

**TWO HUNDRED AND SIXTH  
REPORT**

**PUBLIC ACCOUNTS COMMITTEE  
(1983-84)**

(SEVENTH LOK SABHA)

**CORRECT DEDUCTION IN RESPECT OF  
INTER-CORPORATE DIVIDENDS**

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

[Paragraph 2.20 (iii) of the Report of the Comptroller and  
Auditor General of India for the year 1981-82, Union  
Government (Civil), Revenue Receipts, Vol. II Direct Taxes]



*Presented in Lok Sabha on* \_\_\_\_\_

*Laid in Rajya Sabha on* \_\_\_\_\_

**LOK SABHA SECRETARIAT  
NEW DELHI**

*April 1984 / Chaitra 1906 (S)*

Price Rs. 1.50 P

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(i) 26 October, 1983	
(ii) 12 April, 1984	

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\* Not printed. One cycl-styl d copy laid in the Table of the House and five copies placed in Parliament Library.

**PUBLIC ACCOUNTS COMMITTEE**  
**(1983-84)**

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**Shri Sunil Maitra**

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- \*20. Dr. Harekrushna Mallick
21. Shri Nirmal Chatterjee
22. Shri Kalyan Roy

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\*Ceased to be Members of the Public Accounts Committee consequent on their retirement from Rajya Sabha with effect from 2-4-1984.

SECRETARIAT

1. Shri T. R. Krishnamachari—*Joint Secretary*
2. Shri H. S. Kohli—*Chief Financial Committee Officer*
3. Shri R. C. Anand—*Senior Financial Committee Officer*

## INTRODUCTION

1, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this 206th Report of the Committee on paragraph 2.20(iii) of the Report of the Comptroller and Auditor General of India for the year 1981-82, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes relating to 'Incorrect deduction in respect of inter-corporate dividends'.

2. The Report of the Comptroller and Auditor General of India for the year 1981-82, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes was laid on the Table of the House on 4 April, 1983.

3. Section 80AA was inserted in the Income Tax Act, 1961 by Finance (No. 2) Act, 1980 retrospectively from 1-4-1968 to provide specifically that deduction under Section 80M would be calculated with reference to the net amount of dividends. In the assessment of an Indian domestic company for the assessment year 1977-78 completed in September 1980, deduction was allowed with reference to the amount of gross dividend income instead of the net dividend income. Even after the amendment of law in 1980, the mistake was not rectified by the assessing officer. The Audit objection was not accepted by the Ministry of Finance. Apparently, in rejecting the Audit objection, the Department had relied on the decision of the Calcutta High Court in C.I.T. Vs. New Delhi Investment Corporation Limited (113 ITR 778-28-2-78). In that case, the Calcutta High Court had held that where shares constitute stock-in-trade of the assessee, the dividend income is in the nature of business income and the entire expenses relating thereto could be allowed in the computation of business income without allocating anything specifically to the dividend income.

4. A comparison of the schedule of investments of the assessee company as on 31-3-1977 with the list of 38 companies of the same group furnished to the Committee in reply to a question reveals that the shares of companies of the same group comprised as much as Rs. 168.35 lakhs out of a total investment of Rs. 1.81 crores of the company for the assessment year 1977-78. Even though the view of the Department all along was that the assessee company were not dealers in shares, the Income-tax Appellate Tribunal had held that they were. The Committee have desired that the Ministry of Finance may examine whether the tests at present applied for treating an assessee as a trader-in-shares are objective, unambiguous and uniform in the whole country and also in accordance with the intention of Government. In case they are not, the Committee have suggested to the Ministry to examine whether any amendment in law is called for to achieve this end.

5. In view of the controversy attendant on the allocation of expenses in case of inter-corporate dividend incomes, as in the case cited under Audit Paragraph, the Committee are of the view that in the interest of proper administration of relief on inter-corporate dividends, Government should consider relating the deductions to gross dividend, which is a specific amount, instead of the net dividend income as at present and then to limit the concession by reducing the percentage of deduction suitably. The Committee have desired that the matter should be examined and necessary follow up action taken at an early date.

6. The Public Accounts Committee (1983-84) examined this paragraph at their sitting held on 26 October, 1983. The Committee considered and finalised this Report at their sitting held on 12 April, 1984. Minutes of the sitting of the Committee form Part II\* of the Report.

7. A statement containing conclusions and recommendations of the Committee is appended to this Report (Appendix). For facility of reference, these have been printed in thick type in the body of the Report.

8. The Committee place on record their appreciation of the assistance rendered to them in the examination of this paragraph by the office of the Comptroller and Auditor General of India.

9. The Committee would also like to express their thanks to the officers of the Ministry of Finance (Department of Revenue) for the cooperation extended by them in giving information to the Committee.

NEW DELHI;

April 23, 1984

*Vaisakha* 3, 1905 (*Saka*)

SUNIL MAITRA

*Chairman,*

*Public Accounts Committee.*

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\* Not Printed. One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library.

**REPORT**  
**INCORRECT DEDUCTION IN RESPECT OF INTER-CORPORATE  
DIVIDENDS**

***Audit Paragraph :***

Under the Income-tax Act, 1961 as amended by the Finance Act (2) 1980 effective from 1 April 1968, the deduction admissible to a company on account of the inter-corporate dividends included in its total income has to be allowed with reference to the net amount of dividend income computed in accordance with the provisions of the Act and not with reference to gross amount of such dividends.

2. In the assessment of an Indian domestic company for the assessment year 1977-78 completed in September 1980 deduction was allowed with reference to the amount of the gross dividend income instead of on the net dividend income. Even after the amendment of the law in 1980 the mistake was not rectified by the assessing officer. As a result an excess allowance of deduction of Rs. 10,54,045 with an under-assessment of income by the same amount and undercharge of tax of Rs. 7,29,386 persisted.

[Paragraph 2.20 (iii) of the Report of the Comptroller and Auditor General of India for the year 1981-82, Union Government (Civil), Revenue Receipts, Volume II-Direct Taxes (p. 101)]

3. The assessee in the case cited above, viz, M/s. Karam Chand Thapar and Bros. Ltd., belongs to an industrial group called "Thapar Group." The status of the assessee and its subsidiaries, according to the Ministry is as follows :

"M/s. Karam Chand Thapar & Bros. Ltd. is a trading company as well as an investment company. It is also a holding company. As per balance sheet for the year ended 31st March, 1982, there is only one subsidiary company M/s. Hindustan General Electrical Corporation Ltd. However, Director's report annexed to the annual accounts for the year ended 31st March, 1982 also makes mention of one more company namely Ratendon Investments and Holdings Ltd. which was incorporated on 12th April, 1982 and became subsidiary of the assessee company M/s. K. C. Thapar & Bros. Ltd. without any further information. The share holding of the assessee company in subsidiary M/s. Hindustan General Electrical Corporation Ltd. is 16,157 shares of the book value of Rs. 86,852."

4. The assessee company was assessed in the status of a company for the assessment year 1977-78 on a total income of Rs. 18,27,480 on 17 September, 1980 by the Income-tax Officer, 'C' Ward, Special Circle-III, Calcutta. Out of the gross dividend income of Rs. 65,96,396, a deduction of Rs. 37,81,002 was allowed by the Income-tax Officer on account of inter-corporate dividends.

5. The provisions relating to concessional tax treatment of inter-corporate dividends have been on the statute book in one form or the other since 1953. The deduction on account of intercorporate dividends is now governed by the provisions of Section 80M of Income-tax Act, 1961.

6. Section 80M was inserted in the Income-tax Act, 1961 by Finance Act, 1968 with effect from 1-4-1968. This Section was amended three times since then by Finance (No. 2) Act, 1971, Finance Act, 1975 and Finance Act, 1976. In regard to its application to Indian Companies, the amendments made in Finance Act 1975 and Finance Act 1976 are relevant. Under the Section as introduced with effect from 1-4-1968, a domestic company was entitled to a deduction of 60 per cent of dividends received from any other domestic company. From 1-4-1976 two-tier deduction was provided in Section 80M by which 100 per cent deduction was allowed in respect of dividends recovered from domestic companies engaged exclusively or almost exclusively in the manufacture or production of fertilisers, pesticides, paper, pulp and newsprint, cement etc ; 60 per cent deduction as explained above was continued in respect of other dividends. From 1-4-1977 the area of total exemption of dividend income was enlarged to dividends from industries engaged in the manufacture of non-ferrous metals, ferro alloys, special steels, steel castings and forgings, electric motors, industrial and agricultural machinery, earth moving machinery, machine tools, commercial vehicles, ship, tyres and tubes, heavy chemicals and industrial explosions. The provision regarding deduction to the extent of 60 per cent of dividend received from other domestic companies continued.

The two-tier deduction is proposed to be discontinued from 1-4-85 through the Finance Bill, 1984. The proposed amendment seeks to provide a uniform rate of deduction of 60 per cent for all dividends received by a domestic company from another domestic company.

7. The deduction specified in Section 80M is allowed from the gross total income. Gross total income as defined in Section 80B(5) means the total income computed in accordance with the provisions of the Income-tax Act before making any deduction under Chapter VI A of the Act. The income by way of dividend computed in accordance with the provisions of Income-tax Act i.e., after allowing the expenditure for earning dividend income forms part of the gross total income.

8. In *Cloth Traders (P) Ltd. Vs. Additional Commissioner of Income-tax Gujarat (118 ITR 243)*, judgement delivered on 4 May 1979, the Supreme Court considered the question whether the deduction was allowable as a percentage of the actual gross amount of dividend or it was confined to the net dividend income as computed in accordance with the provisions of the Income-tax Act, 1961 i.e., after making the deductions specified in Section 57 including deduction of interest paid on borrowings for making the investment. It was held by the Supreme Court that the deduction was allowable with reference to the gross amount of dividends and not with reference to the net dividend income.

9. Since this was not the true intention, to get over the Supreme Court decision a new Section 80AA was inserted in the Income-tax Act, 1961 by



the Finance (No. 2) Act, 1980 retrospectively from 1-4-1968 to provide specifically that deduction under Section 80M would be calculated with reference to the net dividend income as computed in accordance with the provisions of the Income-tax Act, 1961 and not with reference to the gross amount of dividends. Thus, the income by way of dividends is computed after allowing collection charges and interest paid on borrowings utilised for the purchase of shares etc.

10. In para 15.3 of its circular No. 281 dated 22-9-1980, the Central Board of Direct Taxes also clarified that the intention all along was to grant deduction on the net dividend income and not on gross dividends.

11. In the assessment of the above assessee the deduction was allowed with reference to the amount of gross dividend income instead of on the net dividend income as explained below.

12. The total income of the assessee M/s. Karam Chand Thapar and Brothers Ltd. was Rs. 110.36 lakhs which included dividend income of Rs. 65.96 lakhs. The business income of the assessee was only Rs. 4.86 lakhs. Commission and other incomes accounted for the balance of Rs. 39.54 lakhs. The dividend income comprised Rs. 2.95 lakhs entitled to full exemption under Section 80K and Rs. 63.01 lakhs entitled to intercorporate deduction of 60 per cent under Section 80M. The total expenses of the assessee including interest on borrowings (Rs. 21.85 lakhs) were Rs. 102.21 lakhs.

13. In the assessment made on 17 September, 1980 the Income-tax Officer allowed intercorporate deduction of 60 per cent on the gross amount of dividends of Rs. 63.01 lakhs. Although the assessee had incurred expenses of Rs. 102.21 lakhs including interest on borrowings of Rs. 21.85 lakhs no part of these expenses was allocated to the dividend income to compute the net dividend income on which the deduction should be allowed. The assessee had secured and unsecured loans of Rs. 213.44 lakhs against investments of Rs. 180.86 lakhs.

14. The assessment was not rectified to relate the deduction to net dividend income even after the retrospective amendment of the Act for that purpose.

The allowance of deduction on gross dividend income was objected to in audit.

15. The Committee enquired whether the Ministry has accepted the audit objection and if it was not accepted, what were the reasons therefor. In their reply, the Ministry of Finance (Department of Revenue) stated :

“The audit objection was not accepted by the Ministry *vide* letter dated 31-1-83 wherein it was mentioned that dividend income is assessable under Section 56(2) (i) subject to deductions under Section 57. It was ascertained that there were no deductions permissible under Section 57 in this case and so the ITO was not in error in computing the amount deductible under Section 80M read with Section 80AA on the gross dividend income.

The Audit in its rejoinder dated 5-3-83 observed that the Ministry's contention that there were no deductible expenses in the above case does not appear to be reasonable because out of the total income of Rs. 1.10 crores the dividend income amounted to Rs. 65.6 lakhs and the business income to Rs. 4.86 lakh. Without actually saying so, Audit appeared to imply that the expenditure should be apportioned under the various heads of income on a *pro rata* basis.

In the Ministry's reply dated 21-3-83 the position stated earlier was reiterated and it was also stated that it would not be permissible to apportion the expenditure on a *pro rata* basis. Section 80AA states that the deduction allowable under Section 80M will be computed not with reference to the gross amount of dividend but such dividend as computed in accordance with the provisions of the Act before making any deductions under Chapter VIA. As it was found that there were no deductions permissible under Section 57 in this case and deductions under that Section cannot be computed on an *ad hoc* or *pro rata* basis, it was stated that the deduction under Section 80M was correctly allowed."

16. The manner of computing the dividend income is outlined in Sections 57 and 58 of the Income-tax Act, 1961. Under Section 57, apart from the collection charges, interest, if any, paid on loans utilised for the purchase of shares, management expenses etc., have to be deducted from the gross dividend income. It was pointed out to the Ministry by Audit on 5 March, 1983 that the contention that there were no deductible expenses in this case was not tenable, considering that out of the total income of Rs. 110.36 lakhs, the dividend income accounted for Rs. 65.96 lakhs as against business income of Rs. 4.86 lakhs only and also keeping in view the huge expenditure of over Rs. 1 crore, including expenditure of Rs. 21.85 lakhs on interest and financing. If the deduction as admissible under Section 57 of the Income-tax Act, 1961 was not correctly worked out and taken into consideration for determining the deduction on account of inter-corporate dividends, the amendments made in the law in 1980 would be of no avail.

17. In their further reply dated 21 March, 1983 to Audit the Ministry of Finance, reiterated that there were hardly any outgoings or collection charges attributable to the dividend income. They further stated as follows :

"Merely because Rs. 65.96 lakhs out of Rs. 1.10 crores is dividend income, it would not follow that the proportion of expenses incurred will be the same. Merely because the business income is Rs. 4,86,000 it would also not be correct to restrict the outgoings proportionately. If the outgoings are less and if deduction under Section 57 is limited to such outgoings before the income under Section 80AA is computed for 80M purposes, it would not defeat the amendments to Section 80 AA".

18. However, in their reply dated 21-3-1983, the Ministry had conceded that the deduction under Section 57 should be considered to arrive

at the income as envisaged under Section 80AA. By application, it cannot also be disputed that wherever the assessee has paid interest on loans taken for investment in shares which has resulted in dividend income, such interest payments should be considered as an outgoing under Section 57.

19. The profit and Loss Accounts and the Balance sheets of the assessee for the three previous years relevant to the assessment years 1975-76, 1976-77 and 1977-78 reveal the following abstract position :

Assets	Assessment	Assessment	Assessment
	Year 1975-76	Year 1976-77	Year 1977-78
	Rs.	Rs.	Rs.
Investment (at cost)	1,89,79,188	1,88,76,388	1,80,86,019
Loans and advances	2,13,19,299	1,81,63,800	1,67,25,395
<b>Liabilities</b>			
Subscribed capital	74,50,000	74,50,000	75,00,000
Reserves	52,46,433	54,31,887	57,23,926
	1,26,96,433	1,28,81,887	1,32,23,926
Secured and unsecured loans	2,33,37,067	2,09,96,393	2,13,43,698

20. The investments comprised mainly shares of group companies (Rs. 168.35 lakhs). The investments valued at costs (not market price) were in excess of the sum total of capital and reserves in each year. Part of these would seem to have been financed out of borrowed funds which were of the order of over Rs. 2 crores in each year. Yet according to the Ministry no part of the interest and financing charges was attributable to the dividends from investments.

21. The company had been raising secured and unsecured loans and also giving out loans and advances. The amount of loans advanced was lower than the amount of loans raised in each year indicating again that part of the loans raised were used to finance investments.

The profit and loss accounts of the assessee for the three assessment years showed the following position :

	(In lakhs)		
	1975-76	1976-77	1977-78
<b>Receipts</b>			
(a) Sales	6.06	5.74	10.43
(b) Interest, Commission etc.	38.35	41.96	39.46
(c) Receipts from other companies	73.78	74.21	72.83
(d) Investment income (Dividends)	33.19	66.51	65.96

Assets	(In Lakhs)		
	1975-76	1976-77	1977-78
<i>Expenses</i>	Rs.	Rs.	Rs.
(a) Selling expenses . . . . .	1.81	2.32	3.39
(b) Employees payments . . . . .	76.07	70.80	68.58
(c) Administration expenses . . . . .	19.39	21.72	22.72
(d) Interest and financing charges . . . . .	21.63	22.75	21.85

The selling expenses amounted to 30,40 and 33 per cent of 'sales'. These as well as all other expenses including interest and financing charges were allowed in full in the computation of business income comprising receipts under (a), (b) (c) above, no part of any of these expenses was allocated to the dividend income from investments.

22. The profit and loss account of the assessee for the years 1975-76, 1976-77 and 1977-78 shows that while receipts from other companies amounted to over Rs. 70 lakhs in each of the three years, the employees payments and administration expenses amounted to over Rs. 90 lakhs in each of the three years. The Committee desired to know what were the activities to which the employees' payments and administration expenses related and whether any care was taken to find out if employees' payments were repaid subsequently. In a written reply the Ministry of Finance have stated :

"The activities to which employees' payments and administration expenses relate are for various services rendered by the staff to the assessee company and some other companies. The assessee company under agreements with certain other group companies acts as the Registrars to perform defined duties for and on behalf of such companies. The assessee company has to allow such companies the use of space, office facilities etc. and also provide services relating to rendering of Secretarial and legal work, services connected with maintenance of accounts, banking operations, taxation and audit services relating to recruitment of staff and labour relations, publicity and economic research services relating to liaison activities and also providing of the office facilities etc.

In consideration of providing these services and facilities such companies reimburse the assessee company to the extent of expenses incurred on the staff of the latter on services rendered to the former. In addition, the company realises service charges on agreed basis from such companies and such receipts are separately accounted for.

Employees payments and Administration expenses, Rs. 68.57 lakhs and Rs. 21.88 lakhs aggregating to Rs. 90.45 lakhs for the year ended 31-3-77 are borne to the extent of Rs. 17.63 lakhs by the assessee company and the balance

Rs. 72.82 lakhs is re-imbursed to it by such companies as per statement given below :—

(Figures in lakhs)

Nature of Expenses Payment to and Provisions for employees	Total Expenditure as per balance sheet	Out of which	
		Amount borne by M/s. K.C.T. & Bros. Ltd.	Amount reimbursed from other companies etc.
	Rs.	Rs.	Rs.
Salaries & Wages . . . . .	60.99	11.18	49.81
P.F. contributions etc. . . . .	3.31	0.76	2.55
Staff Welfare Expenses . . . . .	4.27	0.67	3.60
Sub Total . . . . .	68.57	12.61	55.96
<i>Administration and other expenses</i>			
Rent . . . . .	3.26	1.41	1.85
Rates & Taxes . . . . .	0.13	0.09	0.04
Office and Other Expenses . . . . .	18.28	3.45	14.83
Brokerage, Commission Insurance . . . . .	0.21	0.07	0.14
Sub-Total . . . . .	21.88	5.02	16.86
Total . . . . .	90.45	17.63	72.82

Since the expenses have been either borne by the Company or reimbursed by the serviced companies, there is nothing left for recovery of expenses for the year.

The figures in the last vertical column above are for reimbursement of actual expenses by the serviced companies and do not include service charges which were Rs. 17.71 lakhs included in the 'Other income' of Rs. 18.40 lakhs in the P&L A/C (Schedule IX of the Balance Sheet for year ending 31-3-1977)."

23. Asked to indicate the gross income under each head, the expenses allowed and the taxable income assessed under head for the assessment year 1977-78, the Ministry of Finance (Department of Revenue) have furnished a statement. Various sources of income of the assessee for the relevant assessment year, furnished by the Ministry of Finance are given below :

"Various sources of income of the assessee for the assessment year 1977-78 under the head "Business" are from (i) sale of iron and manganese ores, diesel oil, sale of agricultural and farm

products. (ii) income from guarantee commission, insurance commission and selling agency commission; (iii) other income from profit on shares, rent, service charges and miscellaneous income, and (iv) realisation from sundry companies and others in respect of expenses incurred. The assessee also received income during the year from dividend, interest on debentures and other securities and other interests.

For the assessment year 1975-76 and 1976-77 also, the assessee's income were broadly under the above heads. Other details regarding gross income, expenses allowed on taxable income assessed under each head are given in Annexure E-2 and E-3.\*

24. The Audit objection in the instant case relates to the assessment year 1977-78 which has been dealt with in the preceding paragraphs. Asked to indicate the position for the years earlier to 1977-78 and subsequent thereto, the Ministry of Finance have stated :

“For the assessment year 1975-76 and ITO allowed the deduction under Section 80M on net dividend income. The net dividend income was arrived at by apportioning on an ad-hoc basis, the expenses relating to the earning of the dividend income which could not be specified. The assessee filed an appeal against this computation and the CIT (Appeals) decided that the deduction 80M was admissible on gross dividend income following the decision of the Supreme Court in the case of Cloth Traders (Pvt.) Ltd., 118 ITR 234.

For the assessment year 1978-79 the ITO once again proposed to allow deduction under Section 80M on net dividend income after allocating expenses on an ad hoc basis. When the matter went up before the IAC in proceedings under Section 144B he held that both on facts and law there was no case for allocation of expenses against dividend income and, therefore, deduction under Section 80M should be allowed on the gross dividend income.”

25. In the assessment years 1975-76 and 1976-77, the facts as verified by Audit disclose that the assessee did not agitate for the allocation of expenses on an *ad hoc* basis while arriving at the net dividend income. The assessee's main contention was that under Section 80M, the relief was admissible on gross and not net dividend income. So far as the assessment year 1978-79 is concerned the Inspecting Assistant Commissioner while issuing direction under Section 144B, does not seem to have gone into the sources of funds that became available for investment in shares and the expenses directly attributable to the earning of dividend income. The Inspecting Assistant Commissioner merely ruled that allocation of expenses should not be resorted to.

26. From the assessment computed by the Income-Tax Officer for the assessment year 1977-78, it is seen that deduction was restricted to 60 per

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\*Not reproduced.

cent on gross amount of dividend income. And the I.A.C. ruled out that allocation of expenses should not be resorted to. In this context, the Member, C.B.D.T. explained the position as follows :

“As far as the assessment year is concerned, there is a difficulty, because the assessment was completed in March 1980 : in March 1980, the Supreme Court's decision is that in case the cloth trade hold the field, deduction has to be allowed on the gross amount of dividend. But since the disputed addition was more than Rs. 1 lakh, the case had to be referred to the IAC and the case was referred to the IAC and the IAC issued instructions in September 1980. By that time, Section 80A-(A) has been introduced and the department's view is that it should be only on the net amount. But at that time the IAC did not give direction because the general view is that IAC cannot direct any addition other than what the ITO had proposed in the draft.”

27. The Member, C.B.D.T. further stated :

“Section 80 M case was finally decided by the Supreme Court in the Cloth Traders' case. That is about gross amount. Then we introduced the amendment that it is not the gross amount that is to be taken into account. According to the provisions of the Act then the ITO issued the order and at the time the amendment was not there. This came in May 1980, whereas the assessment order was passed in March, 1980. The provision was on the statute book when the case came up to the IAC but the IAC could not give any order of enhancement.”

28. The balance sheet of the company as on 31 March 1977 reveals that the assessee had secured and unsecured loans of Rs. 213.44 lakhs against investments of Rs. 180.86 lakhs. The assessee had incurred expenses of Rs. 102.21 lakhs including interest on borrowings of Rs. 21.85 lakhs. Yet no part of these expenses was allocated to the dividend income to compute the net dividend income on which the deduction should be allowed. Asked to indicate, if any other inference could be drawn from the balance-sheet, the Member, C.B.D.T. stated :—

“Merely on the basis of figures, how the investments have been financed, how the dividends have been utilised, this enquiry has not been made. It is not clear from the records how it has been utilised. If we go into the realm of speculation, anything can be said. The balance sheet need not necessarily represent the correct position.”

Sir, that is one view. Actually there is another view according to me. I assume that the entire amount of Rs. 180 lakhs has come from the borrowed funds. The dividends are Rs. 65 lakhs in one year. So, in the course of three years the

dividends pay off the loans and I can say that my investments are free."

29. The Income-Tax Officer had all along in the draft assessment order allowed or proposed deduction under Section 80M on net dividend income. Following the decision of the Supreme Court in the case of Cloth Traders (Pvt.) Ltd.—118 ITR 243, the deduction under Section 80 M was allowed on gross dividend income by CIT (Appeals) or the I.A.C. In this context when asked to state whether the Income-tax Officer was aware of the Supreme Court judgement while passing the draft assessment orders, the Member, C.B.D.T. replied :

"Sir, It is a contention legal issue. The Departmental officers have to follow the Department's view till the Supreme Court gives a decision."

30. The Committee desired to know the total value of shares held by the assessee company in the previous year relevant to the assessment year 1977-78. In reply, the Ministry of Finance stated :—

"Total value of shares held by M/s. K. C. Thapar & Bros. Ltd. as on 31-3-1977 is Rs. 1,80,68,588."

31. Asked to indicate the names of the companies whose shares were held by the assessee, together with the extent of share holdings, the Ministry of Finance furnished a statement, which shows that the investments comprised mainly shares of group companies. A comparison of this schedule with the list of 38 companies of the same group, however, shows that the shares of companies of the same group made up actually Rs. 168.35 lakhs in the investment portfolio and not Rs. 85.77 as given in the other schedule.

32. In reply to another question about the modes of acquisition of these shares, the Ministry of Finance have stated :

"M/s K. C. Thapar & Bros., Ltd. is more than 50 years old and all the shares were acquired by it in course of its span of activities....."

33. During evidence, the Committee enquired whether in the case cited in the Audit paragraph, inter-corporate deduction of 60 per cent should have been allowed on the net amount of dividends (instead of gross amount) as stipulated under Section 80 AA of the Income-tax Act, 1961. The Member C.B.D.T. replied :

"Under the law as it stands today, the relief has to be given on the net amount of dividend in all cases except where an assessee claims that he is a dealer in shares. The net amount means after deduction of expenses."

The Member, C.B.D.T. further stated :

"The assessee is a dealer in shares and the shares constitute stock in trade. It is not a discretion; it is the law as it has been evolved."



The expenses for earning this dividend will be deductible against the business income and allocation of the expenses between business and the dividend will be assessed as income from other source but no part of the expenses of the business will be allocable to the dividend income. The entire expenditure related to business should be deducted in computing business (income)."

35. Asked if rectificatory action could have been taken after the introduction of Section 80 AA, the Member, C.B.D.T. stated :—

"The matter was before the I.A.C. under Section 144B and therefore he could not direct any enhancement of the income. Except some small objections of the assessee, which could have been considered, enhancement could not have been considered by the I.A.C. The I.A.C. could not order that the net amount and not the gross amount may be considered."

I would say that what has been done is the correct thing. Because of the High Court decision in the dealer in shares case, that is so."

The only decision is that no part of it, all expenses are included.

The Chairman, C.B.D.T. added :

"There is a decision saying that the expenses should not be allocated if he is a dealer in shares. That rules the day."

37. The Committee enquired if the intention of introducing the amendment has been fulfilled. The Member, C.B.D.T. stated :

"In 1980 there were two series of decision(s) on gross and net dividends. One said the Cloth Traders decision specifically on 80-M, that it should be on gross amount, not dividend. There was another set of three or four decisions which said in the case of dealer in shares again no part of the business expenses can be alienated to the dividend."

38. The Member, C.B.D.T. further stated :

"It was in 1980. That was the Madras Motors and General Insurance Company case. . . . . That was a High Court Judgement."

39. Asked whether the Calcutta High Court judgement had negated the distinction between the concept of gross and net dividend income as envisaged in law, the Member, C.B.D.T. stated :

"In effect, that means that."

40. Asked whether legislative intention was otherwise, the Member, C.B.D.T. replied :

"Our intention was not so; right."

41. In reply to another question, whether the Department had taken any rectificatory action, the Member, C.B.D.T. stated :

“Actually it requires an amendment for nullifying the decisions.”

42. The Member, C.B.D.T. further stated that amendment has not yet been introduced. He further stated :

“This (decision) came to our notice only recently in 1983. In 1979, the Cloth Traders’ decision was delivered.”

43. Asked whether the Department had filed an appeal against the impugned order, the Member, C.B.D.T. stated :

“We were advised that it was the correct judgement, by the Additional Solicitor General.”

44. The Chairman, C.B.D.T. further clarified :

“There is a fairly old Court decision, Sir. In the case of Motor and General Insurance case in Madras, we had filed a Special Leave Petition to the Supreme Court but the Supreme Court had refused.”

45. The Member, C.B.D.T. further stated :

“That was in 1971 (1981). Earlier we filed special leave petitions in the Supreme Court but they were rejected.”

46. It is learnt that in a case C.I.T. Vs. New India Investment Corporation Ltd. (113 ITR 778) (28-2-1978), the Calcutta High Court has held that where shares constitute stock-in-trade of the assessee, the dividend income is in the nature of business income and the entire expenses relating thereto could be allowed in the computation of business income without allocating anything specifically to the dividend income.

47. The Committee enquired whether any amendment has been contemplated in view of the judgement pronounced in 1981. The Member, C.B.D.T. stated :

“We had to take a decision about the High Court decision in the case of dealer in shares. The effect of the decision is that the relief will be on gross, and a decision whether it should be nullified, had to be taken.”

48. The Committee enquired if the Company had been held to be dealer in shares. In reply, the Chairman, C.B.D.T. stated :

“In the case, from 1952 onwards the company has been held to be a dealer in shares. We had held that they were not dealers in shares. But the Tribunal had upheld their claim that they are dealers in shares.

The Member, C.B.D.T. supplemented :

“For the past 30 years that company is held to be dealer in shares. They have been holding many of the shares for the past 25

years especially Ballarpur Industries. Of course, they have been selling some of the shares also. But the profit and loss of the sales have been held to be business losses in earlier years.

The Chairman, C.B.D.T. further added :

“Sir, according to the Income-Tax Act finding of facts rests with the Tribunal unless there is a feeling that the decision is perverse, we cannot even go to the High Court.”

49. The Committee enquired about the test to be applied to differentiate between dealers in shares and others. The Member, C.B.D.T. stated :

“Whether transactions like buying and selling amount to business is to be determined having regard to the facts of each case. The Supreme Court has laid down test to be applied in such cases.”

The Member, C.B.D.T. further clarified :

“There are criteria laid down by the Supreme Court like the number of transactions, frequency of transactions, method of financing, intention behind them.

50. Asked whether any guidelines had been formulated on the criteria laid down by the Supreme Court for the guidance of assessing officers, the Member, C.B.D.T. stated :

“Sir, we do not circulate the guidelines. The case reports are supplied to the I.T.Ds.

51. In reply to another question whether in the fact of conflicting judgments, the issue was apt to be variedly interpreted by assessing officers, the Chairman, C.B.D.T. stated :

“.....Every decision has to be considered differently on the facts of the case and when one decision is different from another on the facts of the case, it cannot be called discrimination. Here, the law and the Court decisions are the guidelines.”

52. The Committee enquired if in fact deductions based on gross dividends were allowed in many cases both before and after the Supreme Court decision in Cloth Traders (P) Ltd. vs. Additional Commissioner of Income-tax, Gujarat (118 & ITR 243) delivered on 4 May, 1979. The Ministry of Finance have, in a note furnished in February, 1984, stated :

“Information as to whether deductions based on gross dividends were allowed before the Supreme Court decision in the Cloth Traders case is not available. After the judgement of the Supreme Court was delivered on 4-5-1979 Section 80AA was inserted by the Finance (No. 2) Act, 1980 with retrospective effect from 1-4-1968. The Finance Act, come into effect from 21-8-1980. Till this date also information on whether deductions were allowed on gross dividends is not available, Circular No. 281 dated 22-9-1980 in which paras 15.1 to 15.7 explain the implication of the amendment brought about by insertion of

Section 80AA and in terms of this circular the assessing authorities are not to give deductions based on gross dividends.”

53. Asked to state the legislative intention behind introduction of Section 80AA in 1980 and the effect of the 1981 High Court judgement, the Chairman, C.B.D.T. replied :

“In respect of legislative intention, as it stood then, the idea was only to see that non-dealers (in shares) did not claim deduction under (Section) 80 M on any gross amount. Because according to the judgement the dealers in shares are entitled to the deduction of the expenses under the head Business.”

54. Section 80AA was inserted in the Income-Tax Act 1961 by the Finance (No. 2) Act, 1980 retrospectively from 1-4-1968 to provide specifically that deduction under Section 80 M would be calculated with reference to the net dividend income as computed in accordance with the provisions of the Income-Tax Act, 1961 and not with reference to the gross amount of dividends. The Committee enquired if the Department had carried out any review of assessments made since 1968-69 to give effect to the new provision. In reply, the Ministry of Finance stated :

“No review calling for, *inter alia*, number of assessments reviewed, number re-opened, tax effect etc. has been ordered by the Board.”

55. During evidence, the Committee enquired whether any assessments were re-opened as a sequel to giving retrospective effect to Section 80 AA. The Member, C.B.D.T. stated :

“Sir, we have not asked for a feed back on this. Our view always has been that relief has to be given on the net amount. The Cloth Traders case came some time in 1979. I expect that every departmental officer would follow that view of the Department that the relief should be on the net amount. In May, 1980 we introduced the retrospective amendment. So, this problem can arise only during the short period between 1979 to May, 1980. We have brought this retrospective nature of the amendment to the notice of the officers and told them that if they have done anything contrary to that, they should please rectify that.”

56. Asked to explain, why in the circumstances, retrospective effect was given to the amended provisions in section 80 AA from 1-4-1968, the Member, C.B.D.T. stated :

“Almost every case we had lost before the appellate authorities from 1964 onwards. So, we decided that whichever cases are alive will be decided on the basis of retrospective amendment.”

57. In a note furnished subsequently (February, 1984), the Ministry of Finance (Department of Revenue) have stated :

“In view of the position explained in Circular No. 281 the assessing authorities are expected to apply the provision of Section

80AA. The retrospective amendment by insertion of Section 80AA has now been challenged before the Supreme Court.”

58. The Committee enquired if for easier and better administration of the provisions relating to dividend income, the deduction could be related to gross dividend. In reply, the Member, C.B.D.T. stated :

“Sir, actually if we made any other provision, it may be unfair to companies which invested their own funds as opposed to borrowed funds. This is the main idea.”

59. When suggested that there could be suitable reduction in the percentage of deduction, the Member, C.B.D.T. stated :

“We will certainly consider this.”

60. Asked if the Department had made studies on how tax on inter-corporate dividend income is levied in other countries, the Member, C.B.D.T. replied :

“I do not think there is any study made about it.”

61. In reply to another question if the authorities were aware that in U.K. and in some other industrially developed countries, the holding company was not taxed on dividend income, the Member, C.B.D.T. stated :

“We will examine it, Sir.”

**62. Under the Income-tax Act, 1961, the deduction on account of inter-corporate dividends is governed by the provisions of Section 80M. In cloth Traders (P) Ltd. vs. Additional Commissioner of Income-tax, Gujarat (118 ITR 243), the Supreme Court considered the question whether the deduction was allowable as a percentage of the actual gross amount of dividend or it was confined to the net dividend income as computed in accordance with the provisions of the Act, i.e. after making the deduction specified in Section 57 including deduction on interest paid on borrowings for making the investment. In their Judgment delivered on 4 May, 1979, the Supreme Court held that the deduction was allowable with reference to the gross amount of dividends and not with reference to the net dividend income. Thereupon, Section 80AA was inserted in the Act by Finance (No. 2) Act, 1980 retrospectively from 1-4-1968 to provide specifically that deduction under Section 80M would be calculated with reference to the net amount of dividends. The Central Board of Direct Taxes clarified in a Circular dated 22-9-1980 that the intention all along was to grant deduction on the net dividend income and not on gross dividends.**

**In the assessment of an Indian domestic company—M/s. Karam Chand Thapar and Bros. Ltd.—for the assessment year 1977-78 completed in September 1980, deduction was allowed with reference to the amount of gross dividend income instead of the net dividend income. Even after the amendment of law in 1980, the mistake was not rectified by the assessing officer. As a result, according to Audit, an excess allowance of deduction of Rs. 16,54,045 with an under-assessment of income by the same amount and under-charge of tax of Rs. 7,29,386 persisted.**

The Audit objection was not accepted by the Ministry of Finance who, in their reply dated 31-1-1983 to Audit stated that the expenses towards collection charges were negligible. Also, it would not be correct to apportion the expenses shown in the profit and loss account on the income ratio and in the present case there was no deductible expenditure against dividend income. In a further reply to Audit on 21-3-1983, the Ministry of Finance reiterated that there were hardly any outgoings or collection charges attributable to the dividend income. In a written reply to the Committee, the Ministry have again clarified that there were no deductions permissible under Section 57 in the case and deductions under that Section cannot be computed on an ad hoc or pro rata basis.

63. The Committee find it difficult to appreciate the above explanation of the Ministry in view of the fact that under Section 57 of the Income-tax Act, apart from collection charges, interest, if any, paid on loans utilised for the purpose of shares, management expenses etc. have to be deducted from the gross dividend income. Considering the fact that out of the total income of R. 110.36 lakhs, the dividend income accounted for Rs. 65.96 lakhs as against business income of Rs 4.86 lakhs only and also keeping in view the huge expenditure of over Rs. 1 crore, including expenditure of Rs. 21.85 lakhs on interest and financing, the Ministry's contention that there were no deductible expenses ascribable to inter-corporate dividend income does not appeal to reason. Nor does it stand to reason that for earning a business income of only Rs. 4.86 lakh, the whole or even a major portion of expenditure of over a crore of rupees could have been incurred. The Committee find no ostensible reason why the amount paid as interest on loans taken for investment in shares with the resultant dividend income at least should not have been considered as an 'outgoing' under Section 57.

64. Apparently, in rejecting the Audit objection, the Department had relied on the decision (28-2-1978) of the Calcutta High Court in C.I.T. vs. New Delhi Investment Corporation Ltd. (113 ITR 778). In that case, the Calcutta High Court had held that where shares constitute stock-in-trade of the assessee, the dividend income is in the nature of business income and the entire expenses relating thereto could be allowed in the computation of business income without allocating anything specifically to the dividend income. Prior to this judgment, there was another High Court judgment in the case of Madras Motors and General Insurance Company (99 ITR 243) holding that no part of the business expenses can be alienated to dividend income. In this case, the Department had filed a Special Leave Petition to the Supreme Court which was refused. The Committee have been informed during evidence that the Department had all along held that the assessee company were not dealers in shares. But the Income Tax Appellate Tribunal had upheld the assessee's claim that they were dealer in shares. The Chairman, Central Board of Direct Taxes informed the Committee in extenuation that "finding of facts rests with the Tribunal" and "that unless there is a feeling that the decision is perverse, the Department cannot even go to the High Court."

65. The Committee were informed in evidence that the Department had consulted the Additional Solicitor General on the question whether they should appeal against the decision of the Calcutta High Court. They were

advised against appeal by the Additional Solicitor General who was of the company as on 31-3-1977 with the list of 38 companies of the same group reply to a question whether the decision of the Calcutta High Court was in accordance with the intention of Government, the representative of the Central Board of Direct Taxes stated, "our intention was not so." As to the remedial measures, he stated that they only course now open to Government was to amend the law on the subject. However, Government were yet to take a decision in the matter.

The Committee regret to observe that although a period of more than three years has elapsed since Government had obtained the opinion of the Additional Solicitor General, they are yet to take a decision on the follow-up action to be taken. This shows how casual the Ministry of Finance are in their approach in the matter.

66. From a comparison of the schedule of investments of the assessee company as on 31-3-1977 with the list of 38 companies of the same group furnished to the Committee in reply to a question, the Committee observe that the shares of companies of the same group comprised as much as Rs. 168.35 lakhs out of a total investment of Rs. 1.81 crores of the company for the assessment year 1977-78. As already mentioned, even though the view of the Department all along was that the assessee company were not dealers in shares, the Income-tax Appellate Tribunal had held that they were. The Committee desire the Ministry of Finance to examine whether the tests at present applied for treating an assessee as a trader-in-shares are objective, unambiguous and uniform in the whole country and also in accordance with the intention of Government. In case they are not, the Committee would like the Ministry to examine whether any amendment in law is called for to achieve this end.

67. The Committee find that there are a number of court decisions on gross and net dividend income. In these judgments, certain criteria have been laid down to find who are 'dealers in shares'. The Committee have been informed that the case reports are supplied to the ITOs and the Board does not issue guidelines. In the opinion of the Committee, this is not enough. They feel that once Government have taken a view on a contentious matter, it should be the duty of the Board to issue suitable guidelines to the assessing officers, otherwise there is a risk of differential treatment being meted out to different assessees by different assessing officers. The Committee desire that, pending examination of the matter as suggested in the preceding paragraph, the Central Board of Direct Taxes should issue necessary guidelines to the field formations on the tests to be applied to determine who are dealers-in-shares. They should also issue instructions to lower formations to take special care to scrutinise the balance sheets and profit and loss accounts of such assessee companies as claim to be 'dealers-in-shares'.

68. The Committee observe that the Department's intention all along has been to grant deduction on the net dividend income and not on gross dividend income. In their judgment delivered on 4-5-1979, the Supreme Court held that the deduction was allowable with reference to the gross amount of dividends and not with reference to the net dividend income. To get over the Supreme Court's decision, a new Sec-

tion 80AA was inserted in the Income tax Act, 1961 by the Finance (No. 2) Act, 1980 retrospectively from 1-4-1968 to specify that deduction under Section 80M would be calculated with reference to the net dividend income as computed in accordance with the provisions of the Income-tax Act and not with reference to the gross amount of dividends. Finance (No. 2) Act, 1980 was brought into force on 21-8-1980. Apparently, it can be safely inferred that in almost all the cases decided by the assessing officers between 4-5-1979 and 21-8-1980 relief has been given on the gross amount of dividends and this fact was also conceded by a Member of the Board during evidence. The Committee regret to observe that although Section 80AA has been brought into force with retrospective effect more than three and a half years back, no review has yet been ordered by the Board. In order that the purpose behind the retrospective effect is not lost, the Committee desire that the Board should order an immediate time-bound review of all cases assessed upto 21-8-1980 for appropriate rectificatory action. The Committee would like to be informed of the action taken in the matter, together with the outcome thereof.

69. The Committee have been informed that the Income-tax Department have not made any studies on the pattern of taxation on inter-corporate dividend incomes in other countries. During evidence, a Member of the Board promised to consider the suggestion. The Committee desire that the Board should conduct such a study at an early date with a view to introducing, if necessary, suitable structural changes in our own system.

70. In view of the foregoing as also considering the controversy attendant on the allocation of expenses in case of inter-corporate dividend incomes, as in the present case, the Committee feel that in the interest of proper administration of relief on inter-corporate dividends, Government should consider relating the deduction to gross dividend which is a specific amount, instead of net dividend income as at present and to limit the concession by reducing the percentage of deduction suitably. During evidence, the representative of the Board promised to consider the suggestion. The Committee desire that the matter should be examined and necessary follow-up action taken at an early date.

NEW DELHI,  
April 23, 1984  
Vaisakha 3, 1906(S)

SUNIL MAITRA,  
*Chairman*  
*Public Accounts Committee.*



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## **APPENDIX**

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**APPENDIX**  
**CONCLUSIONS AND RECOMMENDATIONS**  
*(Vide Introduction)*

Sl. No.	Page No.	Ministry Department	Recommendation
1	2	3	4
1.	62	Finance (Revenue)	<p>Under the Income-tax Act, 1961, the deduction on account of inter-corporate dividends is governed by the provisions of Section 80 M. In <i>Cloth Traders (P) Ltd. Vs. Additional Commissioner of Income-tax, Gujarat</i> (118 ITR 243), the Supreme Court considered the question whether the deduction was allowable as a percentage of the actual gross amount of dividend or it was confined to the net dividend income as computed in accordance with the provisions of the Act, i.e. after making the deduction specified in Section 57 including deduction on interest paid on borrowings for making the investment. In their Judgment delivered on 4 May, 1979, the Supreme Court held that the deduction was allowable with reference to the gross amount of dividends and not with reference to the net dividend income. Thereupon, Section 80AA was inserted in the Act by Finance (No. 2) Act, 1980 retrospectively from 1-4-1968 to provide specifically that deduction under Section 80M would be calculated with reference to the net amount of dividends. The Central Board of Direct Taxes clarified in a Circular dated 22-9-1980 that the intention all along was to grant deduction on the net dividend income and not on gross dividends.</p> <p>In the assessment of an Indian domestic company M/s. Karam Chand Thapar and Bros. Ltd. for the assessment year 1977-78 completed in September, 1980, deduction was</p>

allowed with reference to the amount of gross dividend income instead of the net dividend income. Even after the amendment of law in 1980, the mistake was not rectified by the assessing officer. As a result, according to Audit, an excess allowance of deduction of Rs. 10,54,045 with an under-assessment of income by the same amount and under-charge of tax of Rs. 7,29,386 persisted.

The Audit objection was not accepted by the Ministry of Finance who, in their reply dated 31-1-1983 to Audit stated that the expenses towards collection charges were negligible. Also, it would not be correct to apportion the expenses shown in the profit and loss account on the income ratio and in the present case there was no deductible expenditure against dividend income. In a further reply to Audit on 21-3-1983, the Ministry of Finance reiterated that there were hardly any outgoings or collection charges attributable to the dividend income. In a written reply to the Committee, the Ministry have again clarified that there were no deductions permissible under Section 57 in the case and deductions under that Section cannot be computed on an *ad hoc* or *pro rata* basis.

2. 63 Finance  
(Revenue)

The Committee find it difficult to appreciate the above explanation of the Ministry in view of the fact that under Section 57 of the Income-tax Act, apart from collection charges, interest, if any, paid on loans utilised for the purpose of shares, management expenses etc. have to be deducted from the gross dividend income. Considering the fact that out of the total income of Rs. 110.36 lakhs, the dividend income accounted for Rs. 65.96 lakhs as against business income of Rs. 4.86 lakhs only and also keeping in view the huge expenditure of over Rs. 1 crore, including expenditure of Rs. 21.85 lakhs on interest and financing, the Ministry's contention that there were no deductible expenses ascribable to intercorporate dividend income does not appeal to reason. Nor does it stand to reason that for earning a business income of only Rs. 4.86 lakhs, the whole or even a major portion of expenditure of over a crore of rupees could have been incurred. The Committee find no ostensible reason why the amount paid as interest on loans taken for investment in shares with the resultant dividend income at least should not have been considered as an 'outgoing' under Section 57.

3. 64 -do- Apparently, in rejecting the Audit objection, the Department had relied on the decision (28-2-1978) of the Calcutta High Court in C.I.T. Vs. New Delhi Investment Corporation Ltd. (113 ITR 778). In that case, the Calcutta High Court had held that where shares constitute stock-in-trade of the assessee, the dividend income is in the nature of business income and the entire expenses relating thereto could be allowed in the computation of business income without allocating anything specifically to the dividend income. Prior to this judgment, there was another High Court judgment in the case of Madras Motors and General Insurance Company (99 ITR 243) holding that no part of the business expenses can be alienated to dividend income. In this case, the Department had filed a Special Leave Petition to the Supreme Court which was refused. The Committee have been informed during evidence that the Department had all along held that the assessee company were not dealers in shares. But the Income Tax Appellate Tribunal had upheld the assessee's claim that they were dealers in shares. The Chairman, Central Board of Direct Taxes informed the Committee in extenuation that "finding of facts rests with the Tribunal" and "that unless there is a feeling that the decision is perverse, the Department cannot even go to the High Court."
4. 65 -do- The Committee were informed in evidence that the Department had consulted the Additional Solicitor General on the question whether they should appeal against the decision of the Calcutta High Court. They were advised against appeal by the Additional Solicitor General who was of the opinion that the Calcutta High Court had correctly enunciated the law. In reply to a question whether the decision of the Calcutta High Court was in accordance with the intention of Government, the representative of the Central Board of Direct Taxes stated, "our intention was not so." As to the remedial measures, he stated that the only course now open to Government was to amend the law on the subject. However, Government were yet to take a decision in the matter. The Committee regret to observe that although a period of more than three years has elapsed since Government had obtained the opinion of the Additional Solicitor General, they are yet to take a decision on the follow-up action to be taken. This shows how casual the Ministry of Finance are in their approach in the matter.
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			<p>in reply to a question, the Committee observe that the shares of companies of the same group comprised as much as Rs. 168.35 lakhs out of a total investment of Rs. 1.81 crores of the company for the assessment year 1977-78. As already mentioned, even though the view of the Department all along was that the assessee company were not dealers in shares, the Income-tax Appellate Tribunal had held that they were. The Committee desire the Ministry of Finance to examine whether the tests at present applied for treating an assessee as a trader-in-shares are objective, unambiguous and uniform in the whole country and also in accordance with the intention of Government. In case they are not, the Committee would like the Ministry to examine whether any amendment in law is called for to achieve this end.</p>
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7.	68	-do-	<p>The Committee observe that the Department's intention all along has been to grant deduction on the net dividend income and not on gross dividend income. In their judgement delivered on 4-5-1979, the Supreme Court held that the deduction was allowable with reference to the gross amount of dividends and not with reference to the net dividend income. To get over the Supreme Court's decision, a new Section 80AA</p>

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8. 69 Finance  
(Revenue)

The Committee have been informed that the Income-tax Department have not made any studies on the pattern of taxation on inter-corporate dividend incomes in other countries. During evidence, a Member of the Board promised to consider the suggestion. The Committee desire that the Board should conduct such a study at an early date with a view to introducing, if necessary, suitable structural changes in our own system.

9. 70 -do-

In view of the foregoing as also considering the controversy attendant on the allocation of expenses in case of inter-corporate dividend incomes, as in the present case, the Committee feel that in the interest of proper administration of relief on inter-corporate dividends, Government should consider relating the deduction to gross dividend which is a specific amount, instead of net dividend income as at present and to limit the concession by reducing the percentage of deduction suitably. During evidence, the representative of the Board promised to consider the suggestion. The Committee desire that the matter should be examined and necessary follow-up action taken at an early date.

