

PUBLIC ACCOUNTS COMMITTEE
(1977-78)

(SIXTH LOK SABHA)

SIXTY-FIRST REPORT

CORPORATION TAX AND INCOME TAX
A REVIEW

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 186th Report (Fifth Lok Sabha)]



[Presented in Lok Sabha on 20th December, 1977

Presented in Rajya Sabha on 20th December, 1977

LOK SABHA SECRETARIAT
NEW DELHI

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SIXTY-FIRST ACTION TAKEN REPORT OF
THE PUBLIC ACCOUNTS COMMITTEE
(1977-78) (SIXTH LOK SABHA) ON
CORPORATION TAX AND INCOME TAX.

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<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
1	1.5	3	176th	186th
2	1.6	4	recommendation	recommendations
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4	1.8	11	followed	follows
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16	1.24	15	are as	areas
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21	1.33	9	provision	provisions
21	1.34	6	these	those
25	1.42	1	as	was
29	4	3	short-terms	short-term.
32	4(iv)	3	periodically	periodical
35	-	(3(from bottom)	king	kind
54	-	6	After 'required',	<u>add</u> 'is'
54	-	15	and been	had been
117	1.42	1	as	was

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PUBLIC ACCOUNTS COMMITTEE
(1977-78)

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2. Shri H. G. Paranjpe . . . *Chief Financial Committee Officer*
3. Shri Bipin Behari . . . *Senior Financial Committee Officer.*

*Elected with effect from 23 November 1977 *vice* Sarvashri Sheo Narain and Jagdish Prasad Yadav ceased to be Members of the Committee on their appointment as Minister of State.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Sixty-First Report on the action taken by Government on the recommendations of the Public Accounts Committee contained in their One Hundred and Eighty-Sixth Report (Fifth Lok Sabha) on Corporation Tax and Income Tax—A Review.

2. On 10 August, 1977, 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 C. M. Stephen | <i>Chairman</i> |
| 2. Shri Asoke Krishna Dutt | <i>Convener</i> |
| 3. Shri Gauri Shankar Rai | } <i>Members</i> |
| 4. Shri Tulsidas Das Dasappa | |
| 5. Shri Kanwar Lal Gupta | |
| 6. Shri Zawar Hussain | |
| 7. Shri Vasant Sathe | |

3. The Action Taken Sub-Committee of the Public Accounts Committee (1977-78) considered and adopted the Report at their sitting held on 9th December, 1977. The Report was finally adopted by the Public Accounts Committee (1977-78) on 19 December, 1977.

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 appended to the Report in a consolidated form.

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;

December 19, 1977.

Agrahayana 28, 1899 (S).

C. M. STEPHEN,

*Chairman,
Public Accounts Committee.*

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 185th Report (Fifth Lok Sabha) on Review of Implementation by Government of the recommendations made by the Public Accounts Committee relating to Corporation Tax and Income-tax during 1964—74.

1.2. The Committee's 186th Report was presented to the Lok Sabha on 18 January, 1976 and contained 24 recommendations/observations. Action taken notes on these recommendations/observations were received from the Department of Revenue and Banking (now Department of Revenue) on different dates during May—July, 1976. Further information on a few points was called for on 1 August, 1977 and received from that Department on 13 September, 1977.

1.3. The Action Taken Notes received from Government have been broadly categorised as follows:

(i) Recommendations/observations that have been accepted by Government:

Sl. Nos. 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 17—21, 23.

(ii) Recommendations/observations which the Committee do not desire to pursue in view of the replies of Government:

Sl. Nos. 15, 22.

(iii) Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration :

Sl. Nos. 1, 7.

(iv) Recommendations/observations in respect of which Government have furnished interim replies :

Sl. No. 24.

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

A. Implementation Machinery (Paragraph 2.4 - Sl. No. 1)

1.5. Stressing the need for devising an adequate machinery to ensure implementation of their recommendations made over the years, the Committee, in paragraph 2.4 of their 176th Report (Fifth Lok Sabha), had Stated :

“In respect of all these matters the Public Accounts Committee have been making recommendations repeatedly and the Government have been giving assurances. However, as can be seen from the

following chapters, the assurances have, largely, remained unfulfilled. In a number of cases (of paragraphs 3·14, 4·7, 4·11, 5·13, 5·20, 6·13, 7·5, 7·13, 7·14, 9·17, 11·11, 11·14, 11·20, and 11·25 of this Report), there has been no finality as yet in respect of the action taken by Government on some of the important recommendations of the Committee, despite considerable time having elapsed. Unless the Government devise an adequate machinery to see that the recommendations of the Committee receive adequate and prompt attention and the assurances held out to the Committee are translated into positive action not only at the higher level in the Ministry of Finance and the Central Board of Direct Taxes but also by all those engaged, in some capacity or the other, in administering the Income-tax law and procedures the labours of the Committee over the past so many years shall have been in vain.”

1·6. Giving latest position in respect of the Committee’s recommendations referred to in various paragraphs mentioned above, Government have stated that :

“The latest position in respect of the recommendation referred to in various paragraphs mentioned above is as under :

- (i) *Para 3·14* - The Committee’s attention is invited to this Department’s reply to para 3·15 of this Report dated 29·6·76. Regarding the recommendation at para 1·14 of 150th Report in respect of amalgamation of the Agencies for collecting information and conducting research on tax problems, no decision has been arrived at so far. The Committee will be informed as soon as a decision is taken.
- (ii) *Para 4·7*—In this connection, a reference is invited to this Department’s reply of 21st September, 1974 to para 1·15 of 118th Report of the Committee (1973-74) (Appendix I). The results of the survey are, however, awaited. The Committee will be informed as soon as the results of Survey are known.
- (iii) *Para 4·11*—The matter has been referred to the Ministry of Law for obtaining the opinion of Attorney General, which is awaited.
- (iv) *Para 5·13*—The information sought for by the Audit in this connection has been furnished to them on 6th May, 1976 *vide* D. O. F. No. 236/194/71-A & PAC-II (Appendix II).
- (v) *Para 5·20*—In this connection, this Department’s reply dated the 24th April, 1976 to para 1·17 of the 18th Report may please be referred to (Appendix III).
- (vi) *Para 6·13*—The measures taken in this respect have been elucidated in replies to paras 1·16, 2·21, 5·18, and 5·19 of their 187th Report (Appendices IV, V and VI).

- (vii) *Paras 7·5, 7·13, and 7·14*—Replies sent on 17th July, 1975, 16th August, 1975 and 25th August, 1975 from F. No. 236/243/72-A&PAC-II may be referred to in this connection (Appendices VII, VIII and IX)
- (viii) *Para 9·17*—The results of review have been intimated to the Committee on 7-5-67 from F. No. 231/21/73- A & PAC II in reply to para 1·42 of their 141st Report (Appendix X)
- (ix) *Paras 11·11 & 11·14*—This Department's reply dated the 13th November, 1975 to para 1·95 of their 150th Report also covered their recommendation at para 1·105.
- (x) *Para 11·20*—In para 1·14 of their 25th Report, the Committee had recommended strengthening of the Intelligence Wing. The Board have recently take steps for strengthening the work of the Intelligence Wing. Five additional posts of Deputy Directors, 53 posts of Assistant Directors and 162 posts of Inspectors have been sanctioned in April, 1976.
- (xi) *Para 11·25*—In this connection, this Department's reply to para 11·31 of this (186th) Report may please be referred to."

The latest position intimated by Government in regard to the implementation of the recommendations given in earlier Reports of the Committee (mentioned in para 2·4 of the 186th Report as illustrations) has been analysed in Appendix XXIII.

1·7. The Committee had come to the conclusion that they have been making recommendations repeatedly and the Government have been giving assurances which have, largely remained, unfulfilled. In support of their conclusion, the Committee has cited recommendations of their earlier Reports. The Committee had recommended that Government should devise an adequate machinery to see that the recommendations of the Committee receive adequate and prompt attention at all levels. In their reply, Government have merely stated the factual position on earlier recommendations cited as illustration but have not spelt out the specific steps taken or proposed to be taken to ensure timely implementation of the assurances given by them to the Committee. The Committee, therefore, reiterate their recommendations.

B. STATISTICAL INFORMATION SYSTEM (Paragraphs—12·4 and 12·5—Sl. Nos. 13 And 14)

1·8. In paragraphs 12·4 and 12·5 of their 186th Report, the Committee had stressed the importance of building up of an effective statistical system. The Committee had stated:

“The first basic tool in the hands of any tax administration is an efficient statistical information system. Any one entrusted with the management of the finances of a country should have at his disposal up-to-date and complete data on all aspects of the taxes which he administers and particularly on the impact and incidence of

proposed tax measures, so that timely changes may be made and a proper and purposeful guidance given to policy makers. This information system has, most unfortunately, not been built up yet in the Income-tax Department, in spite of repeated recommendations by the Public Accounts Committee and other Commissions and Committees, and this failure had led to all the distortion in the tax administration, leading to *ad-hoc* solution, hasty amendments and cumbersome but ineffective procedures. The Working Group of Administrative Reforms Commission on the Central Direct Taxes Administration, which submitted its Report in the year 1968, had observed as followed on the still prevailing state of affairs :

‘The tax which the Department administers, affects the social and economic life of the country in a most powerful way. No one knows or can know as much about the effect of the administration of the taxes as members of this Department, but we doubt if there is a machinery in the Department adequately equipped to give information on such matters.’

In Chapter III of this Report, extracts of various recommendations of this Committee have been given in which the importance of strengthening the statistical machinery has been repeatedly stressed. The Committee would like particularly to draw attention to paragraphs 1.23 to 1.26 of their 51st Report (Fifth Lok Sabha). In these paragraphs, the Committee had deplored the failure of the CBDT to establish a proper machinery for furnishing upto-date statistics so as to ensure a more accurate forecast of revenues. However, apart from stating that a Committee had been set up, under the Chairmanship of a Joint Secretary of the Department of Statistics, to look into the statistical framework of the Income-tax Department and to make suitable recommendations for streamlining and systematizing it, no concrete steps appear to have been taken. This was clearly pointed out in paragraphs 1.9, 1.10 and 1.14 of the 150th Report (Fifth Lok Sabha). The latest All India Income-tax Statistics that is available in cyclostyled form relates to the year 1971-72 and this too is deficient in many respects. There has been, to the knowledge of the Committee, no All India Statistics in respect of other Direct Taxes. The Committee, would, therefore, strongly urge Government to speed up action on the setting up of an efficient statistical organisation which would give all necessary data promptly and contemporaneously with the framing of the Budget, so that not only the Minister of Finance, but also the Members of Parliament, at the time of discussion of the Budget, could have the advantage of complete information in respect of all aspects of tax levy and collection. On several occasions, the Central Board of Direct Taxes were also unable to furnish promptly to the Committee complete and updated information relating to Direct Taxes, on account of the absence of a sound statistical base within the organisation. The statistical organisation when set up as recommended by the Committee, should also be in a position to give all information in this regard required by the Committee.”

1.9. In their Action Taken Note dated 28th June, 1976, the Department of Revenue and Banking have *inter alia* informed the Committee that the

following action was being taken on various recommendations contained in the final Report of the Committee on Direct Taxes Statistics submitted in January, 1976 :

- “In para 12.4, the Committee has recommended the building up of an efficient statistical information system. In para 12.5 the Committee has recommended the setting up of an efficient statistical organisation which should give all necessary data promptly and contemporaneously with the framing of the Budget so that not only the Minister of Finance but also the Members of the Parliament, at the time of discussion of the Budget, could have the advantage of complete information in respect of all aspects of tax levy and collection.
2. As observed by the Committee in para 12.5, the Government had appointed a Committee of experts on Direct Taxes Statistics, on 31.3.1973, to study the unsatisfactory nature of statistics relating to Direct Taxes in all its aspects and to make recommendations, among others, on improving the statistical information system and the administrative, organisational and procedural changes required to give effect to its recommendations.
 3. The Committee on Direct Taxes Statistics submitted an interim report in November, 1973, in which the ways and means of clearing the back-log and up-dating the Statistics and ensuring their timely and expeditious publication in future, were discussed. The main recommendations contained in the Interim Report and the action taken thereon, as reported by the Ministry have been reproduced in para 3.14.
 4. The final report of the Committee on Direct Taxes Statistics, submitted in January 1976, contains recommendations for building up of an efficient Statistical Information System and a Statistical Organisation. The main recommendations and the action taken on the Report by the Ministry, are :—

(A) Statistical information System

(i) Annual Statistical Publications :

- (a) Among the annual publications, the All India Income-tax Statistics (AIITS) is the most important and comprehensive publication with a variety of tables which provide a detailed classification of the assessed income and the tax levied by several characterisations. The major deficiencies in AIITS, are due to the absence of the required type of information in the source-data contained in Assessment Forms ITNS 150 (for non-company assesseees) and ITNS 150A (for company assesseees). The Committee has, therefore, suggested a number of changes in these two forms. The revised forms suggested by the Committee will, *inter alia*, provide for recording a number of additional items of informations, such as the profession of individuals, the source of salary income (from Central State Government/Local authorities Public Sector Undertakings or Private employers), property in-

come from self-occupied building, income derived from agriculture, entitlements in rebates under the new provisions in sections 80-HH, 80-M, 80-N, 80-O, 80-Q, 80-R, 80-RR and 80-TT, the ownership category of a company, (public, joint or private sector), deductions due to special allowance on newly constructed residential units, amortization of preliminary expenses and expenditure on prospecting, etc.

(b) The contents of AIITS have been greatly improved by proposing a set of revised statistical tables which will, among others, provide for—

- (i) Details of Important deductions and reliefs by status and income ranges ;
- (ii) Information on net agricultural income of the assessee;
- (iii) Trade classification in conformity with the National Income Classification (NIC) :
- (iv) Distribution of assessees by major occupational groups;
- (v) Separate data on short-term and long-term capital gains by ranges of assessed income and status;
- (vi) Classification of companies on the basis of their ownership *i.e.*—
 - (a) Statutory Corporations and Government Companies;
 - (b) Companies in Joint Sector;
 - (c) Branches of Foreign Companies;
 - (d) Public Limited Companies in the Private Sector ;
and
 - (e) Private Limited Companies in the Private Sector.

(ii) **Periodical and ad-hoc reports :**

- (a) Extensive modifications and revision of various periodical and *ad-hoc* reports have been suggested by the Committee so that revised proformate can take into account most of the likely requirements of the Department and, in particular, the information required by the Parliament. The periodical reports have been so designed as to obviate the need to secure information from the field officers on an *ad-hoc* basis except in exceptional circumstances.
- (b) The proposed proformae should be tried out initially in a few Commissioners' charges to ascertain the practical difficulties, if any.

- (c) The Directorate of Inspection (Research & Statistics) should be custodian of all statistical information.

B. Statistical Organisation

As the work relating to compilation and publication of Statistics is entrusted to Directorate of Inspection (Research & Statistics), the Committee has suggested, for this Directorate, a number of professional posts at various levels of supervision and also suitable augmentation of staff taking into account the greatly enlarged functions and work load.

5. The final report of the Committee was considered by the Central Board of Direct Taxes on 26-4-76 and it was decided to appoint an officer on Special Duty in the Directorate of Organisation and Management Services to prepare detailed proposals for implementing the various recommendations of the Committee in relation to the collection and compilation of Statistics in the light of some changes made and guidelines laid down by the Board. The DI (R & S) has been asked to submit proposals, through the DI (O & MS), on the basis of the recommendation of the Committee, to strengthen and improve the statistical organisational structure of the Directorate of Research and Statistics. A few of the recommendations of the Committee requiring detailed consideration, are being actively examined.

6. The latest All India Statistics presently available relate to the year 1972-73 and were published in 1975. The publication of Statistics for 1973-74 is being phased out as recommended by the Committee on Direct Taxes Statistics in its interim report. The All-India Income Tax Statistics for 1974-75 are in an advanced stage of finalisation. All India Statistics in respect of other Direct Taxes are also brought out. The Committee on Direct Taxes Statistics could not, however, make any recommendation relating to other Direct Taxes due to lack of time. It has observed that the changes required in the collection, compilation and publication of their statistics can be modelled broadly on the same lines as suggested by the Committee for Income-Tax Statistics and has recommended that this matter may be further examined by the Directorate of Organisation and Management Services (DOMS) in the light of the report of the Committee. The Board considered this suggestion of the Committee also at the meeting held on 26th April, 1976 and has asked the Directorate of Organisation & Management Service to work out a Scheme of collection, compilation and publication of statistics relating to other Direct Taxes in the light of the recommendations of the Committee."

As regards the Committee's recommendation in 150th Report in respect of amalgamation of the Agencies for collecting information and conducting research on tax problems, Department of Revenue in its note dated 17 July, 1976 furnished in reply to recommendation No. (1) stated *inter alia* :

"No decision has been arrived at so far. The Committee will be informed as soon as a decision is taken. "

1.10. In a subsequent Note dated 13 September, 1977, the Government have informed the Committee:

".....The merger of the three agencies e.g. Tax Planning and Legislation Section, the Directorate of Research and Statistics and

the Fiscal Policy Research Unit has not been considered necessary. The action note has the approval of the then Minister of Revenue and Banking.”

1.11. The Committee had in paragraphs 1.23 to 1.26 of their 51st Report (1972-73) stressed the need for amalgamation of different agencies engaged in the task of collecting information and conducting research on tax problems. The Working Group of the Administrative Reforms Commission on the Central Direct Taxes Administration (1968) had, it would be recalled, also favoured such an amalgamation. In their note dated 17 July 1976, the Committee were informed that no decision has been arrived at on this question but in a subsequent Note dated 13 September, 1977, the Committee have been informed that “merger of the three agencies- *Viz.* Tax planning and Legislation Section, the Directorate of Research and Statistics and the Fiscal Policy Research Unit was not considered necessary. The Committee are surprised at this laconic reply. Strangely enough, it does not mention even briefly the reasons which have weighed with the Government in not accepting this long outstanding recommendation of the Committee. The Committee reiterate their recommendation and urge Government reconsider their decision.

C. Marked variations between Budget Estimates and Actuals (Paragraph 3.15—Sl. No. 2)

1.12. Commenting on the marked variations between budget estimates and actuals, the Committee, in paragraph 3.15 of their 186th Report (Fifth Lok Sabha), concluded:

“While, on Government’s own admission, the steps already taken by the Ministry have not produced any positive results, the Ministry does not seem to have taken any concrete action on the specific recommendations of the Committee made in their 51st Report (Fifth Lok Sabha) even after a lapse of three years. In the meantime, even for the years 1970-71 to 1972-73, the variations between the budget estimates and the actuals have continued to be far more than 3 or 4 per cent indicated earlier by the Committee and there has been again a persistent underestimation of tax revenue to the extent of 8.34 per cent to 14.86 per cent under Corporation Tax and 7.28 per cent of 8.94 per cent under Income-Tax. The conclusion that the recommendations of the Committee in this regard have not been acted upon in letter and spirit is, therefore, inescapable.”

1.13. The Committee on Direct Taxes Statistics headed by Dr. N. T. Mathew, Joint Secretary, in its final report submitted in January, 1975 had dealt, among others with the problem of short-term forecasting of revenue receipts. Intimating the recommendation made by that Committee on this subject and the progress made in this direction, Government have in a note dated 29 June, 1976 stated:

“The Committee on Direct Taxes Statistics submitted its final report in January, 1976. The report deals, among others, with the problem of short-term forecasting of revenue receipts.

The said Committee has observed that the improvements in the data base, resulting from its other recommendations, will provide adequate means for short-term forecasting of revenue receipts. As regards the specific techniques for short-term forecasting, the Committee has observed that any forecasting model is subject to inherent limitations and can never be considered as completely fool-proof. Besides, in a Dynamic situation, where tax rates are altered every year and new fiscal measures promulgated, predictions made 15 months in advance are bound to be tentative and subject to change in the light of changing circumstances. In spite of these limitations, the Committee has recommended that certain objective procedures for forecasting tax revenues may be developed by establishing appropriate regressive relationship between tax revenues and other cognate variables such as non-agricultural national income, wages and salaries, population growth, employment and price levels. It may be added that some exploratory exercises in this direction were carried out by the Planning Commission and the Central Statistical Organisation on behalf of the Committee, but the predictive power of these relationships was not found to be quite adequate.

The Committee has further suggested that the Director of Inspection (R&S) should be adequately equipped to undertake the forecasting work at a technically competent level, if necessary, in collaboration with the Central Statistical Organisation, Planning Commission and other Divisions of the Ministry of Finance.

The Central Board of Direct Taxes, at its meeting held on 26-4-76, accepted, in principle, the above recommendations of the Committee. The D.I. (R&S), for the creation of necessary additional posts so that the exercises suggested by the Committee can be undertaken. The results of such studies will be utilised in the formulation of Budget Estimates of Revenue Receipts."

1.14. Giving details of posts sanctioned for this purpose, Government have, in their note dated 13 September, 1977, furnished the following figures:

<i>Post</i>	<i>Pay Scale</i>	<i>No. of posts</i>
	Rs.	
Statistician	700—1300	1
Senior Statistical Investigator	550—900	2
Senior Computers	330—560	6

(Note : These posts have not been filled up as yet because the recruitment rules for these posts are being framed.)

1.15 The Committee note that Government have already collected details of the methodology followed in UK and USA for formulation of budget estimates. Now that necessary posts have also been sanctioned, the Committee hope that necessary studies in revenue forecasting would be undertaken soon and a more effective forecasting system evolved which would avoid marked variations between budget estimates and actuals.

D. Income escaping Assessment—need for Coordination (Paragraphs 4.12 and 4.13—Sl. No. 3)

1.16. Analysing the “basic factors” responsible for income escaping assessment, the Committee had, in paragraphs 4.12 and 4.13 of their 186th Report (Fifth Lok Sabha) observed that:

“It would thus appear that, apart from the weakness of Internal Audit and the lack of pre-scrutiny of collaboration agreements, there are others, more basic factors responsible for income escaping assessment. In the first place, there seems to be chronic lack of coordination (i) among the assessing officers of the Department itself, (ii) among the assessment records pertaining to different direct taxes, particularly income tax and wealth-tax, (iii) among the income-tax Department and the other tax collecting departments of the Central and State Governments and (iv) among the Central Board of Direct Taxes and the administrative Ministries entering into or approving foreign collaboration agreements.

Better late than never, Special Circles have recently been set up in ten urban centres for dealing with ‘professionals’ like doctors lawyers, etc. The Committee trust that work in these Special Circles which will have a lot of leeway to make up, will be adequately performed and supervised.”

1.17. In their reply dated 28 April, 1976, Department of Revenue and Banking have stated:

“The Department of Revenue & Banking shares the views of the Committee regarding the importance of coordination among the various limbs of the taxing machinery and also among the Central Board of Direct Taxes and the administrative Ministries entering into or approving foreign collaboration agreements. The Central Board of Direct Taxes have already initiated action to achieve the objectives referred to by the Committee.

Provision already exists in the appropriate Annexures of the form of Return of Income to call for particulars of rent, commission etc. under section 133 of the Act. Instructions to the effect that particulars in respect of persons not assessed in the same circle, are to be reported by the issue of intimation slips to the Income-tax officers concerned for consideration in the respective assessments, are already in existence. Similarly, intimation slips should also be issued to the ITOB concerned when any useful information is found on examination of accounts by assessing authorities.

The question of coordination among the assessment of records of different direct taxes has been under constant review of the C.B.D.T. who have issued Instruction No. 172 F.No. 4/69/69-ED dated 15-5-70 (Appendix XI), Instruction No. 494, F. No. 309/6/72-ED dated 10-1-73 (Appendix XII), Instruction No. 544, F. No. 301/126/72-ED dated 8-5-73 (Appendix XIII) and Instruction No. 595 F.No. 313/13/73-ED dated 24-8-73 (Appendix XIV). The problem of lack of coordination amongst the assessment records of various direct taxes was also made the subject of a comprehensive study conducted by the Directorate, of O&M Services (Income-tax). As a remedial measure, suitable guid-lines for field officers spelling out common situations/developments occurring in, or coming to light during proceedings under one direct tax law and the necessary consequential action under others were prepared. The guidelines in the form of a brochure were issued under letter No. 3/16/73 DOMS dated 15-11-73.

The existing arrangements for coordination between Income-tax Department on the one hand and of Central and State Government Departments on the other, are as under:

- (i) The Directorate of Inspection (Inv.) receives information from the Department of Company Affairs, Central Bureau of Investigation, D.R.I., Enforcement Directorate and Reserve Bank and transmits the same to the Commissioners. The scope of these operations has been extended after the setting up of a Special Cell in the Directorate of Inspection (Inv.).
- (ii) At the Commissioners' level, the Department maintaining liaison with State Government Departments including the Sales Tax Department and also gathers information from other sources, e.g. Regional Controller of Imports and Exports, Registration Offices, Regional Transport Authorities, LIC etc. etc.
- (iii) On the basis of discussion which the Finance Secretary had with the Chief Secretaries of the States, the Cs. I.T. were asked (*vide* Board's Instruction F.No. 441/81/75-IT(Inv.) dated 17-11-75 and F.No. 221/9/76-IT A. II dated 1-3-76] to meet the Chief Secretaries periodically, ordinarily once a month, to apprise them of the action taken by the Income-tax Department in respect of complaints received from the State Governments about under-valuation of properties, evasion of Income-tax/Wealth-tax by individuals etc.
- (iv) The coordination amongst Income-tax Customs and Central Excise Department and the Enforcement Directorate is being ensured through periodical meetings of the Technical Coordination Committees at the Central, Zonal and Regional levels. The coverage of subjects in these meetings has been extended to include issues relating to agency commission payable or paid to Indian agents of foreign concerns entering into contracts for the supply of goods and services.

- (v) It has been decided that a committee consisting of DI (Inv.), DI(OMS) and DI (IT & Audit) should study in depth the following problems:
- (a) whether the present system was functioning well,
 - (b) The Sources and areas from where information was being received and how it was being utilised,
 - (c) Whether the information was being received regularly or received in fits and starts,
 - (d) How the information could be utilised optimally without departing from the objectives of the summary assessments scheme, and
 - (e) Whether it was desirable to make a selective approach both in terms of information to be collected and the assessees in respect of whom information should be collected.
- (vi) After the receipt of the P.A.C. Report, the observation of the Committee have been brought to the notice of the above Committee. A copy of Instruction No. 924, F.No. 414/74/75-II (Inv) dated 24-2-76 (Appendix XV) has also been sent to them.
- (vii) For other direct taxes also, the Board has already taken action to ensure coordination with State authorities issuing succession certificate. A copy of Instruction No. 677 F.No. 309/1/74-ED dated 6/4/74 (Appendix XVI) is attached. Similarly Chief Secretaries to the State Governments have also been requested to pass on information likely to be helpful in Estate Duty assessments *vide* F.No. 309/5/74-ED dated 25-11-74 (Appendix XVII).

Regarding coordination among CBDT and administrative Ministries entering into or approving foreign collaboration agreement, kind attention of the Committee is invited to the Ministry of Finance (Department of Revenue & Insurance)'s reply to recommendation, para 5.69 of 128th Report. A copy of the said reply (Appendix XVIII) is attached for ready reference."

1.18. On the need to supervise the 'Special Circles', Government have, in their Action Taken Note dated 21 June, 1976, informed the Committee :

"With a view to ensuring that the work in the Special Circles set up in ten urban centres for dealing with 'professionals' like doctors, lawyers etc. is adequately performed and supervised, the Commissioners of Income-tax have been asked to make an annual evaluation of the performance of the Special Circle(s) functioning under them. The Director of Inspection (Income-tax & Audit) has been assigned the task of analysing the evaluation reports and submitting a review to the Board. A copy of the relevant instruction issued *vide* letter F.No. 415/2/76-IT(Inv.) dated the 26th April, 1976 is annexed (Appendix XIX)."

1.19. It is a matter of satisfaction to note that Government share the views of the Committee regarding the importance of coordination among the various limbs of the tax machinery and also among the Central Board of Direct Taxes and the Administrative Ministries entering into or approving foreign collaboration agreements and that certain steps have already been taken by Government in this direction. One such step is the appointment of a Departmental Committee to make a "study in depth" of various problems including the functioning of the existing system, resources and the areas of receipt of information and the manner of its utilisation etc. The Committee trust that Government would soon decide upon the steps to be undertaken by it to ensure greater coordination and combat the problem of income escaping assessment to which the Committee have been attaching a great deal of importance.

E. Mistakes Committed in assessing total Income due to negligence and Irregularities in allowing Depreciation and Development Rebate (Paragraphs 5.21, 6.14 12.2 and 12.3—Sl. Nos. 4, 5, 11 and 12).

1.20. Audit has been pointing out mistakes in computation of depreciation and development rebate and resultant under-assessment in a large number of cases each year. Stressing the need to root out careless and costly mistakes, the Committee, in paragraphs 5.21 and 6.12 of their 186th Report, had recommended :

"It would appear from the above that while on the one hand there is still much to be desired in the implementation of the instructions issued by the Board, on the other, the Ministry has yet to take firm and effective steps to ensure proper planning of the work of the Income-tax Officers so as to avoid the assessments, at least in big income cases, being rushed through towards the end of the year or the end of the limitation period and to ensure that the computation of income and the assessment orders themselves are checked and counter-checked so as to avoid careless and costly mistakes."

1.21. In reply to Committee's recommendation in paragraph 5.21, Government have replied :

"The Department of Revenue and Banking share the anxiety of the Committee. As regards the proper planning of the work of the Income-tax Officers, with the view to avoid the assessments being rushed through towards the end of the year or the end of the limitation period, Annual Action Plans are being laid down by the Board. The Action Plan for the year 1976-77 *inter alia* sets the following objectives so far as early completion of assessments are concerned :

- (i) Disposal of all time-barring assessments by 31-12-1976.

- (ii) Disposal of 70% of all non-company Category I scrutiny assessments during the year and ensuring disposal of 50% of total workload by 31-12-1976.
- (iii) Disposal of 75% of the total workload of company cases with income above Rs. 5,000/- during the year and ensuring the disposal of 60% of total workload by 31-12-1976.

Performance in relation to targets in the Action Plan is being watched closely and periodical reviews are undertaken.

As regards ensuring the correctness of the computation of income and taxes, these are checked and counter-checked so as to avoid careless and costly mistakes, according to the instructions issued by the Board from time to time. A system to ensure strict compliance of these instructions is also being evolved.

With a view to reducing the chances of mistakes in the calculation of tax attributable to the human factor, a comprehensive plan has been prepared for installing programmable calculators for purposes of tax calculations in company cases and non-company cases with assessed income over Rs. 1 lakh at 4 Regional centres *viz.* Delhi, Bombay, Calcutta and Madras. The unit at Delhi has already started functioning and during its four months' run it has ensured mistake-free pre-assessment tax calculations in one thousand cases and detected mistakes of the order of Rs. 2 lakhs during the post-assessment check of 1346 cases. A proposal to instal mini computers instead of programmable calculators which will cover calculation of taxes in all cases involving income exceeding Rs. 25,000 is also under consideration.

With the introduction of Section 144B in the Income Tax Act, 1961 with effect from 1-1-1976 by the Taxation Laws (Amendment) Act, 1976, it is obligatory on the part of the Income-tax Officer to send a draft of the assessment order along with the objections received from the assessee to the Inspecting Assistant Commissioner if the variation in Income/Loss is Rs. 1 lakh or above, and the Inspecting Assistant Commissioner is required to give directions which will be binding on the Income-tax Officer. This would ensure a double-checking by the Inspecting Assistant Commissioner in such cases."

1.22. As regards irregularities noticed in allowing Depreciation and Development Rebate, the Committee's conclusion in paragraph 6.14 of their 176th Report (Fifth Lok Sabha) was :

"It is clear from a summary of the position that the implementation of the specific suggestions of the Public Accounts Committee, whether in the matter of simplification or rationalisation of the rules and procedure or in the matter of improving the efficiency and check by inspecting Assistant Commissioners has been half-hearted and as a result the situation has not improved at all."

I·23 In reply to the Committee's recommendation in paragraph 6·14 the Committee have been informed that the Department of Revenue and Banking has taken steps from time to time to minimise mistakes in granting depreciation and Development Rebate. The steps taken have been desented as under :

- “(i) The Income -tax Rules, 1962 *inter-alia* providing rates of depreciation admissible on various assets have been amended w.e.f. 1st April, 1970, rationalising the rates of depreciation allowance and simplifying the calculations. The number of rates at which depreciation is admissible to various classes of assets has been reduced to 9 from 17. It is felt that it is too early to make any changes.
- (ii) The Director of Inspection (IT) have prepared and sent to Commissioners of Income-tax check-sheets from the use of Internal Audit Parties. These check-sheets include all the important points which are to be looked into in connection with the allowance of depreciation and Development rebate. The check-sheets are being revised, whenever necessary.
- (iii) Greater attention has been given to the training of Internal Audit Party officials. The Regional Training Institutes trained 285 officials of the Internal Audit Parties during 1973-74 and 100 persons during 1974-75. From January 1976, the Commissioners of Income Tax have started training courses for ministerial staff cases in Company Circles. The Training courses include checking of depreciation and development rebate.
- (iv) Commissioners of Income-tax have been instructed that Inspecting Assistant Commissioners should scrutinise about a dozen of the important cases in each Income-tax Officers's charge every year to see that the principles have been correctly applied in determining depreciation and development rebate, that the rates applied are correct and that withdrawal of development rebate has been duly considered in appropriate cases. On 18th December, 1975, fresh instructions have been issued to the Commissioners directing them to ensure that all Inspecting Assistant Commissioners check depreciation and development rebate in a dozen important cases in each Income-tax Officers' charge.”

I·24 In paragraphs 12·2 and 12·3 of their 186th Report, the Committee had concluded that :

“Representatives of the Government have admitted and the Public Accounts Committee have pointed out in their successive Reports that the mistakes detected by test audit are 'costly mistakes' (in one instance the amount involved was admittedly more than Rs. 2 crores) and have resulted in heavy loss of revenue to the exchequer. What the total annual loss to the Exchequer on account of these mistakes would be in anybody's guess. However if the mistakes highlighted by statutory Audit are

added to the mistakes pointed out by Internal Audit, imperfect though such audit is, the annual accretion to the exchequer would have been much more than what is borne as extra tax by the honest tax-payers. Unfortunately, the Income-tax Department appears to be managing its affairs by what might be dubbed the principle of "Management by Crisis" rather than "Management by objectives". This is by no means a happy situation.

The Committee cannot, however, rest content with a mere expression of disapproval and disappointment. They consider it their duty to point out certain important areas of deficiency where, if adequate remedies are attempted, there may well be hope of real improvement. In this Report, the Committee have confined their recommendations only to the more fundamental of the aforesaid areas so that there should not be any excuse for not implementing these on the ground of ancillary or incidental problems hindering implementation or on the ground that the recommendations were too many and too complex.

1.25 Explaining the lines of approach adopted by the Department to reduce the occurrence of mistakes which result in heavy loss of revenue, the Department has in its Action Taken Note dated 25 June, 1976 stated:

"The Department of Revenue & Banking share the anxiety of the Committee regarding "costly mistakes" detected by the Revenue/Internal Audit.

It is submitted that, in the recent past, the emphasis has been on administrative planning, organisational development and new management concepts like "Management by Objectives". In fact, with effect from the year 1974-75, the work in the field offices is being regulated on the basis of Management by Objectives under which Annual Action Plans are formulated, at various operative levels to achieve objectives set in key result areas of work.

The following lines of approach have been adopted to reduce the occurrence of mistakes :

- (i) In order to meet the chronic shortage of officers and staff, due to which the assessing officers work under undue pressure and tension, a five year plan regarding the requirements of officers and staff for assessment and collection work extending upto 1979-80 was worked out in consultation with the Staff Inspection Unit of the Ministry of Finance. The first phase of this project covering the period upto 31st March, 1977 was completed in June, 1975 with the additional sanction of 15 posts of I.A.Cs, 223 posts of I.T.Os and their complementary staff. This plan is intended to ensure that the officers and staff are in position well in time and that the officers do not work under the pressure of a heavy load of arrears.

- (ii) The Department has taken a number of steps with a view to helping the officers in acquiring/refreshing knowledge of law and accounts and developing the required degree of expertise and thus reducing the possibility of making mistakes. Before 1973, the only regular arrangement for personnel training was the I.R.S. (Direct Taxes) Staff College at Nagpur which was responsible for imparting initial training to the directly recruited class-I Income-tax Officers. Refresher or specialised courses for gazetted officers were held in different Commissioners charges on an *ad hoc* basis. However, pursuant to the recommendations made by the Wanchoo Committee, the training arrangements have been strengthened and revitalised.

The Staff College has been entrusted with the responsibility of conducting Refresher and other specialised courses for Class-I Officers and management development courses for Commissioners, Assistant Commissioners and Senior Class-I Income-Tax Officers. Four Regional Training Institutes have been set up at Bombay, Bangalore, Calcutta and Lucknow for imparting initial training for Class-II Income-tax Officers and Inspectors and also for conducting orientation, refresher and other specialised courses for executive and ministerial supervisory staff. Training arrangements for Ministerial staff in the Commissioners Charges have also been put on a regular and proper footing and the Charge Commissioner have constituted regular training cells for initial and refresher training to the ministerial staff of their charges.

- (iii) The Department has also set up an independent wing Publicity and Public Relations headed by a Director [in the existing Directorate of Inspection (RS&P)], to ensure timely supply of Board's Circulars, explanatory notes, bulletins and up-dated manuals to the field formations.
- (iv) In order to reduce the chances of mistakes in the calculation of tax attributable to human factor a comprehensive plan for installing programmable calculation for purposes of tax calculations in (a) company cases; (b) non-company cases with assessed income over Rs. 1 lakh at four Regional Centres, *viz.*, Delhi, Bombay, Calcutta and Madras was prepared. The unit at Delhi has already started functioning and during its 4 months run, it has ensured mistakes free pre-assessment tax calculations in 100 cases and detected mistakes of the order of Rs. 2 lakhs during post-assessment check of 1346 cases. It is now proposed to instal mini-computers (instead of Programmable Calculators) which will cover calculation of taxes in all cases involving income exceeding Rs. 25,000.

In view of the position explained in respect of para 12.2 above, no further comments are called for."

1.26. While sharing the anxiety of the Committee regarding "costly mistakes" detected by the revenue audit/internal audit from time to time, the Department of Revenue has stated that in the

recent past, the emphasis has been on administrative planning, organisational development and new management concepts like "management by objectives". The lines of this new approach are stated to be (i) Introduction of a system of Annual Action Plans since 1974-75, (ii) formulation of a Five Year Plan regarding requirements of officers and staff for assessment and collection work upto 1979-80; (iii) strengthening of training arrangements at L.R.S. (Direct Taxes) Staff College, Nagpur and setting up of four Regional Training Institutes at Bombay, Bangalore, Calcutta and Lucknow, (iv) setting up of an independent wing for publicity and public relations and (v) installation of mini-computers which will cover collection of taxes in all cases involving income exceeding Rs. 25,000. The Committee hope that efficacy of these steps to minimise incidence of mistakes in assessment of income would be kept under constant review. The Committee also hope that excessive reliance on augmentation of staff strength to check such mistakes would be avoided.

F. Mistakes in levying additional tax on Companies
(Paragraph 9·18—Sl. No. 7)

1·27. On the question of failures to levy interest, the Committee, in paragraph 9·18 of their 186th Report (Fifth Lok Sabha) had observed :

"In spite of various exhortation and recommendations of the Public Accounts Committee, the Ministry of Finance has still not come to grip with the problem relating to the failure to levy interest and has consistently failed to fulfil the assurances held out. Even where action is taken on a special suggestion of the Committee, it is so tardy that the Committee feel that the Ministry has to be goaded time and again. For instance, their suggestion regarding the simplification of interest calculation had been accepted as long back as November 1969, powers to frame rules for the purposes were required in April 1971 by amending the Income-tax Act while the rules were actually framed and notified in December, 1974, effective only from the 1st January, 1975. It is disconcerting that the Ministry should have taken six long years to implement their simple suggestion. Similarly, though in pursuance of the Committees suggestion the target date for a general review of all cases of completed assessments for more than Rs. 50,000 with a view to ensuring enforcement of penal provisions, had been fixed as 31st October, 1974 by the Central Board of Direct Taxes itself, the results of this review are still not available to the Committee."

1·28. The Committee have been informed that out of 1·73 lakhs of assessments of Rs. 50,000 and above completed during the assessment years 1971-72 to 1973-74, 1·61 lakhs of such assessments were reviewed with a view to ascertain the short-levy/non-levy of interest under various sections of the Income-tax Act, 1961 in all the charges. From the Action Taken Replies dated 7 May, 1976 and 8 March, 1977 (Appendices X and XX) the following position has emerged :—

1. Total number of cases of 50,000 and above completed during the years 1971-72 to 1973-74.	Rs. 1·73 lakhs
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2. Number of assessments checked/reviewed Rs. 1.61 lakhs out of (1) above.
3. Number of assessments in which short levy /non-levy of interest was detected. Rs. 0.12 lakhs
4. Amount of interest short-levied/non-levied Rs. 145.40 lakhs
5. Amount of interest out of (4) above not redeemable due to limitation. Rs. 1.53 lakhs (in 108 cases)

1.29. From the foregoing information furnished by the Department of Revenue, the Committee find that out of 1.73 lakhs of assessments of Rs. 50,000 and above completed during the assessment years 1971-72 to 1973-74, a review of 1.61 lakhs of such assessments has been made. This limited review has revealed 0.12 lakh cases of assessment involving short-levy/non-levy of interest. Out of the interest of Rs. 145.41 lakhs short levied/non-levied an amount of Rs. 1.53 lakhs is stated to be "not redeemable due to limitation." The Committee stress once again the need to devise effective steps to ensure that interest is recovered in all cases of default wherever it is leviable under the provision of the Income-tax Act to avoid loss of revenue on this account.

G. Arrear Demands and Arrear Assessments (Paragraph 11.31, Sl. No. 9)

1.30. Gross arrears of tax have been increasing, over the years despite efforts being made by Government to reverse that trend. The gross arrears which stood at Rs. 287.32 crores at the end of 1961-62 rose to a staggering figure of Rs. 805.37 crores at the end of 1971-72 [vide paragraph 11.2 of their 186th Report (Fifth Lok Sabha)]. In this context, the Committee had, after review of various steps taken by Government in this regard, recommended in paragraph 11.31 of that Report :

"It would be seen from the recouital above that while some of the legal remedies suggested by the Committee from 1969 onwards for reducing the ever-increasing arrears of Income-tax have been adopted only in 1975, the Central Board of Direct Taxes have still to tackle effectively a number of administrative problems such as, (i) fixation of an order of priorities concentrating primarily, on big income cases, (ii) proper planning of the work of Income-tax Officers so as to complete the high income groups assessments expeditiously, (iii) avoidance of over pitched and unrealistic assessments, (iv) ineffective working of the machinery set up to watch recovery of arrear demands of big magnitude, and (v) above all, creating a statistical organisation that can give reliable data. The position of arrear demands and arrear assessments is not likely to show any marked improvement unless the Ministry of Finance comes to grips with these fundamental problems."

1.31. In their reply to the aforesaid recommendation Government have intimated, *inter alia*, that :

“The Department of Revenue & Banking (Revenue Wing) share the views expressed by the Committee regarding the ever-increasing arrears of income-tax and agree with the suggestions made.

Regarding the suggestions made at (i) and (ii) above, the steps already taken by the Department are set out in the reply to the recommendations contained in para 5.21 of this Report.

As regards the suggestion made at (iii), adequate legal as well as administrative measures have been taken to ensure avoidance of over-pitched and unrealistic assessments. Apart from various instructions issued from the Board from time to time the law also have been recently amended as set out in the Department's reply to recommendation at para No. 12.6 of this Report.¶

As regards the suggestion made by the Committee at (iv) of the recommendation, the steps taken by the Department have been brought to the notice of the Committee in the Department's reply to the recommendation at para No. 12.1 of this Report.

As regards the suggestion made by the Committee at (v) of the recommendation, kind attention of the Committee is invited to Department's reply to recommendations at Para No. 12.4 and 12.5 of this Report.”

1.32. The crux of the Committee's suggestions was that the work of Income-tax Officers should be so planned as to ensure that bigger cases involving high incomes should be taken up not only well before the end of the limitation period but also on a priority basis. The Action Plan indicated in the Ministry's reply to paragraph 5.21 contemplates, *inter alia*, the disposal of 75 per cent of the total work-load of company cases with income above Rs. 5,000 and disposal of 70 per cent of all non-company category-I cases during the year. This, apparently, does not amount to a fixation of any priority for high income cases in so far as the percentages prescribed in the Action Plan could, as well, be worked upto by completing only the relatively smaller cases. Since the arrears of tax are still continuing to rise, the Committee reiterate their earlier suggestion that apart from fixing overall percentages for disposal, the Ministry should also lay down certain order of priorities to ensure that high income cases involving larger tax revenues are not relegated to the background.

H. Categorisation of Assessment Cases

(Paragraph 12.7, Sl. No. 16)

1.33. In paragraph 12.7 of their 186th Report (Fifth Lok Sabha), the Committee had pointed out that :

“Another reason for the repetitive mistakes in big cases, resulting in huge loss of revenue, is that assessments work is largely left

in the hands of comparatively inexperienced Income Tax Officers, who have to match their wits in an often unequal battle against the best legal brains and expert Chartered Accountants. As has been admitted more than once in evidence by the Chairman, Central Board of Direct Taxes, it would be a very desirable step if some categorisation of cases is made, so that those involving more than Rs. 5 lakhs of returned income is assessed directly by the Inspecting Assistant Commissioner rather than by Income Tax Officers. Adequate provision have been in existence in this regard in the Income Tax Act and it is said that these provisions have not been made full use of so far. It is hoped that if Assistant Commissioners of Income-tax are given assessment powers to assess directly cases of over Rs. 5 lakhs which are not too many, the standard of performance will improve and the possibility of mistakes reduced. Appeals in such assessments, if preferred, would go straight to Commissioners of Income-tax so that in big cases officers just promoted as Appellate Assistant Commissioners are not saddled with powers of appellate relief which should be vested in higher levels so that the country's revenue is better safeguarded."

1.34. In reply, the Committee have been informed by Government that :

"As already reported to the Committee *vide* Departments' reply to recommendation No. 1.8 of 192nd Report, seven Inspecting Assistant Commissioners in various charges have already been assigned assessment work in respect of important cases in these charges. In view of the present shortages in the cadre of Assistant Commissioners, it has not been possible to post more Inspecting Assistant Commissioners for this purpose and we may have to wait till extra manpower becomes available. The matter is being further examined and the additional Manpower requirements are being worked out in order to implement the Committee's recommendation fully."

1.35. In a subsequent note, dated 13 September, 1977, the Department has intimated that:

"A study regarding manpower requirements for handling of assessments in cases with income exceeding Rs. 5 lakhs, by the IACs has been received from the Director of O&MS and is under process."

1.36. The Committee reiterate their recommendation that assessment of cases may be categorised and those involving more than Rs. 5 lakhs of returned income may be assessed directly by the Inspecting Assistant Commissioners rather than by Income Tax Officers. As pointed out by the Committee earlier, such a step will improve the standard of performance and reduce the possibilities of mistakes. The Committee have been informed that "a study regarding manpower requirements for handling of assessments in cases with income exceeding Rs. 5 lakhs, by the IACs has been received from the Director of O&M Section

and is under process." The Committee hope that while examining the need for augmentation of staff strength on this score, the Department would also see whether objective of entrusting big income cases to IACs could not be achieved by re-distribution of work at various levels.'

(1) Internal Audit System (Paragraphs 12·8, 12·12, 12·13, Sl. Nos. 17, 20, 21)

1.37. Internal audit was introduced in the year 1954 with a view to providing a second check over the arithmetical accuracy of computation of income and determination of tax. In December 1972, the number of internal audit parties is stated to have been increased to 121. Dissatisfied with the functioning of internal Audit, the Committee had in paragraph 12·8 of their 185th Report, observed that :

“Closely connected with an efficient internal control system is an effective internal audit system. As will be seen from the preceding chapters, it required almost a constant and persistent prod by the Public Accounts Committee for increasing the scope, extent and effectiveness of internal audit. In the Sixth Report, of the Third Lok Sabha, the Committee had to make the following observations, after expressing the alarm at the large number of cases of under-assessment involving considerable amounts detected by the test audit of the Comptroller & Auditor General:

“The Committee feel that the situation calls for more effective internal audit of the old and new assessment cases, so that the mistakes can be rectified and recoveries made before these become time-barred. The Committee regret that in spite of the recommendations of the Direct Taxes Enquiry Committee, no effective steps seem to have been taken to strengthen internal audit. This should be done without further delay.”

Again in the 29th Report of the Fourth Lok Sabha, the Committee requested the Government to pay serious attention to the strengthening of internal audit by having well qualified, experienced and trained people in the work of taxation to work in the internal audit, to be headed by a senior officer who should preferably work under the Central Board of Direct Taxes so as to inspire the confidence that they can discharge their duty without fear of favour.”

1.38. In reply, the Department of Revenue and Banking informed the Committee, *inter alia*, that “it has been the constant endeavour of the Department that the Internal Audit Organisation functions effectively to prevent leakage of revenue.” The Central Board of Direct Taxes is stated to have taken the following steps to streamline the working of internal parties and making them more effective pending an increase in their number and improvement in their computation :—

“(i) Supervisors heading the IAPs have been replaced by Inspectors, who are better qualified for this particular job.

- (ii) Greater attention is being paid to technical competence of the personnel manning the IAPs. The Regional Training Institutes of Income-tax trained 285 officials of the IAPs during 1973-74, 100 officials during 1974-75 and 107 officials in 1975-76. A special training for checking assessments of insurance companies was given to one IAP each at Bombay, Calcutta, Madras and Delhi. The Commissioners of Income-tax have been asked to start training courses for ministerial staff of IAPs who are checking Company Circles, Central Circles and Estate Duty Circles. The four Regional Training Institutes will be giving training to Inspectors of IAPs with emphasis on audit of company cases.
- (iii) The existing check-sheets for Income-tax (company and non-company), Wealth-tax, Gift-tax and Estate Duty cases are being revised from time to time in the light of changes in law, to enable the IAPs in effective and efficient audit cases.
- (iv) The Directorate of Inspection (I.T. & Audit) regularly inspects the working of IAPs to ensure that prescribed audit procedures are followed and adequate measures are taken for expeditious checking of 'immediate' and priority cases.
- (v) With a view to educating the IAPs and officials of the Department and bringing to their notice the types of mistakes noticed the Directorate have started bringing out a quarterly bulletin of important mistakes detected by Receipt Audit and Internal Audit during the quarter. Copies of these bulletins are circulated among all officers of the Department.
- (vi) Similarly, the Directorate have started bringing out an Annual Audit Report which *inter-alia* incorporates important types of mistakes noticed by Internal Audit Parties in all charges during the year.
- (vii) Instructions have been issued fixing the responsibility for proper and timely remedial action on Commissioners/Inspecting Commissioners of Income-Tax on the basis of the revenue involved in audit objections.

It may be seen from above that the Department is taking all possible steps from time to time to stream-line the working of Internal Audit Parties in order to minimise the number of mistakes and ensure timely remedial action."

1.39. In another note dated 1 July 1976, the Department have claimed that during 1973-74 to 1975-76, the Internal Audit Parties had brought

to the notice of the Department cases of under assessment and over-assessment as per details given below :—

Year	Under Assessment cases		Over-Assessment cases	
	No. of cases	Tax Effect (Rs. in crores)	No. of cases	Tax Effect (Rs. in crores)
1973-74	43,396	27.39	13,906	5.88
1974-75	44,549	30.69	13,599	6.75
1975-76 (up to 31-3-76)	47,637	35.63	14,955	9.43

1.40. Underlining the need for re-structuring and re-organising the internal audit, the Committee had, in paragraphs 12.12 and 12.13 emphasised that :

“The foregoing observations underline the urgency and the need for restructuring and reorganising the internal audit, so as to make it an efficient tool for tax management. The development of the internal audit system has been very tardy in the Income-tax Department. Initially, the Internal Audit Parties were checking only the arithmetical accuracy of the assessments. In 1964, the Board extended the function of internal audit to finding out mistakes in law. The Internal Audit Party is headed only by a Supervisor and two Upper Division Clerks and is under the control of Chief Auditors (of Income-tax Officer's grade) who do not add up to form an adequate team for the job. Except for placing in over-all charge an Inspecting Assistant Commissioner, who unfortunately does not appear to have been successful with the task of effective co-ordination of internal audit work, the composition of the internal audit parties has remained almost static during the span of a decade or so. Internal audit function is a specialised-activity and requires a thorough knowledge of the law, the rules and procedures, so that it is enabled to play its effective role as an independent appraisal unit for reviewing the accounting, financial and other operations. It is managerial tool of control and as such it has to have the requisite authority, responsibility and independence, as well as equipment adequate to the discharge of its duties.

As regards authority and responsibility, it has to be realised that internal audit is a staff function and the internal auditor should be free to review and appraise not only the arithmetical accuracy and the legal correctness of the assessments, but also to review the procedures, and should have the authority to suggest appropriate remedial measures and changes to the Board of Direct Taxes.”

1.41. In reply, the Department of Revenue and Banking has stated that :

“The Department shares the views of the Committee that Internal Audit function is a specialised activity and require thorough knowledge of law, the rules and procedure in order to play an effective role on the working of the Department. The steps taken by the Department in this direction have been explained in details in our reply to recommendation No. 12.15 of the 186th Report. The scope of Internal Audit has been further enlarged *vide* Directorate F. No. Audit-9/75-76/DIT dated 10-10-1975 (Appendix XXI) authorising it to check also the adequacy of procedure and forms prescribed by the Department and to make suggestion for their improvement to Director of Inspection (O&MS) for necessary remedial action.”

1.42. Internal audit as introduced in 1954 with a view to providing a second check over the arithmetical accuracy of income and determination of tax. In 1964, the Board extended the function of internal audit to finding out mistakes in law. The scope of internal audit was further enlarged in October, 1975 authorising it to check also the adequacy of procedure and forms prescribed by the Department and to make suggestions for their improvement to the Director of Inspection (O&MS) for necessary remedial action. From the Reports of the Comptroller & Auditor General of India on Revenue Receipts presented to Parliament, the Committee continue to notice a number of mistakes involving substantial loss of revenue which escape the attention of internal audit. As already pointed out by the Committee in paragraph 12.12 of their 187th Report (5th Lok Sabha) there is a clear need for restructuring and re-organising the internal audit, so as to make it an efficient tool for tax management.

J. Morale and Efficiency (Paragraph 12.16, Sl. No. 24)

1.43. Commenting on the “peculiar administrative climate” prevailing in the Income Tax Department, the Committee had recommended that:

“The Committee cannot help referring to the peculiar administrative climate prevailing today in the Income Tax Department where the entire force of Income-tax Officers is divided into two seemingly rival camps, spending most of their time and energy in fighting in courts seniority issues relating to more than two decades, neglecting in the process their primary duty of assessment and collection. In this connection the Committee would like to refer to paras 125 to 128 of the 16th Report (5th Lok Sabha) of the Committee on Subordinate Legislation (Reproduced in Appendix II) and also to quote paragraph 74 of the Report of the Select Committee on the Taxation Laws (Amendment) Bill 1973:

“The Committee note with concern that the dispute between the officers directly recruited to Class I and those promoted

to it has been pending settlement for a very long time. As a consequence, the parties had to go to the court. This was unfortunate for it seriously affected the efficiency of the Department. They feel that if the problem of black money and tax evasion is to be seriously dealt with, it is essential that tax administration should be made effective and efficient. The dispute in which a large group of Income-tax personnel feel at the moment frustrated and demoralised is not conducive to efficient tax administration. They feel that the question of career prospects of Class II Income-tax Officers including the policies pursued by the Department in respect of their seniority and promotion should be reviewed expeditiously."

This Committee feel equally that this is a matter which should be settled without losing any more time. The Committee had lately the opportunity of hearing representatives of the two aforesaid groups and the impression that is left with the Committee on hearing the evidence is that the question has to be tackled not on the basis of legalistic niceties alone, but also on broader grounds based on justice and equity. This can be brought about only in a manner which the present climate in the country upholds, namely, an agreed settlement, in which purely legalistic grounds should not take precedence over sensible and practicable consideration. A solution must be found acceptable to all, or at least to this the majority of officers concerned, so that fore-getting the rancour, the illwill and the bitterness that have plagued the cadre for well over a decade the officers can work together in a spirit of cooperation and dedication in the common endeavour to combat evasion and ensure a proper tax compliance."

4.44. In an interim reply, the Department of Revenue has stated:

"In para 12.16 of their 186th Report, the Public Accounts Committee have referred to the observations of the Committee on Subordinate Legislation and the Select Committee on Taxation Laws (Amendment) Bill, 1973. Two other Committees of Parliament, namely, the Committee on Petitions of Rajya Sabha and the Committee on Petitions of the Lok Sabha, have also made certain observations/recommendations in the same matter. The observations/recommendations of all the Committees are under examination in consultation with the Ministries/Departments concerned."

1.45 In a subsequent note dated 13th September, 1977 the Deptt. stated:

"The observations/recommendations of various Committees on the morale of efficiency of Income-tax officers are still under consideration in consultation with the Ministries/Departments concerned."

1.46. The Committee regret that the Government have not taken any decision so far on observations/recommendations of the Committee on Subordinate Legislation, the Select Committee

on Taxation Laws (Amendment) Bill, 1975 and the Petition Committee of Parliament on the dispute between the officers directly recruited to Class I and those promoted to it. The Committee, therefore, urge upon Government the need to expedite a decision on this matter.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

While, on Government's own admission, the steps already taken by the Ministry have not produced any positive results. The Ministry does not seem to have taken any concrete action on the specific recommendations of the Committee made in their 51st Report (Fifth Lok Sabha) even after a lapse of three years. In the meantime, even for the years 1970-71 to 1972-73, the variations between the budget estimates and the actuals have continued to be far more than 3 to 4 per cent indicated earlier by the Committee and there has been again a persistent underestimation of tax revenues to the extent of 8.34 per cent to 14.86 per cent under Corporation Tax and 7.28 per cent to 8.84 per cent under Income-tax. The conclusion that the recommendations of the Committee in this regard have not been acted upon in letter and spirit is, therefore, inescapable.

[Sl. No. 2 (Para 3.15) of Appendix III to 186th Report of the PAC (1975-76) (Fifth Lok Sabha)]

Action taken

In their 51st Report (Fifth Lok Sabha) the Committee had recommended (in paras 1.23, 1.25 and 1.26) as under:—

- (i) The Ministry should build up a sound statistical base and fill up the deficiency in the collection of reliable statistics of economic growth so that estimates of Revenue are prepared on a realistic basis.
- (ii) The Central Board of Direct Taxes should maintain up-to-date statistics, in particular, the statistics pertaining to all categories of tax-payers in order to assess the impact of taxation measures at the time of preparing the Budget Estimates.
- (iii) The Ministry should study the methods adopted in estimating Revenue receipts in the U.K. and other countries where the variation between Budget Estimates and actuals is not significant in spite of fluctuation in economic conditions and growth.

2. The Ministry informed the Committee that the question of designing a suitable frame-work for collecting statistics in the Income-tax Department was being looked into by the Committee under the Chairmanship of Dr. N. T. Mathew, Joint Secretary, Department of Statistics. It was also stated that the problem of better approximation of Budget estimates *vis-a-vis* the actuals was also to be covered by the said Committee and the Ministry was obtaining, for study, the particulars of the methodology followed

in the U.K. and U.S.A. The reply of the Ministry has been reproduced in para 3.12 of this report. Thereafter, the Committee made certain observations, on the Ministry's reply, in paras 1.9, 1.10 and 1.14 of their 15th Report (Fifth Lok Sabha). The replies of the Ministry to those observations have been reproduced in para 3.14. The Ministry, *inter-alia* apprised the Committee of the main recommendations made, in the interim report, of the Committee on Direct Taxes Statistics and the fact that those recommendations had been accepted by the Government and necessary follow-up action taken. The Committee was also apprised of the results of the study, of the available material, relating to the methodology of formulation of the Budget Estimates, received from the Indian High Commission in the U.K. and the Indian Embassy in U.S.A. the reply of the Ministry is reproduced in para 3.14 and Appendix I).

3. The Committee on Direct Taxes Statistics submitted its final report in January, 1976. The report deals, among others, with the problem of short-term forecasting of revenue receipts.

4. The said Committee has observed that the improvements in the data base, resulting from its other recommendations, will provide adequate means for short-term forecasting of revenue receipts. As regards the specific techniques for short-term forecasting, the Committee has observed that any forecasting model is subject to inherent limitations and can never be considered as completely fool-proof. Besides, in a dynamic situation, where tax rates are altered every year and new fiscal measures promulgated predictions made 15 months in advance are bound to be tentative and subject to change in the light of changing circumstances. In spite of these limitations, the Committee has recommended that certain objective procedures for forecasting tax revenues may be developed by establishing appropriate regressive relationship between tax revenues and other cognate variables such as non-agricultural national income, wages and salaries, population growth, employment and price levels. It may be added that some exploratory exercises in this direction were carried out by the Planning Commission and the Central Statistical Organisation on behalf of the Committee, but the predictive power of these relationships was not found to be quite adequate.

5. The Committee has further suggested that the Director of Inspection (R & S) should be adequately equipped to undertake the forecasting work at a technically competent level, if necessary, in collaboration with the Central Statistical Organisation, Planning Commission and other Divisions of the Ministry of Finance.

6. The Central Board of Direct Taxes, at its meeting held on 25-4-76 accepted, in principle, the above recommendations of the Committee. The D. I. (R & S) has been asked to submit a proposal through the D.I. (O&MS) for the creation of necessary additional posts so that the exercises suggested by the Committee can be undertaken. The results of such studies will be utilised in the formulation of Budget Estimates of Revenue Receipts.

[Department of Revenue and Banking F. No. 241 3/76-A & PAC I,
dated 29-6-1976].

Further information

The following posts have been sanctioned:—

	Pay Scale	No. of posts
	Rs.	
Statistician	700—1300	1
Senior Statistical Investigator	550—900	2
Senior Computers	330—560	6

These posts have not been filled up as yet because the recruitment rules, for them are being framed.

[Ministry of Finance (Department of Revenue) F. No. 241 2 77/A & PAC I, dated 13-5-1977].

Recommendation

It would thus appear that, apart from the weakness of Internal Audit and the lack of pre-scrutiny of collaboration agreements, there are other, more basic, factors responsible for income escaping assessment. In the first place, there seems to be chronic lack of coordination (i) among the assessing officers of the Department itself, (ii) among the assessment records pertaining to different direct taxes, particularly income-tax and wealth tax, (iii) among the Income-tax Department and other tax collecting departments of the Central and State Governments, and (iv) among the Central Board of Direct Taxes and the administrative Ministries entering into or approving foreign collaboration agreements.

Better late than never, Special Circles have recently been set up in ten urban centres for dealing with 'professionals' like doctors, lawyers, etc. The Committee trust that work in these Special Circles, which will have a lot of leeway to make up, will be adequately performed and supervised.

[S. No. 3 (Paras 4 12 and 4 13) of Appendix to 186th Report of the P.A.C. (1975-76) (Fifth Lok Sabha)].

Action taken

The Department of Revenue & Banking shares the views of the Committee regarding the importance of coordination among the various limbs of the taxing machinery and also among the Central Board of Direct Taxes and the administrative Ministries entering into or approving foreign collaboration agreements. The Central Board of Direct Taxes have already initiated action to achieve the objectives referred to by the Committee.

Coordination among the assessing officers of Department

2. Provision already exists in the appropriate Annexures of the form of Return of Income to call for particulars of rent, commission etc. under

section 133 of the Act. Instructions to the effect that particulars in respect of persons not assessed in the same circle, are to be reported by the issue of intimation slips to the Income tax Officers concerned for consideration in the respective assessments, are already in existence. Similarly, intimation slips should also be issued to the ITOs concerned when any useful information is found on examination of accounts by assessing authorities.

Coordination amongst the assessment records pertaining to different direct taxes

3. The question of coordination among the assessment records of different direct taxes has been under constant review of the C.B.D.T. who have issued Instruction No. 172F. No. 4 69 69-ED dated 15-5-70 (Appendix XI), Instruction No. 494, F. No. 309 6 72-ED dated 10-1-73 (Appendix XII), Instruction No. 544, F. No. 301 126 72-ED dated 8-5-73 (Appendix XIII), and Instruction No. 595, F. No. 313 13 73-ED dated 24-8-73 (Appendix XIV).

The problem of lack of coordination amongst the assessment records of various direct taxes was also made the subject of a comprehensive study conducted by the Directorate of O & M Services (Income-tax). As a remedial measure, suitable guidelines for field officers spelling out common situations developments occurring in, or coming to light during proceedings under one direct tax law and the necessary consequential action under others were prepared. The guidelines in the form of brochure were issued under letter No. 3 16 73-DOMS dated 15-11-73.

Coordination amongst the Department and Tax Collecting Departments of the Central and State Governments

4. The existing arrangements for coordination between Income-tax Department on the one hand and of Central and State Government Departments on the other, are as under:

- (i) The Directorate of Inspection (Inv.) receives information from the Department of Company Affairs, Central Bureau of Investigation D.R.I., Enforcement Directorate and the Reserve Bank and transmits the same to the Commissioners. The scope of these operations has been extended after the setting up of a Special Cell in the Directorate of Inspection (Inv.)
- (ii) At the Commissioners' level, the Department maintaining liaison with State Government Departments including the Sales Tax Department and also gathers information from other sources e.g. Regional Controller of Imports and Exports, Registration Offices, Regional Transport Authorities, L.I.C. etc. etc.
- (iii) On the basis of discussion which the Finance Secretary had with the Chief Secretaries of the States, the Cs. I.T. were asked (*Vide* Board's Instruction F. No. 44 1/81/75-II (Inv.) dated 17-11-75 and F. No. 221 9/76-II. A. II dated 1-3-76) to meet the Chief Secretaries periodically, ordinarily once a month, to apprise them of the action taken by the Income-tax Department in respect of complaints received from the State Governments

about under-valuation of properties, evasion of Income-tax/ Wealth-tax by individuals etc.

- (iv) The coordination amongst Income-tax, Customs and Central Excise Department and the Enforcement Directorate is being ensured through periodically meetings of the Technical Coordination Committees at the Central, Zonal and Regional levels. The coverage of subjects in these meetings has been extended to include issues relating to agency commission payable or paid to Indian agents of foreign concerns entering into contracts for the supply of goods and services.
- (v) It has been decided that a committee consisting of DI (Inv.), DI (OMS) and DI (IT & Audit) should study in depth the following problems:
 - (a) whether the present system was functioning well;
 - (b) the sources and areas where information was being received and how it was being utilised;
 - (c) whether the information was being received regularly or received in fits and starts;
 - (d) how the information could be utilised optimally without departing from the objectives of the summary assessments scheme ; and
 - (e) whether it was desirable to make a selective approach both in terms of information to be collected and the assesseees in respect of whom information should be collected.
- (vi) After the receipt of the P.A.C. Report, the observation of the Committee have been brought to the notice of the above Committee. A copy of Instruction No. 924, F. No. 414 74 75-II (Inv.), dated 24-2-76 (Appendix XV) has also been sent to them.
- (vii) For other direct taxes also, the Board has already taken action to ensure coordination with State authorities issuing succession certificates. A copy of Instruction No. 677, F. No. 309/1/74-ED, dated 6-4-74 (Appendix XVI) is attached. Similarly Chief Secretaries to the State Governments have also been requested to pass on information likely to be helpful in Estate Duty assessments *vide* F. No. 309/5/74-ED, dated 25-11-74 (Appendix XVII).

5. Regarding coordination among CBDT and administrative Ministries entering into or approving foreign collaboration agreement, kind attention of the Committee is invited to the Ministry of Finance, (Department of Revenue & Insurance's) reply to recommendation, Para 5.69 of 128th Report. A copy of the said reply (Appendix XVIII) attached for ready reference.

With a view to ensuring that the work in the Special Circles set up in ten urban centres for dealing with 'professionals' like doctors, lawyers etc.

is adequately performed and supervised, the Commissioners of Income-tax have been asked to make an annual evaluation of the performance of the Special Circle(s) functioning under them. The Director of Inspection (Income-tax & Audit) has been assigned the task of analysing the evaluation reports and submitting a review to the Board. A copy of the relevant instruction issued *vide* letter F. No. 415/2/76-IT (Inv.) dated the 26th April, 1976 is annexed (Appendix XIX).

(Department of Revenue & Banking No. 241/4/76-A & PAC-I, dated 28-4-1976 and 11-6-1976)

Recommendation

It would appear from the above that while on the one hand there is still much to be desired in the implementation of the instructions issued by the Board, on the other, the Ministry has yet to take firm and effective steps to ensure proper planning of the work of the Income-tax Officers so as to avoid the assessments at least in big income cases, being rushed through towards the end of the year or the end of the limitation period and to ensure that the computation of income and the assessment orders themselves are checked and counter-checked so as to avoid careless and costly mistakes.

[S. No. 4, Para No. 5.21 of Appendix to 186th Report of the PAC (1975-76) (Fifth Lok Sabha)]

Action Taken

The Department of Revenue and Banking share the anxiety of the Committee. As regards the proper planning of the work of the Income-tax Officers, with the view to avoid the assessments being rushed through towards the end of the year or the end of the limitation period. Annual Action Plans are being laid down by the Board. The Action Plan for the year 1976-77 *inter-alia* sets the following objectives so far as early completion of assessments are concerned:

- (i) Disposal of all time-barring assessments by 31-12-1976.
- (ii) Disposal of 70% of all non-company Category-I, scrutiny assessments during the year and ensuring disposal of 50% of total workload by 31-12-1976.
- (iii) Disposal of 75% of the total workload of company cases with income above Rs. 5,000/- during the year and ensuring the disposal of 60% of total workload by 31-12-1976.

2. Performance in relation to targets in the Action Plan is being watched closely and periodical reviews are undertaken.

3. As regards ensuring the correctness of the computation of income and taxes, these are checked and counter-checked so as to avoid careless and costly mistakes, according to the instructions issued by the Board from time to time. A system to ensure strict compliance of these instructions is also being evolved.

4. With a view to reducing the chances of mistakes in the calculation of tax attributable to the human factor, a comprehensive plan has been prepared for installing programmable calculators for purposes of tax calculations in company cases and non-company cases with assessed income over Rs. 1 lakh at 4 Regional centres viz. Delhi, Bombay, Calcutta and Madras. The unit at Delhi has already started functioning and during its four months' run it has ensured mistake-free pre-assessment tax calculations in one thousand cases and detected mistakes of the order of Rs. 2 lakhs during the post-assessment check of 1346 cases. A proposal to instal mini computers instead of programmable calculators which will cover calculation of taxes in all cases involving income exceeding Rs. 25,000 is also under consideration.

5. With the introduction of Section 144B in the Income Tax Act, 1961 with effect from 1-1-1976 by the Taxation Laws (Amendment) Act, 1976, it is obligatory on the part of the Income-tax Officer to send a draft of the assessment order along with the objections received from the assessee to the Inspecting Assistant Commissioner if the variation in income/loss is Rs 1 lakh or above, and the Inspecting Assistant Commissioner is required to give directions which will be binding on the Income-tax Officer. This would ensure a double-checking by the Inspecting Assistant Commissioner in such cases.

(Department of Revenue and Banking F. No. 241 6/76-A & PAC-I,
dated 9-7-1976)

Further Information

The programmable Calculator Unit at Delhi was set up in October, 1975. As regards other regional centres viz. Bombay, Calcutta and Madras, it may be stated that when the suppliers were approached for the installation of the Programmable Calculator Units it was found that after the last purchase in 1975 certain peripherals had become technically obsolete and were not being manufactured. The prices of some peripherals had also substantially increased. Therefore, the idea of installing Programmable Calculator at these centres was given up.

However, the proposal to instal mini-computers, instead of programmable Calculators has been approved in principle. But this is required to be examined further by the 'Systems Team' which is being set up.

[Ministry of Finance (Department of Revenue) F. No. 241 2 77-A&
PAC-I, dated 13-9-1977].

Recommendation

It is clear from a summary of the position that the implementation of the specific suggestions of the Public Accounts Committee, whether in the matter of simplification or rationalisation of the rules and procedures or in the matter of Improving the efficiency and check by Inspecting Assistant Commissioners has been half-hearted and as a result the situation has not improved at all.

[No.5 (para 6.14) of 186th Report of PAC (1975-76) (Fifth Lok Sabha),]

Action taken

The Department of Revenue & Banking has taken steps from time to time to minimise mistakes in granting Depreciation and Development rebate, which are as under :

- (i) The Income-tax Rules, 1962, *inter-alia*, providing rates of depreciation admissible on various assets have been amended *w.e.f.* 1st April, 1970, rationalising the rates of depreciation allowance and simplifying the calculations. The number of rates at which depreciation is admissible to various classes of assets has been reduced to 9 from 17. It is felt that it is too early to make any changes.
- (ii) The Director of Inspection (IT) have prepared and sent to Commissioners of Income-tax check-sheets for the use of Internal Audit Parties. These check-sheets include all the important points which are to be looked into in connection with the allowance of depreciation and Development rebate. The check-sheets are being revised, whenever necessary.
- (iii) Greater attention has been given to the training of Internal Audit Party officials. The Regional Training Institutes trained 285 officials of the Internal Audit Parties during 1973-74 and 100 persons during 1974-75. From January 1976, the Commissioners of Income-tax have started training courses for ministerial staff of Internal Audit Parties who are checking cases in Company Circles. The Training courses include checking of depreciation and development rebate.
- (iv) The Commissioners of Income-tax have been instructed that Inspecting Assistant Commissioners should scrutinise about a dozen of the important cases in each Income-tax Officer's charge every year to see that the principles have been correctly applied in determining depreciation and development rebate, that the rates applied are correct and that withdrawal of development rebate has been duly considered in appropriate cases. On 18th December, 1975, fresh instructions have been issued to the Commissioners directing them to ensure that all Inspecting Assistant Commissioners check depreciation and development rebate in a dozen important cases in each Income-tax Officer's charge.

[Department of Revenue and Banking F. No. 241 8 76-A&PAC-I,
dated 15-7-1976]

Recommendation

It is apparent, thus, that on the subject of levying additional tax on companies more than on any other, there has been what might be called a kind of a consistency of in-action and delay. The review of all past assessments suggested by the Committee in the interest of revenue has not been completed, while the recommendation of the Committee about the abolition

of subtle distinction between public companies and closely held public companies has been "under consideration" for as long as six years. Compliance, if any, with the specific suggestions made by the Committee, during the last three years remains yet to be reported.

[S. No. 6 (para 7.15) of Appendix III to 186th Report of the PAC (1975-76)]

Action taken

In this connection, attention of the Public Accounts Committee is invited to Ministry's replies to paras 1.73 and 1.74 and 1.75 of 128th Report which were forwarded to the Committee *vide* Ministry of Finance (Deptt. of Revenue & Insurance) Office Memorandum F. No. 236/243,72-PAC-II, dated the 17th July, 1975, and 16th August, 1975 respectively.

2. As regards the collection of additional demand of Rs. 12.74 lakhs arising from the final results of the review reported in reply to para 1.73 of 128th Report, an amount of Rs. 3.95 lakhs has been vacated by the order of the Calcutta High Court and for the balance the appeal preferred by the assessee was allowed by the Appellate Assistant Commissioner Special Range, Madras. The Departmental appeal before the Appellate Tribunal is, however, pending.

[Department of Revenue and Banking F. No. 241/9/76-A&PAC-I, dated 7-5-1976]

Further Information

An appeal to the Tribunal was filed in this case in October, 1973 as a precautionary and provisional measure against the AAC's order cancelling the order u/s 23-A since a final decision on an identical point in another case was pending. The Board subsequently authorised the withdrawal of the appeal filed before the Tribunal in the other case. In view of this and in view of Board's instructions No. 676 dated 5-4-74 the appeal filed before the Tribunal in this case was withdrawn in August, 1976.

[Ministry of Finance (Department of Revenue) F. No. 241/2/77-A&PAC-I, dated 13-9-1977]

Recommendation

It would appear that the mistakes in giving effect to appellate orders continue to occur, first, because the Ministry has not been able to ensure a proper spacing of work with the result that the rush of work at the end of the year has become a recurring phenomenon, and secondly, because the Central Board of Direct Taxes has not been able to secure compliance even with their own instructions issued at the instance of the Public Accounts Committee.

[S. No. 8 (Para 10.5) of Appendix to 186th Report of the Public Accounts Committee (1975-76) (Fifth Lok Sabha)]

Action taken

The Department of Revenue and Banking shares the anxiety of the Committee regarding avoidance of mistakes while giving effect to appellate orders and spacing of work to avoid rush at the end of the year.

To ensure avoidance of mistakes while giving effect to appellate orders, the Board by its Instruction F. No. 36/5/64-ITA.-I, dated the 18th July, 1964 had provided that the Income-tax Officer would take prior approval of the Inspecting Assistant Commissioner before giving effect to appellate orders resulting in tax effect of rupees one lakh and above. These instructions have been reiterated through Board's Instruction No. 750, F. No. 212/225/74- ITA-II, dated the 4th September, 1974 (Appendix XXI) while extending the scope of earlier instruction for issue of refunds arising under Chapter XIX or deemed refunds in Chapter XXII-B of Income-tax Act, 1961.

As regards avoiding rush of work towards the end of the financial year, proper priorities have been laid down in the Annual Action Plan requiring, *inter-alia*, the completion of time barring assessments by 31st December within the constraints of manpower etc. The results achieved in comparison with the earlier years have been generally encouraging as may be seen from the following figures :

Time-barring assessments (percentage of Assessments completed)

	1973-74	1974-75
April to December	54.49%	73.2%
January to March	45.6%	26.8%

Company assessments (percentage of Assessments completed)

April to December	60.4%	60%
January to March	39.61%	40%

Non-company Category I Assessments (percentage of Assessments completed)

April to December	57.9%	59.5%
January to March	42.2%	40.5%

[Department of Revenue & Banking F. No. 241/11/76-A & P.A.C. I,
dated 11-5-1976]

Recommendation

It would be seen from the recountal above that while some of the legal remedies suggested by the Committee from 1969 onwards for reducing the ever-increasing arrears of Income-tax have been adopted only in 1975, the Central Board of Direct Taxes have still to tackle effectively a number of administrative problems such as, (i) fixation of

an order of priorities concentrating, primarily, on big income cases, (ii) proper planning of the work of Income-tax Officers so as to complete the high income group assessments expeditiously, (iii) avoidance of over pitched and unrealistic assessments, (iv) ineffective working of the machinery set up to watch recovery of arrear demands of big magnitude, and (v) above all, creating a statistical organisation that can give reliable data. The position of arrear demands and arrear assessments is not likely to show any marked improvement unless the Ministry of Finance comes to grips with these fundamental problems.

[S. No. 9 (Para 11.31) of Appendix III to 186th Report of the PAC (1975-76) (Fifth Lok Sabha)]

Action taken

The Department of Revenue & Banking (Rev. Wing) share the views expressed by the Committee regarding the ever-increasing arrears of income-tax and agree with the suggestions made.

2. Regarding the suggestions made at (i) and (ii) above, the steps already taken by the Department are set out in the reply to the recommendations contained in para 5.21 of this Report.

3. As regards the suggestion made at (iii), adequate legal as well as administrative measures have been taken to ensure avoidance of over-pitched and unrealistic assessments. Apart from various instructions issued from the Board from time to time, the law also has been recently amended as set out in the Department's reply to recommendation at para No. 12.6 of this Report.

4. As regards the suggestion made by the Committee at (iv) of the recommendation, the steps taken by the Department have been brought to the notice of the Committee in the Department's reply to the recommendations at para No. 12.1 of this Report.

5. As regards the suggestion made by the Committee at (v) of the recommendation, kind attention of the Committee is invited to Department's reply to recommendations at Para No. 12.4 and 12.5 of this Report.

[Department of Revenue & Banking F. No. 241/276-A&PAC-I,
dated 15-7-1976]

Further Information

The latest position in this behalf has since been communicated to the Lok Sabha Secretariat (PAC) through action taken note on para 1.42 of 141st Report of the PAC sent to them under cover of O.M. F. No. 231/2173 A & PAC-II, dated the 18th March, 1977.

[Ministry of Finance (Department of Revenue) F. No. 241/277-A & PAC-I, dated 13-9-1977]

Recommendation

As stated in the opening Chapter, the Committee have found themselves constrained to make a review of the implementation by Government of their recommendations contained in the several Reports presented right from 1964. It will be seen from the Audit Reports of successive

years and the recommendations of the Committee thereon that they are almost repetitive except, perhaps, for subtle changes in accent in their expressions of despair. It might even appear that there has been no earnest or purposeful effort on the part of Government to set its own Tax Administration apparatus on a plane of truly efficient and effective functioning. This is perhaps the only Department which has had over the years the benefit of the guidance of not only the recommendations of this Committee, but of several other expert bodies as well, right from the Tod Hunder Committee (1925) to the Wanchoo Committee (1973). If, in spite of the many recommendations made by these committees as well as by the Public Accounts Committee, 'the ills that beset' the Department continue to plague it, there must be something basically wrong either in the laws, rules and procedures devised for the levy and collection of Direct Taxes, or in the way these laws, rules and procedures are actually administered by the various authorities entrusted with the task. It has not been brought to the notice of the Committee by any of the official witnesses that the former is the cause. In fact, the Committee are not unaware of the annual spate of legislative amendments and the more frequent flood of rules and regulations designed for plugging various loopholes in the law. Enormous powers have also been placed in the hands of income-tax authorities even before the latest Taxation Laws (Amendment) Act, 1975. If the vigour with which searches and raids are being presently conducted and the amount of black money unearthed is any indication, it appears that if the normal duties of the Department had been properly and efficiently performed, there should have been a greater compliance by the tax-payers and higher realisation of receipts in proper time.

[S. No. 10 (Para 12.1) of Appendix III to 186th Report of the PAC (1975-76) (Fifth Lok Sabha)].

Action taken

The Department of Revenue & Banking shares the views expressed by the Committee that the Government should set its own tax Administration apparatus on a plane of truly efficient and effective functioning. The Department may, however, draw the attention of the Committee to the fact that purposeful and earnest efforts have not been lacking on the part of the Department in this regard. The Department has taken a number of steps to improve its efficiency and some of these have been enumerated in reply to recommendation No. 12.2 of the PAC's Report under reference. It is also pertinent to mention here that so far, as the question of collection of direct taxes is concerned, the Department had in the past taken certain steps for 'Improvement in Organisation' and for 'Supervision on collection arrears' and these have already been enumerated by Public Accounts Committee in para 11.9 of this report while dealing with the question of arrears of demand.

2. In addition to these steps a Special Cell has been set up in the Central Board of Direct Taxes to watch recovery in cases involving arrears exceeding Rs. 10 lakhs. Quarterly dossiers containing comprehensive information regarding year-wise arrear demand, fresh demands created during the quarter, reduction on account of appellate/revisionary/certificatory orders and steps taken for realisation of these demands are sent by the Commissioner of Income-tax. These are scrutinised in the Cell and suitable instructions/guidelines are issued to the Commissioner, wherever necessary.

3. There may not be anything basically or fundamentally wrong in the laws, rules and procedures devised for the levy and collection of direct taxes but there is need for continuous watchfulness since tax-payers have been constantly devising ways and means to avoid taxes. In order to plug loopholes, the Department has to review tax laws from time to time to combat the problem of tax evasion. With this end in view, the Wanchoo Committee was appointed in 1970. The recommendations of this Committee were incorporated in the Taxation Laws (Amendment) Act, 1975.

4. During recent years, the Department has taken steps with a view to gearing its administrative machinery to the tasks assigned to it. The tempo of searches and seizures was increased resulting in considerable unearthing of black money, it has also in a way contributed to the success of the Voluntary Disclosure Scheme 1975 which has reduced the extent of black money in circulation in the economy. In this connection, it may be mentioned that no additional manpower was provided to the Department to cope with the extra burden of, say, a larger number of searches and seizures.

[Department of Revenue and Banking F. 241/18/76-A & PAC I, dated 29-6-1976].

Recommendations

Representatives of the Government have admitted and the Public Accounts Committee have pointed out in their successive Reports that the mistakes detected by test audit are 'costly mistakes' (in one instance the amount involved was admittedly more than Rs. 2 crores) and have resulted in heavy loss of revenue to the Exchequer. What the total annual loss to the Exchequer on account of these mistakes would be in anybody's guess. However, if the mistakes highlighted by statutory Audit are added to the mistakes pointed out by Internal Audit, imperfect though such audit is, the annual accretion to the exchequer would have been much more than what is borne as extra tax by the honest tax-payers. Unfortunately, the Income-tax Department appears to be managing its affairs by what might be dubbed the principle of 'Management by Crisis' rather than 'Management by objectives'. This is by no means a happy situation.

The Committee cannot, however, rest content with a mere expression of disapproval and disappointment. They consider it their duty to point out certain important areas of deficiency where, if adequate remedies are attempted, there may well be hope of real improvement. In this Report, the Committee have confined their recommendations only to the more fundamental of the aforesaid areas so that there should not be any excuse for not implementing these on the ground of ancillary or incidental problems hindering implementation or on the ground that the recommendations were too many and too complex.

[S. Nos. 11 & 12 para 12.2 and 12.3 of Appendix III to 186th Report of the PAC (1975-76) (Fifth Lok Sabha)].

Action taken

The Department of Revenue & Banking shares the anxiety of the Committee regarding "costly mistakes" detected by the Revenue/Internal Audit.

2. It is submitted that, in the recent past, the emphasis has been on administrative planning, organisational development and new management concepts like "Management by Objectives". In fact, with effect from the year 1974-75, the work in the field offices is being regulated on the basis on Management by Objectives under which Annual Action Plans are formulated at various operative levels to achieve objectives set in key result areas of work.

3. The following lines of approach have been adopted to reduce the occurrence of mistakes:

- (i) In order to meet the chronic shortage of officers and staff, due to which the assessing officers work under undue pressure and tension, a Five-year plan regarding the requirements of officers and staff for assessment and collection work extending upto 1979-80 was worked out in consultation with the Staff Inspection Unit of the Ministry of Finance. The first phase of this project covering the period upto 31st March, 1977 was completed in June, 1975 with the additional sanction of 15 posts of I.A.Cs, 223 posts of I.T.Os and their complementary staff. This plan is intended to ensure that the officers and staff are in position well in time and that the officers do not work under the pressure of a heavy load of arrears.
- (ii) The Department has taken a number of steps with a view to helping the officers in acquiring/refreshing knowledge of law and accounts and developing the required degree of expertise and thus reducing the possibility of making mistakes. Before 1973, the only regular arrangement for personnel training was the I.R.S. (Direct Taxes) Staff College at Nagpur which was responsible for imparting initial training to the directly recruited class-I Income-tax Officers. Refresher or specialised courses for gazetted officers were held in different Commissioners charges on an *ad hoc* basis. However, pursuant to the recommendations made by the Wanchoo Committee, the training arrangements have been strengthened and revitalised. The Staff College has been entrusted with the responsibility of conducting Refresher and other specialised courses for Class-I Officers and management development courses for Commissioners, Assistant Commissioners and Senior Class-I Income Tax Officers. Four Regional Training Institutes have been set up at Bombay, Bangalore, Calcutta and Lucknow for imparting initial training for Class-II Income-tax Officers and Inspectors and also for conducting orientation, refresher and other specialised courses for executive and ministerial supervisory staff. Training arrangements for Ministerial staff in the Commissioners Charges have also been put on a regular and proper footing and the Charge Commissioners have constituted regular training cells for initial and refresher training to the ministerial staff of their charges.

- (iii) The Department has also set up an independent wing Publicity and Public Relations headed by a Director (in the existing Directorate of Inspection (RS&P), to ensure timely supply of Board's Circulars, explanatory notes, bulletins and up-dated manuals to the field formations.
- (iv) In order to reduce the chances of mistakes in the calculation of tax attributable to human factor, a comprehensive plan for installing programmable calculations for purposes of tax calculations in (a) company cases ; (b) non-company cases with assessed income over Rs. 1 lakh at four Regional Centres *viz.* Delhi, Bombay; Calcutta and Madras was prepared. The unit at Delhi has already started functioning and during its 4 months run, it has ensured mistake-free pre-assessment tax calculations in 1000 cases and detected mistakes of the order of Rs. 2 lakhs during post-assessment check of 1346 cases. It is now proposed to instal mini-computers (instead of Programmable Calculators) which will cover calculation of taxes in all cases involving income exceeding Rs. 25,000.

In view of the position explained in respect of para 12.2 above, no further comments are called for.

(Department of Revenue and Banking F. 241/11/76-A & PAC I, dated 25-6-1976).

Recommendations

The first basic tool in the hands of any tax administration is an efficient statistical information system. Any one entrusted with the management of the finances of a country should have at his disposal up-to-date and complete data on all aspects of the taxes which he administers and particularly on the impact and incidence of proposed tax measures, so that timely changes may be made and a proper and purposeful guidance given to policy makers. This information system has, most unfortunately, not been built up yet in the Income-tax Department, in spite of repeated recommendations by the Public Accounts Committee and other Commissions and Committees, and this failure had led to all the distortion in the tax administration, leading to *ad-hoc* solution, hasty amendments and cumbersome but ineffective procedures. The Working Group of Administrative Reforms Commission on the Central Direct Taxes Administration, which submitted its report in the year 1968, had observed as follows on the still prevailing state of affairs :

“The tax, which the Department administers, affects the social and economic life of the country in a most powerful way. No one knows or can know as much about the effect of the administration of the taxes as members of this Department, but we doubt if there is a machinery in the Department adequately equipped to give information on such matters.”

In Chapter III of this Report, extracts of various recommendations of this Committee have been given in which the importance of strengthening the statistical machinery has been repeatedly stressed. The Committee

would like particularly to draw attention to paragraphs 1.23 to 1.26 of their 51st Report (Fifth Lok Sabha). In these paragraphs, the Committee had deplored the failure of the CBDT to establish a proper machinery for furnishing up-to-date statistics so as to ensure a more accurate forecast of revenues. However, apart from stating that a Committee had been set up, under the Chairmanship of a Joint Secretary of the Department of Statistics, to look into the statistical framework of the Income-tax Department and to make suitable recommendations for streamlining and systematizing it, no concrete steps appear to have been taken. This was clearly pointed out in paragraphs 1.9, 1.10 and 1.14 of the 150th Report (Fifth Lok Sabha). The latest All India Income-tax Statistics that is available in cyclostyled form relates to the year 1971-72 and this too is deficient in many respects. There has been, to the knowledge of the Committee, no All India Statistics in respect of other Direct Taxes. The Committee, would, therefore, strongly urge Government to speed up action on the setting up of an efficient statistical organisation which should give all necessary data promptly and contemporaneously with the framing of the Budget, so that not only the Minister of Finance, but also the Members of Parliament, at the time of discussion of the Budget, could have the advantage of complete information in respect of all aspects of tax levy and collection. On several occasions, the Central Board of Direct Taxes were also unable to furnish promptly to the Committee complete and updated information relating to Direct Taxes, on account of the absence of a sound statistical base within the organisation. The statistical organisation when set up, as recommended by the Committee, should also be in a position to give all information in this regard required by the Committee.

[S. No. 13 & 14 (paras 12.4 & 12.5) of Appendix-III to P.A.C. Report No. 186th (1975-76) (Fifth Lok Sabha)].

Action taken

In para 12.4, the Committee has recommended the building up of an efficient statistical information system. In para 12.5 the Committee has recommended the setting up of an efficient statistical organisation which should give all necessary data promptly and contemporaneously with the framing of the Budget so that not only the Minister of Finance but also the Members of the Parliament, at the time of discussion of the Budget, could have the advantage of complete information in respect of all aspects of tax levy and collection.

2. As observed by the Committee in para 12.5, the Government had appointed a Committee of experts on Direct Taxes Statistics, on 31-3-1973, to study the unsatisfactory nature of statistics relating to Direct Taxes in all its aspects and to make recommendations, among others, on improving the statistical information system and the administrative, organisation and procedure changes required to give effect to its recommendations.

3. The Committee on Direct Taxes Statistics submitted an interim report in November, 1973, in which the ways and means of clearing the back-log and up-dating the Statistics and ensuring their timely and expeditious publication in future, were discussed. The main recommendations contained in the Interim report and the action taken thereon, as reported by the Ministry, have been reproduced in para 3.14.

4. The final report of the Committee on Direct Taxes Statistics, submitted in January, 1976, contains recommendations for building up of an efficient Statistical Information System and a Statistical Organisation. The main recommendations and the action taken on the Report by the Ministry, are :—

(A) Statistical information System

(i) Annual Statistical Publications :

(a) Among the annual publications, the All India Income-tax Statistics (AIITS) is the most important and comprehensive publication with a variety of tables which provide a detailed classification of the assessed income and the tax levied by several characterisations. The major deficiencies in AIITS, are due to the absence of the required type of information in the source-data contained in Assessment Forms ITNS 150 (for non-company assessees) and ITNS 150A (for company assessees). The Committee has, therefore, suggested a number of changes in these two forms. The revised forms suggested by the Committee will, *inter alia*, provide for recording a number of additional items of informations, such as the profession of individuals, the source of salary income (from Central/State Government/Local authorities Public Sector Undertakings or Private employers), property income from self-occupied building, income derived from agriculture, entitlements in rebates under the new provisions in sections 80-HH, 80-M, 80-N, 80-O, 80-Q, 80-R, 80-RR and 80-TT. the ownership category of a company, (public, joint or private sector), deductions due to special allowance on newly constructed residential units, amortization of preliminary expenses and expenditure on prospecting, etc.

(b) The contents of AIITS have been greatly improved by proposing a set of revised statistical tables which will, among others, provide for :

- (i) Details of important deductions and reliefs by status and income ranges ;
- (ii) Information on net agricultural income of the assessee ;
- (iii) Trade classification in conformity with the National Income Classification (NIC) ;
- (iv) Distribution of assessees by major occupational groups ;
- (v) Separate data on short-term and long-term capital gains by ranges of assessed income and status.
- (vi) Classification of companies on the basis of their ownership i.e.—

(a) Statutory Corporation and Government Companies ;

- (b) Companies in Joint Sector ;
- (c) Branches of Foreign Companies ;
- (d) Public Limited Companies in the Private Sector ; and
- (e) Private Limited Companies in the Private Sector.

(ii) *Periodical and ad-hoc reports :*

- (a) Extensive modifications and revision of various periodical and *ad-hoc* reports have been suggested by the Committee so that revised proformae can take into account most of the likely requirements of the Department and, in particular, the information required by the Parliament. The periodical reports have been so designed as to obviate the need to secure information from the field officers on an *ad-hoc* basis except in exceptional circumstances.
- (b) The proposed proformae should be tried out initially in a few Commissioners' charges to ascertain the practical difficulties, if any.
- (c) The Directorate of Inspection (Research & Statistics) should be custodian of all statistical information.

(B) Statistical Organisation

As the work relating to compilation and publication of statistics is entrusted to Directorate of Inspection (Research & Statistics), the Committee has, suggested, for this Directorate, a number of professional posts at various levels of supervision and also suitable augmentation of staff taking into account the greatly enlarged functions and work load.

5. The Final Report of the Committee was considered by the Central Board of Direct Taxes on 26-4-76 and it was decided to appoint an Officer on Special Duty in the Directorate of Organisation and Management Services to prepare detailed proposals for implementing the various recommendations of the Committee in relation to the collection and compilation of Statistics in the light of some changes made and guidelines laid down by the Board. The DI (R&S) has been asked to submit proposals, through the DI (O&MS) on the basis of the recommendation of the Committee, to strengthen and improve the statistical organisational structure of the Directorate of Research and Statistics. A few of the recommendations of the Committee, requiring detailed consideration, are being actively examined.

6. The latest All India Statistics presently available relate to the year 1972-73 and were published in 1975. The publication of Statistics for 1973-74 is being phased out as recommended by the Committee on Direct Taxes Statistics in its interim report. The All-India Income-tax Statistics for 1974-75 are in an advanced stage of finalisation. All India Statistics in respect of other Direct Taxes are also brought out. The

Committee on Direct Taxes Statistics could not, however, make any recommendation relating to other Direct Taxes due to lack of time. It has observed that the changes required in the collection, compilation and publication of their statistics can be modelled broadly on the same lines as suggested by the Committee for Income-tax Statistics and has recommended that this matter may be further examined by the Directorate of Organisation and Management Services (DOMS) in the light of the report of the Committee. The Board considered this suggestion of the Committee also at the meeting held on 26th April, 1976 and has asked the Directorate of Organisation & Management Services to work out a Scheme of collection, compilation and publication of statistics relating to other Direct Taxes in the light of the recommendations of the Committee.

(Department of Revenue & Banking F. 241/15/76-A & PAC-I, dated 28-6-1976).

Further Information

The work relating to the formulation of a scheme of Collection, compilation and publication of statistics relating to other Direct Taxes, in the light of the recommendation of the Committee on Direct Taxes, is being taken up and will be finalised shortly.

[Ministry of Finance (Department of Revenue) F. No. 241/2/77-A & PAC-I, dated 13-9-1977].

Recommendation

Another reason for the repetitive mistakes in big cases resulting in huge loss of revenue, is that assessments work is largely left in the hands of comparatively inexperienced Income-tax Officers, who have to match their wits in an often unequal battle against the best legal brains and expert Chartered Accountants. As has been admitted more than once in evidence by the Chairman, Central Board of Direct Taxes, it would be a very desirable step if some categorisation of cases is made, so that those involving more than Rs. 5 lakhs of returned income is assessed directly by the Inspecting Assistant Commissioners rather than by Income-tax Officers. Adequate provisions have been in existence in this regard in the Income Tax Act and it is said that these provisions have not been made full use of so far. It is hoped that if Assistant Commissioners of Income-tax are given assessment powers to assess directly cases of over Rs. 5 lakhs, which are not too many, the standard of performance will improve and the possibility of mistakes reduced. Appeals in such assessments, if preferred, would go straight to Commissioners of Income-tax, so that in big cases officers just promoted as Appellate Assistant Commissioners are not saddled with powers of appellate relief which should be vested in higher levels so that the country's revenue is better safeguarded.

[Sl. No. 16 (Para 12.7) of Appendix III to 186th-Report of the PAC (1975-76) (Fifth Lok Sabha)].

Action taken

As already reported to the Committee *vide* Department's reply to recommendation No. 1.8 of 192nd Report, seven Inspecting Assistant Commissioners in various charges have already been assigned assessment

work in respect of important cases in those charges. In view of the present shortages in the cadre of Assistant Commissioners, it has not been possible to post more Inspecting Assistant Commissioners for this purpose and we may have to wait till extra manpower becomes available. The matter is being further examined and the additional manpower requirements are being worked out in order to implement the Committee's recommendation fully.

(Department of Revenue and Banking E. No.241/17/76-A & PAC-I,
dated 28-6-76.)

Further Information

A study regarding manpower requirements for handling of assessments in cases with income exceeding Rs. 5 lakhs, by the IACs has been received from the Director of O&MS and is under process.

[Ministry of Finance (Department of Revenue) F. No. 241/2/77-
A&PAC-I, dated 13-9-1977.]

Recommendation

Closely connected with an efficient internal control system is an effective internal audit system. As will be seen from the preceding chapters, it required almost a constant and persistent prod by the Public Accounts Committee for increasing the scope, extent and effectiveness of internal audit. In the Sixth Report, of the Third Lok Sabha, the Committee had to make the following observations, after expressing the alarm at the large number of cases of under-assessment involving considerable amounts detected by the test audit of the Comptroller & Auditor General .

“The Committee feel that the situation calls for more effective internal audit of the old and new assessment cases, so that the mistakes can be rectified and recoveries made before these become time-barred. The Committee regret that in spite of the recommendations of the Direct Taxes Enquiry Committee, no effective steps seem to have been taken to strengthen internal audit. This should be done without further delay.”

Again in the 29th Report of the Fourth Lok Sabha, the Committee requested the Government to pay serious attention to the strengthening of internal audit by having well qualified, experienced and trained people in the work of taxation to work in the internal audit, to be headed by a senior officer who should preferably work under the Central Board of Direct Taxes, so as to inspire the confidence that they can discharge their duty without fear or favour.

[S. No. 17 (para 12.8) of Appendix to 186th Report of the PAC
(1975-76) (Fifth Lok Sabha)]

Action taken

The Department of Revenue and Banking agree with the Committee on the importance of an efficient internal audit system for the Income-tax Department. Internal audit was introduced in the year 1954 with a view to

providing a second check over the arithmetical accuracy of computation of income and determination of tax. Since then with the increasing volume of work and growing complexity of the tax laws, the scope of check by internal Audit Parties has been enlarged from time to time. It has been the constant endeavour of the Department that the Internal audit organisation functions effectively to prevent leakage of revenue. With this objective in view, the Number of Internal Audit Parties has been increasing from time to time keeping in view the cost involved. In December, 1972, 30 additional Internal Audit Parties, 31 Income-tax Officers (Internal Audit), 6 additional IAC (Audit), 3 Chief Auditors and an Audit Cell in the Directorate of Inspection (IT&A) (consisting of one Deputy Director, one Asstt. Director and supporting staff) were sanctioned. With the additional IAPs the strength of Internal Audit Parties increased from 91 to 121.

2. The Central Board of Direct Taxes in its anxiety to further improve the working of the internal audit organisation ordered the Director (O&MS) to conduct a study of the working of internal audit organisation. Following the recommendations of this study, further strengthening of the internal audit organisation, qualitatively as well as quantitatively is under active consideration of the Government.

3. The Central Board of Direct Taxes have taken the following steps to streamline the working of IAPs and making them more effective pending an increase in their number and improvement in their composition :

- (i) Supervisors heading the IAPs have been replaced by Inspectors, who are better qualified for this particular job.
- (ii) Greater attention is being paid to technical competence of the personnel manning the IAPs. The Regional Training Institutes of Income-tax trained 285 officials of the IAPs during 1973-74, 100 officials during 1974-75 and 107 officials in 1975-76. A special training for checking assessments of insurance companies was given to one IAP each at Bombay, Calcutta, Madras and Delhi. The Commissioners of Income-tax have been asked to start training courses for ministerial staff of IAPs who are checking company circles, Central Circles and Estate Duty Circles. The four Regional Training Institutes will be giving training to Inspectors of IAPs with emphasis on audit of company cases.
- (iii) The existing check-sheets for Income-tax (Company and non-company), Wealth-tax, Gift-tax and Estate Duty cases are being revised from time to time in the light of changes in law, to enable the IAPs in effective and efficient audit of cases.
- (iv) The Directorate of Inspection (I.T. & Audit) regularly inspects the working of IAPs to ensure that prescribed audit procedures are followed and adequate measures are taken for expeditious checking of 'Immediate' and 'priority' cases.

- (v) With a view to educating the IAPs and officials of the Deptt. and bringing to their notice the types of mistakes noticed, the Directorate have started bringing out a quarterly bulletin of important mistakes detected by Receipt Audit and Internal Audit during the quarter. Copies of these bulletins are circulated among all officers of the Department.
- (vi) Similarly, the Directorate have started bringing out an Annual Audit Report which *inter-alia* incorporates important type of mistakes noticed by Internal Audit Parties in all charges during the year.
- (vii) Instructions have been issued fixing the responsibility for proper and timely remedial action on Commissioners/Inspecting Commissioners of Income-tax on the basis of the revenue involved in audit objections.

It may be seen from above that the Department is taking all possible steps from time to time to stream-line the working of Internal Audit Parties in order to minimise the number of mistakes and ensure timely remedial action.

[Department of Revenue & Banking F. No. 241/20/76—A&PAC-I,
dated 27-5-1976]

Recommendations

In the 117th Report, in paragraph 1.34, the Committee had to observe that the internal audit had not so far played an effective role in checking faulty assessments and to suggest certain measures for improving the quality, scope and extent of internal audit.

The matter came up again before the Committee and in paragraph 2.27 of their 51st Report (Fifth Lok Sabha). The Committee stressed the need for intensification of checks by internal audit. The Committee further suggested that an immediate review of the working of internal audit should be undertaken by the Board to find out how far they were carrying out the prescribed checks and bringing to the notice of Government cases of under or over-assessment requiring rectification.

[S. No. 18 (Para 12.9) of Appendix III to 186th Report of PAC (1975-76) (Fifth Lok Sabha)]

Action taken

The matter of improving the quality, scope and extent of the Internal Audit is under active consideration of the Department.

With a view to ensuring that all important aspects are looked into, check-sheets have been devised, for Company cases, Non-company cases, Wealth-tax, Gift-tax and Trust cases. Copies of such check-sheets are supplied to the Internal Audit Parties. These check-sheets are also revised from time to time, in conformity with the changes in Direct Taxes Laws.

2. The working of Internal Audit Parties is reviewed every month by the Director of Inspection (IT&A) and by the Board once in every six months. During 1973-74, 1974-75 and 1975-76, the Internal Audit Parties have brought to the notice of the Department cases of under assessment and over

Year	Under Assessment cases		Over-assessment cases	
	No. of cases	Tax effect	No. of cases	Tax effect
		(Rs. in Cr.)		(Rs. in Cr.)
1973-74	43396	27.39	13906	5.88
1974-75	44549	30.69	13599	6.75
1975-76 (Up to 31-3-76)	47657	35.62	14959	9.43

[Department of Revenue and Banking F. No. 241/20/76—A&PAC-I, dated 1-7-1976]

Further Information

Kind attention of the Committee is invited to Action taken notes in respect of paragraphs No. 12.8, 12.10, 12.12, 12.13 and 12.15 of the 186th Report of the Public Accounts Committee sent to the Lok Sabha Secretariat under O.M. No. 241/20/76-A&PAC-I dated 27th May, 1976, 5th July, 1976, 5th July, 1976, 5th July, 1976 respectively setting out the various steps taken by the Deptt. to improve the quality, scope and extent of the Internal Audit set up.

40 special audit parties each consisting of an Income-tax Officer with two Inspectors have been created and placed in position. These special audit parties will scrutinise all company cases and cases with assessed income of over Rs. one lakh as well as estate duty cases where the P.V. of the estate is over one lakh of rupees.

It is hoped that the above steps will improve the performance of the internal Audit both quantitatively & qualitatively.

The delay in implementing the scheme was partly due to detailed examination of the additional staff proposals by the Staff Inspection Unit and further processing for getting the additional posts sanctioned by the Government.

[Ministry of Finance (Department of Revenue) F. No. 241/2/77—A&PAC-I dated 13-9-1977]

Recommendation

In paragraph 2.9 of their 73rd Report (Fourth Lok Sabha). The Committee pointed out that even where the internal audit checked the assessments a number of mistakes had escaped their notice, which pointed

to the need for toning up their performance. Further in the 150th Report of the Fifth Lok Sabha, the Committee felt that it was essential to have a comprehensive review by the Board, at least once in six months, of the working of internal audit with a view to improving its efficiency.

[S. No. 19 (Para 12.11) of Appendix III to 186th Report of PAC (1975-76) (Fifth Lok Sabha)]

Action taken

The recommendation of the Committee is in two folds viz.—

- (i) Toning up the performance of Internal Audit with a view to avoid mistakes; and
- (ii) comprehensive review by the Board, at least once in six months, of the working of Internal Audit with a view to improving its efficiency.

As regards suggestion at (i) above, attention of the Committee is invited to this Department's reply to recommendation Nos. 12.9, 12.10, 12.12 and 12.13 of this Report, wherein details of the steps taken for toning up the performance of Internal Audit have been explained.

As regards (ii) above, the Board have already started having comprehensive six monthly reviews of the working of the Internal Audit.

[Department of Revenue & Banking F. No. 241/20/76-A&PAC-I,
dated 14-7-1976]

Recommendations

The foregoing observations underline the urgency and the need for restructuring and reorganising the internal audit, so as to make it an efficient tool for tax management. The development of the internal audit system has been very tardy in the Income-tax Department. Initially, the Internal Audit Parties were checking only the arithmetical accuracy of the assessments. In 1964, the Board extended the function of internal audit to finding out mistakes in law. The Internal Audit Party is headed only by a Supervisor and two Upper Division Clerks and is under the control of Chief Auditors (of Income-tax Officer's grade) who do not add up to form an adequate team for the job. Except for placing in over-all charge an Inspecting Assistant Commissioner, who unfortunately does not appear to have been successful with the task of effective coordination of internal audit work, the composition of the internal audit parties has remained almost static during the span of a decade or so. Internal audit function is a specialised activity and requires a thorough knowledge of the law, the rules and procedures, so that it is enabled to play its effective role as an independent appraisal unit for reviewing the accounting, financial and other operations. It is a managerial tool of control and as such it has to have the requisite authority, responsibility and independence, as well as equipment adequate to the discharge of its duties.

As regards authority and responsibility, it has to be realised that internal audit is a staff function and the internal auditor should be free to review and appraise not only the arithmetical accuracy and the legal correctness of the assessments, but also to review the procedures, and should have the authority to suggest appropriate remedial measures and changes to the Board of Direct Taxes.

[S. Nos. 20 & 21 (Paras 12·12 & 12·13) of Appendix III to 186th Report of the PAC 1975-76 (Fifth Lok Sabha)]

Action taken

The Department shares the views of the Committee that Internal Audit function is a specialised activity and require thorough knowledge of law, the rules and procedure in order to play an effective role on the working of the Department. The steps taken by the Department in this direction have been explained in details in our reply to recommendation No. 12·15 of the 186th Report.

2. The scope of Internal Audit has been further enlarged *vide* Directorate F. No. Audit-9/75-76/DIT dated 10-10-1975 (Appendix XXII) authorising it to check also the adequacy of procedure and forms prescribed by the Department and to make suggestion for their improvement to Director of Inspection (O&MS) for necessary remedial action.

[Department of Revenue & Banking F. No. 241/20/76-A & PAC 1, dated 1-7-1976]

Recommendation

The other requisite of equipment and qualification has been neglected all these years and should be attended to immediately. The Internal Audit Parties should be Inspector-oriented and not UDC oriented. Each party should consist of an Income-tax Officer assisted by two Inspectors and not, as at present, a supervisor and two Upper Division Clerks, whose knowledge unhappily is too often little and training less. The Inspecting Assistant Commissioner of Income-tax incharge of Internal Audit should have a more manageable range of Supervision than is at present and should devote himself more seriously to the primary task of laying down programme for internal audit, receiving reports of Internal Audit, getting quicker compliance from the formation whose work the internal audit has commented upon, preparing a consolidated report half yearly or annually for the Director of Internal Audit, who would then submit his comments to the Board with a view to the latter initiating appropriate action.

[S. No. 23 (Para 12·15) of Appendix III of 186th Report of the PAC 1975-76 (Fifth Lok Sabha)]

Action taken

Department of Revenue and Banking share the anxiety of the Committee to improve the effectiveness of the internal audit organisation. The recommendation that the Internal Audit Parties should be Inspector-oriented have been accepted. However, on account of financial and per-

sonnel constraints, it may not be feasible, at the moment to have all parties Inspector-oriented. Moreover, deploying audit parties consisting entirely of Inspectors on comparatively smaller and simpler cases may not be wholly necessary or justified. Presently, it is proposed to create 40 special audit parties consisting of one Income-tax Officer and two Inspectors to audit company cases, estate duty cases and other cases with assessed income of over Rupees one lakh. The remaining cases will, for the time being, be continued to be looked after by existing audit parties.

2. Training facilities at all levels have been considerably improved by strengthening the I.R.S. (Direct Taxes) Staff College, Nagpur, and opening four Regional Training Institutes. Regular programmes of refresher courses for Income-tax Officers and special training courses for Internal Audit Parties at the Regional Training Institutes have been undertaken. The Regional Training Institutes trained 285 officials of the Internal Audit Parties during 1973-74, 100 officials during 1974-75 and 107 officials in 1975-76. A special training for checking assessments of Insurance Companies was given to four Internal Audit Parties—one each of Bombay, Calcutta, Madras and Delhi where insurance companies are mostly assessed. In January 1976, the Commissioners of Income-tax were asked to start a training course for ministerial staff of Internal Audit Parties who are checking cases of company circles, Central Circles and Estate Duty Circles.

3. The Directorate of Inspection (IT&A) have started bringing out a quarterly bulletin of important mistakes detected by Receipt Audit and Internal Audit Parties during each quarter. Similarly, the Directorate have started bringing out an Annual Internal Audit Report containing a review of the working of Internal Audit as well as typical mistakes noticed by Internal Audit Parties in all charges during the year. These reports are reviewed by the Board and suitable instructions are issued, wherever necessary. Copies of the quarterly bulletins and Annual Reports are distributed to all officers with a view to eliminate the recurrence of similar mistakes.

[Department of Revenue and Banking F. No. 241/20/76-A & PAC I,
dated 1-7-1976]

CHAPTER III

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

Recommendation

The second area where immediate attention is required is the strengthening of the internal control and supervisory system, particularly at the middle management level. There are today, according to the information furnished to the Committee, about 3100 Income-tax Officers supervised by 260 Inspecting Assistant Commissioners. The Inspecting Assistant Commissioners form a very important link in the chain of transmission and implementation of the orders of the Board and of the Commissioners. All the mistakes which Audit has been pointing out repeatedly and which the Committee had to bring to the notice of the witnesses, could have been avoided, if there had been a more efficient supervision and internal control by these middle-level officers. As it is, there does not appear to be any effective management by the IACs, for whom except for certain statutory duties now vested under the Income-tax Act—no mandatory inspection and control obligations, along with provision for punishment in cases of failure have been laid down. With no concrete responsibility in the matter of guidance and control, they appear to be acting almost entirely as channels of communication between the ITO, who bears the entire brunt of the work, and the Commissioner and the Board, who issue the guidelines. Even the prescribed duties of inspection have not been apparently discharged efficiently, as is evident from the number of admitted mistakes in big cases which the IACs, under existing instructions, are required to check. To several queries whether the IACs had checked the assessments, in which mistakes had been brought to the notice of the Committee by Audit, a bare reply in the negative is all that is vouchsafed by the Ministry. If the Inspecting Assistant Commissioners are not to be thought of largely as a superfluous body of officers and are to justify themselves in the role for which it had been created, *viz.*, to effectively supervise and control the work of ITOs so that the rules and regulations are properly observed by them, then there should be a more positive part to be played by them. This the Board should ensure by issuing, if necessary, an 'Instructions Manual for IACs, prescribing periodical inspection duties with adequate details as to the nature of checks to be exercised by them. One such check should be to ensure that all instructions issued by the Board are in fact observed and a certificate to that effect should ensure. The IAC should also be required to conduct a general review of the survey, recovery and arrears of assessment and collection including outstanding refund claims, and to submit periodical Review Reports to the Board through the Commissioners. Government may consider the feasibility of ensuring that the

work of the IAC is superintended by one of the Directors of Inspection and a serious view taken of any dereliction of duty. If in future Audit Reports cases come to light of IACs not having conducted inspection which they ought to have done or had failed to notice an under-assessment in a case which they had scrutinised, the Committee would take serious note of such failure. The Committee desire that this should be impressed on all Inspecting Assistant Commissioners suitably.

[Sl. No. 15 (Para 12.6) of Appendix III to 186th Report of the PAC (1975-76) (Fifth Lok Sabha)].

Action taken

The recommendation made by the Public Accounts Committee is broadly in three folds *viz.* :

- (i) Preparation of Inspection Manual for the Inspecting Assistant Commissioners.
- (ii) Strengthening of internal control and supervisory system at IAC's level.
- (iii) Feasibility of superintending the IAC's work by one of the Directors of Inspection.

1
2. The Department shares the views of the Committee and the preparation of the Inspection Manual for the IACs has already been taken on hand by the Director of Inspection (Income-tax & Audit).

3. The Department shares the view of the Public Accounts Committee regarding strengthening of the internal control and supervisory system at the IAC's level. In Board's demi-official letter No. 404/265/74-ITCC dated 4th October, 1974 the Commissioner of Income-tax and Inspecting Assistant Commissioners of Income-tax have been asked to personally take complete care of top 100 cases of their charges and ranges respectively. Similarly Income-tax Officers in company and non-company districts have been asked to take complete personal care of top 20/25 and 40/50 cases respectively in their wards. While the Inspecting Assistant Commissioners have been asked to review the top 100 cases of their range, case by case, they have also been asked to check the remaining top cases on the list of their ITO's on sample basis. Like-wise, while the CsIT have been asked to review the top 100 cases of their charges case by case they have been asked to check the remaining top cases on the list of their officers on a sample basis. The Commissioners have been asked to forward to the Board monthly report on the results of the suggested review undertaken by them and their IACs of the top cases. Further, with the introduction of Section 144A and 144B in the I.T. Act 1961 by Taxation Laws (Amendment) Act 1975, the IACs will now be more closely associated with the assessment work at the pre-assessment stage itself, reducing the chances of the repetition of "costly mistakes" hitherto detected by the internal/revenue audit. The observations of the Committee are also being brought to the notice of all Commissioners and Inspecting Assistant Commissioners of Income-tax.

4. The Department has examined the suggestion of the Committee that the work of the Inspecting Assistant Commissioner may be superintended by one of the Directors of Inspection but feel that this would not prove practicable. Too much centralisation of control and multiplicity of control over the IAC, *i.e.*, one by the Commissioner and the other by the Director of Inspection, will result in dilution of responsibility, as well as waste of energy in sending reports, etc. to more than one authority. The attention of the Committee is, however, drawn to the fact that under the existing system itself the Directorate has been keeping general watch over the implementation of the inspection programmes drawn up by the IACs and approved by the Commissioners. The Directorate scrutinises the inspection reports and issues suitable instructions in respect of individual reports wherever considered necessary.

Department of Revenue and Banking F. No. 241/16/76-A & PAC-I,
dated 30-6-1976]

Further Information

The Guide lines for Inspection by Inspecting Assistant Commissioners have since been issued by the Director of Inspection (Income-Tax & Audit) on 7-1-1977.

[Ministry of Finance (Department of Revenue) F. No. 241/2/77-A —
PAC-I, dated 13-9-1977]

Recommendation

Perhaps a more fundamental requisite is the independence of Internal Audit. Unless this independence is assured, complete objectivity cannot be expected. The organisational status of the internal auditor and the support accorded to him by the management should, therefore, be such as would eliminate all fear of ill-will or anything of that sort on the part of officers whose assessments and work generally the internal auditor is called upon to scrutinise. This can only be done by having a kind of autonomous cadre, headed by a senior officer responsible to the administration at the highest level. The actual set up can be planned with a little careful thought.

[S. No. 22 (para 12.14) of Appendix III of 186th Report of the PAC (Fifth Lok Sabha) (1975-76)].

Action taken

The Directorate of Inspection (O&MS) examined the suggestion that the audit organisation should be independent of the Commissioners, but came to the conclusion that it is not feasible to make the internal audit independent of the Commissioners, for among others, the following reasons:

- (a) If audit work is taken away from the Commissioner of Income-tax's purview, the control over the Internal Audit Parties will have to be exercised by some central organisation. Such control would naturally be remote and ineffective.

- (b) It is important that the Commissioner of Income Tax being the head of the Department should be in complete control of all the work within his jurisdiction. Taking away the audit work would deprive him of his supervisory functions in relation to some important aspects of the work in his charge. Further, he alone will be in a position to discipline the defaulting officers in the assessment wing, wherever necessary.
- (c) The Commissioner of Income-tax as the senior manager in the field has a vested interest in the efficient conduct of the work of his organisation. The Internal Audit will be a useful tool of management in his hands to enable him to take steps to ensure that mistakes pointed out by Internal Audit are not repeated in other cases. He will also be responsible for seeing that all assessments made are audited in time and remedial action taken early before the arrival of the Revenue Audit Party.
- (d) Making the audit organisation independent of the Commissioners is also likely to create problems of cooperation and co-ordination between the Commissioner and the Audit Organisation.
- (e) Unless and until a separate all-India cadre is created for Internal Audit work, staff for this purpose has necessarily to be drawn from the Commissioners of Income-tax Charges.

The study group set up by Finance Secretary also examined the issue and came to the following conclusion:

“As regards the suggestion that the Audit Organisation should be independent of the Commissioners, we are in agreement with the Directorate’s views, as otherwise it would lead to erosion of authority and dilution of responsibility of the Commissioners in the field. At the same time, the IAC (Audit) should be given a larger measure of technical autonomy. For this purpose, we suggest that in case of difference of opinion between the IAC (Audit) and the Commissioners, the IAC (Audit) should be free to make a reference to the D.I. (Audit).”

In view of the foregoing the Board have decided that the Internal Audit Parties should continue to function under the administrative control of the Commissioners.

[Department of Revenue & Banking F. No. 241/20/75-A&PAC-J.
dated 1-7-1976].

CHAPTER IV

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

Recommendation

In respect of all these matters the Public Accounts Committee have been making recommendations repeatedly and the Government have been giving assurances. However, as can be seen from the following chapters, the assurances have, largely, remained unfulfilled. In a number of cases (of paragraphs 3.14, 4.7, 4.11, 5.13, 5.20, 6.13, 7.5, 7.13, 7.14, 9.17, 11.11, 11.14, 11.20 and 11.25 of this Report), there has been no finality as yet in respect of the action taken by Government some of the important recommendations of the Committee, despite considerable time having elapsed. Unless the Government devise an adequate machinery to see that the recommendations of the Committee receive adequate and prompt attention and the assurances held out to the Committee are translated into positive action not only at the higher level in the Ministry of Finance and the Central Board of Direct Taxes but also by all those engaged, in some capacity or the other, in administering the Income-tax law and procedures the labours of the Committee over the past so many years shall have been in vain.

[S. No. 1 (Para 2.4) of Appendix III to 186th Report of the Public Accounts Committee (1975-76) (Fifth Lok Sabha)].

Action taken

The latest position in respect of the recommendations referred to in various paragraphs mentioned above is as under:

(i) *Para 3.14*—The Committee's attention is invited to this Department's reply to para 3.15 of this Report dated 29-6-76. Regarding the recommendation at para 1.14 of 150th Report in respect of amalgamation of the Agencies for collecting information and conducting research on tax problems, no decision has been arrived at so far. The Committee will be informed as soon as a decision is taken.

(ii) *Para 4.7*—In this connection, a reference is invited to this Department's reply of 21st September, 1974 to para 1.15 of 118th Report of the Committee (1973-74) (Appendix I). The results of the survey are, however, awaited. The Committee will be informed as soon as the results of Survey are known.

(iii) *Para 4.11*—The matter has been referred to the Ministry of Law for obtaining the opinion of Attorney General, which is awaited.

(iv) *Para 5.13*—The information sought for by the Audit in this connection has been furnished to them on 6th May, 1976 *vide* D.O.F. No. 236/ 194/71-A&PAC-II (Appendix II).

(v) *Para 5.20*—In this connection, this Department's reply dated the 24th April, 1976 to para 1.17 of the 187th Report may please be referred to (Appendix III).

(vi) *Para 6.13*—The measures taken in this respect have been elucidated in replies to paras 1.16, 2.21, 5.18 and 5.19 of their 187th Report (Appendices IV, V and VI).

(vii) *Paras 7.5, 7.13 & 7.14*—Replies sent on 17th July, 1975, 16th August, 1975 and 25th August, 1975 from F.No. 236/243/72-A&PAC-II may be referred to in this connection (Appendices VII, VIII and IX).

(viii) *Para 9.17*—The results of review have been intimated to the Committee on 7-5-76 from F.No. 231/21/73-A&PAC-II in reply to para 1.42 of their 141st Report (Appendix X).

(ix) *Paras 11.11 & 11.14*—This Department's reply dated the 13th November, 1975 to para 1.95 of their 150th Report also covered their recommendation at para 1.105.

(x) *Para 11.20*—In para 1.14 of their 25th Report, the Committee had recommended strengthening of the Intelligence Wing. The Board have recently taken steps for strengthening the work of the Intelligence Wing. Five additional posts of Deputy Directors, 53 posts of Assistant Directors and 162 posts of Inspectors have been sanctioned in April, 1976.

(xi) *Para 11.25*—In this connection, this Department's reply to para 11.31 of this (186th) Report may please be referred to.

[Department of Revenue and Banking F. No. 241/2/76-A&PAC-II, dated 17-7-1976].

Further information

In this connection kind attention of the Committee is invited to Ministry's action taken note on para 1.14 of 150th Report of the P.A.C. Sent to the Lok Sabha Secretariat (P.A.C.) *vide* O.M. F. No. 241/2/76-A&PAC-II dated the 28th Sept., 1976. In view of the position stated therein the merger of the three agencies, e.g., Tax Planning and Legislation Section, the Directorate of Research and Statistics and the Fiscal Policy Research Unit has not been considered necessary. The action taken note has the approval of the then Minister of Revenue & Banking.

[Ministry of Finance (Deptt. of Revenue) F. 241/2/77-A&PAC-I, dated 13-9-1977].

Recommendation

In spite of various exhortation and recommendations of the Public Accounts Committee, the Ministry of Finance has still not come to grips with the problem relating to the failure to levy interest and has consistently

failed to fulfil the assurances held out. Even where action is taken on a special suggestion of the Committee, it is so tardy that the Committee feel that the Ministry has to be goaded time and again. For instance, their suggestion regarding the simplification of interest calculation had been accepted as long back as November, 1969; powers to frame rules for the purposes were acquired in April, 1971 by amending the Income-tax Act, while the rules were actually framed and notified in December, 1974, effective only from the 1st January, 1975. It is disconcerting that the Ministry should have taken six long years to implement this simple suggestion. Similarly, though in pursuance of the Committee's suggestion the target date for a general review of all cases of completed assessments for more than Rs. 50,000 with a view to ensuring enforcement of penal provisions, had been fixed as 31st October, 1974 by the Central Board of Direct Taxes itself, the results of this review are still not available to the Committee.

[Sl. No. 7 (Para 9.18) of Appendix III to 186th Report of the Public Accounts Committee (1975-76) (Fifth Lok Sabha)].

Action taken

Kind attention of the Committee is invited to the Department of Revenue and Banking (Revenue Wing's) action taken note on recommendation No. 1.42 of 141st Report (attached) which was forwarded to the Lok Sabha Secretariat *vide* Office Memorandum No. 231/21/73-A&PAC-II (Pt.), dated the 7th May, 1976 (Appendix X).

[Department of Revenue and Banking F. No. 241/10/76-A&PAC-I, dated 25-8-1976].

CHAPTER V

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

Recommendation

The Committee cannot help referring to the peculiar administrative climate prevailing today in the Income Tax Department, where the entire force of Income-tax Officers is divided into two seemingly rival camps, spending most of their time and energy in fighting in courts seniority issues relating to more than two decades, neglecting, in the process, their primary duty of assessment and collection. In this connection the Committee would like to refer to paras 125 to 128 of the 16th Report (5th Lok Sabha) of the Committee on subordinate Legislation (Reproduced in Appendix II) and also to quote paragraph 74 of the Report of the Select Committee on the Taxation Laws (Amendment) Bill, 1973:

"The Committee note with concern that the dispute between the officers directly recruited to Class I and those promoted to it has been pending settlement for a very long time. As a consequence, the parties had to go to the court. This was unfortunate for it seriously affected the efficiency of the Department. They feel that if the problem of black money and tax evasion is to be seriously dealt with, it is essential that tax administration should be made effective and efficient. The dispute in which a large group of Income-tax personnel feel at the moment frustrated and demoralised is not conducive to efficient tax administration. They feel that the question of career prospects of Class II Income-tax Officers including the policies pursued by the Department in respect of their seniority and promotion should be reviewed expeditiously."

This Committee feel equally that this is a matter which should be settled without losing any more time. The Committee had lately the opportunity of hearing representatives of the two aforesaid groups and the impression that is left with the Committee on hearing the evidence is that the question has to be tackled not on the basis of legalistic niceties alone, but also on broader grounds based on justice and equity. This can be brought about only in a manner which the present climate in the country upholds, namely, an agreed settlement, in which purely legalistic grounds should not take precedence over sensible and practicable consideration. A solution must be found acceptable to all, or at least to the majority of officers concerned, so that fore-getting the rancour, the ill will and the bitterness that have plagued the cadre for well over a decade, the officers can work together in a spirit of cooperation and dedication in the common endeavour to combat evasion and ensure a proper tax compliance.

[S. No. 24 (Para 12.16) of Appendix III to 186th Report of the PAC (1975-76) (Fifth Lok Sabha)].

Action taken

In para 12.16 of their 186th Report, the Public Accounts Committee have referred to the observations of the Committee on subordinate Legislation and the Select Committee on Taxation Laws (Amendment) Bill, 1973. Two other Committees of Parliament, namely, the Committee on Petitions of the Rajya Sabha and the Committee on Petitions of the Lok Sabha, have also made certain observations/recommendations in the same matter. The observations/recommendations of all the Committees are under examination in consultation with the Ministries/Departments concerned.

[Department of Revenue & Banking F. No. 241/19/76/A&PAC-I, dated 14-7-1976].

Further information

The observations/recommendations of various Committees on the morale and efficiency of Income-tax Officers are still under consideration in consultation with the Ministries/Departments concerned.

[Ministry of Finance (Department of Revenue) F. No. 241/2/77-A&PAC-I, dated 13-9-1977].

NEW DELHI ;
December 19, 1977

C. M. STEPHEN
Chairman,
Public Accounts Committee

Agrahayana 28, 1899(S)

APPENDICES

APPENDIX I

STATEMENT OF ACTION TAKEN ON THE RECOMMENDATION OF THE PUBLIC ACCOUNTS COMMITTEE

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE & INSURANCE)

Recommendation of the Committee

1.15. In order to augment wealth-tax receipts, the Committee had specifically desired that the survey of house properties in all the charges should be completed under a time-bound programme appears to have been laid down by the Central Board of Direct Taxes. The Committee are, therefore, constrained to reiterate that it should be done forthwith and the programme strictly adhered to. They would await a report on completion of the survey in all the charges.

[S. No. 4 (Para 1.15) of Appendix to 118th Report of the Public Accounts Committee (1973-74)].

Action taken by the Government

1.15. Instructions have been issued from time to time for intensifying survey operations in regard to survey of house properties. Survey regarding house properties with annual letting value of Rs. 5,000 or more ordered last year is still in progress. The Commissioners concerned have been asked to complete the survey operations expeditiously. The results will be intimated to the Committee as soon as these are available.

2. The Commissioners of Income-tax have been asked recently to re-organise the survey operations in the Income-tax Department so as to bring in persons who have so far been escaping their liability to Income-tax/Wealth-tax into the tax net. Directorate of Organisation and Management Services is also conducting a study of the utilisation of present strength of Inspectors so as to see the possibility of diverting more Inspectors for survey work. This study is not yet complete.

Sd/-

(R. S. CHADDA)

Joint Secretary to the Government of India.

F. No. 231/24/72-A&PAC--I

21-9-1974.

APPENDIX II

D.O. F. No. 236/194/71-A&PAC-II
DEPARTMENT OF REVENUE & BANKING
(REVENUE WING)

A. K. MISRA
Under Secretary

New Delhi, the 6th May, 1976.

My dear Bhola,

SUBJECT:—*PAC 115th Report (1973-74)—Statement of action taken on the recommendations—para 1.11—supply of.*

Please refer to your D.O. No. 876-Rec. A.II/7-74 dated the 14th April, 1975.

2. The information regarding Receipt audit and Internal Audit objections which became time-barred during 1973-74 is as under:—

- (i) Receipt Audit objections time-barred;
32 involving under charge of Rs. 2,58,000
- (ii) Internal Audit objections time-barred;
112 involving under-charge of Rs. 1,76,000
and 6 involving over-charge of Rs. 3,000

The figures of time-barred cases shown here do not agree with those shown in the Annual Internal Audit Review and Annual Internal Audit Report for 1973-74 as the fact of some cases having become time-barred during 1973-74 came to notice in some CIT's charges after the Annual Internal Audit Reviews/Reports had been sent by those Commissioners of Income-tax, and in one CIT's charge which had earlier reported 10 cases as having become time-barred, it was later found that two of the objections had already been settled in 1973-74.

3. The steps taken since January, 1973, to improve the functioning of the Internal Audit Parties etc. are given in the enclosed note.

Yours sincerely,
Sd/-
(A. K. MISRA)

Encl: As above

Shri B. N. Bhola,
Administrative Officer (RA),
Office of the C&AG of India,
New Delhi.

STEPS TAKEN (SINCE JANUARY 1973) TO IMPROVE THE FUNCTIONING OF INTERNAL AUDIT PARTIES—

30 IAPs were added raising their strength from 91 to 121 *Vide* Board's F. No. 66/83/72-Ad. VII dated 6-12-72. The Additional IAPs started functioning in early 1973. However, even this increased strength was considered inadequate and the Director, O&M Services, after making a work study of IAPs, recommended:

- (i) improvement in the composition of IAPs (each IAP to consist of 3 Inspectors and one UDC instead of its present composition of one Inspector and 3 UDCs), and also
- (ii) increase in the number of IAPs:

Pending increase in the number of IAPs and improvement in their composition, the following steps have been taken since January, 1973, to improve the working of the IAPs:

- (i) Greater attention has been given to the training of IAP officials. The Regional Training Institute trained 285 officials of the IAPs during 1973-74 and 100 persons during 1974-75. (Details of training imparted in 1975-76 are being collected and will be intimated as soon as received). A special training for checking assessments of Insurance companies was given to four IAPs— one each of Bombay, Calcutta, Madras and Delhi where insurance companies are mostly assessed. In January, 1976, the Commissioners of Income-tax were asked to start a training course for ministerial staff of Internal Audit Parties who are checking cases of Company Circles, Central Circles, and Estate Duty Circles.
- (ii) To assist the IAPs in doing more effective and efficient audit, *the existing sheets for Income-tax (Company and non-company cases), wealth tax and Estate Duty cases were thoroughly revised* by the Directorate in 1974-75 so as to cover all important aspects of an assessment in which mistakes are likely to be committed. Besides check-sheets for Trust cases and Gift Tax cases were also designed for the first time by the Dte., in November, 1973, and June, 1974, respectively to assist the IAPs in checking Trust cases and Gift Tax cases. These check-sheets were further revised, wherever required, in 1975-76 in conformity with the changes in Direct Taxes Laws applicable to Asst. Year 1975-76.
- (iii) *The DI (IT&A) made 24 local inspections of audit work in various CIT charges from 1973-74 to 1975-76 to ensure that the prescribed audit procedures are followed and adequate measures are taken by Cs.I.T. inter-alia to ensure (i) quick settlement of audit objections (Receipt) Audit and Internal Audit and (ii) expeditious checking of Immediate and Priority Audit cases.*
- (iv) An annual review of Internal Audit was started from 1974 (for the years 1972-73 onwards) covering important aspects of the

working of Internal Audit, *viz.*, (i) output of IAPs and (ii) pendency of Internal Audit objections with its year-wise analysis; and wherever the pendency was very old, the concerned Commissioner's pointed attention was drawn to it with a request for taking effective steps to liquidate the same expeditiously.

A special half year review of Internal Audit has also been started recently. The first such review was made for the half year ended 30-9-76.

- (v) The Dte. have started *bringing out a quarterly bulletin of important mistakes* detected by Receipt Audit and Internal Audit Parties during a quarter. Copies of these bulletins are sent to IAPs to improve their efficiency. Similarly, the Dte. have started bringing out an Annual Internal Audit Report which *inter-alia* incorporates important types of mistakes noticed by Internal Audit Parties in all Charges during a year. These Reports are also intended to give the IAPs information regarding the types of mistakes which they are required to look into.

PERFORMANCE OF INTERNAL AUDIT PARTIES— ASSESSMENT BY AUDIT CELL

The "Audit Cell" of the Directorate of Inspection (Income-tax) reviews the performance of the Internal Audit every month and brings to the notice of the Commissioners of Income-tax and of the Board, the specific aspects in which the performance is lacking and needs further steps for its improvement. In addition to the monthly review, the Dte. have started *special annual and half-yearly reviews to assess the functioning of Internal Audit.*

It is seen that with more emphasis on the training and the guidance of the IAPs from 1973-74 onwards, the quality of audit has improved. During 1973-74 and 1974-75, the IAPs detected under-charge of Rs. 27.39 crores and Rs. 30.69 crores against an under-charge of Rs. 20.70 crores detected by IAPs during 1972-73.

APPENDIX III

Recommendation

The Committee find that this case was not checked by the Internal Audit and the familiar plea of preoccupation with other cases has again been put forth by the Department. The Committee are unhappy that effective steps are yet to be taken by the Department, to ensure that the computation of income and the assessment orders themselves are pre-checked preferably by Internal Audit, particularly in large income cases of foreign companies and Indian monopoly houses, though an earlier recommendation of the Committee in this regard contained in paragraph 2.66 of their 87th Report (Fifth Lok Sabha) had been accepted, in principle, by Government as early as December, 1973. In view of the large number of mistakes in the computation of assessable income which have been brought to their notice year after year, the Committee strongly reiterate their earlier recommendation and would urge Government to act upon it without further loss of time.

[S.No. 4 (Para 1.17) of Appendix IV to 187th Report of the Public Accounts Committee (1975-76)]

It has already been intimated to the Committee that it may not be practicable to carry out pre-check of assessments for the following reasons :

- (a) Such a course is likely to dilute the responsibility of the assessing officer ;
- (b) It is also likely to cause delays in the finalisation of assessments and issue of demand notices; and
- (c) It may give rise to complaints that Audit is interfering in the judicial discretion of the assessing officer.

The question of strengthening the Internal Audit organisation has already been taken up in consultation with the Associate Finance in order to make the post-audit checks more effective. The measures spelt out in reply to paras 1.14 and 1.15 above and the proposed strengthening of Internal Audit will go a long way in improving the quality of assessment work, and preventing leakage of revenue.

[Department of Revenue & Banking F.No. 236/90/73-A&PAC-II dated 21st/24th April, 1976]

APPENDIX IV

STATEMENT OF ACTION TAKEN ON RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE

DEPARTMENT OF REVENUE & BANKING (REVENUE WING)

Recommendations of the Committee

In the instant case, the Committee have been informed that the return had been filed by Britannia Biscuit Co. Ltd. on 26th September, 1968 and the assessment was completed only on 25th February, 1972. It would, therefore, appear that after having kept the assessment pending for more than three years it was completed in haste without adequate scrutiny and only when the assessment was to become time-barred. This indicates a kind of a chaos in the system of work and a failure to realise the importance of accuracy and expedition in completing cases, especially those with large revenue implication. The Committee desire that the existing methodology adopted by Income-tax officers for disposal of cases should be carefully examined and adequate measure taken to specify priorities of work allocation and disposal. The Committee's earlier recommendation contained in paragraph 1.72 of their 119th Report (Fifth Lok Sabha) is relevant in this regard.

[S.No. 3 (Para 1.16) of Appendix IV to 187th Report of the Public Accounts Committee (1975-76)]

Action taken by the Government

Kind attention of the Committee is invited to the Department's reply to S.No. 8(Para 10.5) of the Appendix to 186th Report of the P.A.C. wherein the various steps taken by the Department are set out.

2. With the introduction of Section 144A and 144B in the Income-tax Act, 1961, it would now be possible for the Income-tax Officer to seek the guidance of his Inspecting Assistant Commissioner at the pre-assessment stage itself which will ensure quicker disposal of cases after proper scrutiny.

3. Instructions have also been issued to the Commissioners of Income-tax asking them to ensure completion of time-barring assessments of the firms by 30th September, 1976 so that a reasonable time is available for completing assessments of the partners after complying with the pro-

visions of Section 144B of the Act. A copy of Instruction No. 948 dated the 26th April, 1976 is attached for Committee's perusal.

(R.S. Chadda)

Additional Secretary to the Govt. of India

F.No. 236/90/73-A&PAC-II
(F.228/7/76-ITA.II)
dated the 16th July, 1976.

COPY

MOST IMMEDIATE

INSTRUCTION NO. 948

F. No. 201/21/76-IT(AII)
Government of India,
Central Board of Direct Taxes.

New Delhi, the 26th April, 1976

To

All Commissioners of Income-tax.

SUBJECT :—*Forwarding of Draft Assessment orders in the case of partners under section 144B of the Income-tax Act, 1961—clarification regarding*

Sir,

Reference is invited to Board's Instruction No. 907 dated the 24th December, 1975 (F. No. 201/12/75-IT(AII)) outlining the new assessment procedure as introduced by section 144A and 144B of the Income-tax Act, 1961. A copy of Board's order of even number dated the 23 December, 1975 fixing the variation limit at Rs. 1 lakh for purposes of section 144B was also forwarded along with this Instruction.

2. A question has been raised where in completing the assessment of a firm under section 143(3), the Income-tax Officer proposes to make an addition to the returned income exceeding Rs. 1 lakh and as a result of the proposed addition in the firm's assessment, the share of income of any partner or partners is enhanced by an amount exceeding Rs. 1 lakh, whether the draft assessment order in the case of such a partner will be required to be forwarded under the provisions of Section 144B of the Act. The Board is of the view that the provisions of section 144B of the Act would be applicable to the case of partners as well, if the share of income stand enhanced by Rs. 1 lakh on the basis of the determined share of income in the case of the firm.

3. In view of this legal position, the Board have decided that time barring assessments of the firms must be completed by the 30th September 1976 so that reasonable time is available for completing assessments of the partners after complying with the provisions of section 144B of the Act. You may kindly issue necessary instructions to the Income-tax Officers to adhere to this time limit scrupulously. The Inspecting Assistant Commissioners may be directed to ensure that the Income-tax Officers take immediate steps for completing the assessments of the firms for the assessment year 1974-75 by 30th September, 1976 and to keep a constant watch over the progress of such assessments.

4. If for any unavoidable reasons, it is not possible to complete the assessments of the firm early enough to give the Income-tax Officer the time necessary for complying with the requirements of the section 144B in the case of the partners, the partners assessments may be completed on the basis of the returned income in respect of their share in the firm subject to rectification under section 155(1) when the firm's assessment is finalised. This procedure should be resorted to *only in exceptional cases and not as a matter of course.*

5. You are also requested to furnish details of the cases of the partners completed before 1-4-1976 where provisions of section 144B were applicable because the determined share of income from the registered firm was more than Rs. 1 lakh in comparison to the disclosed share of income, but the procedure laid down in the said section was not followed. You may kindly indicate the number of such cases along with the tax effect involved on account of variation in the disclosed share of income and/or loss in comparison to the determined share of income/or loss. This information may kindly be furnished by 1st June, 1976.

6. Please acknowledge receipt of this letter.

Yours faithfully,

Sd/-

(T. P. Jhunjhunwala)

Secretary, Central Board of Direct Taxes.

Copy forwarded to :—

1. The Comptroller & Auditor General of India (25 copies).
2. Bulletin Section (3 copies).
3. All Officers/Sections of Central Board of Direct Taxes.
4. Director of Inspection (Income-tax & Audit)/ Investigation/ Research & Statistics/Publication & Public Relations, New Delhi.
5. Director of O & M Services (Income-tax), 1st Floor, Aiwan-e-Ghalib, Mata Sundri Lane, New Delhi.
6. Shri M. B. Rao, Joint Secretary & Legal Advisor, Ministry of Law & Justice, New Delhi.

Sd/-

(T. P. Jhunjhunwala)

Secretary, Central Board of Direct Taxes.

APPENDIX V

The Committee are also concerned to note that the relevant assessments relating to Dunlop India Ltd., had not been checked by Internal Audit, while in the case of United Commercial Bank Ltd., though the assessment for the year 1967-68 had been checked in Internal Audit, the patent short levy of additional tax was not detected. What is more distressing is that this assessment relating to a banking concern, in the high income bracket, had been scrutinised only at the level of an Upper Division Clerk who has been warned for his failure to detect the mistake. In respect of the other three assessments, the explanation offered is one which has been too often placed before the Committee, namely, that the manpower resources of Internal Audit are inadequate. The Committee desire that the existing arrangements for Internal Audit should be reviewed and remedial steps taken forthwith. The Committee would also reiterate that all large income cases should invariably be checked at the level of the Inspecting Assistant Commissioner (Audit). The Committee are of the view that a pre-check of draft assessment orders by Internal Audit, recommended in paragraph 2.66 of their 87th Report (Fifth Lok Sabha) and reiterated in paragraph 1.17 of this Report would largely eliminate such unpardonable mistakes in assessment.

[S. Nos. 15 (Para 2.21) of Appendix IV to the 187th Report of the Public Accounts Committee 1975-76].

Action taken

It has already been elucidated in reply to para 1.17 of this Report that it is not feasible to prescribe pre-check of draft assessment orders. However, regarding the post-checking of assessment orders in involving large incomes, necessary steps are being taken for strengthening the Internal Audit organisation, both qualitatively and quantitatively. But it may not be possible for the IAC (Audit) to check all large income cases as the number of IACs (Audit) is inadequate and they have to attend to a very large number of Receipt Audit objections and draft audit paras proposed by the C& AG, apart from other administrative matters.

(R. S. Chadda)

Additional Secretary to the Government of India.

F. No. 236/7/73-A & PAC. II
June 9, 1976.

APPENDIX VI

STATEMENT OF ACTION TAKEN ON RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE

DEPARTMENT OF REVENUE & BANKING (REVENUE WING)

Recommendations of the Committee

The delay in finalising the assessments in this case had also not been noticed by the concerned Inspecting Assistant Commissioner or the Commissioner as the case never came into their orbit. All large income cases, however, are expected to be reviewed by the supervisory officials. The only inference the Committee can thus draw from the failure of the Inspecting Officers is that the middle management in the Income-tax Department is somewhat lax. The Committee fear that if this continues, the maladies of the Department would persist. It is, therefore, urged that the Central Board of Direct Taxes should review seriously the duties and responsibilities at present entrusted to the Inspecting Assistant Commissioners and the effectiveness of the supervision exercised by them with a view to evolving suitable remedial measures.

The Central Board of Direct Taxes should also devise immediately a fool-proof system for a regular and more efficient monitoring of the progress of assessments relating to large income cases and tighten the inspection machinery. The Directorate of Inspection and the Board have an inescapable obligation in this regard. In this context, the Committee reiterate their earlier recommendations in regard to the persistent tendency on the part of Income-tax Officers to complete assessments only towards the close of the limitation period. A part from the loss that may arise on payment of interest in cases like the one discussed in the preceding paragraphs, the Committee fear that by so rushing through assessments, there is the greater risk of the returns not being scrutinised properly and consequential loss of revenue through inadequate examination.

[Sr. Nos. 56 & 57 (Paras 5·18 & 5·19) of Appendix IV to 187th Report of the Public Accounts Committee (1975-76)]

Action taken by the Government

The following measures have recently been taken to improve the position regarding completion of assessments in large income cases expeditiously after proper scrutiny and to strengthen the middle-level management of the Income-tax Department :

- (1) This Department's reply to para 5·21 of their 186th Report may please be referred to Directorate of (O&M) Services is monitoring the progress on behalf of the Board ;

- (ii) An Inspection Manual for the Inspecting Assistant Commissioners is being prepared by the Directorate of Inspection (Income-tax) ;
- (iii) Instructions have been issued to ensure completion of time-barring assessments by 1st October and to ensure completion of important revenue cases by 31st December. A copy of the instructions is attached.
- (iv) A beginning has been made by assigning assessment functions in important cases involving tax evasion, fraud, etc. to the Inspecting Assistant Commissioners. In this connection a reference is invited to this Department's replies to para 1·8 of their 192 Report and para 12·7 of 186th Report ; and
- (v) With the introduction of Section 144A and 144B of the Income-tax Act, 1961, Inspecting Assistant Commissioners will associate themselves more closely with day to day assessment work in important cases.

Sd/-

(R. S. Chadda)

Additional Secretary to the Govt. of India

F. No. 236/222/73-A& P. A. C-II

(F. 228/33/76-ITA.II)

Dated the 20th July, 1976.

Authorised for issue as the Addl. Secretary is on tour.

(K. C. MAHADEVAN)

DIRECTOR

INSTRUCTION NO. 975

F. No. 220/12/76-ITA, II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

NEW DELHI, the 8th July, 76.

From :

Director, Central Board of Direct Taxes.

To :

All Commissioners of Income-tax.

Sir,

SUBJECT : *Completion of important revenue cases and time barring assessments—Para 75 of the Minutes of the Commissioners Conference, 1976—Instructions reg :*

In spite of repeated instructions of the Board to avoid postponement of assessments in important revenue cases to the last quarter of the year, 3100 L.S.

it has been noticed that the practice continues unabated. The Board would like to reiterate these instructions and desire the Commissioners of Income-tax to ensure that the Income-tax Officers so plan their work that *all Important revenue cases are disposed of in any case not later than 31st December, of the Financial year.*

2. Pendency of a large number time-barring assessments every year has also been a source of concern to the Board. Board desire that while taking up the time-barring assessments in a particular case, invariably the succeeding year's assessment should also be taken up and completed so as to reduce the burden of carry forward of time-barring assessments to the next year. It is further directed that all time barring assessments should be completed by 1st October 1976.

3. As planning of assessments for the year is very important the Commissioners should personally oversee the same and ensure that these instructions are strictly observed by the Income-tax Officers working under them.

Yours faithfully,

Sd/- K. R. RAGHAVAN
Director, Central Board of Direct Taxes

APPENDIX VII

STATEMENT SHOWING ACTION TAKEN ON THE RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE

MINISTRY OF FINANCE

(Department of Revenue & Insurance)

Recommendation

Under the provisions of the Income-tax Act, if a company in which the public are not substantially interested fails to distribute the prescribed percentage of its distributable income as dividends such a company is liable to pay additional super tax. For the assessment prior to 1965-66, shares of a company held by another company in which public are substantially interested are not to be treated as held by public. In this case additional super tax of Rs. 8.79 lakhs was not levied for the assessment year 1959-60 as the company was incorrectly classified as one in which the public were substantially interested. Mistakes of this type have been brought to the notice of the Committee earlier also. The Committee, would therefore, all for a review of all the completed assessments, relating to the assessment years prior to 1965-66 for appropriate action. The results of the review should be intimated to the Committee.

[S. No. 10 (Para 1.73) of Appendix to 128th Report of the P.A.C. (1973-74) (Fifth Lok Sabha)]

Action taken

A reference is invited to the Ministry's interim reply of even number dated the 18th December, 1974. The final result of the review is as under :

1. No. of cases reviewed	1,624
2. No. of cases where the mistake was found	3
3. Tax effect	12.74 lakhs

(Sd/-)

(R. S. Chadda)

Additional Secretary to the Govt. of India.

F. No. 236/243/72-A & PAC. II
17-7-75.

APPENDIX VIII

MINISTRY OF FINANCE

(Department of Revenue & Insurance)

*Statement showing action taken on the recommendations of the
Public Accounts Committee.*

Recommendation

1.74. The Committee note that the Chief Auditor of the Internal Audit is expected personally to audit certain important types of cases and one such category of cases is related to cases involving 'liability to additional tax by companies in which the public are not substantially interested.' The Committee desire that the criteria for determining whether the public have or have not substantial interest in a company should be clearly laid down in the I.A. Manual. In this connection the Committee suggested that the question how far a company could be treated as one in which public are substantially interested may also be examined in consultation with the Ministry of Law.

S. No. 11 (Para 1.74) of Appendix to 128th Report of the P.A.C.
(1973-74) (Fifth Lok Sabha).

Action taken

1.74. A reference is invited to the Ministry's interim reply of even number dated the 18th December, 1974. Even though the provisions of section 2(18) of the Income-tax Act give a clear definition of a company in which the Public are substantially interested, the D.I. (IT & A) has been directed to issue suitable instructions to all the Chief Auditors and I.T.Os (Internal Audit). As far as the question as to how far a foreign company can be treated as one in which the public are substantially interested is concerned, the matter has already been decided in consultation with the Ministry of Law and the C & A. G. Instructions in this regard have already been issued contained in the D.O. F. No. 234/13/70-II (Audit) dated the 18th January, 1972 (Copy annexed).

(Sd/-)

(R. S. Chadda)

Additional Secretary to the Govt. of India.

F. No. 236/243/72-A & PAC-II
16-8-75.

URGENT

D. O. F. No. 234/13/70-IT (Audit)
 MINISTRY OF FINANCE
 (Department of Revenue & Insurance)

New Delhi, dated the 18th January, 1972

S. Bhattacharyya,
 Secretary,
 Central Board of Direct Taxes.

Dear Shri

SUB: *Section 2(18) of the Income-tax Act, 1961—Whether the expression “the public” includes the public outside India as well—*

Please refer to the Board's letter/telex message of even number dated on the subject.

2. Shortly before the close of the Financial Year 1970-71, the Board were advised that there was some doubt as to whether the expression “the public” used in Section 2(18) of the Income-tax Act had reference to only the public in India or it included the public outside India as well. If the restricted meaning were held to be correct, it would mean that any shares in a company, as defined in Section 2(17) of the Income-tax Act, 1961, held by the public outside India would have to be treated as those not held by the public. A further consequence of such an interpretation would be that companies in which 50% or more of the equity shares were held by foreign companies (the bulk of whose shares are necessarily held by the public outside India) would have to be treated as those in which the public were not substantially interested. As such, the Board had instructed that as a precautionary measure, appropriate action under Section 104, 147(b) or 263 of the Income-tax Act, 1961 should be taken in the cases of companies in which 50% or more of the equity shares were held by foreign companies. It was, however, added that the additional demand created was not to be collected till disposal of first appeal or receiving further instructions from the Board.

3. The Board have now been advised by the Ministry of Law, with which the Comptroller & Auditor General concurs, that the expression “the public” used in Section 2(18)(b) (B) (i) (d) refers not only the public in India, but also the public outside India and that foreign associations which are treated as companies in terms of Section 2(17) of the Income-tax Act, 1961 are not excluded from the purview of Section 2(18) of the Income-tax Act, 1961 in respect of the years for which they are so treated. Accordingly, they desire you to drop the proceedings under Sections 154, 147(b) or 263, as the case may be, initiated in pursuance of the Board's instructions conveyed in March 1971, subject to the Income-tax Officer satisfying himself about the conditions of Section 2(18) having been fulfilled. The demands created and kept in abeyance should also be got vacated immediately.

4. Instructions are being issued separately, laying down the 'modus operandi' of applying the tests of companies in which the public are substantially interested to foreign associations assessable as "companies" in terms of Section 2(17) of the Income-tax Act, 1961.

Yours sincerely,

(S. Bhattacharyya).

APPENDIX IX

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE & INSURANCE)

STATEMENT SHOWING ACTION TAKEN ON THE RECOMMENDATION OF THE PUBLIC ACCOUNTS COMMITTEE

Recommendation

1.75. The Committee had in paragraph 2.74 of their 51st Report (Fifth Lok Sabha), suggested an examination of the feasibility and economics of dispensing with the subtle distinction between a public company and a closely-held public company for the purpose of taxation of profits. According to the Chairman, Central Board of Direct Taxes, the distinction is necessary because it is not difficult for private companies to be registered as or to change themselves into public companies if they want to escape the rigours of taxation. The Committee understand that there is an attempt to meet this situation in the new Company Law (Amendment) Bill. They accordingly wish to reiterate that the question of doing away with the distinction between a public company and a closely-held public company should be considered expeditiously as a step towards simplification.

[S.No. 12 (Para 1.75) of Appendix to 128th Report of the P.A.C. (1973-74) (Fifth Lok Sabha)]

Action taken

1.75. Kind attention of the Committee is invited to the Ministry's interim reply of even number dated the 18th December, 1974.

2. The Income-tax Act makes a distinction in tax a treatment as between a domestic company in which the public are substantially interested (widely-held domestic company) and one in which public are not substantially interested (closely-held domestic company). Closely-held domestic companies are required subject to certain exceptions, to distribute dividends upto the statutory percentage of their distributable income, failing which they are liable to pay an additional income-tax with reference to their undistributed profits. Closely-held domestic companies are also chargeable to income-tax at rates which are higher than those applicable in the case of widely-held domestic companies.

3. A company is treated as "a company in which the public are substantially interested" if it satisfies the various tests laid down in definition of that term in section 2(18) of the Income-tax Act. Broadly speaking, one of these tests is that not less than 50% of its equity capital

should have been beneficially held throughout the relevant the accounting year by the Government, a statutory corporation, any other company in which the public are substantially interested (or a wholly-owned subsidiary of such a company) or by members of the *public* (excluding director of the company or a closely-held company). The second test is that the shares in the company should be freely transferable by the share-holders to other members of the public. The last test required to be satisfied is that affairs of the company or shares carrying more than 50% of its total voting power should at no time during the relevant accounting year, be controlled or held by five or fewer persons. The application of all the tests, which have to be satisfied by a company *cumulatively*, involves an enquiry into the control and distribution of the ownership of the equity shares of the company throughout the relevant accounting year. Such an enquiry is undoubtedly time consuming and also involves determination of issues which are controversial, thus, giving rise to uncertainties about the company's tax liability, besides leading to litigation.

4. With a view to simplifying the determination of this question, Section 2(18) of the Income-tax Act was amended by Finance Act, 1969 to provide a simpler, *alternative* test for the purpose. Under this alternative test, a company is regarded as "a company in which the public are substantially interested" if its equity shares are listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder. With the prescription of this alternative test, the determination of the question whether company in which public are substantially interested" has become relatively simple in the case of a large number of companies.

5. On merits, the differential tax treatment of closely-held and widely-held companies is justifiable on economic considerations. Closely held companies are mostly formed with a view to avoiding the higher incidence of personal taxation. The formation of such companies also tends to accentuate monopolistic tendencies. The higher rate of tax on closely-held companies is justifiable as it is likely to induce the formation of the companies with wider public participation in preference to closely-held companies controlled by a handful of persons who could manipulate the finances of these companies for their personal advantage. It is relevant to mention that Shri S. Bhoothalingam had also made a recommendation for doing away with the distinction between closely-held and widely-held companies for the purposes of taxation (vide paragraph 5.4 of his Final Report on Rationalisation and Simplification of the Tax Structure). This recommendation has been re-iterated by the Direct Taxes Enquiry Committee (Wanchoo Committee) in paragraph 5.85 of their Final Report. The recommendation made by these two Committees was, however, not accepted by the Government for the reasons indicated above.

6. It appears that the recommendation of doing away with the distinction between a public company and closely-held public company has been made in the light of the proposals contained in the Company Law (Amendment) Bill. The Public Accounts Committee might be having in view the new sub-sections (1A) and (1B) which have been inserted in section 43A of the Companies Act, 1956 by section 6(i) of the Companies (Amendment) Act, 1974. Section 43A of the Companies Act deals with the circumstances in which a private company is to become a public

company for the purposes of that Act. The new sub-sections (1A) and (2B) referred to above have added two more circumstances under which a private company may become a public company. These are (a) where the average annual turnover of a private company becomes Rs. 1 crore or more and (b) where a private company holds not less than 25% of the share capital of a public company. The effect of the provisions contained in the two new sub-sections is that a private company is deemed to be a public company in the circumstances specified above and, therefore, comes under the discipline of a number of provisions contained in the Companies Act, 1956 which are not applicable to private companies.

7. It is, however, relevant to mention that whereas under the Companies Act, 1956, public companies are subjected to greater control and discipline than private companies, under the Income-tax Act, 1961, companies in which the public are substantially interested are entitled to preferential tax treatment as compared to companies in which public are not substantially interested. In view of this basic dis-similarity between the tax treatment of widely held companies under the Companies Act and the Income-tax Act, provision on the lines contained in sub-sections (1A) and (2B) of section 43A of the Companies Act will not be suitable for adoption for the purposes of the Income-tax Act. In fact, the effect of extending the provisions of section 43A (1A) and (1B) of the Companies Act to the Income-tax Act will be that private companies would be deemed to be widely-held companies in certain circumstances and they will thereby get an automatic and unmerited tax advantage. The adoption of the new provisions in the Companies Act for the purposes of the Income-tax Act is therefore, likely to have an effect contrary to what is intended.

8. In view of the foregoing, the Ministry is of the view that it, will not be desirable to do away with the distinction between a Public company and a closely-held public company for tax purposes by making a provision on the lines contained in the Company Law (Amendment) Act, 1974.

9. This reply issues with the approval of the Finance Minister.

Sd/-

(R.S. CHADDA)

Additional Secretary to the Government of India.

F.No. 236/243/72-A&PAC-II

25-8-75

APPENDIX X

STATEMENT OF ACTION TAKEN ON THE RECOMMENDATION OF THE PUBLIC ACCOUNTS COMMITTEE

DEPARTMENT OF REVENUE AND BANKING (Revenue Wing)

Recommendation of Committee

1.42. The Committee note from the reply dated the 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 of 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 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.

[Sl. No. 17 (Para 1.42) of Appendix to 141st Report of the Public Accounts Committee (1974-75)]

Action taken by the Government

A reference is invited to the Ministry of Finance (Department of Revenue and Insurance)'s interim reply of even number dated the 6th December, 1975. Out of 2.02 lakhs of assessments of Rs. 50,000 and above completed during the assessment years 1971-72 to 1973-74, 1.54 lakhs of such assessments have been reviewed with a view to ascertain the short levy/non-levy of interest under various sections of the Income-tax Act, 1961 in all the Charges. The information furnished by 23 charges in respect of .32 lakhs of cases require further clarifications from the Commissioners concerned Information in respect of 1.22 lakhs of cases relating to 49 Charges is given below:

1. Total number of cases of Rs. 50,000 and above completed during the years 1971-72 to 1973-74 in 49 Charges 1.30 lakhs

2. Number of assessments checked/reviewed out of
(1) above 1.22 lakhs
3. Number of assessments in which short levy/non-
levy of interest was detected. 08 lakhs
4. Amount of interest short levied/non-levied . . . 102.51 lakhs
5. Amount of interest out of (4) above not redeemable
due to limitation Rs. 3,000 (in
two cases only)

2. In this connection, the Committee's recommendation at para 9.18 of their 186th Report (1975-76) may be referred to.

Sd/-
(R.S. Chadda)
Additional Secretary to the Govt. of India.

[F. No. 231/21/73-A&PAC II (Pt.I) dated 7th May 1976.]

APPENDIX XI

Instruction No. 172

F. No. 4/69/69-ED,

GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES
New Delhi, the 15th May, 1970

From : Shri Balbir Singh,
Secretary, Central Board of Direct Taxes.
To
All Commissioners of Income-tax.

Sir,¹

SUB : Proper coordination between the Income-tax officers/Wealth-tax officers and Assistant Controllers of Estate Duty-Instructions regarding—

A case has recently come to the notice of the Board wherein neither the statement of accounts was filed by the Accountable person within the time-limit prescribed under Section 53(3) nor were the proceedings under Section 59 initiated by the Department within the time-limit mentioned in Section 73-A. The Accountable Person, however, filed the return after the expiry of the statutory period of 5 years and the assessment was completed by the Assistant Controller of Estate Duty accordingly. On appeal, the Appellate Controller agreed with the contention of the Accountable person that the assessment having been made after the time-limit mentioned in Section 73A was bad in law and cancelled the same. No appeal was filed by the Controller against the order of the Appellate Controller of Estate Duty.

2. The deceased was an income-tax as well as a wealth-tax assessee. During the course of Revenue audit it was observed that if the Income-tax officer dealing with the Income-tax assessment (who was aware of the death of the deceased) had given an intimation to the Assistant Controller of Estate Duty concerned, the proceedings under Section 73A/59 could have been initiated well in time and loss of revenue would have been avoided.

3. The Board have been advised that what Section 73A bars is the commencement of proceedings by revenue authorities. If proceedings have commenced otherwise it does not operate as a bar to their completion. Thus, there is no bar to the completion of assessment on the basis of a voluntary return filed beyond the statutory period of 5 years. The Board, therefore, suggest that in any case where the assessment is can-

called by the Appellate Controller on the ground that the assessment completed by the Assistant Controller of Estate Duty on the return voluntarily filed by the Accountable Person after the expiry of five years from the death of the deceased was barred by limitation under Section 73A of the Estate Duty Act, 1953, the matter should be contested in appeal further. They also desire that simultaneously, to minimise the possibility of such legal objections, instructions should be issued to all the Income-tax officers/Wealth-tax officers to ensure that intimations are invariably promptly given to the Assistant Controller of Estate Duty concerned of the deaths of the assesseees which come to their notice while dealing with the assessments.

Yours faithfully,

Sd/-

(BALBIR SINGH)

Secretary, Central Board of Direct Taxes.

APPENDIX XII

F. No. 389/6/72-E. D. *Instruction No. 94*

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Vitta Mantralaya)**

**DEPARTMENT OF REVENUE & INSURANCE
(Rajaswa Aur Bima Vibhag)
CENTRAL BOARD OF DIRECT TAXES
*New Delhi, the 10th January, 1973.***

To,

All Commissioners of Income-tax.

Sir,

SUB. : Proper Coordination between the Income-tax officers/Wealth-tax officers and Assistant Controllers of Estate Duty—Instructions regarding—

I am directed to invite your attention to Board's instruction No. 172 dated 15th May, 1970 (issued from File No. 4/69/69-ED) wherein you were requested to issue instructions to all the Income-tax Officers/Wealth-tax officers to ensure that the fact of the death of an assessee is immediately intimated to the concerned Assistant Controllers of Estate Duty. It has been brought to the notice of the Board that the aforesaid instructions were not always being followed by the Income-tax officers/Wealth-tax officers, as a result of which, estate duty proceedings could not be commenced in some cases within the prescribed limitation period, and therefore, a good amount of revenue was lost.

2. The Board desire that the need for promptly communicating the information about the death of an assessee to the concerned Assistant Controller of Estate Duty may once again be impressed upon the Income-tax officers/Wealth-tax officers. You should also ensure that in case of any lapse in this regard a serious note is taken and the officer responsible for it is suitably punished.

3. In paragraph 3 of the Board's instruction, under reference, it was also suggested that in any case where the assessment is cancelled by the Appellate Controller on the ground that the assessment completed by the Assistant Controller of Estate Duty on the return voluntarily filed by the Accountable Person after the expiry of five years from the death of the deceased was barred by limitation under section 73A of the Estate Duty Act, 1953, the matter should be contested further in appeal. Recently the Public Accounts Committee while considering an estate duty case, have observed that it is unfortunate that due to ignorance of the above position the orders of the appropriate authorities were not appealed against. The Board, therefore, desire that with a view to avoid any further loss to revenue, all Assistant Controllers of Estate Duty may pleased be directed, once again, to strictly follow the above instructions and that the Deputy Controllers of Estate Duty may also be advised to see that this is done.

Yours faithfully,

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

APPENDIX XIII

Instruction No. 544

F. No. 301/126/72-E.D.

Government of India/Bharat Sarkar

Central Board of Direct Taxes

(Kendriya Pratyaksha Kar Board)

New Delhi, the 8th May, 1973.

To

All Commissioners of Income-tax.

Sir,

SUB : Proper Coordination between the Assistant Controllers of Estate Duty and the Income-tax officers/Wealth-tax Officers/Gift-tax Officers—Instructions regarding.

I am directed to invite your attention to Board's Instruction No. 172 dated 15th May, 1970 (issued from File No. 4/69/69-ED), which were reiterated in Instruction No. 494 dated 10th January, 1973 (issued from file No. 309/6/72-ED) on the above subject.

2. A case in which the value of an immovable property adopted in estate duty assessment widely varied from its value returned for wealth-tax assessments came to the notice of the Board recently. The deceased died on 18-10-67. In the estate duty assessment completed on 31-10-69 the value of the property was taken at Rs. 60,000/-. The value of the property was shown at Rs. 1,93,000/- (based on the report of an approved valuer) in the wealth-tax returns for the assessment years from 1966-67 onwards. The wealth-tax returns were filed by the legal representatives of the deceased in September, 1969 *i.e.* before the completion of estate duty assessment on 31-10-69. The under-valuation of the property resulted in short assessment of the estate duty by Rs. 1,33,000/- involving duty of Rs. 32,000/- and odd. This loss of revenue would not have arisen if the wealth-tax records of the deceased had been scrutinised by the Assistant Controller of Estate Duty. There may be other instances of that type.

3. The Board, therefore, desire that you should impress upon the Assistant Controllers of Estate Duty the need for looking into income-tax, wealth-tax and gift-tax records of the deceased to ensure that the estate duty assessment is not at variance with the information available in those records.

4. The Board also wish to reiterate their instructions in F. No. 309/6/72—ED dated 10-1-73. The Income-tax officers/Wealth-tax officers should promptly pass on the information about the death of any of their assesseees, the principal value of whose estate duty is likely to exceed Rs. 50,000/-, to the Assistant Controller of Estate Duty. They should also communicate to the Assistant Controller of Estate Duty any further information which may be received and which may be relevant to the estate duty assessment of the deceased.

Yours faithfully,

Sd/-
(Balbir Singh)
Director,
Central Board of Direct Taxes.

Endorsement as usual.

APPENDIX XIV

Instruction No. 595

F. No. 313/13/73-E.D.

Government of India/Bharat Sarkar

(Kendriya Pratyaksha Kar Board)

New Delhi, the 24th August, 1973

To

All Commissioners of Income-tax.

Sir,

SUB : *Proper Coordination between the Assistant Controllers of Estate Duty and Income tax officers/Wealth tax officers/Gift Tax Officers—Instructions regarding—*

I am directed to invite your attention to Board's Instruction No. 172 dated 15th May, 1970 (issued from file F. No. 4/69/69/-ED), Instruction No. 494, dated 10th January, 1973 (issued from file F. No. 309/6/72-ED and Instruction No. 544 dated 8th May, 1973 issued from F. No. 301/126/72-ED on the above subject.

2. In these instructions, it was stressed that Income Tax officer/Wealth tax officer should communicate to Assistant Controller of Estate Duty the dates of deaths of any of their assesseees whose estate is liable to estate duty and that the Assistant Controllers of Estate Duty should look into the Income tax/Wealth tax and Gift tax records of the deceased before making assessment under the Estate Duty Act. The Board now further desire that in respect of assessments for the period upto the date of death of the assesseees if any orders of rectification, revision, etc. are passed after the assessment order for the year in question was passed, a copy of the order should be endorsed by the Income tax officer/Wealth tax officer/G.T.O. to the Assistant Controller of Estate Duty, so that the Assistant Controller of Estate Duty might consider whether any rectification of the Estate Duty assessment is called for. This is necessary because, while making the Estate Duty assessment, the Assistant Controller of Estate Duty may have taken into account the liabilities as per the assessment orders already passed and any variation in those liabilities may, not, therefore, easily come to his notice.

3. The above instructions may please be brought to the notice of all officers in your charge.

Yours faithfully,

Sd/-

(Balbir Singh)

Director,

Central Board of Direct Taxes.

Endorsement as usual.

Appendix XV

Instruction No. 924

F. No. 414/74-75-IT (Inv)
Government of India
Central Board of Direct Taxes.

New Delhi, the 24th February, 1976

To

All Commissioners of Income-tax,
Director of Inspection (Investigation)/Special Cell
New Delhi.

Sir,

SUB : *Agency arrangements for Government Imports—Coordination between Income-tax Department other Enforcement agencies and purchasing Departments of the Government—Instructions regarding—*

With reference to Paragraph 42 of the Report of the Comptroller & Auditor General of India for the year 1972-73 Union Government (Civil), Department of Supply, the Public Accounts Committee (1974-75) in their 160th Report, made a number of observations in regard to the agency commission payable or paid to the agents, in India, of the foreign suppliers with whom the Government purchasing departments enter into contracts for the purchase and supply of various goods. The Committee expressed serious concern, *inter alia*, on absence of adequate coordination, in practice, between the purchasing departments of the Government, the Ministry of Finance, the Income-tax Department, the Enforcement Directorate and the Reserve Bank of India which detracts from the effectiveness of the action for default of tax or of foreign exchange obligations.

2. A Working Group was set up to study in depth the various issues arising out of the above report of the P.A.C. and their possible implications with particular reference to the leakage of foreign exchange and evasion of taxes. This Group has made a number of recommendations.

3. In para 31 of its Report, the Working Group has observed as under:—

“Another important point, in our opinion, is about effective coordination amongst the various departments and agencies. Where common items are purchased by different purchasing departments they should have a system of frequent consultations among themselves. The advantages of such a course are too obvious to require statement, and the mechanism for such consultation must necessarily be evolved by the departments themselves.

In addition, it is necessary that action of, say, one agency does not run counter to that of another. The Income-tax Department, the Enforcement Directorate and the Customs Department are represented on Coordination Committees at various Zonal, Regional and Headquarters level. These Committees meet frequently and can be useful forums for initiating and ensuring the coordination that we have in view."

The recommendations contained in the above para have been accepted by the Board.

You are, accordingly requested to see that the meetings of the Zonal, Regional and Headquarters Coordination Committees are fully utilised for initiating and ensuring coordination in respect of cases involving large scale purchases by Government Departments from foreign suppliers.

4. Please acknowledge receipt.

Your faithfully,

Sd/-

(D. N. S. SINHA)

*Under Secretary, Central Board of
Direct Taxes.*

Endorsement as usual.

APPENDIX XVI

Instruction No. 677

F. No. 309/1/74-ED

CENTRAL BOARD OF DIRECT TAXES.

New Delhi, the 6th April, 1974.

To,

All Commissioners of Income-tax,
except Commissioners of Central Charges.

Sir,

SUB: *Surrender of property at the time of issue of succession certificate—Collection of information in this regard for levying Gift-tax—*

While discussing para 48(i) of the C & AG's Report 1971-72, the PAC suggested that the Department may maintain liaison with the State authorities as regards issue of succession certificates and bring surrenders of property at the time of issue of such certificates to Gift-tax.

2. Though it is not normally necessary to apply for succession certificate to establish a right to property left by deceased, in the case of intestacy of a Hindu, Mohammedan, Buddhist, Sikh, Jain or Indian Christian where there may be circumstances, such as a suit has to be filed to recover debt, in which a succession certificate is necessary. There may also be cases where such succession certificate is applied for even though it is not required. Succession certificates are granted in terms of part X of the Succession Act, 1925 by the District Court within whose jurisdiction the deceased ordinarily resided at the time of his death or if at that time he had no fixed place of residence, the District Court within whose jurisdiction any part of the property of the deceased may be found. The form of certificate is prescribed in Schedule VIII of the Succession Act.

3. The Board desire that suitable arrangements may be made in your charge for periodically collecting information from the court regarding the issue of Succession Certificates. The information so gathered may be utilised to see whether there were any surrenders of property at the time of issue of succession certificates and if so steps can be taken to subject these surrenders to Gift-tax. The Board may please be informed of the steps taken by you to implement the suggestion.

Yours faithfully,

Sd/-
(BALBIR SINGH,)

*Director, Central Board of
Direct Taxes.*

Endorsement as usual.

APPENDIX XVII

F. No. 309/5/74-E.D.

Government of India/Bharat Sarkar

Central Board of Direct Taxes
(Kendriya Pratyaksha Kar Board)

New Delhi, the 25th Nov. 1974

The Chief Secretary (All State Governments including Union Territories)

Sir,

SUB : *Estate Duty Act, 1958—Checks to ensure that the fact of draft is intimated to the estate duty authority.*

At present information about death of persons, the principal value of whose estate is likely to exceed the maximum non-dutiable limit is collected by Assistant Controllers of Estate Duty from the newspapers reports, birth and death registers maintained by local authorities and through local enquiries by Inspectors. In addition, Income-tax/Wealth-tax officers report cases of death to the Assistant Controller of Estate Duty. The Government of India have been considering the question of introduction of additional checks to ensure that the fact of death is intimated to Assistant Controllers of Estate Duty. It has been decided that arrangements should be made with the State Governments to supply information, as visualised in Section 81 of the Estate Duty Act. Section 81 of the Estate Duty Act provides that the Central Government may make arrangements with the Government of any State for exchange of such information as may necessary for the purposes of levying or realising any estate duty under this Act or under any other law for the time being in force in that State.

2. Some of the information that the State Government could pass on to the Income-tax Department would arise on occasions of the following nature:

- (i) When the ownership in lands exceeding in value Rs. 25,000/- was changed in the State Government records, as a result of death of a person.
- (ii) When any sum exceeding Rs. 25,000/- was due by the State Government to the deceased (who may happen to be a contractor) and the same was to be paid to his heirs by reason of his death,
- (iii) When, in the records of a municipality or a local authority under the State Government a change in ownership of property,

exceeding Rs. 25,000/- in value, was noted as a result of death of a person.

3. We shall be grateful if the State Government would instruct the authorities concerned to pass on the above noted information periodically to the Controllers of Estate Duty having jurisdiction over the areas comprised in your State. The details could be worked out by the Controller of Estate Duty after discussion with the concerned Heads of Department of the State Government.

4. I am endorsing a copy of this letter to the Controller of Estate Duty concerned.

Yours faithfully,

Sd/-

(B. K. BAGCHI)

Additional Secretary to the Government of India.

Copy for information and necessary action to All Commissioners of Income-tax/Controllers of Estate Duty.

Sd/-

(B. K. BAGCHI)

Additional Secretary to the Govt. of India.

APPENDIX XVIII

STATEMENT OF ACTION TAKEN ON THE RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE

MINISTRY OF FINANCE
(Department of Revenue & Insurance)

Recommendation

The Committee regret to find that at present it is not being ensured that the Central Board of Direct Taxes are consulted at the stage when collaboration agreements involving tax matters are approved. The Government should explain and examine how such a serious lacuna has been allowed to continue for so long. The Committee are not at all satisfied with the extent of scrutiny conducted by the Ministry of Finance in regard to the agreements entered into under the advice and with the approval of the various undertakings. They accordingly emphasise that the Ministry should work out fool-proof arrangements so that our limited resources are not frittered away in the way, it appears, has happened in the above mentioned cases.

[S. No. 47 (Para 5.69) of Appendix to 128th Report of the P.A.C. (1973-74) (Fifth Lok Sabha)].

Action taken

Kind attention of the Committee is invited to Ministry's interim reply of even number dated 16th Dec., 1974.

The procedure followed for granting approval to technical collaboration agreements is set out in Chapter III of the 'Guidelines for Industries (1975-76)', published by the Government of India, Ministry of Industry and Civil Supplies, New Delhi. A specimen of the letter for approval of foreign collaborations is annexed as Annexure I. This letter makes it clear that royalty and lumpsum payments for technical know-how, drawings, designs, documentation, erection and commission, etc. will be subject to applicable Indian taxes.

2. The matter has been carefully considered in consultation with the Department of Economic Affairs and the Department of Industrial Development, and it has been decided that the Central Board of Direct Taxes would be associated when the policy and guidelines regarding foreign collaboration agreements are formulated at the Government level. The implications of such policy and guidelines from the revenue angle will also be taken due note of at that stage. The need for particular collaboration agreements and the terms thereof are matters which fall within the purview of the administrative Ministries concerned. Further, under Section 119 of the Income-tax Act, 1961, the Central Board of Direct Taxes

is debarred from giving advance rulings in individual cases. While detailed consultation with the Central Board of Direct Taxes in all cases does not appear to be feasible, the Board would be consulted in appropriate cases by the administrative Ministries while considering such collaboration agreements. With a view to safeguarding the interest of revenue, the Department of Industrial Development have, in consultation with the Central Board of Direct Taxes and the Department of Economic Affairs, issued a circular dated 20-10-75 to the administrative Ministries and other concerned Departments of the Government, indicating the points which should be kept in view while scrutinising and approving foreign collaboration agreements. A copy of this circular is enclosed as Annexure II.

Sd/-

(R. S. CHADDA)

Additional Secretary to the Government of India.

F. No. 236/248/72-A&PAC-II.

ANNEXURE I

SPECIMEN LETTER FOR APPROVAL OF FOREIGN COLLABORATION

GOVERNMENT OF INDIA

Ministry of Industry & Civil Supplies
 Department of Industrial Development
 Secretariat for Industrial Approvals
 Foreign Collaboration Unit

Messrs.....

No. FC: () New Delhi.
 dated th

SUBJECT : Application from Messrs.....
 for foreign collaboration with.....
 for the manufacture of.....
 (F.C. Sl. No. 6).

Gentlemen,

With reference to the above-mentioned application Government of India are prepared to approve the terms of collaboration with Messrs.....
 for the manufacture of.....
subject to the following conditions in addition to those detailed in the Annexure to this letter:

- (i) The foreign collaborator will invest to the extent of Rs.....
 in the total issued capital of Rs.....of your company.

(i.e.% of the total issued capital). The total non-resident shareholding in the joint venture should in no case exceed this percentage.

- (ii) The foreign collaborator shall be paid a royalty @..... %, subject to Indian taxes, for a period ofyears. The royalty will be calculated on the basis of net ex-factory sale price of the product exclusive of excise duties, minus the landed cost of the imported components, irrespective of the source of procurement including ocean freight, insurance, custom duties, etc. The payment of royalty at the rate mentioned above will be restricted to.....plus 25% in excess thereof. In case of production in excess of this quantum, prior approval of Government would have to be obtained regarding the terms of payment of royalty in respect of such excess production.
- (iii) The foreign collaborator shall be paid a lumpsum of Rs....., subject to applicable Indian taxes for technical knowhow, drawings, documentation, erection and commissioning etc. The lumpsum shall be paid in three instalments as detailed below:
- (a) 1/3 after the agreement has been taken on record.
 - (b) 1/3 at the time of transfer of technical documentation.
 - (c) 1/3 after the commencement of commercial production.
- (iv) You shall export at least.....% of the annual production of the item to be manufactured under this collaboration for a period ofyears. You shall export the product to be manufactured under this collaboration at least of the value of Rs..... in terms of foreign exchange per annum for .. years/over a period of years. For this purpose, the requisite guarantee, i.e. legal undertaking bank guarantee as may be required should be furnished according to the detailed instructions issued by the Chief Controller of Imports and Exports (EO Cell) and the Ministry of Commerce (TAEF), who may be contacted in the matter.

2. You are requested to confirm to the Ministry/Department of..... and also to the Foreign Collaboration Unit, Secretariat for Industrial Approvals, Udyog Bhavan, New Delhi-110011, that the terms of collaboration stipulated above and in the Annexure to this letter are acceptable to you.

3. Ten copies of the collaboration agreement which should be strictly in accordance with the terms as indicated above, as finally executed and signed by both the parties may be furnished to the Ministry/Department of.....

4. This approval to the terms of collaboration is valid for a period of six months from the date of issue of this letter.

Yours faithfully,
Under Secretary to the Govt. of India.

ANNEXURE II

No. FC-1(15)/75

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY & CIVIL SUPPLIES
(DEPARTMENT OF INDUSTRIAL DEVELOPMENT)
(Foreign Collaboration Unit)

New Delhi, the 20th Oct., 1975.

CIRCULAR NO. (25)—SIA 1975 Series

SUB : Taxation liability of the foreign companies entering into collaboration with Indian Parties.

As the administrative Ministries are aware, applications for foreign collaboration submitted by the Indian parties often involve payment of lumpsum amount with or without recurring royalty. While approving foreign collaboration proposals such payments are invariably expressed as subject to applicable Indian taxes and decided by the Income-tax authorities. The Foreign Investment Board has observed that difficulties are being experienced by the Indian parties in negotiating terms of payment with foreign collaborators because the exact nature of tax liability of the foreign company specially on lumpsum payments and the extent to which relation in this respect could be allowed under the Indian law are not clear. The matter has been examined in detail in consultation with the Ministry of Finance (Department of Revenue and Insurance) and it has been decided that with a view to safeguarding the interest of revenue to the maximum extent possible, the following points may be kept in view by the administrative Ministries and other concerned while scrutinising and approving foreign collaboration agreements.

- (a) It would be desirable to avoid stipulating a composite amount of payment to cover all the services to be rendered by the foreign collaborator in terms of the agreement. Stipulation of a composite sum would lead to controversies regarding the allocation between the taxable and non-taxable activities of the foreign collaborator. Broadly speaking, amounts payable for services rendered in India or by way of royalties for the use of patent etc., are taxable in the hands of foreign collaborator while amounts for services rendered outside India are not taxable unless the amount is received in India.
- (b) Details of the services to be rendered in India and those to be rendered outside India should be clearly spelt out separately in the collaboration agreement.
- (c) Amounts relatable to services rendered in India and services rendered outside India should be separately indicated in the agreement. It should be ensured that the amount payable for services

rendered in India is commensurate with the nature and extent of services rendered in India and that the amount payable for services rendered out of India are free *e.g.* the provision regarding making available the service of technical personnel. In such cases, the Income-tax Officer will not unnaturally examine the question whether the amount apparently earmarked for services rendered out of India does not really include an appropriate amount for services to be performed in India, free of cost or at no profit.

- (d) Amount payable by way of royalties for use of patents, etc. should also be separately mentioned.
- (e) If the supply of knowhow is intimately connected with the visit of foreign technicians to enable the Indian collaborator to put the knowhow to use, It may be ensured that no attempt is made to draft the agreement in such a manner as to suggest that the entire knowhow has been delivered or supplied from abroad. The general position in law is that if the knowhow is supplied from abroad, the income accrues abroad but where the technicians provided by the foreign collaborator also help the Indian party to introduce the knowhow in the Indian project, a view can be taken that the knowhow is partly supplied in India and hence, a part of the income will become taxable.
- (f) Where an agreement provides for the supply of machinery or equipment and also for technical services to be rendered in connection with the putting up or supervision or commissioning etc., of the plant, it may be ensured that the amount stipulated to be payable on account of the supply of machinery or equipment is not unduly inflated at the cost of the amount attributable to the technical services to be rendered in India. This has also to be ensured when there is one agreement for the supply of machinery or equipment.

a separate agreement for the rendering of technical services.

Sd/-
C. Subramanian,
*Under Secretary to the Govt. of
India.*

Copy to Ministry of Finance.
(Deptt. of Rev. & Ins.) among others.

APPENDIX XIX

F. No. 415/2/76-IT (Inv)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 26th April, 1976.

To

All Commissioners of Income-tax.
(By name)

Sir,

SUB : Special Circles for Professionals—Performance of—Supervision and evaluation—Instructions regarding :

In para 4·13 their 186th Report, the Public Accounts Committee have observed as under :—

“Better late than never, Special Circles have recently been set up in ten urban centres for dealing with ‘professionals’ like doctors, lawyers etc. The Committee trust that work in these Special Circles, which will have a lot of leeway to make up, will be adequately performed and supervised.”

The ten urban centres at which special circles have been set up are in Bangalore, Bombay, Calcutta, Delhi, Hyderabad, Kanpur, Lucknow, Madras, Patna and Poona. The Commissioners concerned will please carefully note the above observation for due compliance.

2. The object of formation of these circles is to ensure that all persons in the profession having taxable income/wealth are brought into the tax net and their assessments are made with due scrutiny and taking into account the material available from various sources. As far as possible, the income and wealth tax assessments for an assessment year in the case of a particular assessee should be completed simultaneously so that growth in net wealth is kept in view while determining the total income for the year. It is also expected that inspecting Assistant Commissioners incharge of these circles will play a precise and purposeful role. They should remain in close and constant touch with the work of survey for bringing new assesseees on the departmental registers and give requisite guidance to the assessing officers for bringing enquiries being made in important cases to successful fruition.

3. While making the annual inspections of these circles/of the work of individual officers the adequacy of arrangements for bringing cases of new professionals on the Department's registers, standards of performance in tapping of available sources for useful information, investigation into the suspected cases of tax evasion and penalties and prosecutions for concealment should receive particular attention.

4. The Commissioner of Income-tax in whose charges a special circle for dealing with the cases of professionals has been formed will make an annual evaluation of the performance of the circle in the proforma annexed. His evaluation report should be sent so as to reach the Director of Inspection (Income-tax & Audit) by 15th May each-year. Thus, the evaluation report for the year 1975-76 should reach the Director of Inspection (IT&A) by 15th May, 1976.

5. Brief facts of tax evasion/avoidance techniques used by the assesseees which are likely to be of general interest, methods employed to detect them and the results achieved may be sent quarterly, by the end of the month following the quarter, to the Director (P & PR) for being published in the Central Board of Direct Taxes Bulletin. If discovery of any particular technique warrants issue of general instructions, the same may be brought to the notice of the Director of Inspection (Investigation).

Yours faithfully,

Sd/-
(R. Venkata Ramiah)
Under Secretary,
Central Board of Direct Taxes.

Encl. *Proforma*

PROFORMA

Annual Evaluation Report in respect of performance of the Special Circle for professionals at.....for the financial year.....

-
- (I) General information :
 - (i) Date of formation of the Special Circle.
 - (ii) Jurisdiction of the Circle (If more than one ITO, how the jurisdiction is allocated between them).
 - (II) Survey :
 - (i) Sources tapped/arrangements made during the year for collecting information for bringing new cases of professionals on the registers of I.T.Dept. (Profession-wise)
 - (ii) Results achieved :

Beginning of the year		Close of the year	
No. in profession	No. on G.I.R	No. in profession	No in G.I.R.

Doctor (a) (b) (c) (d)

	(a)	(b)	(c)	(d)
Lawyers				
C. As.				
Architects				
Contractor				
Engineers				

In case of wide discrepancy between (c) & (d), brief explanation therefor.

(III) Assessments :	No. of assessments completed during the year :	I.T.	W.T.
(IV) Penalties for concealment :	No. of penalty proceedings initiated during the year.	I.T.	W.T.
(V) Prosecutions :	No. of cases in which	Concealment/Tech.	
		IPC offences	offences
	(a) Prosecution launched during the year (Give names of cases, profession and Board's reference)		
	(b) Proceedings compounded during the year (Give names of cases, profession, compounding fee and Board's reference)		
(VI) Brief particulars of any interesting case(s) processed during the year :			
(VII) (a) C.I.T's evaluation of the performance of the Circle during the year;			
(b) Programme of work for the ensuing financial year.			

(Commissioner of Income-tax)

SIGNATURE

APPENDIX XX

STATEMENT OF ACTION TAKEN ON THE RECOMMENDATION OF THE PUBLIC ACCOUNTS COMMITTEE

DEPARTMENT OF REVENUE & BANKING (REVENUE WING)

Recommendation

The Committee note from the reply dated the 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 of 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 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.

[S. No. 17 (Para 1.42) of Appendix to 141st Report of the Public Accounts Committee (1974-75)].

Action taken

A reference is invited to this Department's reply of even number dated the 7th May, 1976. Revised information in respect of remaining 23 *Charges* has since been received and is given below :—

	(Rs. in lakhs)
1. Total number of cases of Rs. 50,000 and above completed during the years 1971-72 to 1973-74 in 23 <i>Charges</i>	0.43
2. Number of assessments checked/reviewed out of (1) above	0.30
3. Number of assessments in which short levy/non-levy of interest was noticed	0.04
4. Amount of interest short-levied/not levied	42.90
5. Amount of interest out of (4) above not redeemable due to limitation	1.50
	(In 106 cases)

Sd/- I. P. Gupta,
Additional Secretary to the Govt. of India.

F. No. 231/21/73-A&PAC-II (Pt.).
Dated the 8th March, 1977.

APPENDIX XXI

INSTRUCTION No. 750

F. No. 212/225/74-ITA.II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 4th September, 1974

From Secretary, Central Board of Direct Taxes.

To All Commissioners of Income-tax.

SUB.:—*Issue of refund above Rs. 1 lac—prior approval of the Inspecting Assistant Commissioner of Income-tax—Instructions regarding—*

Sir,

I am directed to invite reference to the Board's Instruction (F. No. 36/5/64-ITA.I) dated 18th July, 1964 which requires the Income-tax Officers to take prior approval of the Inspecting Assistant Commissioner before giving effect to the appellate orders resulting in tax effect of Rs. 1 lac and above.

2. As various irregularities have been noticed in issue of refunds of big amounts, it has been decided by the Board that the Income-tax Officers should obtain prior approval of their Inspecting Assistant Commissioner of Income-tax before issue of refunds arising under Chapter XIX or deemed refunds in Chapter XXII-B of the Income-tax Act, 1961 or refunds on account of any other reason. While granting approval Inspecting Assistant Commissioners will also examine the desirability of withholding the refund under section 241 of Income-tax Act, 1961.

3. This instruction may please be brought to the notice of all the officers in your charge for strict compliance.

Yours faithfully,

Sd/-

(T. P. Jhunjhunwala)
Secretary, C.B.D.T.

APPENDIX XXII

F. No. Audit -9/75-76/DIT

DIRECTORATE OF INSPECTION (Income-tax)

Nirikshan Nideshalaya (Aayakar)

'grams : DIRINTAX'

Mayur Bhavan (4th floor),
New Delhi—110001.

October 10, 1975.

To
All Commissioners of Income-tax.

Sir,
Internal Audit—Scope and functions—Wanchoo Committee Recommendation—Follow up action—regarding—

In its Recommendations No. 429 and 460 regarding the functions of Internal Audit Organisation of IT Department and the scope of its audit, the Wanchoo Committee have recommended as under :

- (1) The Internal Audit Wing of the Department should exercise greater vigilance and check over the accounts of the Department.
- (2) Internal Audit should not merely act as the watch-dog of revenue but also protect the tax payer's interests by looking into cases where credit for taxes paid was not given or refunds were delayed.
- (3) Internal Audit should also comment on the adequacy of forms and procedures and send its suggestions to the Directorate General of Organisation and Methods.
- (4) The IAC (Audit) should conduct studies and investigate the causes or reasons for mistakes commonly committed and offer suggestions to the Director of Inspection (Audit) for remedial measures.

These recommendations have been accepted by the Government.

2. In regard to recommendation in item (2) above, the existing Internal Audit Check Sheets already required the IAPs to check that the credit for pre-paid taxes is given correctly. The Check Sheets also require I.A.Ps. to bring to notice the cases of delay in issuing refunds pursuant to appellate orders or u/s 141A of the IT Act. The checking of

direct refund cases involving refunds of over Rs.25,000 has also been entrusted to higher officers—ITOs (IA) upto refunds of Rs.50,000 and IACs (Audit) above Rs.50,000—to ensure that the interests of both the Revenue and the assessee are well safeguarded. The Directorate's letter F. No. M-6/1/72/DIT dated 22-9-72 further requires the IAPs to bring to the notice of commissioners cases of inordinate delays in the issue and service of demand notices. IAPs are thus already under instructions to protect the tax payers' interest as well. However, it is again clarified that the duty of Internal Audit is to check that the tax assessments made are in accordance with law and the rules made thereunder and the IAPs are expected to point out all mistakes irrespective of whether their rectification is likely to result in a gain to the revenue or to the assessee.

3. The IAPs are at present MAINLY engaged in checking whether :

- (a) the direct tax assessments or other orders of quasi-judicial nature, made by the direct tax authorities are in accordance with the law and the rules made thereunder as also the instructions issued by the Board and the facts on record ; and
- (b) any action/proceedings regarding any direct assessments required under the law have not been omitted to be taken .

In view of the Wanchoo Committee's recommendations, the Internal Audit will in future also check whether :

- (i) the procedures and form prescribed by the Income-tax Deptt. are adequate;
- (ii) the instructions issued and procedures prescribed by the Board are being duly carried out.

(At present the IAPs' check of this aspect is very limited; viz. in respect of the procedure prescribed for (i) the checking and rechecking of tax calculations by Ministerial Staff/ITOs; and (ii) the timely issue and service of Demand Notices; etc.)

- (iii) the tax demands, and collections/recoveries are correctly brought to account and the relevant accounts records are maintained properly.

(The checking of Demand and Collections Registers which was earlier with IAPs was withdrawn from them in 1969 due to inadequate strength of IAPs and is at present entrusted to the staff of range IACs).

The IACs (Audit) would also in future conduct studies and investigate the causes or reasons for mistakes commonly committed and send their suggestions to this Directorate for remedial measures. Suggestions of Internal Audit regarding the forms and the procedure should be sent by the CsIT to the Director of Organisation and Management Services with a copy to this Directorate.

The checking of direct tax assessments, orders etc., should continue to be given top priority as done hitherto. However, if during the checking of assessments, IAPs happen to notice the non-compliance or inadequacy of any important procedure or instruction or the absence of a prescribed procedure for any important branch or aspect of work, it must be brought to notice. The checking of Demand and Collection Registers should however, continue to be done by the staff of Range IACs till further instructions.

The receipt of this letter may please be acknowledged.

Yours faithfully,

Sd/-

(V. S. Narayanan)

Director of Inspection (I. Tax & Audit).

Copy to :

- (i) All DsI; DOMS; Director (Training), IRS (DT) Staff College, Nagpur.
- (ii) Shri K. C. Mahadevan, Director (PAC), CBDT New Delhi with reference to Board's D.O. F. No. 246/143/75-A&PAC-I dt. 10-9-75.

APPENDIX XXIII

STATEMENT SHOWING LATEST POSITION IN REGARD TO RECOMMENDATIONS CONTAINED IN EARLIER REPORTS OF P.A.C. CITED IN PARA 2·4 OF 186TH REPORT (FIFTH LOK SABHA)

From the aforesaid reply of Government, the following position in respect of various matters referred to in paragraph 2·4 of their 186th Report (Fifth Lok Sabha) has emerged :

- (i) In paragraph 3·14 of their 186th Report, the Committee had recommended an early decision on the recommendations of the Direct Taxes Enquiry Committee (Wanchoo Committee) and that made by the Committee appointed under the Chairmanship of Dr. T. N. Mathew, Joint Secretary, Department of Statistics. The Department has invited the attention of the Committee to their reply to para 3·15 (Sl. No. 2) of this Report. This reply has been dealt with in detail in paragraph 1·13 of this Report.

Department's reply to Committee's recommendation in paragraph 1·14 of their 150th Report regarding amalgamation of the Agencies for collecting information and conducting research on tax problems has been dealt with in detail in paragraph 1·13 of this Report.

- (ii) In paragraph 4·7 of their 186th Report, the Committee had referred to their earlier recommendation contained in paragraph 1·15 of the 118th Report (Fifth Lok Sabha) to the effect that the "survey of house properties in all the charges should be completed under a time bound programme". In reply, the Department has intimated that the results of the Survey are still awaited and that the Committee will be informed as soon as the results of the Survey are known.
- (iii) In paragraph 4·11 of their 186th Report, the Committee had referred to their earlier recommendation contained in paragraph 5·69 of their 128th Report (Fifth Lok Sabha) in regard to scrutiny of Collaboration Agreements from the tax angle. The Department had, in their note dated 27th October 1975, (included at page 23 of the 186th Report) intimated that the matter, had been referred to the Ministry of Law for obtaining the opinion of the Attorney General. The latest reply of the Department (July, 1976) merely repeats their earlier reply.
- (iv) In paragraph 5·13 of their 186th Report, the Committee had referred to the fact that on 14 April, 1975 Audit had requested

the Ministry to indicate (i) the number of objections with tax effect pointed out separately by Revenue Audit and Internal Audit which became time barred during the year 1973-74 and (ii) the various steps taken since January, 1973 to improve the functioning of the Internal Audit Parties and whether the Audit Cell had made out assessment of the improvement effected in this regard. The Department has now intimated that the information sought by the Audit in this connection has been furnished to them *vide* (the D.O. No. 236/194/71-A&PAC-II dated 6 May, 1976—Appendix II). The information for 1973-74 is given below :

- (i) Receipt Audit objections time-barred :
32 involving under charge of Rs.2,58,000.
- (ii) Internal Audit Objections time barred :
112 involving under charge of Rs. 1,76,000
6 involving over-charge of Rs. 3,000/-.

The working of Internal Audit system has been discussed in more detail in paragraphs 1.37 to 1.42 of this Report.

- (v) In Paragraph 5.20 of their 186th Report, the Committee had referred to their earlier suggestion of having a counter-check of the computation of income and draft assessment orders. In this connection, the Committee's attention has been drawn to the Department's reply dated 24th April, 1976 to para 1.17 of the 187th Report of PAC (Fifth Lok Sabha). This reply has not been accepted by the Committee as satisfactory and has been commented upon in paragraphs 1.9 and 1.10 of their 51st Action Taken Report (Sixth Lok Sabha).
- (vi) In paragraph 6.13 of their 186th Report, the Committee had referred to organisation and working of the Internal Audit Parties. In this connection, the Department has invited the Committee's attention to the replies furnished to paragraphs of 1.16, 2.21, 5.18 and 5.19 of 187th Report of the PAC (Fifth Lok Sabha).
- (vii) In paragraph 7.5, the Committee had, considering cases of non-levy of additional tax, referred to their earlier recommendation in paragraphs 1.73 of their 128th Report (Fifth Lok Sabha) and 1.14 of their 153rd Report (Fifth Lok Sabha) for undertaking a review of all the completed assessments relating to the assessment years prior to 1965-66. In this connection, the Department has invited attention to their reply dated 17 July 1975 (Appendix VII) according to which the result of the review is as under :

1. No. of cases reviewed	1,624
2. No. of cases where the mistake was found	3
3. Tax effect	12.74 lakhs.

In paragraph 7·13, the Committee had referred to their recommendation in paragraph 1·75 of their 128th Report (Fifth Lok Sabha) and desired that the question of doing away with the distinction between a public company and a closely held public company should be considered expeditiously as a step towards simplification.”

In reply the Department has invited attention to their earlier reply dated 25-8-75 (Appendix IX) wherein they had expressed the view that “it will not be desirable to do away with the distinction between a public limited company and a closely held public company for tax purposes by making a provision on the lines contained in the Company Law (Amendment) Act, 1974.

- (viii) In paragraph 9·17 of their 186th Report, the Committee had referred to the fact that 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 had been ordered on 27 September 1974 and desired to know the final result of the review. The Department has invited attention to their replies dated 7 May, 1976. This has been dealt with in paragraph 1·28 of this Report.
- (ix) In paragraph 11·11 of their 186th Report, the Committee had referred to paragraph 4·54 of their 51st Report (Fifth Lok Sabha). They had noted the fact that, in pursuance of one of their earlier recommendations, the Commissioners had informal discussions with the Chief Justice of many States regarding constitution of additional or special benches to dispose of income tax cases pending before the Courts. The Committee had desired that efforts in this direction should continue.

In paragraph 11·14 the Committee had referred to their earlier recommendations contained in paragraph 1·105 of their 150th Report (Fifth Lok Sabha) stressing the need for a satisfactory system of reconciliation between the amount of tax deducted at source and the amount credited to Government Account in the Income Tax Department as is in vogue in the United Kingdom.

The Department has invited the attention of the Committee to their reply dated 13 November, 1975 which was reproduced at page 72-73 of 186th Report of the PAC (Fifth Lok Sabha).

- (x) In paragraph 11·20 of their 186th Report, the Committee had referred to their earlier suggestion in paragraphs 1·14 and 1·15 of their 25th Report (Fifth Lok Sabha) to improve

methods adopted by Intelligence Wing of the Department. In reply, the Department has intimated that the Board have recently taken steps for strengthening the work of the Intelligence Wing. Five additional posts of Deputy Directors, 53 posts of Assistant Directors and 162 posts of Inspectors have been sanctioned in April, 1976.

- (xi) In paragraph 11·25 of their 186th Report, the Committee had referred to their earlier suggestion contained in paragraphs 3·29 and 3·30 of their 87th Report (5th Lok Sabha) that the Board should set up a machinery for watching the recovery of arrears in excess of Rs.10 lakhs in each case. In reply, the Department has referred to their reply to Committee's recommendation in paragraph 11·31 of their 186th Report (5th Lok Sabha). The aforesaid reply has been dealt with in paragraphs 1·30 and 1·32 of this Chapter.

APPENDIX XXIV

Statement of Conclusions/Recommendations

S. No.	Para of Report	Ministry/Department	Conclusion/Recommendation
1	2	3	4
1.	1.7	Ministry of Finance (Department of Revenue)	<p>The Committee had come to the conclusion that they have been making recommendations repeatedly and the Government have been giving assurances which have, largely remained, unfulfilled. In support of their conclusion, the Committee had cited recommendations of their earlier Reports. The Committee had recommended that Government should devise an adequate machinery to see that the recommendations of the Committee receive adequate and prompt attention at all levels. In their reply, Government have merely stated the factual position on earlier recommendations cited as illustrations but have not spelt out the specific steps taken or proposed to be taken to ensure timely implementation of the assurances given by them to the Committee. The Committee, therefore, reiterate their recommendations.</p>
2.	1.11	Do.	<p>The Committee had in paragraphs 1.23 to 1.26 of their 51st Report (1972-73) stressed the need for amalgamation of different agencies engaged in the task of collecting information and conducting research on tax problems. The Working Group of the Administrative Reforms Commission of the Central Direct Taxes Administration (1968) had, it would be recalled, also favoured such an amalgamation. In their note dated 17 July, 1976, the Committee were informed that no decision</p>

had been arrived at on this question but in a subsequent Note dated 13 September, 1977, the Committee have been informed that "merger of the three agencies viz. Tax Planning and Legislation Section, the Directorate of Research and Statistics and the Fiscal Policy Research Unit was not considered necessary." The Committee are surprised at this laconic reply. Strangely enough, it does not mention even briefly the reasons which have weighed with the Government in not accepting this long outstanding recommendation of the Committee. The Committee reiterate their recommendation and urge Government to reconsider their decision.

3. 1.15

Do.

The Committee note that Government have already collected details of the methodology followed in U.K. and U.S.A. for formulation of budget estimates. Now that necessary posts have also been sanctioned, the Committee hope that necessary studies in revenue forecasting would be undertaken soon and a more effective forecasting system evolved which would avoid marked variations between budget estimates and actuals.

4. 1.19

Do.

It is a matter of satisfaction to note that Government share the views of the Committee regarding the importance of coordination among the various limbs of the tax machinery and also among the Central Board of Direct Taxes and the Administrative Ministries entering into or approving foreign collaboration agreements and that certain steps have already been taken by Government in this direction. One such step is the appointment of a Departmental Committee to make a "study in depth" of various problems including the functioning of the existing system, resources and the areas of receipt of information and the manner of its utilisation, etc. The Committee trust that Government would soon decide upon the steps to be undertaken by it to ensure greater coordination and combat the problem of income escaping assessment to which the Committee have been attaching a great deal of importance.

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1	2	3	4
5.	1.26	Ministry of Finance (Department of Revenue)	<p>While sharing the anxiety of the Committee regarding “costly mistakes” detected by the revenue audit internal audit from time to time the Department of Revenue stated that in the recent past, the emphasis has been on administrative planning, organisational development and new management concepts like “management by objectives”. The lines of this new approach are stated to be (i) Introduction of a system of Annual Action Plans since 1974-75 (ii) formulation of a Five Year Plan regarding requirements of officers and staff for assessment and collection work upto 1979-80 (iii) strengthening of training arrangements of I.R.S. (Direct Taxes) Staff College, Nagpur and setting up of four Regional Training Institutes at Bombay, Bangalore, Calcutta and Lucknow, (iv) setting up of an independent wing for publicity and public relations and (v) installation of mini-computers which will cover collection of taxes in all cases involving income exceeding Rs. 25,000. The Committee hope that efficacy of these steps to minimise incidence of mistakes in assessment of income would be kept under constant review. The Committee also hope that excessive reliance on augmentation of staff strength to check such mistakes would be avoided.</p>
6.	1.29	Do.	<p>From the foregoing information furnished by the Department of Revenue, the Committee find that out of 1.73 lakhs of assessments of Rs. 50,000 and above completed during the assessment years 1971-72 to 1973-74, a review of 1.61 lakhs of such assessments has been made. This limited review has revealed 0.12 lakh cases of assessment involving short-levy/non-levy of interest. Out of the interest of Rs. 145.41 lakhs short levied/non-levied, an amount of Rs. 1.53 lakhs is stated to be “not redeemable due to limitation”. The Committee stress once again the need to devise effective steps to ensure that interest is recovered in all cases of default wherever it is leviable under the provision of the Income-tax Act to avoid loss of revenue on this account.</p>

7. 1.32 Do.

The crux of the Committee's suggestions was that the work of Income-tax Officers should be so planned as to ensure that bigger cases involving high incomes should be taken up not only well before the end of the limitation period but also on a priority basis. The Action Plan indicated in the Ministry's reply to paragraph 5.21 contemplates, *inter alia*, the disposal of 75 per cent of the total work-load of company cases with income above Rs. 5,000 and disposal of 70 per cent of all non-company category-I cases during the year. This apparently, does not amount to a fixation of any priority for high income cases in so far as the percentages prescribed in the Action Plan could, as well, be worked upto by completing only the relatively smaller cases. Since the arrears of tax are still continuing to rise, the Committee reiterate their earlier suggestion that apart from fixing overall percentages for disposal, the Ministry should also lay down certain order of priorities to ensure that high income cases involving larger tax revenues are not relegated to the background.

8. 1.36 Do.

The Committee reiterate their recommendation that assessment of cases may be categorised and those involving more than Rs. 5 lakhs of returned income may be assessed directly by the Inspecting Assistant Commissioners rather than by Income Tax Officers. As pointed out by the Committee earlier, such a step will improve the standard of performance and reduce the possibilities of mistakes. The Committee have been informed that "a study regarding manpower requirements for handling of assessments in cases with income exceeding Rs. 5 lakhs, by the IACs has been received from the Director of O&M Section and is under process." The Committee hope that while examining the need for augmentation of staff strength on this score, the Department would also see whether objective of entrusting big income cases to IACs could not be achieved by re-distribution of work at various levels.

9. 1.42 Do.

Internal audit as introduced in 1954 with a view to providing a second check over the arithmetical accuracy of income and determination of

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tax. In 1964, the Board extended the function of internal audit to finding out mistakes in law. The scope of internal audit was further enlarged in October 1975 authorising it to check also the adequacy of procedure and forms prescribed by the Department and to make suggestions for their improvement to the Director of Inspection (O&MS) for necessary remedial action. From the Reports of the Comptroller & Auditor General of India on Revenue Receipts presented to Parliament, the Committee continue to notice a number of mistakes involving substantial loss of revenue which escape the attention of internal audit. As already pointed out by the Committee in paragraph 12.12 of their 187th Report (5th Lok Sabha) there is a clear need for restructuring and re-organising the internal audit, so as to make it an efficient tool for tax management.

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10.

1.46

Ministry of Finance
(Department of Revenue)

The Committee regret that the Government have not taken any decision so far on observations/recommendations of the Committee on Subordinate Legislation, the Select Committee on Taxation Laws (Amendment) Bill, 1975 and the Petition Committee of Parliament on the dispute between the officers directly recruited to Class I and those promoted to it. The Committee, therefore, urge upon Government the need to expedite a decision on this matter.

