. K. K. Angappa and his brothers, namely, S/Shri J. K. K. Natarajah, J. K. K. Sundararajah and J. K. K. Munirajah as on 30th June, 1974 was Rs. 7.09 lakhs.

(b) As a result of coercive measures resorted to by the Department like attachment of garnishee debts under section 226(3) of the Income-tax Act, 1961 and refusal to issue Income-tax Verification Certificates to the concerns in which the four brothers were interested, a comprehensive scheme has been drawn up, according to which the aforesaid demand of Rs. 7.09 lakhs will be liquidated during the current year.

(c) & (d). The matter is under consideration.

Recommendation

2.24. This is a case where an amount of Rs. 1,700 was excluded in determining the value of perquisite represented by provision of rent-free residential accommodation and in reckoning the total income liable to a tax on the ground that the assessee was using for his official purposes one third of the rent-free accommodations provided by government. Although the assessee claimed the deduction under sec. 16(v), the action of the I.T.O. in allowing deduction is justified under the provision of Rule 3 of the Income-tax Rules governing the valuation of the perquisites of the rent free accommodation.

2.25. The Committee learn that there have been similar cases of such claims which have been allowed. As the Attorney General's opinion obtained in this connection is stated to be not very clear, the Committee desire that the specific question of admissibility of such deductions while computing the perquisites of rent-free accommodation having regard to the provision of Income-tax Act and Rules and other relevant rules should be referred to him. The Committee would await his opinion on the question.

[S. Nos. 12, 13, (Paras 2.24, 2.25) of Appendix to 119th Report of the Public Accounts Committee (1973-74)]

Action Taken

2.24. & 2.25. The Ministry are awaiting the opinion of the Attorney General. As soon as his opinion is received the Committee will be apprised of the same.

[Ministry of Finance (Revenue & Insurance) O.M. No. 236/1003/72 —A&PAC-II, dated 8th November, 1974]

Recommendation

3.30. The Committee find that the assessee has filed a writ petition in the High Court of Delhi challenging the action taken by the Department for rectifying the assessment. The Committee would await the outcome.

[S. No. 19 (Para 3.30) of Appendix to the 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

3.30. The writ petition filed by Shri Justice V. Bhargava came up for hearing before Mr. Justice Deshpande and Justice B. C. Mishra of the Delhi High Court on 10th September, 1974. During the course of arguments, a suggestion from the Bench was made that the assessee should pay voluntarily the tax on the sum of Rs. 27,952/- and the assessment rectified. The Department should then drop the proceedings under section 147. The Department's Counsel agreed to that suggestion but the assessee's Counsel wanted time to consult his client and take instructions. Therefore, the case was adjourned to 28th October, 1974.

The final outcome will be communicated to the Committee in due course.

[Ministry of Finance (Revenue & Insurance) O.M. No. 206/1005/72—A&PAC-II dated 10th October, 1974]

Recommendation

This is yet another case of non-revision of the exemption certificates issued under Sec. 197(3) which resulted in under-assessment of dividend income to the extent of Rs. 17.22 lakhs in the hands of the shareholders. While the Committee await a report regarding the recovery of the tax due, they consider that notwithstanding the difficulties pointed out by the Ministry, it is worthwhile to undertake a review of cases of all big companies in which such certificates were issued to find out in how many cases under-assessment had taken place and to recover the differential tax wherever possible. The Committee are surprisd that the Department have not so far thought on these lines. The Committee would await the results of the review.

The Committee would like Government to review the existing statutory provisions on the subject with a view to amend the law, as necessary, to obviate recurrence of such cases.

[S. Nos. 23 & 24 (Paras 4.28 & 4.29) of the Appendix to 119th Report of the Public Accounts Committee (1973-74) (Fifth Lok Sabha)]

Action Taken

4.28. A review of the cases where revision of 80-K relief is due, following the final determination of relief u/s 80-J has been ordered as desired *vide* instruction No. [F. No. 178/46/74IT (AI) dated the 28th October, 1974 (Copy enclosed)]. Reports have come so far from nine charges only. The results are tabulated below:—

(*i*) No. of cases in which provisional certificates were issued u/s 197(3)	22
(*ii*) No. of (*i*) above in which regular assessments have been completed	15
(*iii*) No. of (*ii*) above in which regularising of the provisional certificates u/s 197(3) involves withdrawal of relief under section 80-K .	4
(*iv*) Whether information in the cases at (*iii*) above have been sent to all Commissioners of Income-tax	2

In respect of the remaining two cases the assessments were completed recently and action is being taken by the C.I.T. to communicate the relevant information to all other Cs. I.T. Information from other charges is awaited. Further communication will follow.

4.29. The review of the existing statutory provisions on the subject is under consideration of the Ministry.

[Ministry of Finance (Revenue & Insurance) O.M. No. 236/99/72—A&PAC-II dated 4th December, 1974]

PAC MATTER

Most Immediate

Compliance by 11th November, 1974

Instruction No. 774

F. No. 178/46/74-IT (AI)

GOVERNMET OF INDIA

MINISTRY OF FINANCE

DEPARTMENT OF REVENUE & INSURANCE

CENTRAL BOARD O FDIRECT TAXES

New Delhi, Dated 26th October, 1974

To

All Commissioners of Income-tax.

Sir,

SUBJECT: *Deduction of tax at source at rates lower than that required—escapement of tax due to non-revision of certi-*

ficates—Sec. 197(3) *of the I.T. Act,* 1961—*Review of—Instructions regarding.*

Kind attention is invited to Board's Instruction No. 555 dated 11th June, 1973 issued from F. No. 275/98/73-ITJ by which Income-tax Officers were directed to keep an effective check on the issue of provisional certificates under section 197(3) of the Income-tax Act, 1961, authorising deduction of tax at source at rates lower than that required in the case of dividends which are entitled to relief under section 80-K of the Income-tax Act, 1961.

2. Cases have come to the notice of the Board involving escapement of considerable income due to non-revision of the provisional certificates consequent to the quantification of the relief under section 80-J in regular assessment in the case of the company which declared the dividends. The Board desire that a review of all cases where provisional certificates under section 197(3) were issued should be carried out to ascertain whether in such cases any excess relief has been allowed under section 80-K of the I.T. Act, 1961 in the case of the shareholders. This will involve intimation by I.T.Os. assessing the companies to all Commissioners of Income-tax in order that any excess relief allowed under section 80-K, if allowed, is withdrawn by the ITOs assessing the shareholders who will be informed by the Commissioners in respect of Officers in their respective charges. This review will be restricted in respect of provisional certificates under section 197(3) issued during the last four financial years.

3. A report may please be sent to the Board by 11th November, 1974 indicating therein:

(i) the number of cases in which provisional certificates were issued under section 197(3);

(ii) number out of (i) above in which regular assessments have been completed;

(iii) number out of (ii) above in which the regularising of the provisional certificate under section 197(3) involves withdrawal of relief under Sec. 80-K; and

(iv) whether intimation in the cases at (iii) above has been sent to all Commissioners of Income-tax.

Yours faithfully,

(Sd.) T. P. JHUNJHUNWALA

Secretary, CBDT.

Copy to:

1. Director of Inspection (IT & Audit)/(Investigation)/(Vigilance)/(R&S)/(Publications & Public Relations) and O&M Services.
2. Comptroller & Auditor General of India—20 copies.
3. Bulletin Branch.
4. All Officers and Sections in the Technical Wing of C.B.D.T., New Delhi.

Sd./- T. P. JHUNJHUNWALA,

Secretary, CBDT.

Recommendation

The Committee regard this as a typical case of avoidance of tax. By establishing a branch in a foreign country and treating it as a separate entity the assessee firm had sought to reduce its income artificially in India and avoided tax on the foreign income. The Committee stress that the matter should be examined in all its aspects in consultation with the Ministry of Law and the loophole, if any, in the Act plugged.

[S. No. 31 (Para 5.11) of the Appendix to 119th Report of the Public Accounts Committee (1973-74) (5th Lok Sabha)]

Action Taken

5.11. The Ministry share the concern of the Committee about such type of tactics adopted by the assessees for avoidance of tax. In the light of the Committee's recommendation, a study has been undertaken by the Board in order to examine the extent of this problem. In this connection, Commissioners of Income-tax have been addressed to examine similar cases and send a detailed report giving full facts, *modus operandi* adopted, applicability or otherwise of section 92, the estimated loss of revenue involved, if any, in such cases, assessed in their respective charges. The result of the study and action taken by the Ministry will be communicated to the Committee in due course.

[Ministry of Finance (Revenue & Insurance) O.M. No. 236/200/72—A&PAC-II dated 3rd October, 1974]

Recommendation

5.23. As the assignment of the individual interest in favour of the H.U.F. did not create an overriding title for diversion of income at

source but was only application of income the assement of half of the share of income in the hands of the H.U.F. in the cases reported in the Audit paragraph was not in order. The irregular assessments resulted in short-levy of tax aggregating to Rs. 41,416. The Committee desire that general instructions clarifying the position in law should be immediately issued for the guidance of the field officers. Further a test check of similar past assessments with a view to rectifying them is also called for.

5.24. The Committee understand that the assessees have filed writ petition before the High Court and obtained interim stay. The outcome may be reported to the Committee.

[S.Nos. 33-34 (paras 5.23 & 5.24) of the Appendix to 119th Report of the Public Accounts Committee (1973-74).]

Action Taken

5.23. A copy of the Instruction No. 747 [F. No. 228/29/74-IT-(A.II)] dated the 30th August, 1974 issued to all Commissioners of Income-tax clarifying the position in law is annexed. A test-check of similar past assessments has also been ordered and the results of the same will be communicated to the Committee in due course.

5.24. The Commissioner of Income-tax has reported that the writ petitions filed by the assessee are still pending before the High Court.

[Ministry of Finance (Rev. & Ins.) O.M. NO. 236/202-72-A&PAC-II dated 3-10-1974].

Instruction No. 747

F.No. 228|29|74-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, 30th August, 1974

From

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

SUBJECT: *Assignment of share in partnership firm by an indi-*

vidual to his H.U.F. whether amounts to diversion of income-clarification regarding.

Sir,

An instance has come to the notice of the Board where a person was a partner in a firm in his individual capacity had impressed one half of his share in the firm with the character of a joint family property thereby abandoning all his individual rights over the half share in the firm in favour of a joint family of which he was a 'Karta'. On the basis of a declaration to this effect duly reduced in writing and placed before the Income-tax Officer, the assessee claimed and had 50 per cent of the share of profits accruing to him in the firm taxes in the hands of the H.U.F. which he was a 'Karta'.

2. The Board being advised that such a claim made by the assessee was not in order, have examined the issues involved in detail. Under the Hindu Law, if a separate property voluntarily is thrown into the joint stock with the intention of abandoning of separate claims upon it, then it becomes joint family property. However, this doctrine of blending can be applied where the separate property which is thrown into the common stock confers benefits on the joint family. If such separate property involves liability then the doctrine of blending would not be applicable because a coparcenor cannot unilaterally burden the joint family estate or the joint family with his separate property involving liabilities under the guise of throwing it into the common stock. In a case like the one under consideration the assessee would be liable for the debts incurred by the firm, his debt not being confined to the extent of his share because as laid down in section 25 of the Indian Partnership Act, every partner is liable jointly and severally for all acts binding on the firms, thus including liability arising from contracts as well as torts. Hence, it would be incorrect to assume that the share of an assessee in the said firm consists only of income yielding assets. It equally comprises of risk and liability of paying debts on behalf of the firm. Therefore, the assessee cannot, under the Hindu Law, make a declaration of the type under consideration whereby the joint family would have to bear the risk and liability of the business. Therefore, the declaration made by the assessee has to be ignored altogether.

3. The general position of law in a case like the one under consideration being what is indicated, necessary instructions may please be issued to all the Income-tax Officers working in your charge as to the correct position in law set out above.

4. A review of completed assessments in similar cases may also be carried out to retrieve revenue lost, if any on acceptance of such claims. A report indicating the number of cases reviewed the number of cases in which such mistakes have been noticed and the rectificatory action taken thereon may please be sent to the Board positively by the 30th September, 1974.

Yours faithfully,

Sd./- J. P. JHUNJHUNWALA,

Secretary,

Central Board of Direct Taxes.

Copy forwarded to:

1. Director of Inspection (Income-tax and Audit)—15 copies.
2. Director of Inspection (Investigation)—2 copies.
   Director of Inspection (Research and Statistics)—2 copies.
   And Director of Inspection (P&P).
3. Deputy Director of Inspection (Research and Statistics).
4. Assistant Director of Inspection (Bulletin)—3 copies.
5. Comptroller and Auditor General of India—25 copies.
6. Director, O&M Services, 1st Floor, Aiwane Ghalib, Mata Sundri Lane, New Delhi.
7. All Officers and Sections in the Technical Wing of Central Board of Direct Taxes.

Sd./- J. P. JHUNJHUNWALA,

Secretary,

Central Board of Direct Taxes.

Recommendation

The Income-tax Act has several provisions for imposition of interest with a view to ensuring stricter compliance by the assessees with provisions of the Act relating to assessment and collection. The interest is leviable (i) for short/non-payment of advance-tax, (ii) for delay in submission of return of income and (iii) for non-payment of tax by the due dates. The Income-tax Department is evidently lax in applying these provisions and year after year lapses involving huge revenue are brought to the notice of the Committee. In this connection they would refer to para 2.294 of their 51st Report (Fifth Lok Sabha). Audit have brought out during the years 1970-71 and 1971-72, 2493 and 2012 cases respectively involving amount of

interest omitted to be levied to the extent of Rs. 67.05 lakhs and Rs. 54.52 lakhs. The Committee have been exhorting the Ministry to ensure that the penal provisions are properly enforced. The Ministry does not seem to have come to grips with the problem. Having regard to the fact that non-levy of interest has become chronic the Committee consider that there is need for a general review of all cases where assessments for more than Rs. 50,000 have been completed, at least for the past three years. This review should be undertaken urgently and the results communicated to the Committee.

[S. No. 37 (para 6.4) of Appendix to 119th Report of the Public Accounts Committee (1973-74)].

Action Taken

A general review of all cases of assessments of Rs. 50,000 and above completed during the years 1971-72, 1972-73 and 1973-74 has since been ordered as suggested by the Committee *vide* F.No. 231/21/73-A&PAC-II dated 27th September, 1974 (copy attached). The results of review will be communicated to the Committee in due course.

[Ministry of Finance (Rev. & Ins.) O.M. No. 231|21|73-A&PAC-II dated 5-10-1974].

Important

P.A.C. MATTER

F. No. 231/21/73-A&PAC-II

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 27th September, 1974.

From:

P. K. Sarma, Under Secretary, Central Board of Direct Taxes.

To:

All the Commissioners of Income-tax.

Sir,

SUBJECT: *Recommendations of the Public Accounts Committee (Fifth Lok Sabha)—119th Report—Para 6.4*—

Year after year the Comptroller and Auditor General of India in his Audit Report has been pointing out a number of cases of omission to levy/incorrect levy of interest chargeable under various

provisions of the Income-tax Act. In spite of Board's instructions issued from time to time the number of such cases has not shown any decline. The Public Accounts Committee have no more than one occasion commented adversely on the failure of the departmental machinery in dealing strictly with the cases of non-compliance with the provisions of the Act pertaining to assessment and collection. In para 6.4 of its 119th Report of the Public Accounts Committee (Fifth Lok Sabha) have made the following recommendations:

> "6.4: The Income-tax Act has several provisions for imposition of interest with a view to ensuring stricter compliance by the assessees with provisions of the Act relating to assessment and collection. The interest leviable (i) for short/non-payment of advance-tax, (ii) for delay in submission of return of income and (iii) for non-payment of tax by the due dates. The Income-tax Department is evidently lax in applying the provisions and year after year lapses involving huge revenue are brought to the notice of the Committee. In this connection they would refer to para 2.294 of their 51st Report (Fifth Lok Sabha). Audit have brought out during the years 1970-71 and 1971-72, 2493 and 2012 cases respectively involving amount of interest omitted to be levied to the extent of Rs. 67.05 lakhs and Rs. 54.52 lakhs. The Committee have been exhorting the Ministry to ensure that the penal provisions are properly enforced. The Ministry does not seem to have come to grips with the problem. Having regard to the fact that non-levy of interest has become chronic the Committee considers that there is need for a general review of all cases where assessments for more than Rs. 50,000 have been completed, at least for the past three years. This review should be undertaken urgently and the results communicated to the Committee."

2. It has, therefore, been decided that a review of all cases of assessments of Rs. 50,000 and above completed during the years 1971-72, 1972-73 and 1973-74 should be urgently completed to find out the number of cases where interest under sections 139(8), 215, 216, 217 and 220(2) have been omitted to be levied|short-levied. Results may be communicated to the Board by 31*st October*, 1974 positively. A proforma for report is enclosed.

3. As regards the methodology to be adopted for rectification of mistakes detected as a result of review, there is no difficulty in calculating and charging interest for non-payment of taxes u|s 220(2) of the Income-tax Act, 1961 read with Rules 118 and 119 of the

Income-tax Rules 1962 and Rule 5 of the second schedule to the Income-tax Act. In so far as mistakes in charging interest under sections 139(8), 215, 216 and 217 are concerned, the legal position is being examined and the procedure to be adopted will be intimated to you shortly, with a view to ensuring uniformity.

Kindly acknowledge receipt of this letter.

Yours Faithfully,

(Sd.) P. K. SARMA,

Under Secretary,

Central Board of Direct Taxes.

INTEREST UNDER SECTION 139 (8)

Financial year	No. of cases where omission/short levy was noticed		Revenue Effect	No. of cases where remedial action has to be taken	No. of cases where remedial action is barred by limitation	Revenue effect of cases at (4)	Revenue effect of cases at (5)
	(a) No. of assets completed on total income of Rs. 50,000 and above	(b) No. of cases out of (a) reviewed					
1	2		3	4	5	6	7
1971-72							
1972-73							
1973-74							

INTEREST UNDER SECTION 215

Financial year	No. of cases where omission/short levy was noticed		Revenue Effect	No. of cases where remedial action has to be taken	No. of cases where remedial action is barred by limitation	Revenue effect of cases at (4)	Revenue effect of cases at (5)
	(a) No. of assets completed on total income of Rs. 50,000 and above	(b) No. of cases out of (a) reviewed					
1	2		3	4	5	6	7
1971-72							
1972-73							
1973-74							

INTEREST UNDER SECTION 216

Financial year	No. of cases where omission/short levy was noticed		Revenue Effect	No. of cases where remedial action has to be taken	No. of cases where remedial action is barred by limitation	Revenue effect of cases at (4)	Revenue effect of cases at (5)
	(a) No. of assets. completed on total income of Rs. 50,000 and above	(b) No. of cases out of (a) reviewed					
1	2		3	4	5	6	7
1971-72							
1972-73							
1973-74							

INTEREST UNDER SECTION 217

Financial year	No. of cases where omission/short levy was noticed		Revenue Effect	No. of cases where remedial action has to be taken	No. of of cases where remedial action is barred by limitation	Revenue effect of cases at (4)	Revenue effect of cases at (5)
	(a) No. of assets. completed on total income of Rs. 50,000 and above	(b) No. of cases out of (a) reviewed					
1	2		3	4	5	6	7
1971-72							
1972-73							
1973-74							

INTEREST UNDER SECTION 220 (2)

Financial year	No. of cases where omission/short levy was noticed		Revenue Effect	No. of cases where remedial action has been taken	Revenue effect of cases at (4)	No of cases pending
	(a) No. of assets completed on total income of Rs. 50,000 and above	(b) No. of cases out of (a) reviewed				
1	2		3	4	5	6
1971-72						
1972-73						
1973-74						

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

NEW DELHI;
17th April, 1975

27th Chaitra 1897 (Saka)

APPENDIX

SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

Sl. No.	Para No. of report	Ministry/Deptt. concerned	Recommendations/Conclusions
1	2	3	4
1	1.4	Finance Rev. & Ins.	The Committee are distressed that final replies in regard to a number of recommendations made about a year ago to which only interim replies have so far been furnished, have not been given. These must be submitted to them expeditiously after getting them vetted by Audit, together with an explanation for this unusual delay.
2	1.9	-do-	The Committee note that various steps have now been taken by the Central Board of Direct Taxes to minimise mistakes due to carelessness and negligence. The Committee would suggest that a regular periodical check should be undertaken: this will give some indication of the extent to which their administrative directions have been successful.
3	1.10	-do-	The Committee find from the instructions issued by the Central Board of Direct Taxes on 15th August, 1973, that steps are being taken to amplify the relevant para in the office manual relating to arithmetical accuracy of computation of total income etc. The Com-

1	2	3	4
			mittee presumption that this amplification has by now been carried out, may be confirmed.
4	1.13	Finance Rev. & Ins.	The Committee note that instructions have been issued to Commissioners, streamlining the procedure relating to the imposition of penalties. It is, however, not clear whether the critical study, as suggested by the Committee of the procedures followed by the I.T.O.s in the matter of initiating penalty proceedings, has been carried out. The Committee may be apprised of the results of the study and action taken thereon by Government at an early date.
5	1.14	-do-	The Committee find that in spite of the fact that a time-bound schedule has been prescribed for the completion of penalty proceedings under the Income-tax Act of 1922, *viz.* by 31st March, 1974, many Commissioners have reported that some penalty proceedings remain outstanding. The Committee desire that such cases should be disposed of expeditiously and the Commissioners concerned should be asked to explain why this could not be completed in time, that is before 31st March, 1974.
6	1.17	-do-	The Committee attach much importance to their suggestion that the streamlining of the working of Film Circles should be completed expeditiously and would, therefore, like to know how much

			more time will it take the Central Board of Direct Taxes to comply with the suggestions.
7	1.20	-do-	From the reply furnished by Government, the Committee are surprised to note that Government have not yet gone into the circumstances under which the income of Rs. 1 lakh can be omitted from the final computation of tax. The Committee would like to know whether any such investigation has at all been carried out and desire that the investigation should be carried out forthwith, if not already done. The results of the investigation may be reported to the Committee within three months without fail.
8	1.24	-do-	The Committee were informed that the settlement referred to was "only assessments on agreed lines within the purview of the law taking into consideration all the facts and circumstances of the case so as to avoid prolonged litigation and uncertainty of its outcome." In so far as this particular case is concerned, the Ministry have stated that the Committee's query regarding defect, if any, in the settlement, was being examined. Government should complete their examination quickly and report the outcome to the Committee within three months.
9	1.25	-do-	The Committee note from the reply furnished by Government that where the lower authorities require any guidance or advice in any particular case or cases, it is the duty of the higher authorities to give such guidance and sort out difficulties in complicated cases. It is not clear what guidance was sought by the lower authorities

1	2	3	4
			in this case in making the assessments on an agreed basis and under which provision of law this guidance was sought. The Committee would like to know the nature of guidelines issued in this case by the Board or Ministry, and the provision of Law under which and the authority by which these guidelines were issued. The Committee would further suggest that these aspects should also be taken into consideration while examining the case under question.
10	1.26	Finance Rev. & Ins.	As regards the recovery of taxes due, the Committee find that out of the arrears of Rs. 81 lakhs as on 30th June, 1974, a sum of Rs. 60.93 lakhs represents the amounts stayed by the Income-tax Appellate Tribunal and other authorities and that only Rs. 12.80 lakhs represent demands out of the assessments completed under 'settlement' and the same has been allowed to be paid in quarterly instalments of Rs. 81,000/-. With regard to the balance of Rs. 7.09 lakhs on account of income-tax and penalty, the Committee were informed that a comprehensive scheme was drawn up, according to which the aforesaid demand would be liquidated during 1974. The Committee would like it to be confirmed that the amount of Rs. 7.09 lakhs has since been recovered.
11	1.29	-do-	The Committee would like to be apprised of the outcome of the final scrutiny of the Commissioner of Income-tax, which needs to be expedited.

12	1.32	-do-	The Committee note from the reply that a review of cases of all big companies in which exemption certificates were issued, to find out in how many cases under-assessment had taken place and to recover the differential tax wherever possible, has been ordered as suggested by the Committee and that reports have come so far from nine charges only. The information from other charges is still awaited. The Committee would like to be informed of the results of the remaining charges also together with the tax effect.
13	1.33	-do-	Further, the Ministry's reply does not indicate as to by whom the review of cases where revision of 80K relief is due, following the final determination of relief under section 80J was conducted. The Committee stress that in future, in cases where a review has been recommended by them, such a review should invariably be made not by the assessing officer himself but by some other independent authority like the Internal Audit.
14	1.34	-do-	The Committee had earlier suggested that the Government should review the existing statutory provisions on the subject with a view to ameding the law, if necessary, to obviate recurrence of such cases and they have been informed that this is under consideration of the Ministry. The Committee would like the Government to come to an early decision in this regard.
15	1.38	-do-	The Committee had earlier suggested that there should be a column in the Return of Income to ensure that the receipt of professional income was disclosed even after a person has ceased to carry on the

1	2	3	4
			profession so that it could be checked with reference to the statement of outstanding fees obtained by the Income-tax Officer. The Committee have been informed that necessary instructions were issued on 12th June, 1974 to all the Commissioners of Income-tax in this regard.
16	1.39	Finance Rev. & Ins.	The Committee, however, regret to note that the Ministry has neither accepted their suggestion for an additional column being provided in the Income-tax Return, for keeping a watch over the receipt of outstanding professional income nor has it offered any reason for turning it down. The Committee, however, attach sufficient importance to the suggestion to make it necessary for them to reiterate their recommendation and trust that this would be processed expeditiously under intimation to them.
17	1.42	-do-	The Committee note from the reply dated 5th October, 1974 that the Ministry have ordered a review of all cases of assessments of Rs. 50,000 and above completed during the years 1971-72 to 1973-74 to see whether interest has been levied in all cases for short or non-payment of advance tax, for delay in submission of return of income and for non-payment of tax by the due dates and that the results were expected by 31st October, 1974. It is most deplorable that even after six months of the target date fixed, the results of the review have not been made available to the Committee. The Com-

			mittee take a serious view of the delay that has taken place and for which there would appear to be no valid reasons. They would urge the Government to expedite the review and report the results to them without any further loss of time. The Committee also desire that responsibility for the delay should be fixed.
18	1.46	-do-	The Committee had suggested that special machinery should be devised and set up to ensure that the professionals like lawyers, doctors, engineers, contractors etc. are assessed to tax properly. One of the suggestions was the establishment of separate special and effective circles for the different professions. Although the Commissioners of Income-tax of bigger cities have been requested about a year ago to examine the feasibility of convenient grouping of the jurisdiction over professionals, it is clearly evident that the Government have not yet applied their mind to the recommendation of the Committee that a special circle should be set up for each of the professionals, on the lines of the film circles but capable of functioning efficiently.
19	1.47	-do-	The Committee would like to emphasize that they attach considerable importance to this recommendation of theirs and would like to be informed at an early date as to when it will be completed.
20	1.50	-do-	The Committee hope that with the introduction of the new scheme, there will be considerable improvement in the performance of the Income-tax Department. The Committee, are, however, anxious that this secheme should so operate that it does not dilute the

1	2	3	4
			Income-tax Officers' responsibility for all the assessments made by him.
21	1.51	Finance Rev. & Ins.	The Committee would like to be informed of the charges in which this scheme has been introduced. The Government should also keep a close watch on the working of the scheme so as to ensure its proper implementation and strict compliance with the instructions issued in this regard. They would like to watch the progress through future audit reports.

[redacted]—LS II—611 LS—22-7-75—1,525