

**HUNDRED AND THIRTY-SEVENTH
REPORT**

**PUBLIC ACCOUNTS COMMITTEE
(1987-88)**

(EIGHTH LOK SABHA)

RELIEFS AND REFUNDS

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

[Action Taken on 78th Report (8th Lok Sabha)]



Presented in Lok Sabha on 29 April, 1988

Laid to Rajya Sabha on 29 April, 1988

**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1988/Vaisakha, 1910 (Saka)

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(1987-88)**

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*Ceased to be Members of the Committee consequent on their retirement from Rajya Sabha w.e.f. 2 April, 1988.

INTRODUCTION

1. The Chairman of the Public Accounts Committee do present on their behalf this 137th Report on action taken by Government on the recommendations/observations of the Public Accounts Committee contained in their 78th Report (8th Lok Sabha) relating to reliefs and refunds.

2. The Committee have noticed that despite various measures taken by the Ministry the pendency of refund cases under sections 237 and 240 of Income tax Act, 1961 is still high. According to the Ministry, the pendency of refund cases persists on account of increasing number of assesses every year and resultant increase in the number of refundees. But according to the Committee the assessee is more concerned with payment of his dues and not with the internal and purely administrative problems of the Department. It is for the Department to arrange and make sure that the assessee does not under any circumstances feel harassed for no fault of his own. They must assess their pending work and formulate their plans accordingly in advance as to how best they could serve the interest of both the assessee and the revenue. The Committee have urged that the machinery of the Department should be geared up so that there are no reasons for the pendency of the refund cases.

3. The Committee considered and adopted the Report at their sitting held on 27th April, 1988. The Minutes of the sitting form Part II of the report.

4. For facility of reference and convenience, the recommendations and observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in Appendix II to the Report.

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

NEW DELHI;
April 28, 1988

Vaisakha 8, 1910 (Saka)

AMAL DATTA
Chairman,
Public Accounts Committee

CHAPTER I

REPORT

This Report of the Committee deals with action taken by Government on the Committee's recommendations contained in their report* on Reliefs and Refunds.

1.2 The Committee's report contained nine recommendations. Action Taken Notes have been received from Government in respect of all the recommendations/observations. The Action Taken Notes received from the Government have been broadly divided into four categories as indicated in Appendix I.

1.3 The Committee will now deal with the action taken by Government on some of the recommendations and observations.

Prompt issue of refund vouchers

(Sl. Nos. 2, 3 and 5 Paras 1.33, 1.34 and 1.36)

1.4 Expressing concern over the increasing trend of pendency of refund applications with the Income-tax Department the Committee observed in their earlier Report* that the instructions issued by the Central Board of Direct Taxes in January 1976 regarding initiation of disciplinary action against the erring officials responsible for not issuing refunds within 7 days, had remained unimplemented. The Committee desired that any breach of these instructions must be severely penalised and also that the annual appraisal reports of the Commissioners of income-tax should specifically mention about performance regarding the prompt issue of refunds. The Ministry have in their Action Taken Notes informed that there was an elaborate in-built machinery at various levels to supervise the work of the subordinate offices including the main public relation function of prompt issue of refunds. They have also contended that the issue of refund vouchers is watched through monthly progress reports submitted by income-tax officers, regular ins-

* 78th Report of the PAC (1980-87) (8th Lok Sabha) on Paragraph 1.12 of the Report of the C&AG of India for the year 1983-84, Union Government (Civil) Vol. II Revenue Receipts, Direct Taxes.

pection by Commissioners and inspecting Assistant Commissioners, vigilance inspections etc. and that the grievance cell also looked into various grievances of the assesseees including delayed refunds. The Ministry have also furnished details of cases in which follow up action on the grievance petitions was taken against the staff found responsible for delay in issue of refunds.

1.5 The Committee note from the reply of the Ministry that as a result of the various measures taken, the pendency of refund applications under Section 237 of the Income-tax Act, 1961 which stood at 37547 as on 31 March, 1985 came down to 18611 at the end of 1985-86. Similarly the pendency of refunds arising from appellate orders under Section 240 came down from 5683 at the end of March 1985 to 4511 at the end of March 1987. According to the Ministry the increase in the number of income tax assesseees year after year means increase in the number of refundees also, resulting in pendency of refund cases. The assessee awaiting refund is not concerned with the internal and purely administrative problems of the Department and expects prompt payment of his dues. It is for the Department to arrange and make sure that the assessee does not under any circumstance feel harassed for no fault of his own. Increase in the number of assesseees and refundees is normal and regular feature every year of which the Ministry are well aware. They must, therefore, assess their pending work and formulate their plans accordingly in advance as to how best they could serve the interests of both the assesseees and the revenue. The Committee urge that the machinery of the Department should be geared up so that there are no reasons for the pendency of refund cases. The Committee would like to be apprised of the further steps taken by the Ministry in this direction. The Committee would also like the Government to ensure that annual appraisal reports of the Commissioners of Income Tax specifically make a mention about their performance pertaining to the prompt issue of refunds, as earlier recommended by the Committee. They hope that Government would continue to keep a strict watch over the prompt issue of refund vouchers so that assesseees are able to get refunds promptly.

Computerisation for completion of assessments and issue of refunds

(Sl. No. 4 Para 135)

1.6 In response to Committee's observation that 'acute shortage of

staff' should not be an impediment in the expeditious issue of refund orders, the Ministry of Finance have informed that the Department has undertaken computerisation on a large scale for completion of assessments and issue of refunds. While it is a step in the right direction, the Committee would like to be apprised of the present stage of computerisation and about the time by which the whole system is likely to be computerised.

Inspection of Income Tax Offices

(Sl. No. 8 Para 1.39)

1.7 The Committee had desired to be apprised of the results achieved by the implementation of instructions issued by the Ministry of Finance (Department of Revenue) for preventing issue and encashment of bogus refunds and to avoid delays in issue of refund vouchers. The Government have stated in reply that Inspection Division has inspected the maintenance of records relating to refunds and procedure subsequent to issue of refunds and that inspection at all levels have been intensified.

1.8 The Committee would like to know whether surprise inspections are being regularly conducted and whether proper follow up action is taken with due promptitude against the delinquent officers as already recommended by the Committee. It is imperative that such surprise inspections are conducted periodically and results of such inspections are monitored at an appropriately higher level and deterrent action is taken against officers held directly responsible for lapses. The Committee would like to be apprised of latest developments in this regard.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED/NOTED BY GOVERNMENT

Recommendation of the Committee

According to the provisions of the Income-tax Act, 1961 an assessee becomes entitled to refund where tax paid by him exceeds the amount of tax payable, or where as a result of appellate order or other proceedings under the Act an amount becomes due to him, The Income-tax Act, 1961, also provides that in the case of refund not granted within 3 months from the end of the month in which total income was determined under the Act, or the claim for refund was made, or an order under Section 240 was passed, as the case may be, simple interest at the rate of 15 per cent per month shall become payable to the assessee on the amount of refund. The Ministry of Finance have issued elaborate instructions for prompt disposal of cases of refunds.

[Sl. No. 1 Para 1.32 (Appendix V) of 78th report of the PAC
(1986-87) (8th Lok Sabha)]

Action Taken by the Government

The observations of the PAC do not require any comments.

[F. No. 241/1/87-A&PAC II.
F. No. 228/17/87-IIA. II]

Recommendation of the Committee

The Committee cannot but view with concern the fact that despite the plethora of instructions issued from time to time, the outstanding cases pertaining to refunds continue to rise in number and the issuance of refunds of income-tax continues to be delayed and has become chronic irritant to the tax payers. The pendency of refund application

under Section 237 of the Income-tax Act, 1961 which stood at 15,269 at the end of 1979-80 rose to as high as 37,547 at the end of the year 1984-85 registering an increase of about 146 per cent. Even in the case of refunds due under Section 240 of the Income-tax Act, where an Income-tax Officer, has *suo moto* to give effect to the appellate orders and to determine the refundable amount, if any, as many as 5683 cases were pending disposal at the end of 1984-85.

[SI. No. 2 Para 1.33 (Appendix V) of the 78th Report of the PAC(1986-87) (8th Lok Sabha.)]

Action Taken by the Government

In this regard, it may be stated that as a result of the various steps taken by the Board and the Department by way of carrying out regular inspections as also inspections by the Inspection Division etc. and certain other measures, the position regarding the pendency of refund claims on the subsequent year came down and the pendency of direct refund applications at the end of the Financial Year 1985-86 stood only at 18,611. The pendency of refunds arising from adverse Appellate or revision orders was also reduced to 4511 only as at the end of the Financial Year 1986-87. Further the problem of the pendency of refunds may not be viewed in isolation but may be viewed in the perspective of the number of Income-tax assessees which continues to rise from year to year. The number of assessees which stood at 47.92 lakhs in the year 1982-83 rose to 54.86 lakhs in 1985-86 and 62.61 lakhs in 1986-87. The increase in the number of assessees also means an increase in the number of refundees claiming direct refunds u/s 237 of the Income-tax Act as also the number of other refunds arising out of adverse appellate or revisionary orders resulting in increased workload on the assessing officers. The provisions regarding tax deduction at source are being extended to more and more items of income and receipts. This has also resulted in increase in the number of refundees.

[F. No 241/1'87-A&PAC II.]
F. No. 288 17.87-ITA. II

Recommendation of the Committee

The Committee understand that pursuant to the recommendations of the District Taxes Enquiry Committee and to ensure that the refund orders are issued as expeditiously as possible, the Central Board of Direct Taxes issued instructions in January, 1976 to initiate disciplinary proceedings in cases where refunds were not generally issued within 7 days. The Committee's inquiry during evidence as to the number of cases in which such disciplinary action has been initiated elicited the response "We have started implementation now". The fact that instructions issued in 1976 should start being implemented in 1985 by the Board itself reflects a very sad state of affairs to say the least. Delays cause avoidable hardship to the tax payers and also become causes of corruption. The Committee consider that mere issue of instructions from time to time without any will to implement the same is indicative of the lackadissical approach of the Department to solve this chronic problem. The Committee are firmly of the view that in order to ensure issue of refund vouchers promptly and without harassment to the assessee, it is imperative to streamline the functioning of the Income-tax Wards/Circles to intensify inspection by Commissioners of Income-tax Inspecting Assistant Commissioners of Income-Tax and to award suitable deterrent punishment to the erring officials.

[Sl. No. 3, Para 1.34 (Appendix V) of the 78th Report of the PAC (1986-87) (8th Lok Sabha.)]

Action Taken by the Government

It is the correct that instructions are issued and no steps are taken to ensure that they are followed. The Department has in-built machinery at various levels to supervise the work of the sub-ordinate offices including the main public relation function of prompt issue of refunds. As a result of this, compared to the number of assessee involved, the number of assessments involved and the volume of the work of the Department, the number of cases of delayed refunds is not significant.

There are large number of assessee who did not have any grievance as their work is done smoothly and in time.

There are various checks and balances to supervise the prompt issue of refunds by the supervisory officers. There is a column in the monthly progress report which is the principal report which every Income-tax Officer sends about his work, about the issue and pendency of refunds. So every month the Inspecting Assistant Commissioners and the Commissioners and the Board get a specific report about the pendency of refund claims and exercise check of this work is neglected by the I.T.O.

Apart from the report called for in the monthly progress report about refunds, the Inspecting Assistant Commissioners of Income-tax carry on regular inspections of the work of the Officers and staff where they also look into this aspect. The Commissioners and the IACs also conduct regular vigilance inspections of the I.T. Offices where lapses in issue of refunds are noted.

In vigilance inspection, amongst other items of work, the aspect regarding the issue of refunds is also looked into. Regarding refunds the following information is gathered and checked :—

- (a) Are the refund order and advice books kept in the safe custody of the ITO/IAC?
- (b) Whether undue delay (say more than 1 month) is noticed in the matter of issuing refunds due after an order u s 143 250/264/273 etc
- (c) Have refunds been issued promptly in direct in direct refund cases ?
- (d) Whether register regarding receipt and disposal of refund application has been maintained ?

In all those cases officers and staff found guilty are taken to task.

There is an elaborate vigilance machinery in the Department looking into the charges of corruption against the officers and staff. They also often look into these aspects. It has been reported by the Director of Inspection (Vigilance) that one Assistant Commissioner of was suspended in August, 1987 for delay in giving approval to refunds exceeding rupees one lakh in seventeen cases whereas minor penalty

proceedings have been initiated against another Asstt. Commissioner for delay in issue of refunds arising out of appeal effects.

Finally there is an Inspection Division functioning directly under the Chairman (CBDT) which inspects the work of various charges in the country and looks into those aspects.

There are Grievance Cells in various charges. There is one apex Grievance Cell which functions directly under the Chairman (CBDT). It looks into various grievances of the assesseees including cases of delayed refunds. Thus we have an elaborate machinery to exercise checks on delayed issue of refunds and to take action against defaulting officers and staff. However, it is not possible to give statistical data in respect of action taken against defaulting officers and staff throughout the country because no such data is maintained by the Board. However, to illustrate the different types of action taken by the department in such matters, a reference may kindly be made to Annexure.

[F No. 241/187-A&PAC.II]
[F No. 228/17,87-ITA.II]

ANNEXURE

Action taken against the defaulting officers and staff by Chairman, CBDT following grievance petitions received by the Grievance Cell under him (Relating to refunds only)

Some cases of action taken by the Chairman on the complaints received by him for delay in grant of refunds are given below :

1. In one case of Delhi, it was noticed that because of delay the Department had to pay an interest of over Rs. 90,000/-. One officer (Asst. Commissioner) and two members of staff have been charge sheeted.
2. In a case at Madurai, vigilance action has been initiated against the persons responsible for the delay in refund and the ITO has been warned by the CIT, Madurai.
3. A Tax Assistant in Hoshiarpur (Jalandhar Charge) has been

issued CCR warning for delay in issue of refunds. The case of the dealing ITO has been sent of the IAC (Vig.).

4. In a case of Bombay, it was noticed that one assessee did not get the refund orders for successive assessments. This was followed up. As a result, not only the Chief Commissioner has called for the explanation of the Officer and staff but by a general circular has directed other Commissioners to conduct surprise inspections to ensure that refunds are paid in time. This is an instance where the petition from the public was used by the Department to tone up the administration.
5. A clerk has been issued a CCR warning by the CIT, Rajkot for issuing incorrect Advice Note.
6. CIT, A.P.—I has issued a warning to the ITO for negligence in re-validating refund vouchers.
7. Chief Commissioner (Calcutta) issued warning to the ITO for delay in issue of refund of interest.
8. CIT (Jalandhar) issued a CCR warning to the defaulting officers and staff for delay in issue of refunds.
9. CIT Meerut, has been asked to issue CCR warning to the concerned clerk for delay in revalidating refund vouchers.
10. One ITO wrongly transferred the file of an assessee to another ITO resulting in delay of refund. CIT, Gujarat-III has been asked to issue CCR warning to the ITO.
11. CCR warning has been issued to the Tax Assistant by the Chief Commissioner (Lucknow) for wrong computation of tax.
12. The case of Chartered Accountant who took the refund on behalf of the assessee but did not promptly hand over the money to him has been referred to the Institute of Chartered Accountants by the CIT—Delhi—VIII.

13. The case of an Advocate has been referred to the Bar Council by the CIT, Karnataka-III for indulging in unfair practice.
14. In the case of delay of refunds, the Commissioner at Bombay was reprimanded for being too soft towards the defaulting subordinates.
15. In another case of delay in issue of refunds, CIT Bombay was reprimanded for being too soft towards the defaulting subordinates.
16. In a case in Bombay order u/s 263 was not given effect to. The Commissioner has been asked to fix responsibility
17. In Delhi, the CIT-VI has been asked to fix responsibility for delay in refund.
18. The Deputy Controller of Estate Duty at Calcutta has been asked by the Chief Commissioner to obtain the explanation of the defaulting officers for delay in issue of refund.
19. CIT, Delhi-VIII has been asked to obtain explanation from the officers concerned for delay in issue of refunds.
20. CIT, Bombay City-IX has been asked to obtain the explanation of the officials concerned for delay in issue of refunds.
21. CIT, Delhi-IX has been directed to be tough with the defaulting officers and staff in cases of delay in issue of refunds.
22. In a case where refunds were delayed for more than 16 years, CIT, Delhi-VIII is enquiring into the causes of delay in order to take action.
23. CIT, Delhi-IX has called for explanation from the defaulting officers and staff.

Re organisation of the Grievance Redressal Machinery in the Country

In order to attend to the public grievances, the Grievance Redressal

Machinery in the country has been re-vamped. There is now a three-tier system for redressal of public grievances. Emphasis has been given on enforcing accountability of the officers and staff for their lapses in this new set-up.

Inspection Division

There is an Inspection Division of the Central Board of Direct Taxes functioning under the direct supervision of the Chairman, CBDT. It has 4 Assistant Commissioners of Income-tax and complementary officers and staff. The Inspection Division is stationed at Delhi and Calcutta. The work of the the Inspection Division has been streamlined. One of the major functions of the Inspection Division is to check the compliance of the Instructions and Circulars issued by the Board. To make their task specific they are given the list of Instructions and Circulars for checking. Many of these Instructions and Circulars related to prompt issue of refunds. During last 10 months they have inspected the working of the various charges in the country and have come out with very good results. In Bombay they inspected the work of certain wards under CIT, Bombay-VI and had come across various defaults in issue of refunds. The Commissioner has issued show cause notices to the concerned officers and staff and thereafter will take action against them.

They have also inspected various wards in Jaipur, Rohtak, Ahmedabad, Meerut, Delhi and Calcutta charges and have come across various defaults in issue of refunds.

In all these cases, the Chief Commissioners are asked not only to ensure that such situation do not recur but the main instructions to them is that the officers and staff committing lapses are proceeded against. These reports of the Inspection Division are followed up until such actions are taken by the Chief Commissioners.

Refund Frauds

The Department while trying to issue refunds promptly to the taxpayers have also to be watchful against the fraud committed by the assesseees in collusion with some officials of the Department in encashing bogus refunds.

In Bombay it was detected that 13 refund vouchers were stolen and Rs. 1,11,828/- were encashed in fraudulent manner. Complaints have been filed with the police and three staff members have been arrested. The enquiry is going on.

In Kanpur, CIT noted that many assesseees were claiming refunds on the basis of bogus T.D.S. certificates.

In a case in Calcutta, it was noticed that one ITO during a period of 4 months issued refunds worth over Rs. 62 lakhs involving about 3,000 assessments. Of these an amount of Rs. 13,47,837/- related to the employees of the Mazagon Dock, Bombay over whom he had no jurisdiction. The ITO has been placed under suspension and the investigation is going on against him.

So on the whole with the available resources and under the overall constraints, the Department is trying its best to tone up its administration to ensure prompt issue of refunds to the taxpayers while at the same time it is watchful of the interest of the revenue against unscrupulous assesseees colluding with some officials of the Department.

Recommendation of the Committee

A review undertaken by Audit of refunds made during the three years from 1980-81 to 1982-83 in selected wards of certain charges, had disclosed that refunds amounting to Rs. 284.59 lakhs in respect of 4133 refund vouchers were authorised after delays ranging from six months to more than three years. The Committee regret that despite their recommendations and the recommendations of the Estimates Committee, the system of payment of refunds in the Income-tax Department continues to be dilatory and inefficient as ever. The Committee are unable to accept that "acute shortage of staff" could be an impediment in the expeditious issue of refund orders. It is imperative that all refunds are issued as expeditiously as possible as the assesseees are not concerned with these internal matters of the department and are entitled to have refunds issued promptly and without any difficulty.

[Sl. No. 4 Para 1.35 (Appendix V) of the 78th Report of the PAC (1986-87) (8th Lok Sabha.)]

Action Taken by the Government

It is accepted that in some cases refunds are delayed. But the Department is alive to this problem and is taking all possible steps to reduce delay. Some of the steps taken in this regard have been outlined in reply to para 1.34. We have also made legislative changes to tackle this problem. The Department has undertaken computerisation on a large scale for completion of assessments and issue of refunds. It is expected that, after the computers are made fully operational throughout the country, the problem of delayed refunds may be reduced to the minimum.

[F. No 241/1/87-A&PAC II]
[F. No. 228/17/87-ITA. II.]

Recommendation of the Committee

The Committee are distressed to find that as against a sum of Rs. 1.03 crores only paid during the year 1979-80 as interest on belated refunds (both suo moto and otherwise), an amount of Rs. 7.12 crores was paid during the year 1983-84. This shows the magnitude of the problem and the ineptitude of the Government to bring about much of an improvement in this field. The Committee however, note that the Government are seized of the enormity of the problem and the Board had asked the Inspection Division of the Central Board of Direct Taxes to monitor compliance of the instructions issued in this regard from time to time while inspecting the work of Income-tax Circles and to report to the Chairman for initiation of appropriate disciplinary proceedings both against Income-tax Officers and Assistant Commissioners in case where Board's instructions had not been followed. The Committee would like to be apprised of the progress made in this regard. The Committee desire that officers held directly responsible for delaying issue of refund orders should be suitably penalised. The Committee also recommend that the annual appraisal reports of the Commissioners of Income-tax should specifically mention about performance regarding

the prompt issue of refund payments. The committee would like to be informed of the position in this regard.

[Sl. No. 5 Para 1 36 (Appendix V) of the 78th Report of the PAC (1986-87) (8th Lok Sabha)].

Action Taken by the Government

Reply to paras 1.34 and 1.35 may kindly be seen in this regard. The work of the Inspection Division has been stream-lined. Every report of the Inspection Division shall now be followed by appropriate action against officers and staff responsible for the worst lapses.

[F.No. 241/1/87-A&PAC II.
F.No. 228/17/87-1TA. II]

Recommendation by the Committee

The Committee are surprised to find that no regular report is called for by the Board or the Commissioners of Income-tax from the Income-tax Officers (Refunds) about delayed authorisation of refund. The Committee recommend that demarcation of duties and responsibilities for prompt payment of refunds should be clear and specific so as to be able to pin-point lapses, delays etc. and that periodical reports on the disposal of refund cases should be called for from each refund authorising officer to ensure effective control over the disposal of refund cases.

[Sl. No. 6 Para 1.37 (Appendix V) of the 78th Report of the PAC (1986-87) (8th Lok Sabha)]

Action Taken by the Government

It is not correct to say that no regular report is called for by the Board or the C.I.T. from the Income-tax Officers about issue of delayed refunds. Earlier such reports were called quarterly through D.I. (RS&PR). Later on, to make it more regular and effective, information is called for through the monthly progress report itself. In part X-Miscellaneous of the monthly progress report which every Income-Tax Officer has to submit to his I.A.C. who, in turn, sends a consolidated

monthly progress report for his range to the C.I.T., the following information regarding the delay in the issue of refunds is called for :—

For disposal upto month end	Disposal during month	Disposal upto month end
1	2	3
Balance		
3 months and less	over 3 months	Total (4+5)=(1+3)
4	5	6

The information in the above proforma is called in respect of direct refunds and refunds arising on account of claims u/s 141A, adverse appellate or revision orders, rectifications u/s 154, 155 etc.

2. In so far as fixation of responsibilities for lapses in concerned, through instruction No. 834 (F. No. 212/80 75-II A. II dated 15-5-1975), the Board informed that the Income-tax Officers would be personally responsible for the delay in issue of refunds. Thus, the delay in issue of refund is the constructive responsibility of the Income-tax Officers.

[F.No. 241/1'87-A&PAC II.
F.No. 228/17/87-II A. II.]

Recommendation of the Committee

The Committee also desire that the Ministry of Finance must insist on strict enforcement of the instructions which were formulated and issued as long ago as in January, 1976. Any breach in implementation of these instructions must be severely penalised. The Committee desire to be kept informed for a period of two years about the success achieved in the implementation of the instructions issued in January, 1976 and the action taken against erring officials for not implementing the instructions.

[Sl. No. 7 Para 1.38 (Appendix V) of the 78th Report of the
PAC (1986-87) (8th Lok Sabha)]

Action Taken by the Government

It is not true that the Department does not enforce instructions issued by it from time to time including the instructions regarding disciplinary action initiated in the case of the delayed refunds. The Board, however, does not maintain the statistics of action taken at various levels as a result of checks/inspections done in the Department. However, some instances where action has been taken by the Board against the Officers/officials for the delay in refunds has already been given in reply to para 1.34.

[F.No. 241/1/87-A&PAC II.]
[F.No. 228/17,87-ITA. II.]

Recommendation of the Committee

The Central Board of District Taxes issued instructions in July 1980 to be observed by the income-tax authorities for preventing issue and encashment of bogus refunds. The Committee are distressed to say that these instructions had not been observed scrupulously as is evident from the following facts pointed out by Audit :

- (i) Refund Voucher written by a Clerk or Tax Assistant and checked by the Supervisor is required to be finally checked and signed by Income-tax Officer. The person who writes and the one who checks the refund voucher put their signatures on the office copies thereof and advice notes. Out of 412 income-tax wards inspected by the Audit, the above procedure was not followed in as many as 338 wards. Omissions were also noticed in 24 wards in Punjab and 53 wards in Andhra Pradesh.
- (ii) On receipt of third foils of the refund voucher the amount paid is required to be tallied with the office copy of refund voucher and date of encashment indicated therein. Out of 424 wards test checked, omissions to tally the paid vouchers with office copies were noticed in 360 wards. Omissions of this type were also noticed in 53 wards and 18 wards in Andhra Pradesh and Kerala charges respectively.

- (iii) A quarterly verification is to be made by Income-tax Officer from office copies of refund vouchers as well as from Demand and Collection Registers to find out whether all the paid foils of refund vouchers have been received within 6 months of issue of refund vouchers and if not, an inquiry would be made to see that no fraudulent payment had been made. Out of 461 wards test checked, such a verification was not done in 356 wards. It was also noticed that in 186 wards, 12,587 paid vouchers issued during 1980-81 to 1982-83 for Rs. 259.97 lakhs were not available on records.

The Ministry of Finance (Department of Revenue) have since issued further instructions on 6 January and 5 February 1986 inviting attention of all the Commissioners of Income-tax to the above observations of the Audit and directing them to make surprise inspection to find out cases of delay and to take deterrent action against the erring officers. The Committee feel that these instructions, if implemented scrupulously would go along way in improving the position. The Committee hope that the Ministry would not now rest content with the mere issue of the instructions and would monitor the position periodically to ensure that the lapses pointed out by the Audit are not repeated. The Committee would like to be apprised of the results achieved by the implementation of the instructions issued by the Ministry of Finance.

[Sl. No. 8 para 1.39 (Appendix V) of the 78th Report of the PAC (1986-87) (8th Lok Sabha)]

Action Taken by the Government

It may be mentioned that Inspection Division has inspected the maintenance of records relating to refunds and procedure subsequent to issue of refunds. The Inspection Division has made inspection at various charges in India. Inspection at all levels have been intensified to look into these aspects.

[F No. 241/1/87-A&PAC II]
[F No. 228/17/87-ITA. II]

Recommendation of the Committee

The Committee note that a number of cases of fraud involving huge amounts of revenue have occurred in various income tax wards/charges. Notable among those charges are Baroda (where 20 cases of fraud involving total revenue of Rs. 38,651/-occured in 1982 alone), Nasik (where 29 cases involving revenue of Rs. 2,31,734/-occured during 1979-80 to 1982-83), Tamil Nadu (where only 3 cases involving revenue to the tune of Rs. 2,77,066/-occured during 1979-80 to 1983-84). The Committee regret to say that many of the fraud, have occurred after the issue of instructions of July 1980. The Committee desire that the cases of fraud should be thoroughly investigated and analysed to find out the loopholes left in the system of authorising refunds and to take effective remedial measures to plug the same so that the unsatisfactory situation is not repeated in future.

[Sl. No. 9 Para 1.40 (Appendix V) of the 78th Report of the PAC(1986-87) (8th Lok Sabha)]

Action Taken by the Government

As a sequel to a study and suggestion of the Inspection Division, Instruction No. 1594 was issued from F. No. 275/83/84-IT(B) dated 10-9-1985 for checking returns submitted under sub-rule (2A) of rule 37 and for maintaining the registers properly (copy enclosed.)

In this regard Inspection Division has made a number of inspections at various places at Bombay, Calcutta, New Delhi and Gujrat. Inspection Division studied the racket operating at Ahmedabad and the officers involved in the racket were transferred on punishment. The matter was taken up with the Institute of C.As of India and Bar Council of Gujrat for taking appropriate action against unscrupulous practitioners, Chartered Accountants.

Two more cases of encashment of refund vouchers came to light at Indore and Agra. The case at Indore was handed over to C.B.I. and their finding for prosecuting two members of the staff involved in the case have been received. In the case of the fraud at Agra, one U.D.C. was suspended and adverse entries in the CCR's of the I.T.O. and other members of the staff given. The case at Agra has been handed over to local police for investigations.

Similar cases have been detected in Bombay, Calcutta as mentioned in reply to para 1.34 where refund frauds have been detected by the Department.

The magnitude of refund frauds is colossal in view of the large number of T.D S. certificates involved all over the country. The Department is doing its best to check these frauds.

The inspection Division has made a study of the matter. The main reason for claiming bogus refunds is the production of false Tax credit certificates. A practitioner enclosed false rent receipts and claimed deduction under section 80-RRA with the connivance of unscrupulous members of Staff of the Department. The matter regarding tax frauds because of Bogus Tax Credit Certificates was referred for study of DOMS. As a result of their study, the Income-tax Act has been amended and section 203A has been introduced by the Finance Act, 1987. Under this provision, every person deducting tax at source will be allotted a Tax Deduction Account Number (T.D.A. No.). Every person required to deduct tax at source under any of the provisions of the Income-tax Act shall apply to the Department for the allotment of TDA No., which he shall quote in all challans for payment of any sum on account of tax deduction at source, in all TDA certificates issued and in all returns to be submitted to any Income tax authority. This will help for better monitoring of deduction of tax at source and its deposit in the Government account as also the detection of cases of fraud in claiming refunds on account of tax deducted at source.

[F. No. 241/1/87-A & PAC II]
[F. No. 228/17/87-ITA. II.]

Instruction No. 1594.

F. No. 275/33/81-IT (B)
Government of India
Ministry of Finance
(Department of Revenue)
CENTRAL BOARD OF DIRECT TAXES

— — —
New Delhi, the 10th January, 1985

To,

All Chief Commissioners of Income-tax.
All Commissioners of Income-tax.

Sir,

Sub : TDS—Refund of and/or adjustment of tax on the basis of certificate u/s 203 of the IT Act—Prevention of fraud and/or evasion—Regarding—

It had come to our notice that a fraud in claiming refunds had been committed by persons who are in a position to control a number of concerns. This has been done through associated operations involving a group of companies concerns. It was also seen that some concerns failed to deposit the tax deducted at source within the statutory period. A study of the case by the Inspection Division has revealed the following :—

“It is possible to claim refund on the basis of bogus certificates because there is no proper check as to whether any assessee responsible for paying interest (other than ‘interest on securities’) has actually deducted the tax at source u/s 194A at the time of giving credit of interest to the account of the payee or at the time of payment of cash or by issue of cheque/draft or by any other mode and also as to whether the tax so deducted has actually been paid within the prescribed time to the credit of the Central Government as provided in Section 200 of the I.T. Act read with Rule 30 of the I.T. Rules.

Under the provisions of section 203 of the I.T. Act, every person deducting tax in accordance with the terms of the sections mentioned therein shall at the time of credit or payment of the same or, as the case may be, at the time of issue of cheque or warrant for payment of dividend to the shareholders, shall furnish to the person to whose account such credit is given or to whom such payment is made, a certificate to the effect that the tax has been deducted and specifying the amount so deducted, and the rate at which tax has been deducted, and such other particulars as prescribed under Rule 37. A person making deduction of tax in accordance with section 194A from income by way of interest (other than income chargeable under the head 'Interest on securities') is also required under Rule 37(2A) to send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26A quarterly (on July 15, October, 15, January 15 and April 15) in respect of the deductions made by him during the immediately preceding quarter.

If an assessee is liable to deduct at source u/s 192, 193, 194, 194A, 194B, 194BB, 194C, 194D, or 195, he is required to furnish the information on the following points in the relevant part of the Return of Income.

- (i) The amount of tax deducted at source;
- (ii) Whether such tax has been paid to the Central Government; and
- (iii) Whether the prescribed returns have been furnished to the ITO concerned.

It would clearly appear from the cases studied by us that these columns of the return are generally either ignored completely by the ITOs or at best are perfunctorily checked. Barring one or two circles, it was also found that the returns submitted under sub-rule 2A of Rule-37 are not checked at all. Registers are not generally maintained for such returns and even if maintained the entries are not at all made therein. In

some circles, one common register is maintained for all the wards. As such, the assessing ITOs do not even care to see the register. It was also seen that details of creditors, to whom interest is either paid/payable are not obtained and their accounts are not checked to ascertain whether these have been credited with the interest due and the tax thereon has been deducted. The question of checking of the challans evidencing the payments in such circumstances does not arise, even though along with the returns submitted under sub-rule 2A of Rule 37 the TDS challans are also required to be filed. The work which requires top most priority has thus been completely ignored and no significance to this work has been attached by most of the ITOs."

You are requested to reiterate these instructions to all the officers & staff so that this important area of work is not neglected.

Yours faithfully,

Sd/-

(B. NAGARAJAN.)

Secretary,

Central Board of Direct Taxes.

CHAPTER III

**RECOMMENDATION/OBSERVATION WHICH THE
COMMITTEE DO NOT DESIRE TO PURSUE IN
THE LIGHT OF REPLY RECEIVED FROM
GOVERNMENT**

—NIL—

CHAPTER IV

**RECOMMENDATION/OBSERVATION THE REPLY TO
WHICH HAS NOT BEEN ACCEPTED BY THE COM-
MITTEE AND WHICH REQUIRES REITERATION**

—NIL—

CHAPTER V
RECOMMENDATION/OBSERVATION IN RESPECT
OF WHICH GOVERNMENT HAVE FURNISHED
INTERIM REPLY

—NIL—

New DELHI ;
April 28, 1988

Vaisakha 8, 1910 (Saka)

AMAL DATTA
Chairman,
Public Accounts Committee.

PART II
MINUTES OF THE 44TH SITTING OF THE PUBLIC
ACCOUNTS COMMITTEE HELD ON
27TH APRIL, 1988

The Committee sat from 15.30 to 16.30 hrs.

PRESENT

Shri Amal Datta—*Chairman*

MEMBERS

2. Shri Mohd. Ayub Khan
3. Genl. R.S. Sparrow
4. Dr. Chandra Sekhar Tripathi
5. Shri M.S. Gurupadaswamy
6. Shri B. Satyanarayan Reddy
7. Shri T. Chandrasekhar Reddy

SECRETARIAT

1. Shri B.D. Duggal—*Chief Financial Committee Officer*
2. Shri S.M. Mehta—*Senior Financial Committee Officer*

REPRESENTATIVES OF AUDIT

1. Shri G.M. Mani—*A.D A. I. (Reports)*
2. Shri M.M. Mathur—*D.R.A. (Direct Taxes)*
3. Shri R. Ramanathan—*D.R A (Indirect Taxes)*
4. Shri K. Krishnan—*Jt. Director (Direct Taxes)*

2. The Committee considered the following draft Report and adopted them :

* * *

Draft Report on Action Taken on 78th Report (8th Lok Sabha)
regarding Reliefs and Refunds.

* * *

3. The Committee authorised the Chairman to finalise the draft Report in the light of verbal changes arising out of factual verification by the Audit and present the same to the House.

The Committee then adjourned.

APPENDIX I

(Vide Para No. 1.2)

STATEMENT SHOWING CATEGORISATION OF THE ACTION TAKEN NOTES ON RECOMMENDATIONS CONTAINED IN THE 78TH REPORT OF PAC (8TH LOK SABHA)

- I. Recommendations and observations which have been accepted/
noted by Government :**

Sl. Nos. 1—9

- II. Recommendations and observations which the Committee do
not desire to pursue in view of the replies received from Gov-
ernment :**

—NIL—

- III. Recommendations and observations replies to which have not
been accepted by the Committee and which require reitera-
tion :**

—NIL—

- IV. Recommendations and observations in respect of which Gov-
ernment have furnished interim replies.**

—NIL—

APPENDIX II

STATEMENT OF CONCLUSIONS AND RECOMMENDATIONS

Sl. No.	Para No.	Conclusion/recommendation
1.	1.5	<p>The Committee note from the reply of the Ministry that as a result of the various measures taken, the pendency of refund applications under Section 237 of the Income-tax Act, 1961 which stood at 37547 as on 31 March, 1985 came down to 18611 at the end of 1985-86. Similarly the pendency of refunds arising from appellate orders under Section 240 came down from 5683 at the end of March 1985 to 4511 at the end of March 1987. According to the Ministry the increase in the number of income-tax assesseees year after year means increase in the number of refundees also, resulting in pendency of refund cases. The assessee awaiting refund is not concerned with the internal and purely administrative problems of the Department and expects prompt payment of his dues. It is for the Department to arrange and make sure that the assessee does not under any circumstance feel harassed for no fault of his own. Increase in the number of assesseees and refundees is normal and regular feature every year of which the Ministry are well aware. They must, therefore, assess</p>

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their pending work and formulate their plans accordingly in advance as to how best they could serve the interests of both the assesseees and the revenue. The Committee urge that the machinery of the Department should be geared up so that there are no reasons for the pendency of refund cases. The Committee would like to be apprised of the further steps taken by the Ministry in this direction. The Committee would also like the Government to ensure that annual appraisal reports of the Commissioners of Income Tax specifically make a mention about their performance pertaining to the prompt issue of refunds, as earlier recommended by the Committee. They hope that Government would continue to keep a strict watch over the prompt issue of refund vouchers so that assesseees are able to get refunds promptly.

2.

1.6

In response to Committee's observation that 'acute shortage of staff' should not be an impediment in the expeditious issue of refund orders, the Ministry of Finance have informed that the Department has undertaken computerisation on a large scale for completion of assessments and issue of refunds. While it is a step in the right direction, the Committee would like to be apprised of the present stage of computerisation and about the time by which the whole system is likely to be computerised.

1	2	3
3.	1.8	<p>The Committee would like to know whether surprise inspections are being regularly conducted and whether proper follow up action is taken with due promptitude against the delinquent officers as already recommended by the Committee. It is imperative that such surprise inspections are conducted periodically and results of such inspections are monitored at an appropriately higher level and deterrent action is taken against officers held directly responsible for lapses. The Committee would like to be apprised of latest developments in this regard.</p>
