P. A. C. No. 699

PUBLIC ACCOUNTS COMMITTEE
(1978-79)

(SIXTH LOK SABHA)

HUNDRED AND THIRTY-THIRD REPORT

[DIRECT TAXES]

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 77th Report (Sixth Lok Sabha)]

Presented in Lok Sabha on 25th April, 1979
Laid in Rajya Sabha on 25th April, 1979

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CORRIGENDA

133RD REPORT OF PUBLIC ACCOUNTS COMMITTEE (1978-79)(SIXTH LOK SABHA) ON ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THEIR 77TH REPORT (SIXTH LOK SABHA) RELATING TO DIRECT TAXES.

...

Page	Para	Line	For	Read
8	-	25	item 6	item 16
10	7	2	strendeously	strenously
15	3.32	12	After 'annuity'	add 'as'
15	3.32	15	hereself	herself
17	-	3	After '1968' add	'instructions'
17	-	3	After 'they', add	'were'
18	1.38	17	there	then
19	1.38	8	a	the
20	1.40	8	After 'referring', add	'to'
21	1.41	16 and 21	Remove brackets.	
23	-	1	CHAPTER V	CHAPTER IV

PUBLIC ACCOUNTS COMMITTEE
(1978-79)

Shri P. V. Narasimha Rao—*Chairman*

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Lok Sabha

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4. Shri Brij Raj Singh
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SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary.*
2. Shri D. C. Pande—*Chief Financial Committee Officer.*
3. Shri Bipin Behari—*Senior Financial Committee Officer.*

INTRODUCTION

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

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

1. Shri P. V. Narasimha Rao—*Chairman*
2. Shri Asoke Krishna Dutt—*Convener*

3. Shri Vasant Sathe
4. Shri M. Satyanarayan Rao
5. Shri Gauri Shankar Rai
6. Shri Kanwar Lal Gupta

} *Members*

3. The Action Taken Sub-Committee of the Public Accounts Committee (1978-79) considered and adopted the Report at their sitting held on 19 April, 1979. The report was finally adopted by the Public Accounts Committee (1978-79) on 23 April, 1979.

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

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

NEW DELHI;
April 24, 1979.
Vaisakha 4, 1901 (*S*)

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

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the conclusions and recommendations of the Committee contained in their 77th Report (Sixth Lok Sabha) presented to the Lok Sabha on 25 April, 1978 on paragraphs relating to Direct Taxes included in the Report of the Comptroller & Auditor General of India for the year 1975-76, Union Government (Civil), Revenue Receipts, Volume II.

1.2. Action Taken Notes in respect of all the 21 conclusions and recommendations contained in the Report have been received from the Government and these have been categorised as follows:

(i) *Conclusions and recommendations that have been accepted by Government*:

Sl. Nos. 6-9, 10, 11, 12, 14, 15 and 19.

(ii) *Conclusions and recommendations which the Committee do not desire to pursue in view of the replies received from Government*:

Sl. Nos. 1, 2, 3, 4 and 5.

(iii) *Conclusions and recommendations replies to which have not been accepted by the Government and which require reiteration*:

NIL

(iv) *Conclusions and recommendations in respect of which Government have furnished interim replies*:

Sl. Nos. 13, 16-18, 20 and 21.

1.3. The Committee hope that final replies in regard to the recommendations to which only interim replies have been furnished will be submitted to them expeditiously after getting them vetted by Audit.

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

Deferred annuity policies (Para 3.33—Sl. No. 13)

1.5. In paragraph 3.33, the Committee had recommended that in order to make the position in regard to assessments of deferred

annuity policies free from any doubt and also to prevent the abuse of the benefits, a specific provision should be made in the Income-tax Act, 1961, allowing tax benefit in the case of annuity policies but at the same time restricting the benefit under the scheme to such professional groups only as merit special consideration on account of their short active professional life. Although the report was presented to the Lok Sabha on 25 April, 1978, the Ministry of Finance (Department of Revenue) have, in October 1978, informed the Committee that these observations/recommendations of the Committee "have been noted for consideration by the Government."

1.6. The Committee are surprised that Government have not been able to take any decision so far on the recommendation of the Committee although it is almost an year that the Report of PAC was presented to Parliament. The Committee would like an early decision to be taken in the matter and in case it is decided to amend the law, they would like the amending bill to be brought before Parliament early.

Incorrect valuation of shares (Paras 4.28-4.30—Sl. Nos. 16-18)

1.7. As the representative of the Ministry of Finance (Department of Revenue) had admitted before the Committee the "clear mistake" of the Department of Revenue in valuation of the equity shares held by late Shri Hemant Mafatlal in Mafatlal Gangalbhai & Co. Pvt. Ltd., the Committee had, in paragraph 4.28, recommended that this case should be probed thoroughly from all angles and if any lapse is noticed, responsibility therefor should be fixed. In paragraph 4.29, the Committee had pointed out another case of wrong valuation of equity shares in respect of another property in the estate of the deceased. In paragraph 4.30, the Committee had recommended that the circumstances in which the reopening of the original assessment in the case of two companies was inordinately delayed, should be investigated. Replying to all the three recommendations, the Ministry of Finance (Department of Revenue) have, in a communication sent in November 1978, stated that "the matter is under consideration of the Board and that the Committee would be informed of the outcome very shortly." Since then, no further communication has been received from the Department of Revenue.

1.8. The Committee feel that a period of six months is long enough for the Department to have taken a conclusive action in the case of an admittedly "clear mistake" resulting in sizeable loss to the revenue. The Committee desire that conclusive action on this

recommendation should be reported to them within the next three months, i.e., by the end of July 1979.

Valuation of unquoted equity shares (Para 4.33—Sl. No. 21)

1.9. The Committee had, in paragraph 4.33, noted that the Report of a Study Group set up in June 1976 to consider various problems regarding the valuation of unquoted shares of companies, which had submitted its Report in September 1977 was under examination of Government. It had recommended that the examination of this Report should be completed soon and the Committee apprised of the steps proposed to be taken by Government in the light of that Report. Reporting the action taken by Government on the recommendation, the Ministry of Finance (Department of Revenue) has, in a communication addressed to the Committee in November 1978, stated that the Report of the Study Group "is under consideration of the Board" and that "further reply may kindly be awaited." No further reply has, however, been received by the Committee.

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

CHAPTER II

CONCLUSIONS AND RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

2.28. The Committee note that while making assessments for the assessment years 1966-67 to 1972-73, the manufacture of "rayon grade pulp" by M/s. Gwalior Rayon and Silk Mfg. (Wvg.) Company Ltd. (Birla Group) was treated as a priority industry and tax concessions consisting of (i) development rebate (Rs. 1,19,26,866/-), Surtax (Rs. 28,01,808/-) and (ii) Tax Credit Certificates (Rs. 1,20,54691/-) aggregating to Rs. 2.68 crores (revised to Rs. 2.78) were allowed to the Company under the Income-tax Act, 1961. Audit have objected to these concessions on the ground that "as per the list of articles given in the Sixth Schedule to the Income-tax Act, 1961 and First Schedule to the Industries (Development and Regulation) Act, 1951, it was 'paper industry' which came under the category of 'priority industry' and therefore the profits from the manufacture of pulp meant for producing paper was entitled to the aforesaid concessions" and not pulp produced for other purposes, e.g., manufacture of rayon yarn. The Ministry of Finance (Department of Revenue) have not accepted the audit objection in this case. It has been stated that in the Department's view the assessment made in this case by the Income-tax Officer "is justified on facts and in law."

2.29. The Department of Revenue have sought to justify these assessments by relying largely on the Industries (Development and Regulation) Act, 1951 which, it has been stated, "can be reasonably taken as an index of some of the industries which are of importance to the national economy." Entry No. 24 of the First Schedule of this Act is titled "Paper and Pulp including paper products" and sub-Entry (5) thereof refers to "pulp" as "Pulpwood pulp, mechanical, chemical, including dissolving pulp". The pulp produced by M/s. Gwalior Rayons for use in the manufacture of rayon yarn (to which the Audit objection pertains) comes in the category of "dissolving pulp". In this connection, Department have pointed out that though "dissolving pulp" has very little to do with paper it had always been classified under the head 'paper and paper board' as (i) Item 43 of the first schedule to the Indian Tariff Act, 1943, (ii) the Wealth of India (Industrial Products), Part II published by the C.S.I.R. in 1965, (iii) the guidelines for industries

published by the Industrial Development in July 1973, (iv) definition of the word pulp in the Indian Standards Publication entitled "Glossary of terms" used in Paper trade and industry, (v) Explanatory notes to the Brussels Nomenclature (Volume II) Sections VIII to XV—Chapters 41 to 83, Fifth June 1967, would show. The Committee cannot see how the admissibility of concessions under the Income Tax Act, 1961 can, as it seems to have been done in this case, be determined much less justified on the basis of other Acts or documents. 'The guidelines for industries' published by the Department of Industrial Development in 1973 has no relevance because the assessments in question relate to years prior to 1973. Moreover, it may be pointed out in this connection that the Industries (Development and Regulation) Act, 1951 does not deal with tax matters at all, and according to a clarification given by the Ministry of Industry, it envisages no financial concessions.

2.30. The justification for tax concessions allowed to the assessee company has to be judged on the basis of the provisions contained in this behalf in the Income-tax Act, 1961. The Committee find that the relevant entry in this Act, was "Paper and pulp" upto 31-3-1966, and "Paper and Pulp including Newsprint" thereafter. From 1-4-1975, the entry was again changed to "Paper, Pulp and Newsprint". The Act does not specify whether "Paper and Pulp" means pulp for paper alone or whether it includes pulp for other purposes also. A moot point to be considered is that when the two words "paper" and "pulp" are clubbed together in a single entry, whether they should not be interpreted in a cognate sense. While submitting that what is involved in this case "is not so much a question of law, as a question of fact", the Department of Revenue have contended that "paper" and "pulp" are two different industries. Had it not been so, separate inclusion of the word "pulp" in the schedule would have been redundant. Every paper mill, it has been stated, has a pulp plant and the only unit producing pulp for paper without manufacturing paper gone into production roundabout 1969. The Department has also argued that if the intention of the legislature was to limit the benefits of a priority industry to units used in making pulp for paper, it would have been adequate for the purpose to include "paper" alone. The separate mention of pulp, it has been contended, serves to show that what was meant was pulp in general, including pulp needed for rayon. Audit, on the other hand, have pointed out that on the basis of the language used in the Income-tax Act, 'pulp' would mean pulp produced for paper only and not for any other purpose.

2.31. The Committee find that Audit objection in this case was raised as early as in August 1975. The matter came to the notice of the Department on 3-12-1976. The Department of Revenue first informed the Audit in February 1977 (*i.e.* two years later) that the objection was under 'active consideration' but later it was stated on 18-7-1977 that the objection had not been accepted. The long time taken in considering the audit objection clearly indicates that the Department was not very sure of its stand on this case.

The Committee also note that the decision to reject the interpretation of law given by Audit was taken by the Department of Revenue at their own level, without obtaining an authoritative opinion of the Ministry of Law on the point of law involved. In fact a reference was made by the Department to the Ministry of Law on 17-9-1977 (when a decision to reject the audit objection had already been communicated to the Audit) but before that Ministry could consider the various issues involved, the file was withdrawn from that Ministry on 4-10-1977 in deference to a 'convention' said to be prevailing in regard to matters contained in the Audit Report with which the PAC is seized. The Committee consider that before taking a final decision in regard to the Audit objection the department should have obtained the advice of the Ministry of Law. That it was not done in this case even though the Audit objection remained under the consideration of the Department for wellnigh 2 years is regrettable. The Committee recommend that the matter should be referred to the Ministry of Law for their advice.

[Sl. Nos. 6 to 9 (paras 2.28 to 2.31) of Appendix II to the 77th Report of the Public Accounts Committee (1977-78) (Sixth Lok Sabha)].

Action Taken

2.28 to 2.30. No specific recommendation has been made by the Committee in paragraphs 2.28 to 2.30. However, observations contained therein have been noted.

2.31. The matter has been referred to the Ministry of Law in this case as desired by the Committee. However, the opinion of the Law Ministry is still awaited. As soon as the opinion of that Ministry becomes available a further reply will follow.

[Ministry of Finance (Deptt. of Revenue) letter No. 241/27/78—A&PAC-II dated 24th October, 1978.]

Further Action taken

2.31. The opinion of the Ministry of Law has been obtained in the case of Gwalior Rayon Silk Mfg. (Wvg) Ltd. (A copy of the

reference made to the Ministry of Law and the advice of that Ministry enclosed). Instructions have already been issued to complete the reopened assessments in the light of the opinion of the Ministry of Law. (Annexure)

[Ministry of Finance (Deptt. of Revenue) letter No. 241/27/78-A & PAC-II dated 30th November, 1978.]

ANNEXURE

Extract Note from file No. 236|480|76-A&PAC-II

* * * * *

We should consult the Ministry of Law as early as possible on the following questions:—

(a) Whether machinery issued in the manufacture of "Rayon Grade pulp" also known as "dissolving pulp" would be eligible for development rebate on the basis of item 16 of the Fifth Schedule to the Income-tax Act.

Item 16 includes "paper and pulp including news-print" among the list of articles and industries eligible for development rebate u|s 33(1) (b) (B) (i) of the Income-tax Act. The technical opinion on Rayon Grade Plup or dissolving pulp is on pp. 5—7/ante. The Commissioner of Income-tax has emphasised in his note on pp. 10—18|cor that "dissolving pulp" can also be utilised for the manufacture of paper and, in any case, it is not possible to withhold the benefit of development rebate with reference to item 16 of the Fifth Schedule, since this item does not specifically exclude pulp other than pulp used in the production of paper. It is also significant, as pointed out by the Commissioner, that "man-made fibres" including "regenerated cellulose-rayon, nylon and the like" are shown under the head "Chemicals" in Item 19 of the First Schedule to the Industries (Development and Regulation) Act, 1951, while "pulp—wood-pulp, mechanical, chemical, including dissolving pulp" is shown under the head "Paper and Pulp including Paper Products" as a separate item numbered as 24 in the same Schedule. This leads to the reasonable inference that all pulp including dissolving pulp, clubbed with paper and paper products, would constitute separate item, not to be mixed up with rayon and capital employed in the production of pulp would be entitled under the provisions of the Income-tax Act also.

(b) Whether production of pulp can be categorised as a "priority industry" for the purpose of deduction of a percentage of the profits under Section 80-E|80-I, since deleted. The same arguments as in (a) would apply in this case also.

(c) Whether a concern producing "dissolving pulp" can be deprived of the benefit of tax credit certificates, despite the requirement of Sec. 280ZB(1) and the unmistakable inclusion of the pulp under Item 24(5) of the First Schedule to IDR. Act, 1951 merely because the pulp has been utilised in production of rayon and not paper.

2 This is a matter of considerable revenue importance not only in the case of Gwalior Rayons, but also of other manufactures of the Rayon Grade Pulp. The advice of the Law Ministry should set all doubts at rest.

Sd./-
(K. Srinivasan)
Member (Inv.)
14-9-1977.

Ministry of Law, Justice and Company Affairs
(Department of Legal Affairs)

Three questions are posed in the Note at pages 10 to 12 ante. The first two questions essentially revolve on the point whether the 'dissolving pulp' otherwise known as 'Rayon Grade Pulp' falls within item 6 of the Fifth Schedule to the Income-tax Act, 1961, as Section 33(1)(B)(i) of the Act refers to machinery or plant used in manufacture of articles specified in the Fifth Schedule to the Act and Section 80-E/80-I refer to a 'priority Industry', which term is defined in Section 80-B of the Act at the relevant time to mean, among other things, machinery used in the manufacture or production of any of the articles specified in the Sixth Schedule to the Act (before its deletion with effect from 1-4-1973). The third question is whether the concern, which manufactures 'dissolving pulp' is eligible for the tax credit certificate under section 280-ZB.

2. In order to appreciate the problem, it would be necessary to refer to the legislative history. It is common ground that prior to 1-4-1964, the Fifth Schedule to the Act contained following entries:

PART A

6. A. (iii) Rayon machinery;
(ix) Paper machinery;

9. Paper including newsprint and paper board;

PART B

3. Pulp machinery.

4. Pulp for paper and artificial fibres.

Subsequently, by the Finance Act, 1965: a new Fifth Schedule was introduced and item 16 read as 'Paper and Pulp'. The Finance Act, 1966 added the words 'including newsprint' to item 16 so that the entry now reads as 'Paper and pulp including newsprint'.

3. The question then is whether the above entry 'Paper and pulp including newsprint' would take within its campus 'dissolving pulp' otherwise known as 'Rayon Grade Pulp'.

4. A tripartite meeting took place on 23rd and 28th September, 1978 to discuss this file when Sarvashri Gauri Shankar, Rao & Others from the Office of the C&AG and S/Shri Chickermane and Tulsyan from the CBDT were present.

5. During the course of the discussion, Shri Gauri Shankar drew attention to the difference in the language between Sections 80-E/80-I on the one hand and Section 280-ZB on the other hand. Under the latter section, if any Company is engaged in the manufacture or production of any of the articles mentioned in the First Schedule to the Industries (Development and Regulation) Act. 1951, it would become eligible to the Tax Credit Certificate, as provided for therein. While the latter section refers to the First Schedule to the IDR Act, the former Section only refers to the Fifth Schedule (now) (Sixth Schedule for some Assessment years). In other words, all the entries in the First Schedule to the IDR Act, could not be read into for the purposes of considering the eligibility under section 80-E|680-I of the Act. Entry 16 of the Fifth Schedule, which reads 'Paper and Pulp including Newsprint' only should have to be looked into. Even though for the (earlier) years prior to 1964 the relevant Entry, extracted above, shows that machinery used for manufacture of not only pulp for paper, but also artificial fibres was specifically mentioned, the new Entry 16 does not refer to machinery for pulp for artificial fibres. Further, Item 4 of the Fifth Schedule refers to Industrial machinery specified under the heading "8. Industrial machinery", sub-heading "A. Major items of specialised equipment used in specific industries", of the First Schedule to the Industries (Development and Regulation) Act, 1951. But Item 16 does not make any reference to the IDR Act or the First Schedule thereto, or the narration of Entries therein. The description of the Entry 'Paper and paper products', as given in the IDR Act was not referred in Item 16

of the Fifth Schedule. While Entry 24 of the First Schedule to the IDR Act refers in detail to all types of Paper or Pulp. Entry 16 does not contain any such detailed description. The question then is whether it would be justifiable to refer to Entry 24 of the First Schedule to the IDR Act when interpreting Entry 16 of the Fifth Schedule to the Income-tax Act. It seems to me that where Parliament desired that relevant entries of the First Schedule to the IDR Act to be referred to (as in the case of Item 4), special provision, therefore, was made. In the absence of any reference to the Entries in the First Schedule to the IDR Act for the purpose of interperting Entry 16, it would not be permissible to refer to corresponding Entry in the First Schedule to the IDR Act.

6. I have earlier stated that Entry 16 originally read as 'Paper and Pulp' and by Finance Act, 1966, the words 'including Newsprint' were added therein. It is pertinent to point out that the words 'including Newsprint' were added at the end instead of after the word 'Paper' and before the words 'and pulp'. If the Entry read as 'Paper including Newsprint and Pulp', it would have perhaps been permissible to include all types of Pulp. As the word 'Pulp' is after the words 'Paper and' and before the words 'Including Newsprint', it would be logical to read it as a whole to refer it to the Paper and Paper Products only and not to include 'Dissolving Pulp' or 'Rayon Grade Pulp' therein.

7. During the course of the discussion, Shri Chickermane strendeously urged that 'Paper' and 'Pulp' are not analogous. If 'Paper' has the same genus as 'Pulp', it would become redundant. He also refers to the definition of the word 'Pulp' in the Glossory of Terms used in the paper trade and industry by the I.S.I., Explanatory Note to the Brussels Nomenclature and the Wealth of India (Industrial Products) published by C.S.I.R. in support of his contention that 'Paper and Pulp' are different and it would not be justifiable to read the same as belonging to the same gene. Shri Gauri Shankar, on the other hand, stated that it would not be permissible to rely on the Brussels Nomenclature, as according to him, in this country, we have adopted different classifications. In this connection, he refers to section 10, Chapter 47 of the First Schedule to the Customs Tarrif Act, 1975 wherein it was specifically provided that description of the term 'Pulp' given under heading 47.01 would not apply to (i) paper-reinforced stratified artificial plastic sheeting, or vulcanised fibre or articles of such materials and (ii) paper yarn or textile articles of paper yarn. It seems to me that there is some force in what Shri Gauri Shankar has stated.

8. It, therefore, seems to me that Development Rebate under section 33 or the benefit of section 80-E/80-I could not be given in respect of machinery used in the manufacture of 'Rayon Grade Pulp'.

9. The only other point that should be considered is whether the Company producing 'dissolving pulp' is entitled to Tax Credit Certificate. While dealing with this question, it would be relevant to look into the Entry 24 of the First Schedule to the IDR Act, 1951. It includes Pulp-wood pulp, mechanical, chemical, including dissolving pulp, i.e. it includes any pulp including chemical or dissolving pulp, as in this case. It is common ground that the 'dissolving pulp' could be used in making certain kinds of papers. If so, machinery used in the manufacture of such 'dissolving pulp' would be entitled to the benefit under section 280-ZB. Shri Gauri Shankar, however, had stated during the course of discussion that the Company manufactures 'rayon' and not 'dissolving pulp' though it is an intermediate product. As such, while it should not be allowed any relief, if at all relief is to be allowed, it should be limited to the profits and gains attributable to the manufacture of 'dissolving pulp' and not to the further stage of manufacture of 'rayon'.

10. It seems to me that Parliament has in mind the difference in language between Entry 16 of the Fifth Schedule to the Income-tax Act and Entry 24 of the First Schedule to the IDR Act, 1951. Still Parliament provided under Section 280-ZB that profits and gains attributable to the manufacture of articles mentioned in the First Schedule to the IDR Act should be given the Tax Credit Certificate benefit. Entry 24 of the First Schedule to the IDR Act comprehends Pulp including 'dissolving pulp'. It is presumed that the company manufactures dissolving pulp as an intermediate product separately. If so, the machinery used for manufacture of such 'dissolving pulp' becomes eligible for the benefit under section 280-ZB. However, Audit is right in its point of view that the benefit cannot be extended further to the stage of manufacture of 'dissolving pulp', i.e., to the stage of manufacture of 'Rayon'. In other words, it should be limited only to the profits and gains relatable to the manuacture of 'dissolving pulp' if it is separately manufactured as an intermediate product by the assessee Company.

Sd/-
(M. B. Rao)
Joint Secretary & Legal Adviser
9-10-1978.

CBDT

[Ministry of Law, Justice and Company Affairs, (Department of Legal Affairs) U.O. No. 25860/78, dated 24-10-1978].

Recommendation

The Committee also note that according to the judgement of the Supreme Court in the case of R. K. Malhotra Income-tax Officer *vs.* Kasturbhai Lalbhai delivered on 11 August 1977, it was held that "the Audit Department was the proper machinery to scrutinise the assessments of Income-tax Officers and point out the errors, if any, in law, and that the intimation received by the Income-tax Officer constituted 'information' within the meaning of Section 147(b) in consequence of which the Income Tax Officer could reopen the assessment'. The Committee feel that in view of the special position of Revenue Audit recognised by the Supreme Court, the Audit objections in regard to assessment of income-tax deserve serious consideration by Government. The Committee recommend that in future whenever a difference of opinion arises in regard to "errors in law" in the case of any assessment or class of assessments. between the Ministry of Finance (Department of Revenue)/Central Board of Direct Taxes on the one hand and the Revenue Audit on the other, the Department should, before taking a final view in the matter, normally obtain the opinion of the Ministry of Law. In case the loss of revenue pointed by Audit is substantial and there is a difference of opinion on a point of law between the Department of Revenue and the Ministry of Law on the one hand and the Revenue Audit on the other, it would be advisable to obtain the opinion of the Attorney General before taking a final decision adversely affecting revenue.

[S. No. 10 (Para No. 2.32) of Appendix II to 77th Report of the PAC (Sixth Lok Sabha)]

Action taken

Instructions (Copy annexed) have been issued to all the officers of the Department that in view of the Supreme Court decision in the case of R. K. Malhotra, ITO *vs.* Kasturbhai Kalbhai (109 ITR 537) the errors pointed out by the Statutory Audit would constitute 'information' within the meaning of Section 147(b) of the Income-tax Act, 1961 in consequence of which the Income-tax Officer can reopen the assessment. The observations of the Committee about reference to the Ministry of Law have been noted. The opinion of the Attorney General will be obtained in cases where it is considered to be necessary. (Annexure)

[Ministry of Finance (Deptt. of Revenue) letter No. 241/27/78-A&PAC II dated 22nd June, 1978]

ANNEXURE

Instruction No. 1179

F. No. 237/2/78-A&PAC-II

GOVT. OF INDIA

MINISTRY OF FINANCE

(Deptt. of Revenue)

Central Board of Direct Taxes

New Delhi, the 23rd May, 1978.

To,

All Commissioners of Income-tax.

SUBJECT: *Audit objections—Remedial measure—Proper choice of—*

Sir,

I am directed to refer to the Board's Instruction No. 584 (F. No. 236/237/72-A&PAC) dated 9th August. 1973 on the subject cited above.

2. In para 2 of the above Instruction it was stated that action u/s 147(b) of the Income-tax Act 1961 on the basis of an audit objection was likely to be challenged in a court of law on the ground that there has been no fresh information to justify the assumption of jurisdiction u/s 147(b). The relevant para is reproduced below:

> "As regards resort to proceedings u/s 147(b) on receipt of audit objections, this is also likely to be challenged on the ground that there has been no fresh information to justify the assumption of jurisdiction u/s 147(b) and only a change of opinion on the part of the ITO cannot be a valid ground. There are conflicting High Court decisions on the issue whether information derived from the scrutiny note of the Audit is sufficient information to uphold action u/s 147(b), and the matter is before the Supreme Court for final adjudication."

3. The matter has now been settled by the Supreme Court in the case of R. K. Malhotra, ITO *vs.* Kasturbhai Lalbhai (109 ITR 537). It has been held by the Supreme Court that the Audit Department of the office of the Comptroller and Auditor General of India was the proper machinery to scrutinise the assessments of ITOs and point out the errors, if any, in law, and that the intimation so received by the ITO constituted 'information' within the meaning of section 147(b) in consequence of which the ITO could reopen the assessment.

4. These Instructions would apply to the reopening of assessments under other direct Tax laws also.

5. In view of the above, the earlier instructions of the Board stand amended to this extent. This may please be brought to the notice of all the officers.

Yours faithfully,
(H. Tulsyan)
Under Secretary,
Central Board of Direct Taxes.

Copy to:

1. DI (IT&A)|(Inv) (P&PR)|(R&S)|DCMS, New Delhi.
2. The Dir. of Trg., IRS(DT) Staff College, Nagpur.
3. C&AG's of India (25 copies).
4. Shri M. N. Rao, Jt. Secy., & L.A. Min. of Law, New Delhi.
5. ADI(R&S) Bulletin Section (4 copies).
6. All officers and Sections (Tech. Wing), New Delhi.
7. O.S.D. (Com. Authority), Super Bazar Bldg., New Delhi.
8. Inspection Division of CBDT, Vikas Bhavan, New Delhi.

Recommendations

Para 3.31. According to the facts placed before the Committee by the Department of Revenue, certain amounts received in cash were shown by the two film stars (Shri Dev Anand and Smt. Sharmila Tagore) in their return of income but the remuneration received in the form of annuity policies was not returned on the plea that the assessees followed cash system of accounting for their professional income. According to the Audit paragraph, failure to treat the entire premium paid by the producers on account of deferred annuity policy in lieu of the remuneration payable to the artists as income due to them during the assessment years 1972-73 and 1973-74 has resulted in an under-assessment of Rs. 11,86,917 leading to a total short levy of tax of Rs. 10,71,112 in respect of the two assessees for both the years. Though the Department of Revenue have pointed out that these assessments were in keeping with the advice of the Ministry of Law, they have, in view of the audit objection, taken action to re-open/revise the assessments in these two cases as a "protective measure".

Para 3.32. The Committee have been informed that the question of treatment of remuneration received by film artists in the form of single-premium annuity policy for income tax purposes has been considered by the Department of Revenue in consultation with the Ministry of Law more than once. In 1971, the Ministry of Law had advised in another case (Shri Guru Dutt) that a film star can be assessed only on the amounts received by him during each year from the LIC under the Annuity Policy. The salient features of the Annuity Policy, in that case, were (i) film artist was not party to the annuity contract, (ii) producers were the annuitants, (iii) by an irrevocable power of Attorney, the producers authorised the artist to recover the amount of the annuity and when they fell due, (iv) annuities were non-commutable, and (v) the artist maintained his account on cash system. In yet another but slightly different case (Miss Waheeda Rehman), the film artist hereself was the annuitant of the policy but had been given the right to nominate an assignee to receive the amount in the event of her premature death. The Commissioner of Income-tax was of the view that because Miss Rehman was the annuitant, it could be said that she had received the money's worth equivalent to the amount paid by the producer to the L.I.C. when the annuity was purchased. In their opinion dated 28-1-1972, the Ministry of Law, however, opined that the entire premium paid to the LIC cannot be construed as a receipt in her hands in the year of assessment. It was stated that the fact that she was herself the annuitant and had the right of nomination did not make this case different from that of Shri Guru Dutt. The Taxation Laws (Amendment) Bill 1973 sought to make a provision in the Income Tax Act (proposed Section 180A) for the payments by way of annuity policy to the film artists and professional sportsmen but the Select Committee dropped the proposed provision after being informed after re-examination of the entire issue in consultation with the Ministry of Law in February 1974, that even under the existing law the artist would be taxed only on the amount of the annuity received during the year.

Para 3.34. The Committee note that hithertofore actors and other professionals were not required by law to maintain accounts of their income and expenditure, and that it was only on 12 January 1977 that a Notification making maintenance of accounts obligatory on their part has been issued by Government. The Committee are surprised how in the absence of accounts, authenticity of figures given in the returns of their income were checked. This was a loophole which should have been plugged by Government long back especially when Government had ample evidence to show that in the case of professionals like film artists there was large scale tax evasion. The

Committee were given to understand during evidence that in Bombay alone, the amount of voluntary disclosures was of the tune of Rs. 4.47 crores on which a sum of Rs. 2.15 crores was realised as tax. The Committee trust that efforts to combat tax evasion would not only continue but would be intensified.

[S. Nos. 11, 12 & 14 (Paras 3.31, 3.32 & 3.34) to the Appendix II of the 77th Report of the PAC (Sixth Lok Sabha) (1977-78)]

Action taken

Paras 3.31 & 3.32. The observations contained in these paras have been noted.

Para 3.34. The observations of the Committee have been duly noted. Combating tax evasion is a continuous process and efforts in this direction will be intensified.

[Ministry of Finance (Deptt. of Revenue) letter No. 241/23/78-A&PAC II dated 20th December, 1978]

Recommendation

In their instructions issued on 3 May, 1965 the Central Board of Direct Taxes had laid down that for the purposes of estate duty, valuation of unquoted equity shares should be based on the break-up value by taking the market value of the assets of the company and not the book value if that does not happen to be their market value. Despite the clear difference in the phraseology of the provision in this regard in the Estate Duty Act, 1953 and in the Wealth-tax Act, 1957 and the Rules framed thereunder, the Board extended the application of Rule 1-D of the Wealth-tax Rules, 1957 to estate duty cases by executive instructions issued in March, 1968. The extension of Rule 1-D of the W.T. Rules 1957 is stated to have been done on a suggestion by the Governor, Reserve Bank of India and the statement made by the then Deputy Prime Minister in paragraph 42 of his Budget Speech for 1968-69 (Part B) to the effect that he proposed to have administrative instructions issued to secure that, as far as possible, the same value was adopted for an asset for the purpose of Income-tax, Wealth-tax, Gift-tax and Estate Duty. The Board's instructions of March, 1968 also extended a special method prescribed by the Board in October 1967 for the valuation of unquoted equity shares, of investment companies for Wealth-tax purposes, to the valuation of such shares for estate duty. Under this method, the value of such shares was to be taken as the average of (i) the Break-up value of the shares based on the book value of the assets and liabilities disclosed in the balance sheets and (ii) the value arrived

at by capitalising adjusted maintainable profits of the company at 9 per cent per annum. When audit pointed out in para 72 of the Audit Report 1972-73 that March 1968 were erroneous, they withdrawn by the Board on 29 October, 1974 so as to restore the earlier instructions of May, 1965.

[S. No. 15(Para 4.27) of Appendix II to the 77th Report of the PAC(1977-78) (Sixth Lok Sabha)]

Action taken

Pursuant to the observations made by the Public Accounts Committee, Instructions contained in Board's circular dated 26-3-1968 have been withdrawn.

[Ministry of Finance (Deptt. of Revenue) letter No. 241/20/78-A&PAC II dated 6th December, 1978]

Recommendation

4.31. Now that the assessment in the estate duty case of deceased person has been reopened, the Committee trust that the value of the unquoted shares of these companies will be determined on the basis of the market value of assets including the goodwill of the companies. The Committee would like to be informed of the final outcome of these cases.

[S. No. 19 (Para 4.31) of the Appendix II to the 77th Report of the PAC (1977-78) (Sixth Lok Sabha)]

Action taken

Reassessment in this case is under examination of the ACED and the Committee would be duly informed as soon as the same has been completed.

[Ministry of Finance (Deptt. of Revenue) letter No. 241/24/78-A&PAC I dated 6th December, 1978]

CHAPTER III

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

Recommendations

1.38. It has been pointed out by Audit that an erroneous tax Holiday relief allowed to Orient Paper Mills Ltd. in the assessment year 1971-72 under section 80J of the Income-tax Act, 1961 has resulted in an undercharge of tax to the tune of Rs. 1.43 crores. The assessee company had established a new paper mill at Amlai (Madhya Pradesh) which went into production in February, 1965. The new unit was entitled to 60 per cent tax holiday for the assessment years 1965-66 to 1969-70. The unit did not, however, record any profits or gains for these assessment years. By the Finance (No. 2) Act 1967, Section 84 and 85 of the Income-tax Act, 1961 were deleted and new Sections 80J and 80K were inserted. Whereas under the former Section 84, there was no provision for carrying forward the deficiency, the new section 80J provided for carrying forward the deficiency from assessment year 1967-68 onwards. In view of this, in the present case, while the relief due for the assessment years 1965-66 and 1966-67 could not be carried forward for adjustment under the law there prevailing, the relief due for the years 1967-68 to 1969-70 was eligible for carry forward and set off against the profits of the new industrial undertaking upto the assessment year 1972-73. This deficiency aggregating Rs. 2.60 crores was set off by the Department in the assessment year 1971-72. As pointed out by Audit, this was irregular as the new unit at Amlai had made a profit of Rs. 3.32 crores in that assessment year while the unabsorbed depreciation and development rebate, computed on the basis of the working results of the unit, stood at Rs. 5.42 crores which had first to be set off. After this set off, there would be no profit left to adjust this deficiency. Though in their reply dated 25th November, 1976, the department of Revenue informed Audit that re-opening of the assessment of the assessee company would creat "several complications"; the Department later issued a Notice to the assessee company on 28th September, 1977 under section 154 of the Income-tax Act for rectification of its assessment for 1971-72

on the basis of the audit objection. On 7th October, 1977, the assessee is stated to have filed a petition before the Calcutta High Court which was granted temporary injunction directing the Income-tax Officer to pass the rectification order but not to communicate the same or enforce the same. It is learnt that this matter is before the Supreme Court in appeals filed by the assessee in the Rajapalayam case and by the Department in the Patiala Flour Mills case. As a matter is *sub judice*, the Committee would not like to express any opinion on the merits of the case at this stage.

1.39. The Committee, however, cannot help expressing their dismay over the fact that the Department of Revenue had not been following a consistent course of action in handling cases of tax holiday under section 80J of the Income-Tax Act, 1961. In their judgement delivered on 4th October, 1960, the Madras High Court had in the case of Ashoka Motors Limited *vs.* C.I.T. Madras (41 ITR 397) referred to distinction between an 'assessee' and the 'new industrial undertaking in Section 15C of the Income-tax Act, 1922 (corresponding to section 80J of the Income-tax Act, 1961) and held that "in this case of even composite business carried on by the assessee, it is only the profits of the industrial undertaking that would be eligible for exemption". This decision was reiterated by Madras High Court in Rajapalayam case (78 ITR P 677). On 19th May, 1973, the Department of Revenue (CBDT) made a reference to the Ministry of Law in the case of Tribeni Tissues Limited case. While doing so, the Department expressed the view that the aforesaid decision of Madras High Court in Rajapalayam case based, as it was, on Section 15C of the Income-tax Act, 1922 cannot be applied while considering a claim under section 80J of the Income-tax Act, 1961. The new Section, it was pointed out, was worded differently and referred to "gross total income" of an assessee, whereas old section 15C had restricted the "profits or gains derived from any industrial undertaking." In their advice dated 12th June, 1973, the Ministry of Law agreed with the view expressed by the Department of Revenue that Madras High Court judgment in the Rajapalayam case was no longer valid. Later, the Department of Revenue accepted on 12th February, 1975 an objection raised by Audit in the Alembic Glass Industries Limited case in their 1973-74 Report on Direct Taxes, and applying the judgement in Rajapalayam case even reopened the assessments in that case. Explaining this shift in their stand, the Department have, in a note to the Committee, stated that when the decision to accept the audit objection in the Alembic Glass Industries case taken on 12th February, 1975, the advice of the Ministry of Law in Tribeni case was "unfortunately overlooked".

The Committee have, however, on the other hand, a feeling that it was a representation from the Orient Paper Mills, fortified as it was by the opinion of a luminary of the legal profession, which persuaded the Board to make a reference to the Ministry of Law and pass on their advice, which was in favour of the party and against Revenue, to the Commissioner of Income Tax, West Bengal. That barring this case and the contemporary case of Tribeni Tissues Limited, the Board had a different view of law is borne out by the Board's subsequent acceptance of the Audit objection in the case of Alembic Glass Industries and the decision of Revenue to go in appeal against the Judgement of the Punjab and Haryana High Court in the case relating to Patiala Flour Mills Limited.

1.40. What has come as a greater surprise to the Committee is that despite the fact that audit objection had already been accepted in the Alembic Glass Industries case on 12th February, 1975, and the principle settled in Rajapalayam case applied, when a similar objection was raised in the present case of Orient Paper Mills, the Department informed Audit that re-opening of assessment of this assessee company would create "several complications".

Referring these complications, the representative of the Department disclosed during evidence that all that they had in mind was that if the benefit of Rs. 2.6 crores given to Orient Paper Mills was withdrawn in the assessment year 1971-72, it may have to be simultaneously given in the 1972-73 assessment and that reopening of assessment of the company would entail reopening of assessment of more than 3,400 cases of share-holders of the company who had been given benefit of tax exemption on dividend declared by the company under section 80K. When the Committee pointed out that these so-called "complications" were nothing but inevitable consequences of reopening of assessments in company cases, the representative of the Department assured that it had since taken remedial action and would follow it up to its "logical conclusion." The Committee regret that by holding over reopening of the assessment for a long time and that too for reasons over which the Board continue to entertain doubt, undue solicitude appears to have been shown to the assessee company. The Committee are of the view that a more prudent course for Department would have been to re-open the assessment promptly on the basis of audit objection and leave it to the assessee company to appeal against it.

1.41. It is somewhat puzzling that when the Ministry of Law gave their advice in 1973 in the case of Tribeni Tissues Ltd. on the scope

of section 80J of the Income-tax Act, 1961, the Central Board of Direct Taxes did not issue a general circular in 1973, to ensure that the law was applied uniformly in all cases but only communicated the advice to the Commissioners of Income-tax, West Bengal. The Department felt that they need not issue general instructions on the basis of isolated case. But when audit raised an objection in the case of Alembic Glass Industries, the Board issued a general circular on 4-3-1976 advising the Commissioners to follow the Judgment in Rajapalayam case. While the Finance Secretary conceded during evidence that a general circular "ought to have been issued at that time" by the Board, he pointed out to the Committee that non-issuance of a circular in 1973 was "beneficial to the Government and beneficial to the revenue". Had such a circular gone out in 1973, he said, "the ITOs all over the country including the ITOs in Tamil Nadu who were otherwise following Rajapalayam case, would have followed this." This reasoning is not convincing. (The Committee are of the view that when decisions having bearing on interpretation of Direct Tax laws are taken in consultation with the Ministry of Law, such decisions should be given widest possible circulation so that the law was not applied differently in different parts of the country, as had happened in this case).

1.42. Section 119(1) of the Income-tax Act, 1961, as it stood before 1-4-1971 had provided that all officers and persons employed in the execution of the Income-tax Act shall observe and follow the orders, instructions and directions of the Board. By Act 42 of 1970, the Section was amended w.e.f. 1-4-1971 by which a restriction was imposed on the powers of the Board to the effect that the Board shall not issue any order, instruction or direction so as to require any Income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner. In paragraph 5.89 of their 128th Report (Fifth Lok Sabha), the Committee had cautioned the Board against giving advance rulings in individual cases. On 22-11-1974, the Board issued a circular in which it was stated *inter alia*, that the Board will not issue any advance rulings, directions, instructions in individual cases to any income-tax authority or to any querist though it would continue to oversee administratively the functions of the lower formations and give advice in individual cases if the facts of the case so justify. The Committee hope that the self restraint imposed by the Central Board of Direct Taxes upon themselves by their circular of November, 1974 would be strictly adhered to.

[S. Nos. 1—5 (Paras 1.38 to 1.42) of Appendix II to 77th Report of the Public Accounts Committee (1977-78) (Sixth Lok Sabha)].

Action Taken

The observations/recommendations of the Committee contained in the above paragraphs have been taken note of by the Ministry.

[Ministry of Finance, Deptt. of Revenue letter No. 241|26|78-A & PAC II dated 26th September, 1978].

Further Action taken

The observations/recommendations of the Committee contained the case of Patiala Flour Mills (Pvt.) Ltd., 115 ITR 640, has held that if the loss, depreciation allowance, development rebate in respect of a new industrial undertaking for the past assessment years have been fully set off against other profits or income under other heads, no part of such loss, depreciation allowance, development rebate, etc. are liable to be adjusted in computing the profits of the new industrial undertakings for the purpose of Section 80J. The Supreme Court has also reversed the Madras High Court decision in the case of Rajapalayam Mills Ltd. Thus, the view taken by the Audit in the case of Orient Paper Mills has been rejected by the Supreme Court.

[Ministry of Finance (Deptt. of Revenue) letter No. 241|26|78-A&PAC-II dated 19th January, 1979.]

CHAPTER V

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

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CHAPTER V

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

Recommendation

The Department of Revenue have, however, admitted that at present there is no specific provision in the Income-tax Act, 1961 for tax in the case of annuity policies taken for the benefit of cine artists being assessed in the manner in which it was done in the case of Shri Dev Anand and Smt. Sharmila Tagore and that the assessments were made on the basis of legal opinion that income from annuities should be taxed when the right to receive it has actually accrued to the cine artistes. But the Committee also note that in the absence of a specific provision in the law a few business houses have adopted the method of annuity policies for avoiding tax liability on payments made to their top executives. There is also the danger of other professional groups taking recourse to this mechanism for tax avoidance. The Committee, therefore, recommend that in order to make the position free from any doubt and also to prevent the abuse of the benefits, a specific provision should be made in the Income-tax Act, 1961 allowing tax benefit in the case of annuity policies, but at the same time restricting the benefit under the scheme to such professional groups only as merit special consideration on account of their short, active professional life.

[S. No. 13 (Para 3.33) of the Appendix II to the 77th Report of the PAC (1977-78) (Sixth Lok Sabha)]

Action taken

The observations|recommendations of the Committee, contained in the above para, have been noted for consideration by the Government.

[Ministry of Finance (Deptt. of Revenue) letter No. 241|23|78-A&PAC-II dated 27th October, 1978.]

Further action taken

The question of issuing instructions to the field officers as to how to deal with annuity policies taken for the benefit of cine

artistes is under active consideration of the Ministry in consultation with the Ministry of Law.

[Ministry of Finance (Deptt. of Revenue) letter No. 241|23|78-A&PAC-II dated 18th April, 1979.]

Recommendations

The Committee are surprised to note that in the case of a deceased person (Shri Hemant Mafat Lal) who died on 16 August, 1971, the value of equity shares held by the deceased person in Mafatlal Gangalbhai & Co. Pvt. Ltd., worked out to Rs. 243.48 per share even in accordance with the method of valuation indicated in the instruction issued by the Central Board of Direct Taxes in October, 1967, the Assistant Controller of Estate Duty valued the same at Rs. 161 only on the basis of the Report of an approved valuer. While conceding that this was a 'clear mistake the representative of the Department informed the Committee that the explanation of the officer who had adopted such a low valuation of Rs. 161 per share had not been found satisfactory and therefore some further details about this case had been called for from the Commissioner of Income-tax. The Committee would like to be apprised of the outcome of this case. The Committee also recommend that on receipt of the requisite details from the Commissioner, this case should be probed thoroughly from all angles and if any lapse is noticed, responsibility therefor should be fixed.

[S. No. 16(Para 4.28) of Appendix II of the 77th Report of the PAC (1977-78) (Sixth Lok Sabha)]

Action taken

The Matter is under consideration of the Board and the Committee would be informed of the out-come very shortly.

[Ministry of Finance (Deptt. of Revenue) letter No. 241|21|78-A&PAC-I dated 6th December, 1978.]

Recommendations

It is regrettable that in the case of an other property in the Estate of the deceased also, namely Surat Spinning and Weaving Mills, the valuation of unquoted equity shares for Estate Duty was made on "yield basis" alone and not even in accordance with the Board's instructions of October, 1967 and March, 1968 then in force.

[S. No. 17(Para 4.29) of Appendix II of the 77th Report of the PAC (1977-78) (Sixth Lok Sabha)]

Action taken

The matter is under consideration of the Board and the Committee would be informed of the outcome very shortly.

[Ministry of Finance (Deptt. of Revenue) letter No. 241|22|78-A&PAC-I dated 6th December, 1978.]

Recommendation

The Committee view with serious concern the fact that, despite the issue of executive instructions in October, 1974 and May, 1975, which indicated clearly the correct manner of valuation of unquoted equity shares under the Estate Duty Act, the original assessment in this case of two Companies had not been re-opened upto April, 1976 so as to recompute the value of the shares by taking assets at market value which even according to Company's own balance-sheet as on 31-3-1971 was Rs. 18.17 crores against its book value of Rs. 4.43 crores. The Department informed Audit that the objection raised by Audit was accepted in principle, but not the tax effect. The Department have stated that assessment had been re-opened under Section 59(b) of the Estate Duty Act and that the actual quantum of under assessment can be determined only after re-assessment proceedings were completed. The Committee recommend that the circumstances in which this inordinate delay in re-opening the original assessment occured should be investigated. The Committee would also like that suitable steps may be taken to ensure that such delays do not recur in future.

[S. No. 18(Para 4.30) of the Appendix II of the 77th Report of the PAC (1977-78) (Sixth Lok Sabha)]

Action taken

The circumstances in which delay in opening the original assessment occurred is under consideration and further report may kindly be awaited.

[Ministry of Finance (Deptt. of Revenue) letter No. 241|23|78-A&PAC-I dated 6th December, 1978.]

Recommendation

According to a review conducted by the Central Board of Direct Taxes, it has been found that out of 16,945 estate duty assessments completed during the period 1 November, 1973 to the date of receipt of Board's instructions of 29 October, 1974 there were 91 Cases were Board's Circular of March, 1968 was applied. Of these 91 cases assessments are stated to have been re-opened under Section 59(b)

of the Estate Duty Act in 80 cases. As regards the balance of 11 cases, the Committee have been informed that no action is contemplated because the value of shares included in the assessments were very small. The Committee would like to know in due course the total amount of additional duty realised in the aforesaid 80 cases.

[S. No. 20 (Para 4.32) of Appendix II of the 77th Report of the PAC (1977-78) (Sixth Lok Sabha)]

Action taken

Total amount of additional duty realised in 80 cases where assessments had been reopened under section 59(b) of the Estate Duty Act would be intimated in due course. The Cs.E.D. were requested in January, 1978 to get the assessments under review completed expeditiously and to report the additional duty. They have also been reminded.

[Ministry of Finance (Deptt. of Revenue) letter No. 241|25|78-A&PAC-I dated 6th January, 1978.]

Recommendation

The Committee have been informed that in order to consider various problems regarding the valuation of unquoted shares of companies in general, a Study Group was set up by the Board in June, 1976. The Report of the Study Group was received by Government in September, 1977 and was stated to be under examination. The Committee recommend that the examination of the Report should be completed soon and the Committee apprised of the steps proposed to be taken by Government in the light of that Report.

[S. No. 21 (Para 4.33) of Appendix II of the 77th Report of the PAC (1977-78) (Sixth Lok Sabha)]

Action taken

The Report of the Study Group is under consideration of the Board. Further reply may kindly be awaited.

[Ministry of Finance (Deptt. of Revenue) letter No. 241|26|78-A&PAC-I dated 6th December, 1978.]

NEW DELHI;
April, 24, 1979.
Vaisakha 4, 1901 (S)

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

APPENDIX

Conclusions/Recommendations

S. No.	Para No.	Ministry/Department concerned	Conclusion/recommendation
1	2	3	4
1	1.3	Ministry of Finance (Dept. of Revenue)	The Committee hope that final replies in regard to the recommendations to which only interim replies have been furnished will be submitted to them expeditiously after getting them vetted by Audit.
2	1.6	Do.	The Committee are surprised that Government have not been able to take any decision so far on the recommendation of the Committee although it is almost a year that the Report of PAC was presented to Parliament. The Committee would like an early decision to be taken in the matter and in case it is decided to amend the law, they would like the amending bill to be brought before Parliament early.
3	1.8	Do.	The Committee feel that a period of six months is long enough for the Department to have taken a conclusive action in the case of an admittedly "clear mistake" resulting in sizeable loss to the revenue. The Committee desire that conclusive action on this recommendation should be reported to them within the next three months, *i.e.*, by the end of July 1979.

4	1.10	Do.	The Committee consider that the Department of Revenue is not applying itself earnestly to the task of examining the report of the Study Group. The period of a year and a half should have been more than sufficient for the examination of the Report and formulation of concrete steps in pursuance thereof. They would like conclusive action to be reported to them by the end of the next three months, *i.e.*, July 1979.

MGIPMRND—1122 LS—23-8-79—1200.