

**PUBLIC ACCOUNTS COMMITTEE
(1974-75)**

(FIFTH LOK SABHA)

HUNDRED AND FORTY-SEVENTH REPORT

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 116th Report (Fifth Lok Sabha) on the Report of the Comptroller and Auditor General of India for the year 1971-72—Union Government (Civil)—Revenue Receipts—Vol. I, Indirect Taxes—Sales Tax Receipts of Union Territory of Delhi].



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NEW DELHI**

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PUBLIC ACCOUNTS COMMITTEE
(1974-75)

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3. Shri C. D. Gautam
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6. Shri Jagannathrao Joshi
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21. Shri Sasankasekhar Sanyal
22. Shri A. K. A. Abdul Samad

SECRETARIAT

Shri B. K. Mukherjee—*Chief Legislative Committee Officer.*

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

INTRODUCTION

I, the Chairman of the Public Accounts Committee, having been authorised by the Committee, do present on their behalf this Hundred and Forty Seventh Report of the Public Accounts Committee on Action Taken by Government on the recommendations contained in 116th Report (Fifth Lok Sabha) on the Report of the Controller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Vol. II, Indirect Taxes, relating to Sales Tax Receipts of Union Territory of Delhi.

2. On the 31st May, 1974 an 'Action Taken Sub-Committee' was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:--

Shri H. M. Patel—*Convener*.

MEMBERS

2. Shri Sasankasekhar Sanyal
3. Shri Jagannathrao Joshi
4. Shri S. C. Besra
5. Shri V. B. Raju
6. Shri Mohammed Usman Arif
7. Shri P. Antony Reddi
8. Shri Narain Chand Parashar
9. Shri T. N. Singh

3. The Action Taken Sub-Committee of the Public Accounts Committee (1974-75) considered and adopted this Report at their sitting held on 10th April, 1975. The report was finally adopted by the Public Accounts Committee on 21st April, 1975.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/observations of the Committee is appended to the Report.

(vi)

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;
21st April, 1975.

1st Vaisakha, 1897 (S).

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations contained in their 116th Report (Fifth Lok Sabha) on the Report of the Comptroller and Auditor General of India for the year 1971-72—Union Government (Civil)—Revenue Receipts—Vol. I—Indirect Taxes—Sales Tax Receipts of Union Territory of Delhi, which was presented to the House on the 15th April, 1974. Action Taken Notes have been received in respect of all 26 recommendations contained in the Report.

1.2. The Action taken Notes on the recommendations/observations contained in the Report have been categorised under the following heads:—

I. Recommendations/observations that have been accepted by Government:

S. Nos: 1, 5, 6, 8, 9, 10, 11, 13, 17, 18, and 21 and 25.

II. Recommendations/observations which the Committee do not desire to pursue in view of the replies of Government:

S. Nos: 14, 16, 19, 23, 24 and 26.

III. Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration:

S. Nos: 4, 7 and 12.

IV. Recommendations/observations in respect of which Government have furnished interim replies:

S. Nos: 2, 3, 15, 20 and 22.

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

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

Fraud in Forging Sales-tax Registration Certificates—Paragraphs 1.7 to 1.8 Col. (Sl. No. 2—4)

1.5. In paragraph 1.8 of the Report, the Committee had made the following observations relating to transactions of sales declared to have been made to local dealers:

“Although the Ministry have stated that the question of lack of supervision in the Department does not arise in this case, the Committee would like to know whether the fraud was detected soon after it was committed. If not, what was the time gap and the reason therefor. The Committee desire that there should be a proper verification of the transactions of sales declared to have been made to local registered dealers and that the Internal Audit Cell should be particularly vigilant in this respect.”

1.6. In their reply dated the 19th October, 1974, the Ministry of Home Affairs have stated:

“As stated in reply to para 1.7 (mentioned earlier) police investigation is still in progress, therefore, it is not possible to indicate at this stage as to the precise time gap between the commission of the offence and its detection except that the matter was reported to the police soon after information about these activities was received by the Department.

Relevant record pertaining to alleged fraud committed by certain unscrupulous persons is at present with the Police. As such, it has not been possible to undertake a proper verification of the transactions of sales declared to have been made to local registered dealers.”

1.7. **The Committee are astonished to find that no specific action has been initiated on the broader question of proper verification of the transactions of Sales declared to have been made to local registered dealers and the suggestion to make the Internal Audit Cell particularly vigilant in this respect. The Committee deprecate this failure and would like to know when it is proposed to take action along the lines suggested.**

1.8. Commenting further upon this case, the Committee, in paragraph 1.8(a), had observed as follows:

“According to Delhi Administration's statement some persons fraudulently got printed forged registration certificates on the basis of which they were issuing declarations and making tax free purchases. The registration certificates has to be issued in a statutory form S.T.III/IV which has to bear the signatures of the Assessing Authority (and also

presumably the seal). Evidently, in this case the certificates which were got fraudulently printed, were also bearing foreged signatures/seals. Further, the certificate is required to be prominently displayed at the place of business [(Rule (2))]. It, therefore, seems that either the dealers were not operating from a fixed place of business or were giving false addresses, or that there never was any inspection/checking of their premises by the Departmental officers. The Committee would like to know whether any inspection was made, and if so, how the fact of the certificate being forged escaped notice."

1.9. In their reply dated the 19th October, 1974, the Ministry of Home Affairs have state:

"The business premises of the dealers registered with the Department under the Central Acts, are periodically inspected by the staff of the Sales Tax Department. Inspection/checking of the premises of the dealers who are otherwise liable for registration under the Sales Tax Law is also undertaken which *inter-alia* results in the institution of proceedings under section 11(2) of the Local Act.

Such inspections undertaken in the normal course of surveys are unlikely to bring to light cases of conspiracy and forgery of documents such as registration certificates. For the detection of such cases, crucial information or clue is inevitably needed."

1.10. The Committee consider that the Sales Tax Department must accept responsibility for evolving suitable safeguards against evasion. For this purpose the procedures should be suitably modified immediately under advice to the Committee so as to plug loopholes which have revealed themselves in practice and not merely rely on outside information or clues to detect such cases. This must also be reported to the House within 3 months from date.

Under-over-assessment of revenue—Paragraph 2.10 (Sl. No. 7)

1.11. Dealing with the under-assessments and over assessments of sales tax revenue detected during test check by Audit, the Committee had made the following observations, in paragraph 2.16:

"A test check of assessments made by Audit during 1971-72 revealed under-assessment of revenue to the extent of Rs. 2.35 lakhs in 395 cases and over-assessment of Rs. 19,423 in 48 cases. This shows an increase over the position reported in the two previous years. The Committee require that steps should be taken to ensure that mistakes of the kind reported by Audit do not recur. Further, the Audit objections should be settled promptly and a suitable time-limit must be fixed for the purpose."

1.12. In their reply dated the 19th October, 1974, the Ministry of Home Affairs have stated:

"Instructions have been issued to the Assessing Authorities to guard against under assessment as well as over assessments and also to scrutinise the declaration forms more carefully in future. They have also been advised to furnish replies to the Audit and Inspection Reports promptly and without any avoidable loss of time."

1.13. The Committee find that their recommendation for prescribing a time limit for the settlement of Audit objections has not been acted upon. The Committee deprecate this failure and insist that a definite time limit should be fixed, in consultation with Audit, under advice to the Committee.

Unauthorised inter-State purchases—Paragraph 2.31 (S. No. 12)

1.14. In paragraph 2.31, the Committee had made the following observations to bring to light unauthorised inter-state purchases:

"There should be an effective system of exchange of information with other States so that unauthorised inter-state purchases made by the dealers registered in Delhi may come to notice promptly."

1.15. In their note dated the 19th October, 1974, the Ministry of Home Affairs have stated:

"Instructions were issued in May, 1972 advising the Assessing Authorities that it was necessary in the interest of Revenue to seek confirmation from their counter-parts in other states regarding genuineness of transactions in respect of which assesseees of Delhi furnished form 'C' to them at the time of assessment. Instructions were also issued regarding disposal of incoming enquiries from other states. Among the items proposed in the joint meeting of four

Regional Councils for Sales Tax held in Delhi in January, 1974 was one having a direct bearing on this issue and was proposed by Kerala. They had suggested that each state should consider the creation of an inter-state investigation cell attached to the Sales Tax Department under the charge of an Assistant Commissioner. Madhya Pradesh had also suggested that directions be issued for speedy furnishing of information relating to cross-verification of transactions.

Presently, the Sales Tax Department in Delhi is not equipped to undertake cross verification of transactions particularly in view of the fact that the volume of work involved in implementing this recommendation of the Committee would indeed be huge. Even if test-checks were to be carried out, it is felt that having regard to the voluminous nature of work, it would require deployment of substantial manpower. The present staff strength of Sales Tax Department in Delhi is not such as to be able to undertake this additional work.

Creation of an inter-state investigation cell in the Sales Tax Department of all the states needs concurrence of all the States and also additional staff. This is a matter where action could be taken more effectively if concerted action is taken by all states to exchange information regarding inter-state movement of goods."

1.16. The Committee feel that it would be in the interest of revenue to establish an effective system of exchange of information between the States. The Committee desire that the feasibility of establishing a suitable machinery for the purpose should be examined expeditiously by the Finance Ministry in consultation with the State Governments, under advice to the Committee.

*Mis-classification of electric meters—Paragraphs 2.49—2.50
(S. Nos. 14 and 15)*

1.17. Dealing with an instance of misclassification of electric meters by an executive order resulting in loss of sales tax revenue, the Committee had made the following observations, in paragraphs 2.49 and 2.50:

"Electrical goods other than Electrical Plant, equipment and their accessories required for generatio, transmission and distribution" (Entry 18 of the First Schedule) were chargeable to sales tax @9 per cent w.e.f. 1st September, 1966. Goods covered by the latter limb of the entry continue to be taxable at the general rate of 5 per cent. The Depart-

ment by an executive order dated the 14th December, 1966 circulated a list of items which were considered to be the electrical plant, equipment and accessories including service meters required for generation, transmission and distribution. The list included "electric motors" used for converting electric energy into mechanical force were liable to tax @9 per cent and the incorrect levy of tax at the general rate of 5 per cent in the case of one dealer alone resulted in under-assessment of Rs. 13,116 from 1st September, 1966 to 31st March, 1968. Although the matter was brought to the notice of the Commissioner of Sales Tax in July, 1971 and the Department was asked to work out the total loss suffered from September 1966 onwards, no such assessment has been made. This needs to be explained properly. It was only on 24th September, 1973, the opinion of the Ministry of Law was obtained which upheld the view of Audit. The Ministry of Law have further pointed out that items included in the list circulated by the Department, such as transformers, wires and cables, fuse wires, fuses and fuse units are all accessories which are usable not only in electrical plant but also for domestic purposes and that the rate of taxation should be determined with reference to the purpose for and place the accessories listed by the Department are being used. Thus it is clear that the assessments made with reference to the executive order are not entirely covered by the law as it stands today— This serious implication of the opinion given by the Ministry of Law does not appear to have been considered immediately by the Department for issue of necessary clarifications to the assessing officers. The Committee deprecate the delay first in obtaining the legal opinion and later in acting on it. A review of the past assessments is immediately called for the consider the possibilities of rectifying under-assessments and recovering the dues. The action proposed to be taken in this regard may be reported to the Committee.

The Committee understand that an amendment to the relevant entry of the first Schedule to remove the ambiguity is under consideration. The Committee understand that a concessional rate was prescribed for the goods required for the purposes of generating, transmitting and distributing electricity so that electricity might be available to consumer at cheaper rates. The Committee need hardly point out that the rate of taxation on various items should be appropriately determined with reference to the purpose

for which they are sold. The manner in which the Government propose to amend the entry consistent with the object undelying it may, therefore, be reported to the Committee at the earliest."

1.18. In their reply dated the 19th October, 1974, the Ministry of Home Affairs have stated:

"The opinion of the Ministry of Law in the matter is that the rate of tax leviable on the sales of electric goods shall have to be decided in the light of the purpose for which and the place where the goods are used. The opinion may be technically correct but there are practical difficulties in taking action in the light of this opinion. If the goods sold are such as are capable of being used both in an electrical plant, as well as elsewhere it is not possible for which the purchaser is buying the goods. Neither the selling dealers nor the Assessing Authorities have any machinery to ascertain the prpose in question. It is not practicable to ascertain the loss suffered from September, 1966 onwards for the reason that the items which are covered by entry 18 of the Frst Schedule and termed as electrical goods cover a wide range of items and attract different rates of taxes depending on their end use. If the opinion of Ministry of Law, to the effect that the rate of tax leviable on the sale of electrical goods should be determined with reference to the purpose of and place where accessories listed by the Department are being used were to be made the bais, it will necessitate detailed scrutiny of the sales conducted by each dealer dealing in electrical goods relating to the period from 1st September, 1966 onwards. Further having regard to the fact that the dealers are not required to keep a record of the purpose for which a particular item is to be put to use by the purchaser, it is apprehended that any attempt to undertake review of the past assesments and consequent scrutiny of record is bound to result in infructuous labour.

It may also be added that the opinion of the Ministry of Law does not settle the issue conclusively. Such issues attain finality only through the process of judicial adjudication. The matter regarding amendment of entrv No. 18 of the First Schedule to the Bengal Finance (Sales Tax) Act, 1941 as in force in the Union Territory of Delhi is under consideration of the Government."

1.19. The proposed amendment of the relevant entry of the first schedule to the Bengal Finance (Sales Tax) Act 1941 as in force in the Union Territory of Delhi is essential for the proper implementation of the provisions of the Act and steps should therefore be taken at once to see that the Act is amended accordingly without delay.

*Penal interest for belated payment of tax—Paragraph 4.12—
(Sl. No. 22)*

1.20. Dealing with the problem of belated payment of sales tax by the dealers, the Committee had observed in paragraph 4.12:

“The Committee regret that the dealers at present no incentive at all to pay up the demands in time in as much as there is no provisions for levying penal interest for belated payment. It seems strange that this lacuna in the Act has not been remedied so far. Perhaps the Government will explain why this has not been done. As there is provision in this regard in the Income-tax Act as also in the Sales Taxes Acts of some States, the Committee recommend that the Bengal Finance Sales Tax Act, 1941 as extended to the Union Territory of Delhi should be suitably amended without delay.”

1.21. In their reply dated the 19th October, 1974, the Ministry of Home Affairs have stated:

“The proposed amendment of the Act is under consideration.”

1.22. The Committee note that their suggestion for amending the Sales Tax Act to provide for penal interest for belated payment of tax is under consideration. The Committee trust that the examination will be completed expeditiously, so that tax dues are paid promptly and when delay occurs it carries with it a penalty.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee find that the Budget Estimates of Sales Tax Receipts are being framed only on the basis of actual trend of collections during the first six months of the previous year. No forecast of Collections out of arrears and current demand is made separately. While the actual collections during the previous year could be a factor it cannot be the sole basis for framing the estimates for the next year. The Committee had already drawn attention to the lack of machinery to forecast business trends and to assess in advance the likely impact of taxation proposals so as to prepare the estimates on scientific basis. They hope that this lacuna will be removed soon.

[Sr. No. 1—Para 1.6 of Appendix V to 116th Report—5th Lok Sabha].

Action taken

A Research and Statistical Cell has since been set up. Three Statistical Assistants were appointed on stipendiary basis w.e.f. 8-10-73, 15-11-73 and 7-12-73 respectively, under the 'Half-a-million Jobs Programme'. It is proposed to expand the Cell to have four Statistical Assistants and four Computers, for which enhanced outlay is expected to be made available. To begin with, the Cell was deployed on the task of collection compilation and analysis of data relating to sales tax operations as part of the thorough going study of the Sales Tax Administration in Delhi, undertaken through a Study Team of Administrative Staff College of India. The Cell has now been made primarily responsible for carrying out studies, including field investigations with the object of forecasting business trends so as to assess the likely impact of taxation proposals, specially from the point of view of the preparation of budget estimates of sales tax receipts. It shall also carry out studies aimed at plugging the sources of evasions of sales tax and enhancing sales tax revenues. The collection, compilation and analysis of statistics relating to sales tax operations will also be the responsibility of this Cell. The Cell has been placed under the Administrative charge of the Assistant Director (Administrative Reforms) and shall function

under the technical guidance and supervision of the Director of Bureau of Economics and statistics, Delhi Administration, Delhi.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

This case discloses a lacuna in the procedure. The Committee learn that in Punjab the certificate to be issued by a purchasing dealer is statutorily prescribed (Punjab form S. T. XXII) in Rule 26(i). Under Rule 26(2) a registered dealer has to apply for these forms stating clearly his reasonable demand for a period of not more than six months disclosing the stock in details of declaration forms in hand etc. Thus, unless the declaration form itself is also fraudulently printed, there can be no misuse for a prolonged period. Some selling dealer to whom the purchasing dealer gives the fraudulent declaration form may become suspicious, and the fraud will be exposed. In Delhi, however, there is no such safe-guard. Although the Act lays down that the form should be obtainable from the prescribed authority, no authority has so far been prescribed. Under Rule 26 only the language of the certificate is prescribed, and the purchasing dealer just gives a declaration in this form on any piece of paper. It is understood that generally the declaration is obtained by the selling dealer on the back of the cash memo. With this system there was more necessity for cross-verification of a selling dealer's claims of deductions with the purchasing dealer's returns. This is, however, not being attempted in Delhi with the result that such bogus declarations cannot ordinarily be detected unless there is a complaint from a third party. The Committee desire that the procedural lacuna should be remedied forthwith.

[Sr. No. 5—Para 1.8(b) of Appendix V to 116th Report
5th Lok Sabha].

Action Taken

The position regarding the certificate to be issued by a purchasing dealer on statutorily prescribed form and printing thereof has been ascertained from the Excise and Taxation Commissioner, Punjab. He has informed us that the declaration form ST XXII is being got printed by the dealers themselves for their use. It would thus appear that the dealers in the Punjab are not obtaining these forms from the prescribed authority and that the existing practice in Punjab is substantially the same as in Delhi.

The question of printing and supply of these forms by the Department is under consideration.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II, dated 28th February, 1975].

Recommendation

The Committee regret to learn that the Sales Tax Department went without a regular Commissioner during the period 29-12-72 to 20-8-73 which is indeed long. The reason adduced for this situation is not at all convincing to the Committee. An officer holding the additional charge of an important post could not unreasonably plead that he did not have the time necessary to do justice to the responsibilities attached to it. In efficient functioning became unavoidable and excusable. In view of the need to improve the functioning of the Department as stressed in this report as well as in the 74th Report, the Committee expect that it should be headed by competent men with reasonable tenure and *ad hoc* arrangements of the kind made last year should not be resorted to.

[Sr. No. 6—Para 1.9 of Appendix V to 116th Report—
5th Lok Sabha].

Action Taken

The post of Commissioner of Sales Tax, which carries a special pay of Rs. 300/- per month was held by a Senior I.A.S. Officer. On transfer of Shri A. J. Kundan, I.A.S. formally holding the post of Commissioner of Sales Tax on 29-12-72, the Finance Secretary, Shri P. P. Chauhan, I.A.S. took over the additional charge of the post of Commissioner Sales Tax from the same date i.e. 29-12-72. This arrangement had to be made due to shortage of Senior I.A.S. Officer as an I.A.S. Officer of the relevant seniority for the said post was not available with the Administration.

On the reposting of Shri Virendra Prakash, I.A.S. from the Municipal Corporation of Delhi, he was appointed as Commissioner, Sales Tax w.e.f. 20-8-73 (A.N.). However, the observations of the Committee have been noted.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II, dated 28th February, 1975].

Recommendation

The Committee note that a system of Internal Audit has been introduced in the Department. They, however, find that the Inter-
598 LS—2.

nal Audit Cell could scrutinise only 27,095 assessment orders during 1971-72 as against the total completed assessment of 66,438. The coverage is thus quite low. The selection of cases and the nature of checks exercised by the Internal Audit require careful examination in consultation with the statutory Audit so as to make the system really effective.

[Sr. No. 8—Para 2.11 of Appendix V to 116th Report—
5th Lok Sabha]

Action Taken

Recommendations of the Committee have been noted. As desired by the Committee, the AGCR have been approached to advise regarding the manner in which the selection of cases should be made and the nature of checks to be applied so as to make it function more effectively. Reply from the A.G.C.R. is awaited.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

The fraud so successfully prepared by the dealer which remained undetected for such a long time causes deep distress to the Committee. The manner in which the case was handled by the Department from the very beginning leaves much to be desired for the following reasons:—

- (i) The dealer obtained registration certificate in December, 1967, by filing false affidavits and evidences regarding the business and ownership of the property. It is surprising that the enquiries stated to have been made before registration, as required under Rule 5 of the Delhi Sales Tax Rules, 1951, did not bring to light the falsehood.
- (ii) Although the Department initiated assessment proceedings on receipt of unsigned 'Nil' returns upto June, 1968, and the dealer was not available for serving the notice, which has to be pasted on the business premises on 30th August, 1968, surprising no enquiry of any kind whatsoever was made immediately thereafter.
- (iii) The Department remained content with issuing as many as 19 cell notices between 3rd December, 1968, and 21st April, 1970, without any response. It was only a year after the Audit took up the matter that an on-the-spot

enquiry was made on 28th August, 1971, which revealed that the premises declared by the dealer were never in his possession.

- (iv) The registration certificate was cancelled only with effect from 28th February, 1972, and *ex-parte* assessments for the years 1967-68 to 1971-72, were made raising demands aggregating Rs. 1.51 lakhs which could not be recovered.
- (v) Until Audit pointed out in September, 1970, that the dealer had been making unauthorised purchases at concessional rates from outside Delhi, the Department was not aware of it.
- (vi) The dealer had obtained 25 'C' forms but his application it stated to be not available on the file of the Department. It is not clear how the forms were issued to him.
- (vii) No disciplinary action whatsoever has so far been taken against the officials for the deficiencies in the conduct of initial enquiries and the Committee have been merely informed that necessary proceedings have been initiated. There should be a thorough investigation of the irregularities, lapses and delays with a view to taking stringent disciplinary action against the erring officials and initiating remedial measures to obviate remedial measure to obviate recurrence. In doing so it should be carefully examined whether any officials were in collusion with the dealer in carrying on his nefarious activities as *prima facie* there appears to be some evidence to suspect it. The Committee would like to be kept informed about it.

[Sr. Nos. 9 and 19—Paras 2.28—2.29 of Appendix V to 116th Report—
5th Lok Sabha].

Action Taken

Preliminary enquiries were made and as a result thereof Sarvashri H. N. Taing, Sales Tax Officer, L. N. Mathur, Sales Tax Inspector, M. C. Bhargava, Head Clerk, were placed under suspension w.e.f. 8-10-73 pending further enquiries in the matter. Shri H. N. Taing, Sales Tax Officer has since died. Disciplinary proceedings have been initiated against the Sales Tax Inspector on whose enquiry report the registration certificate was issued to the dealer and the Head Clerk, who issued blank 'C' forms to the dealer. Both of these officials who have been charge-sheeted and transferred from the Sales Tax Department.

An Enquiry Officer has since been appointed to enquire into the charges against these officials in accordance with the provisions contained in C.C.S. (Classification, Control and Appeal) Rules. The report of the Enquiry Officer is awaited. Further action will be taken on receipt of the Enquiry Report.

All the Sales Tax Officers and Sales Tax Inspectors have also been advised to remain vigilant against such unscrupulous dealers.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II, dated 28th February, 1975].

Recommendation

The case should be handed over to the police forthwith for tracing the dealer and launching prosecution for the criminal and offences committed by him.

[Sr. No. 11—Para No. 2.30 of Appendix V to 116th Report of P.A.C.—5th Lok Sabha].

Action Taken

F.I.R. has since been lodged with the Police.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II, dated 28th February, 1975].

Recommendation

In order to detect bogus registered dealers, shop to shop survey should be conducted from time to time in an effective and imaginative manner with reference to the list of registered dealers available with the Department. The Committee trust that necessary instructions in this regard will be issued to the ward officers immediately.

[Sr. No. 13—Para No. 2.32 of Appendix V to 116th Report—5th Lok Sabha].

Action Taken

Please see reply to para 5.8 (Sr. No. 23 in Chapter III).

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II, dated 28th February, 1975].

Recommendation

Under the scheme of the local sales-tax Act tax is attracted at the last point of sale either to the consumer or to unregistered dealer, however, Section 5(A) of the Act inserted w.e.f. 1st October, 1959 empowers the Chief Commissioner (now Lt. Governor) to shift the taxable point by issuing notification. The Chief Commissioner of Delhi by notification issued in December, 1960, made the sale of "Vegetable Ghee" liable to tax at the first point of sale by or importer or by a manufacturer in the Union Territory of Delhi. However, by an executive order issued by the Commissioner of Sales Tax on 21st December, 1960, the registered manufacturers such as halwais and restaurant owners were allowed to make tax-free purchases of "vegetable ghee". In support of this concession extended to them, the Department have pointed out that denial of it would in a way amount to levy of tax twice to the extent their purchases of vegetable ghee as also their sales of the end product would both be subjected to tax. The Committee are doubtful about the legality of this executive order. Although the Ministry have stated that the validity or otherwise of the distinction which was made between ghee sellers and manufacturers has not been the subject-matter of any judicial pronouncement and has not been assailed in any legal proceedings, the Committee suggest that the question should be referred immediately to the Ministry of law so that the matter may be put on a sound legal basis.

[Sr. No. 17—Para No. 3.20 of Appenndix V to 116th Report—
5th Lok Sabha].

Action Taken

The matter regarding scope of section 5-A of the Act has been referred to the Ministry of Law. Their opinion is awaited.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

In pursuance of the notification issued in December, 1960, the Department deleted the item "vegetable ghee" from the registration certificates of the registered dealers who were purchasing vegetable ghee free of tax for the purpose of resale. The Committee find that the Law Ministry have, however, opined that so long as the present law stands the item cannot be deleted from the registration certificate because deletion of item is a penalty. The Committee regret that although Section 5A was inserted in the Act

w.e.f. 1st October, 1959, and several notifications under the section have been issued during the period 1-1-1961 to 1-7-1965, this lacuna in the Act was not noticed. The Government ought to have proposed an amendment at the earliest opportunity through Finance Bill to the Section relating to the determination of the turn-over of the registered dealers so as not to allow them to purchase goods taxable at the time of the first sale free of tax. The Committee note that the Delhi Sales Tax Bill introduced in Lok Sabha on 9th April, 1973, provides for this.

[Sr. No. 18—Para No. 3.21 of Appendix V to 116th Report—
5th Lok Sabha].

• Action Taken

The Committee have observed that the Government of India ought to have proposed an amendment at the earliest opportunity through the Finance Bill to the section relating to the determination of the turnover of a registered dealer so as not to allow them to purchase goods taxable at the time of the first sale free of tax.

The existing Act was not amended as an Act to replace the existing Act was during all these years on the anvil. The Delhi Sales Tax Bill was introduced in the Lok Sabha on 9-4-1973. It has since been referred to a select committee of the Lok Sabha. As the Bill may take some time to be passed into an Act, the proposal for the amendment of the existing Act is under consideration.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendations

Having regard to the ago. quantum and nature of the arrears the Department should consider obtaining suitable security deposits from the dealer concerned, as a condition for the continuation of their registration. In this connection, the Committee recall that the Department was not even in possession of information regarding the security obtained under section 8A of the Act. The Committee are, however, assured that the information is now forthcoming. On the basis of this information it should be examined how for the Department is able to safeguard the interest of the revenue by invoking the relevant provision of the Act. Such an examination is necessary to deal strictly with the cases of fresh registrations in future.

[Sr. No. 21—Para 4.11 of Appendix V to 116th Report—
5th Lok Sabha].

Action taken

Suitable instructions have been issued to all the assessing authorities to invoke the provisions of obtaining securities from the dealers who are in arrears of payments of tax dues, having regard to the age, quantum and nature of arrears, with a view to safeguarding the interest of revenue.

The Assessing Authorities have also been directed to review the cases of major defaulting dealers and take appropriate action in the light of the existing legal provisions. The recommendations of the Committee regarding provision for levying annual interest for belated payment has been noted.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

The Committee note that the Department has been able to bring out the information regarding the number of cases of seizure of books in which turnover was found to have been concealed or tax evaded as also the total amount of tax evaded, which was not forthcoming so far. It is seen, that out of 171 cases finalised during the year 1971-72 in 101 cases concealment of turnover amounting to Rs. 1.43 crores was found and the tax evaded was to the extent of Rs. 10.70 lakhs. This proves the efficacy of searches and seizures. However, it is disappointing that the number of cases in which books were seized had come down from 276 in 1969-70 to 148 in 1971-72.

The Committee have reasons to believe that evasion of Sales Tax is practised widely inasmuch as the growth in the sales-tax revenue has not been proportionate to the increase in the business activity in Delhi and the steep rise in prices in recent years. They would accordingly stress that the powers of searches and seizures should be effectively used to cases of evasion. The Department should gear up their machinery in this regard

[S. No. 25—Para No. 6.10 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

The recommendations of the Committee that the powers of 'searches and seizures' should be used more effectively to unearth

cases of evasion and that the Department should gear up its machinery in this regard have been noted for action.

The Department fully shares the concern expressed by the Committee about the incidence of tax evasion, believed to be practised by unscrupulous elements of the trading community. The Special Investigation Branch of the Department, on receipt of information, organises and carries out raids from time to time. It is, however, conceded that the existing staff strength of the Special Investigation Branch comprising of one S.T.O. three A.S.T.Os., and eight Inspectors is not adequate to combat effectively the problems of tax evasion with the desired speed. All the same enhanced efforts are being made to invoke these powers in as many cases as feasible.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

CHAPTER III

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

Recommendation

Electrical goods other than Electrical plant, equipment and their accessories required for generation, transmission and distribution (Entry 18 of the First Schedule) were chargeable to sales tax @ 9 per cent w.e.f. 1st September, 1966. Goods covered by the latter limb of the entry continued to be taxable at the general rate of 5 per cent. The Department by an executive order dated the 14th December, 1966, circulated a list of items which were considered to be the electrical plant, equipment and accessories including service motors required for generation, transmission and distribution. The list included "electric motors". According to audit, "Electric-motors" used for converting electric energy into mechanical force were liable to tax @ 9 per cent and incorrect levy of tax at the general rate of 5 per cent in the case of one dealer alone resulted in under-assessment of Rs. 13,116 from 1st September, 1966 to 31st March, 1968. Although the matter was brought to the notice of the Commissioner of Sales Tax in July, 1971, and the Department was asked to work out the total loss suffered from September, 1966 onwards, no such assessment has been made. This needs to be explained properly. It was only on 24th September, 1973, the opinion of the Ministry of Law was obtained which upheld the view of Audit. The Ministry of Law have further pointed out that items included in the list circulated by the Department, such as transformers, wires and cables, fuse wires, fuses and fuse units are all accessories which are usable not only in electrical plant but also for domestic purposes and that the rate of taxation should be determined with reference to the purpose for and place the accessories listed by the Department are being used. Thus it is clear that the assessments made with reference to the executive order are not entirely covered by the law as it stands today. This serious implication of the opinion given by the Ministry of Law does not appear to have been considered immediately by the Department for issue of necessary clarifications to the assessing officers. The Committee deprecate the delay first in obtaining the legal opinion and later in acting on it. A review of the past assessments is immediately called for to consider the possibilities of rectifying under-assessments and

recovering the dues. The action proposed to be taken in this regard may be reported to the Committee.

[Sr. No. 14—Para 2.49 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

The opinion of the Ministry of Law in the matter is that the rate of tax leviable on the sales of electric goods shall have to be decided in the light of the purpose for which and the place where the goods are used. The opinion may be technically correct but there are practical difficulties in taking action in the light of this opinion. If the goods sold are such as are capable of being used both in an electrical plant, as well as elsewhere it is not possible for the selling dealer to know the purpose for which the purchaser is buying the goods. Neither the selling dealers nor the Assessing Authorities have any machinery to ascertain the purpose in question.

It is not practicable to ascertain the loss suffered from September, 1966 onwards for the reason that the items which are covered by entry 18 of the First Schedule and termed as electrical goods cover a wide range of items and attract different rates of taxes depending on their end use. If the opinion of Ministry of Law, to the effect that the rate of tax leviable on the sale of electrical goods should be determined with reference to the purpose of and place where accessories listed by the Department are being used were to be made the basis, it will necessitate detailed scrutiny of the sales conducted by each dealer dealing in electrical goods relating to the period from 1st September, 1966 onwards. Further having regard to that fact that the dealers are not required to keep a record of the purpose for which a particular item is to be put to use by the purchaser, it is apprehended that any attempt to undertake review of the past assessments and consequent scrutiny of record is bound to result in infructuous labour. It may also be added that the opinion of the Ministry of Law does not settle the issue conclusively. Such issues attain finality only through the process of judicial adjudication.

The matter regarding amendment of entry No. 18 of the First Schedule to the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union Territory of Delhi is under consideration of the Government.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

"Under the Sales Tax Act as operative in Delhi, the tax burden varies according to the classification of goods.

1. Goods listed in the First Schedule are taxed at the rate of 10 per cent.

2. Goods listed in the Third Schedule are taxed at 2 per cent (These are also known as declared goods).

3. Goods listed in Second Schedule are exempt.

4. All other goods are taxed at 5 per cent. As the burden is ultimately passed on to the consumer, it is in public interest to ensure that the consumer is not charged by the dealer more than what is actually due from him. This is all the more important in view of the fact that though under the Act, dealer should not make any collection except in accordance with the law (Section 10A), it has been judicially held that if excess collections is made by the dealer the State has no right on it. The Committee, therefore, feel that in order to prevent exploitation of consumer by unscrupulous traders the commodities which are exempted from tax and those which attract concessional rate of tax than the general rate, should be well published by periodical insertions every three months in prominent newspapers in English and other languages. Further, it should be made obligatory for every dealer to display prominently in his business premises the information in this regard duly authenticated by the Department. The Department should also bring out suitable Pamphlets as frequently as necessary to explain the position to the consumers and they should be freely available to the public."

[Sr. No. 16—Para 2.50(a) of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

The implementation of the recommendations of the Committee that the commodities which are exempt from taxation and those which attract concessional rate of tax lower than the general rate of tax should be published by periodical insertions in prominent newspapers in English and other languages, every three months is not favoured for the following reasons:—

- (a) Hardly any cases have come to the notice of the department where goods which are indisputably exempt from tax or which are taxable at rates lower than 5 per cent

may have been treated by selling dealers as taxable or in the latter case, taxable at the general rate of 5 per cent. The controversy invariably revolves around scope of specific entries in the Schedules appended to the Act which is a matter of interpretation to be settled in statutory proceedings.

- (b) Even otherwise, it is believed that there may not be many such cases because deliberately wrong charging of rate is not reported to be a prevalent mode of cheating the consumer. This is, so, presumably due to the reason that the dealer has to run his business in competition with others engaged in the similar trade in any particular market and has, therefore, necessarily to sell his goods at competitive rates. The dealers are generally inclined to pass on the benefit of tax evasion to the customers by way of unvouched sales, which remain unrecorded transactions. It is perhaps simple and less risky to charge a higher price from the consumer, if the dealer thinks that he can get away with cheating the customers than to commit the offence of charging a deliberately wrong amount of sales tax.
- (c) Likewise, the implementation of the suggestion made by the Committee that it should be made obligatory for every dealer to display prominently in the business premises information about the exemptions and concessional rate of tax, duly authenticated by the department is also not practicable as the number of items dealt with by many dealers is quite large and the small single handed dealer is likely to find such provision too cumbersome. Secondly, the scheme of the Act is that the liability to pay tax is that of the dealers and not of the ultimate consumers to whom the incidence of taxation is in fact passed on. Thirdly, to secure compliance of such a provision would be administratively not feasible and is not likely to yield any results.

It may further be pointed out that a proposal that if any excess amount is charged by a dealer by way of tax under the mistaken notion of law, the same shall be deposited by him with the state, is already under consideration of the Government. If this proposal is accepted and the law is enacted, the apprehensions of exploitation, of innocent consumer as expressed in this para would very largely be laid at rest.

The recommendations of the Committee that the department should also bring out suitable pamphlets as frequently as necessary

to explain the position to the consumers and that they should be freely available to the public has been considered.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

The Committee do not regard it proper to give the executive such powers that it can in effect after the very scheme of this Act. According to them it should be the prerogative of the Parliament to select the goods which should be subject to tax at different point of sale.

[Sr. No. 19—Para 3.22 of Appendix V of 116th Report—
Fifth Lok Sabha].

Action taken

The power to shift the stage of taxation does not effect the legislative policy and does not impinge upon the power of the legislature. It is essentially an act, involving exercise of Administrative power and has, therefore, been delegated to the Executive Authority. The trade channels are not always well defined and the pattern of trading as also the consumers' tastes keep on changing from time to time. The stage of taxation is generally shifted in case of goods where there are fewer dealers. In doing so, the work relating to collection of tax becomes easier. By vesting the powers to shift the stage of taxation in the executive there is distinct advantage of flexibility in the matter of implementation since on the basis of experience gained of the pattern of trading as also other fluctuations in the business trends, the task of identifying the commodity becomes easier and thus the decision can be implemented with minimum loss of time.

If the executive is not vested with the power to shift the stage of taxation, the alternative made available is through legislative action. It is also to be mentioned that these powers have been delegated to the State Governments in other States enactments as well. In the circumstances it is considered proper and advisable that the power to shift the stage of taxation should continue to vest in the executive as is the position under section 5(A) of the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

The number of cases of unregistered dealers detected during 1971-72 was 1730 which came down to 764 during the year 1972-73 despite instructions issued to the Ward Officers for a thorough survey of their arrears. The Committee have, however, been informed that in pursuance of the recommendations contained in paragraph 1.14 of their 74th Report, steps have been taken to streamline the survey programme in such a way that the entire area is exhaustively combed once a year so as to ensure that no unregistered dealer, who is otherwise liable for registration, escapes notice. The Committee suggest that surprise checks should also be conducted frequently.

[Sr. No. 23—Para No. 5.8 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

The desired by the Committee all the ward officers were asked to draw up comprehensive survey programmes so as to ensure the area falling under the jurisdiction of each ward is combed once in a year so that no-unregistered dealers who were liable for registration escape notice.

It is however, stated that the Sales Tax Department with its existing field staff is not adequately equipped to effectively undertake localitywise surveys so as to comb the entire area once in a year. It has, therefore, been decided to deploy the existing field staff in such a manner as to cover all the dealers who were registered during the year 1972-73 and 1973-74 during the current year. The need for additional field staff has also been underlined by the expert Study Team of the Administrative Staff College of India and it is hoped that with the availability of the additional staff, it would be possible to implement the suggestion of the Committee with the desired effectiveness.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

The turnover assessed in 1342 cases under Section 11(2) and 4 cases under section 11A of the Act during the year 1971-72 amounted to Rs. 3.25 crores with a tax effect of Rs. 6.30 lakhs. Although maximum penalty leviable was actually levied on only 444 cases amounting to a total of Rs. 34,313 and no prosecution was launched for non-registration. The Committee have elsewhere in this Report stressed

the need for stricter enforcement of the penalty provisions of the Act. The Committee cannot too strongly urge that the Department should act in a manner that will make tax evasion not only unrewarding but attract prosecution proceedings in glaring cases.

[Sr. No. 24—Para No. 5.9 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

As stated in reply to para 1.31 of the 100th Report of P.A.C. prosecution has since been launched in one glaring case which came to the notice of the Department in October, 1973. Also, as already stated in reply to the said para, the cases relating to fixation of liability under sections 11(2) of the Act (which deals with assessment of dealers who being liable to pay tax under the Act in respect of any period, fail to get themselves registered), are hotly contested ones as dealers generally do not maintain any accounts and it is difficult for the Assessing Authority to fix their turnover and to show that the same exceeded the taxable quantum thereby making the dealer registerable or to show that the dealers turnover escaped assessment was under assessed. In most cases it is difficult to establish that the dealer 'either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest or acted in conscious disregard of its obligations'.

However, one case where concealment can be shown to be deliberate has been ordered to be processed for prosecution.

[Ministry of Home Affairs O. M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendations

Under Section 22A of the Act, maximum penalty leviable for concealment is 1½ times the amount of tax sought to be evaded. Thus in respect of 101 cases referred to in the foregoing paragraph an average maximum penalty leviable in a case works out to more than Rs. 16,000. The maximum penalty levied in a single case during the year should have been much more than this. However, the Ministry have intimated that the maximum penalty actually levied during the year 1971-72 amounted to only Rs. 8,200. This shows that the Department have not been invoking the penalty provisions effectively. The leniency coupled with the fact that no prosecution has been launched convinces the Committee that the Department is not quite earnest in taking deterrent action against the tax evaders. The whole posi-

tion, therefore, requires critical review so as to make the dealers realise that evasion of tax would prove costly and attract severe and prompt action.

[Sr. No. 26—Para No. 6.11 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

14 cases out of 101 cases which find reference in the Para relating to 'Searches and Seizures' were test-checked with a view to ascertaining whether the penalty levied was adequate or not. It was found that in 9 cases the penalty levied was adequate and in one case the assessment order was set aside in appeal. In the remaining four cases the penalty levied could be considered to be a low side and these cases are proposed to be *suo-moto* revised by the Assistant Commissioners concerned.

It was observed that almost 90 per cent of the dealers whose cases were test-checked were either small tea shop holders or kiriyana retailers. In most of such cases no deliberate attempt to evade sales tax has come to notice and, therefore, presumably for this reason, heavy penalties were not imposed. The quantum of penalty in almost all the cases comes to an average of 10 per cent or more of the tax assessed, and the same appears to have been considered reasonable as these cases were mostly of marginal dealers in whose cases assessments were made under section 11(2) of the local Act.

It may be stated here that although provisions contained in section 11(2) and 22 of the Bengal Finance Sales Tax Act, 1941, as in force in the Union Territory of Delhi authorise the assessing authority to levy penalty upto a maximum of 1½ times the tax assessed, yet the quantum of penalty to be levied in a particular case rests entirely upon the discretion of the assessing authority who must keep in view the facts and the circumstances in each case. An assessment order passed under the Branch Bengal Finance Sales Tax Act, 1941, as in force in Delhi is a judicial order and to lay down any standard of minimum penalty that must be levied in each case would amount to interference with the discretion vested in the assessing authority under the said Act. In this context reference is also invited to a judgement of the Supreme Court in the case of *M/s. Hindustan Steel Ltd. Versus the State of Orissa (STC) 25, 211 at page 214 Sec. (1970)*.

As observed by the Supreme Court:

"An order imposing penalty for failure to carry out statutory obligation is the result of a quasi-criminal proceedings, and

penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest or acted in conscious disregard its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose the penalty when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bonafide belief that the offender is not liable to act in the manner prescribed by the statute".

However, as stated to para 6.9. F.I.R. has been lodged with the Police in one glaring case. All the Assessing cum-Notified Authorities have also been advised to select cases which are considered by to be suitable for launching prosecution instead of levying penalties.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28-2-75]

CHAPTER IV

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

Recommendation

According to Delhi Administration's statement some persons fraudulently got printed forged registration certificates on the basis of which they were issuing declarations and making tax free purchases. The registration certificates has to be issued in a statutory form S.T. III/IV which has to bear the signatures of the Assessing Authority (and also presumably the seal). Evidently, in this case the certificates which were got fraudulently printed, were also bearing forged signatures/seals. Further, the certificates is required to be prominently displayed at the place of business Rule 8(2). It, therefore, seems that either the dealers were not operating from a fixed place of business or were giving false addresses, or that never was any inspection/checking of their premises by the Departmental officers. The Committee would like to know whether any inspection was made, and if so, how the fact of the certificate being forged escaped notice.

[Sr. No. 4—Para No. 1.8(a) of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

The business premises of the dealers registered with the Department under the Central Acts, are periodically inspected by the Staff of the Sales Tax Department. Inspection/checking of the premises of the dealers who are otherwise liable for registration under the Sales Tax Law is also undertaken which *inter-alia* results in the institution of proceedings under section 11(2) of the Local Act.

Such inspections undertaken in the normal course of surveys are unlikely to bring to light cases of conspiracy and forgery of documents such as registration certificates. For the detection of such cases, crucial information or clue is inevitably needed.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

A test check of assessments made by Audit during 1971-72 revealed under-assessment of revenue to the extent of Rs. 2.35 lakhs in 395 cases and over-assessment of Rs. 19,423 in 48 cases. This shows an increase over the position reported in the two previous years. The Committee require that steps should be taken to ensure that mistakes of the kind reported by the Audit do not recur. Further, the Audit objections should be settled promptly and a suitable time limit should be fixed for the purpose.

[Sr. No. 7—Para No. 2.10 of Appendix V of 116th Report—
Fifth Lok Sabha].

Action taken

Instructions have been issued to the Assessing Authorities to guard against under assessments as well as over assessments and also to scrutinise the declaration forms more carefully in future. They have also been advised to furnish replies to the Audit and Inspection Reports promptly and without any avoidable loss of time.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

There should be an effective system of exchange of information with other States so that unauthorised inter-state purchases made by the dealers registered in Delhi may come to notice promptly.

[Sr. No. 12—Para 2.31 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

Instructions were issued in May, 1972 advising the Assessing Authorities that it was necessary in the interest of Revenue to seek confirmation from their counter-parts in other states regarding genuineness of transactions in respect of which assessee of Delhi furnished from 'C' to them at the time of assessment. Instructions were also issued regarding disposal of incoming enquiries from other states. Among the items proposed in the joint meeting of four Regional Councils for Sales Tax held in Delhi in January, 1974, was one having a direct bearing on this issue and was proposed by Kerala. They had suggested that each State should consider the creation of an inter-state investigation cell attached to the Sales Tax Department under the charge of an Assistant Commissioner. Madhya Pradesh had also suggested that directions to be issued for speedy furnishing

of information relating to cross-verification of transactions. Presently, the Sales Tax Department in Delhi is not equipped to undertake cross verification of transactions particularly in view of the fact that the volume of work involved in implementing this recommendations of the Committee would indeed be huge. Even if test-checks were to be carried out, it is felt that having regard to the voluminous nature of work, it would require deployment of substantial manpower. The present staff strength of Sales Tax Department in Delhi is not such as to be able to undertake this additional work.

Creation of an inter-state investigation cell in the Sales Tax Department of all the States needs concurrence of all the States and also additional staff. This is a matter where action could be taken more effectively if concerted action is taken by all States to exchange information regarding inter-state movement of goods.

CHAPTER V

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

Recommendation

The Committee are very much alarmed over the fraud committed by a member of unscrupulous persons in getting printed forged registration certificates on the basis of which declaration were issued and tax-free purchases made. They would like to know the outcome of the police investigation.

[Sr. No. 2—Para No. 1.7 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

According to information received from the Superintendent of Police (Crime and Railways) investigation is still in progress and it will take some time more for the completion of Police Investigation.

Fifteen persons, who are believed to have been responsible for forging and circulating Sales Tax Registration certificate, had been arrested. The forged Registration Certificates and declaration forms alongwith specimen writings of the accused persons were sent to the Government Examiner of Questioned Documents Simla, for expert opinion which has since been received.

The matter is being pursued with the Superintendent of Police (Crime and Railways) and the Committee would be informed of the outcome of the Police Investigation in due course.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

Although the Ministry have stated that the question of lack of supervision in the Department does not arise in this case, the Committee would like to know whether the fraud was detected soon after it was committed. If not, what was the time gap and the reason

therefor. The Committee desire that there should be a proper verification of the transactions of sales declared to have been made to local registered dealers and that the Internal Audit Cell should be particularly vigilant in this respect.

[Sr. No. 3—Para No. 1.8 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

As stated in reply to para 1.7 Police investigation is still in progress, therefore, it is not possible to indicate at this stage as to the precise time gap between the commission of the offence and its detection except that the matter was reported to the police soon after information about these activities was received by the Department.

Relevant record pertaining to alleged fraud committed by the certain unscrupulous persons is at present with the Police. As such, it has not been possible to undertake a proper verification of the transactions of sales declared to have been made to local registered dealers.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac. II,
dated 28th February, 1975].

Recommendation

The Committee understand that an amendment to the relevant entry of the First Schedule to remove the ambiguity is under consideration. The Committee understand that a concessional rate was prescribed for the goods required for the purposes of generating transmitting and distributing electricity so that electricity might be available to consumer at cheaper rates. The Committee need hardly point out that the rate of taxation on various items should be appropriately determined with reference to the purpose for which they are sold. The manner in which the Government propose to amend the entry consistent with the object underlying it may, therefore, be reported to the Committee at the earliest.

[Sr. No. 15—Para No. 2.50 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

The matter regarding amendment of entry No. 18 of the First Schedule to the Bengal Finance Sales Tax Act, 1941 as in force in the

Union Territory of Delhi is under consideration of the Government, as stated against Para No. 2.49.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac-II, dated 28th February, 1975].

Recommendation

The Committee have dealt with the problem of arrears of sales-tax demands in details in their 74th Report. They regret to note that the classification of arrears into effective and non-effective arrears as well as the determination of the amount likely to have to be written off have not been done with due care. A number of misclassifications are reported to have taken place. It needs hardly emphasis that in order to pursue the recoveries, the arrears under the various categories should be correctly determined. The Committee suggested that the computation of arrears by the assessing authorities should be subjected to an independent check in future preferably by the Internal Audit Cell.

[Sr. No. 20—Para 4.10 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

Instructions have been issued to all the assessing authorities to scrupulously avoid any errors in making the classifications of arrears into effective and non-effective arrears (copy attached). Augmentation of the Internal Audit Cell to check this work as well as to conduct other checks is under consideration.

[Ministry of Home Affairs O.M. No. U. 15030/2/74-Ac-II, dated 28th February, 1975].

Recommendation

The Committee regret that the dealers of present have no incentive at all to pay up the demands in time in as much as there is no provision for levying penal interest for belated payment. It seems strange that this lacuna in the Act has not been remedied so far. Perhaps the Government will explain why this has not been done. As there is provision in this regard in the Income-Tax Act as also in the Sales Tax Acts of some States, the Committee recommend that the Bengal Finance Sales Tax Act, 1941, as extended to the Union Territory of Delhi should be suitably amended without delay.

[Sr. No. 22—Para No. 4.12 of Appendix V to 116th Report—
Fifth Lok Sabha].

Action taken

The proposed amendment of the Act is under consideration.

NEW DELHI;
21st April, 1975.

1st Vaishakha, 1897 (S).

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

APPENDIX

Summary of main Conclusions/Recommendations

Sl. No.	Para No.	Ministry/Department concerned	Conclusions/Recommendations
1	2	3	4
1.	1.3	M/o Home Affairs	The Committee hope that final replies in regard to recommendations/observations to which only interim replies have so far been furnished will be submitted to them expeditiously after getting them vetted by Audit.
2.	1.7	-do-	The Committee are astonished to find that no specific action has been initiated on the broader question of proper verification of the transactions of Sales declared to have been made to local registered dealers and the suggestion to make the Internal Audit Cell particularly vigilant in this respect. The Committee deprecate this failure and would like to know when it is proposed to take action along the lines suggested.
3.	3.10	-do-	The Committee consider that the Sales Tax Department must accept responsibility for evolving suitable safeguards against evasion. For this purpose the procedures should be suitably modified immedi-

1	2	3	4
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ately under advice to the Committee so as to plug loopholes which have revealed themselves in practice and not merely rely on outside information or clues to detect such cases. This must also be reported to the House within 3 months from date.

4. 1.13 M/o Home Affairs The Committee find that their recommendation for prescribing a time limit for the settlement of Audit objections has not been acted upon. The Committee deprecate this failure and insist that a definite time limit should be fixed, in consultation with Audit, under advice to the Committee.

5. 1.16 -do- The Committee feel that it would be in the interest of revenue to establish an effective system of exchange of information between the States. The Committee desire that the feasibility of establishing a suitable machinery for the purpose should be examined expeditiously by the Finance Ministry in consultation with the State Governments, under advice to the Committee.

6. 1.19 -do- The proposed amendment of the relevant entry of the first schedule to the Bengal Finance (Sales Tax) Act 1941 as in force in the Union Territory of Delhi is essential for the proper implementation of the provisions of the Act and steps should therefore be taken at once to see that the Act is amended accordingly without delay.

7.

1.22

-do-

The Committee note that their suggestion for amending the Sales Tax Act to provide for penal interest for belated payment of tax is under consideration. The Committee trust that the examination will be completed expeditiously, so that tax dues are paid promptly and when delay occurs it carries with it a penalty.

